NACUSO℠

NATIONAL ASSOCIATION OF CREDIT UNION SERVICE ORGANIZATIONS

February 26, 2021

Melane Conyers-Ausbrooks, Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314-3428

Re: Comment to the Proposed Amendment to the CUSO Regulation

Dear Ms. Conyers-Ausbrooks:

The National Association of Credit Union Service Organizations ("NACUSO") consists of credit union industry professionals who are dedicated to strengthening credit unions through collaboration. For decades, credit unions have been forming, investing in, and using credit union service organizations ("CUSOs") to help them survive and thrive in the modern financial industry. Gone are the days that credit unions can sit back and live off their net interest margin. The financial services landscape is much too competitive for that luxury. Credit unions must innovate to thrive.

We applaud the National Credit Union Administration ("NCUA") Board (the "Board") for its sensible and well thought out approach to regulation. The proposed amendments to Part 712 of the NCUA Rules and Regulations are exactly what the credit union industry needs during a crisis such as the current COVID related economic challenges. During the last crisis in 2008, CUSOs were an integral part of the industry's ability to counteract the financial downturn. Those credit unions that had CUSO investments and partnerships were more likely to find ways to better serve their members by providing additional products and services.

Here we are in a crisis again, and there is nothing more integral to helping credit unions and their members than additional lending. CUSOs, for years, have helped credit unions gain access to lending types that would otherwise be too difficult and costly to attain. Among the lending areas that the Board has authorized in the past for CUSOs are mortgage lending, credit cards, student lending and business lending. These areas of lending have helped drive credit union growth and financial stability for several decades through the effective use of the CUSO model, and this proven success certainly helps to make the case to extend that lending authority into all types of lending.

Furthermore, there is no evidence that this extension of lending beyond the currently accepted loan types would hurt the industry, members, or the share insurance fund. In fact, lending CUSOs already benefit all three constituents. We have seen an enormous growth in business loans and mortgage loans over the last ten years for example and that growth is somewhat connected to an increase in business and mortgage CUSOs. In that time, there have been few, if any, CUSOs that affected the share insurance fund, and members have benefited by availability of these loan types in the marketplace.

Looking more closely at business lending and the benefit of CUSOs, many credit unions are able to help their small business members using CUSOs. This was particularly evident during the 2008 crisis. By joining forces in a CUSO, credit unions gain scale and expertise that allow credit unions of all sizes to serve their members. Lending CUSOs create a more vibrant industry, provide more quality loans, and allow credit unions to better serve their members' needs. Again, there are examples of this in all the current authorized lending types such as mortgage, commercial, credit card and student lending markets.

Expanding these benefits to all loan types, will create even more benefits to the industry and its members. Auto lending is a perfect example. There was a time when credit unions could expect that their loyal members would come to them first when looking to buy a car. A member would start at the credit union branch to obtain financing and then head off to the car dealership to look for their new or used car. This is now a rare event.

Over the last twenty years or so, members started just going to the dealer to buy a car and financing was an afterthought. This meant that often the dealership was facilitating the loan for the car purchase and not a credit union. Credit unions were losing these member loans to captive lenders at the dealership.

Credit unions adapted. Credit unions began to develop relationships with dealerships wherein the credit union would be an option for financing a car purchase at that dealership. Credit unions began to win back and maintain a portion of the member auto lending market. However, in many cases, it became difficult for a credit union to maintain or develop these relationships with the number of dealerships. This was particularly true for smaller credit unions, but it affected credit unions of all sizes. It just made sense for a third party to aggregate the dealerships and facilitate the connections to credit unions.

This was a perfect place for CUSOs to step in. There are third parties that assist with connecting dealers with lenders, but CUSOs are the only parties that are owned by credit unions and focus on helping credit unions win these relationships. Therefore, credit unions gravitated to CUSOs to help them manage these relationships.

Now, however, the market is shifting again, and merely connecting credit unions with dealers is not enough. Members are no longer exclusively going to the dealership to buy a car. There are a multitude of car buying services and applications springing into the market. From the consumer perspective, this is good. Most people do not like the time-consuming process of buying a car. They would rather enlist someone else to do it for them. In a way, these new players are looking to disintermediate the dealerships.

What happens when a member doesn't go to the dealership or the credit union first to purchase that dream new car? How do credit unions continue to be the trusted financing partner with their member on this life event? Credit unions must adapt again and develop relationships with these new car buying services. The challenge is that a large nationally focused car buying model is not going to want to secure relationships with thousands of credit unions throughout the country. Furthermore, the process of linking a member with a credit union lender at the time of purchase is seen as unnecessary friction in the car buying process.

Once again, this is an opportunity for CUSOs. If CUSOs are permitted to be the lender in a relationship with these national services, then those CUSOs can keep these auto loans in the credit union industry. The CUSO can be the lender up front and then, just as they do today, get those loans to their credit union partners. It is a solution that will make the car buying process for members simpler and make sure credit unions of all sizes are not cut out of this portion of the auto lending market.

This scenario does not change the business model of indirect lending CUSOs. These CUSOs do not have the liquidity or the balance sheet to become lenders. Instead, these CUSOs will still be focused on connecting credit unions with the loans that no longer walk in the front doors of the branch. CUSOs will simply use their ability to originate as a mechanism to secure more loans for their lending partners.

The auto lending example is not an isolated one. In all sorts of ways, CUSOs have served as the means for credit unions to innovate and meet their members' financial needs. There are many examples of credit unions using CUSO relationships to better serve their credit union members. For example, in Washington state where state-chartered credit union owned CUSOs are permitted to originate unsecured loans, credit unions have used CUSOs and adaptive technology to help members break the cycle of predatory payday lenders. These underserved members are so important to the credit union movement and we believe the proposed amendments to the CUSO rule will help federally chartered credit unions do the same.

The key reason this proposed rule will be good for credit unions and their members is the focus on adaptability, innovation, and collaboration. This is not just about auto loans or unsecured loans. It is very important that CUSOs be able to originate loans of any type that credit unions can originate for their members. We do not know where the next lending opportunity will be. There are already companies looking for credit union partners that originate solar loans, renovation loans, boat and airplane loans, etc. Therefore, we commend the board for not focusing Part 712.5 on specific types of loans. CUSOs need the flexibility to assist credit unions with all types of lending markets.

We can see this in the advances in the lending types currently permitted under Part 712.5. There are currently 80 business lending CUSOs, 98 mortgage lending CUSOs, 13 credit card based CUSOs and 8 student lending CUSOs helping credit unions in the marketplace. When we look at the credit union lending data over the last ten years, we see that credit union share of these lending types has grown not decreased. For example, mortgage loan balances, based on data from credit union call reports, have grown from $228.8 billion in 2011 to $514.1 billion in 2020. Similarly, member business loans have grown from $30.8 billion to $88.2 billion during the same period.

CUSOs have been a driving force to enable credit unions to gain access to loan types. CUSOs act as an important intermediary for credit unions. This can take the form of an entrepreneur developing a new lending program or a credit union wishing to share a unique lending expertise with the greater credit union industry. Each of these are done in the context of CUSOs.

This new rule will allow credit unions to invest in or take control of a lending company that has created a unique lending product that is already serving their members. This rule will allow credit unions to form CUSOs to compete with a private lender that is exploiting the vulnerabilities of its members. This rule is an opportunity to bring lending back into the credit union industry, not squeeze credit unions out of it.

In the spirit of innovation and adaptability, NACUSO is in favor of a more streamlined approach to adding additional categories of permissible services for all CUSOs. As the Board states, this approach has worked for corporate CUSOs without issue. Also, this change would give the Board more flexibility to adapt to the quickly changing financial landscape and allow credit unions the ability to adapt as well.

Further, the addition of new categories of permissible services in the past, or for corporate CUSOs, has not resulted in any changes to the regulatory framework of CUSOs. A new category is only going to add tools in the credit union's toolbox and not change the way in which the NCUA ensures the safety and soundness of such tools through examination and review.

Finally, there are always considerations about the safety and soundness of any new rule. Again, we must look to the current environment to determine if there is actual risk.

While this new rule is a welcome expansion of regulatory authority to help credit unios better serve their members, the rule is not embarking on unchartered territory. The current CUSO rule already permits several types of lending. These lending authorities have not created extraaordinary losses to credit unions or unwanted reputation risk.

In truth, lending CUSOs are subject to all sorts of regulatory oversight. For instance, an auto lending CUSO would need to comply with the lending laws of each state where it does business, and it would have to comply with federal consumer laws as enforced by the Federal Trade Commission and the Consumer Financial Protection Bureau.

In addition, when credit unions choose to work with, invest in and collaborate through CUSOs, NCUA requires that the CUSO contractually agree to giving NCUA access to its books and records, and NCUA reviews/examinations. Therefore, to say that CUSOs are operating in a regulatory void is hyperbolic at best.

Again, this proposed rule is a welcomed modernization of the CUSO regulations which will allow credit unions to remain innovative and give credit unions the ability to adapt to changing lending markets. With this expansion, the Board is giving the industry more tools to survive and thrive in the financial marketplace without putting undue risk on the share insurance fund. It will allow credit unions to serve more of their members by connecting with members where they are doing business instead of waiting for them to enter the branch.

Looking more closely at the adaptability of the rule, NACUSO is also in favor of a more nimble approach to approving new permitted activities of CUSOs. The proposed change to allow the Board to approve in writing new powers and services will enable the industry to act and react to the changing marketplace without the overly burdensome process of a rule making. This approach is already working for corporate credit union CUSOs under Part 704 and should also work for natural person credit union CUSOs without any additional risk. As stated in the Report 2 of the NCUA Regulatory Reform Task Force dated December 13, 2018, the expansion of permissible activities would be a low risk, high reward action by the Board. This change to proposed CUSO Rule will further fulfill that low risk, high reward outcome.

We thank you for the opportunity to comment.

Very truly yours,

Jack M Antonini

Jack M. Antonini,
President of NACUSO

Cc. The Honorable Todd M. Harper, Chairman
The Honorable Kyle S. Hauptman, Vice Chairman
The Honorable Rodney E. Hood, Board Member