MICHIGAN CREDIT UNION LEAGUE & AFFILIATES

October 9, 2014

National Credit Union Administration
Gerard Poliquin, Secretary of the Board
1775 Duke Street
Alexandria, VA 22314-3428

RE: Comments on Notice of Proposed Rulemaking for Part 701, FCU Ownership of Fixed Assets

VIA ELECTRONIC MAIL: www.regulations.gov

Dear Mr. Poliquin,

The Michigan Credit Union League (MCUL), the statewide trade association representing 97% of the credit unions located in Michigan and their 4.5 million members, appreciates the opportunity to comment on the National Credit Union Administration's (NCUA) proposal to amend regulations governing federal credit union (FCU) ownership of fixed assets. The MCUL commends the NCUA for taking the initiative to revisit a regulation in response to credit union feedback and to make amendments to provide much-needed regulatory relief.

Fixed Assets Cap

The MCUL strongly supports the NCUA's proposal to eliminate the waiver requirement for FCUs that exceed the 5% fixed asset cap.

Although the elimination of the waiver requirement will provide relief to credit unions, the MCUL encourages the NCUA to consider an additional amendment to the definition of fixed assets. Currently, the definition encompasses "premises, furniture, fixtures and equipment, including any office, branch office, suboffice, service center, parking lot, facility, real estate where a credit union transacts or will transact business, office furnishings, office machines, computer hardware and software, automated terminals and heating and cooling equipment." The MCUL believes this definition is overly inclusive compared to state law[1] and bank regulations[2]. Computer software in particular, including a credit union's core system, is extremely costly. The expense for this critical asset alone can add significantly to fixed asset levels. The NCUA should strongly consider further

[1] Michigan Credit Union Act, Section 490.401(2)(hh): "A domestic credit union's investment or contractual obligations, direct, indirect, or contingent, in land and buildings under this subdivision may not exceed 5% of its assets without the prior approval of the commissioner.
[2] http://www.occ.gov/publications/publications-by-type/comptrollers-handbook/_pdf/bankprem.pdf

streamlining their approach to the definition of fixed assets to include land and buildings only, to provide truly comprehensive regulatory relief and simplified compliance.

Fixed Assets Management (FAM) Program

According to the proposed rule, FCUs who exceed the 5% fixed asset aggregate limit will be required to implement a fixed assets management (FAM) program. According to the NCUA, the FAM program must contain three components:

1. A board-approved written policy must establish a reasonable limit on the aggregate amount of the FCU's investment in fixed assets. The MCUL supports this component and appreciates the NCUA's flexibility in allowing the new policy requirements to be included in an existing policy. It is very routine for credit unions to have analyses of fixed assets built into their ALM models. Therefore this requirement will not drastically increase the burden on FCUs.

2. As part of board oversight, purchases exceeding the 5% limit will require relevant approvals and an appropriate analysis of the impact the purchase will have on the credit union's balance sheet and income statement projections. As previously mentioned, fixed assets are reviewed as part of existing ALM models, reducing the risk of any additional, undue burden. The MCUL supports this component, along with the authority to delegate (within certain limits) approval power for purchases exceeding policy limits to a CEO or another credit union employee.

3. Internal controls must be established to effectively monitor and measure the credit union's investments in fixed assets. The MCUL does not object to this requirement and believes most credit unions already have these types of controls in place.

Grandfathering

The MCUL supports the NCUA's proposal to grandfather those FCUs that have already gone through the waiver process at their current approved fixed asset limit until their waiver expires. The MCUL appreciates that the NCUA has considered the time and effort spent by these credit unions on the waiver process, and allowing them to plan accordingly based on those previously approved limits.

Partial Occupancy of Premises Acquired for Future Expansion

The MCUL supports the NCUA's proposal to allow an FCU up to five years from the date of acquisition to meet the partial occupancy requirement, regardless of whether the premises are improved or unimproved property. Credit unions have indicated that having only one timeframe will be easier for compliance purposes and the increase of two years for improved premises is a beneficial trade-off for the one year reduction for unimproved land or unimproved real property.

Although it is proposed that the waiver process remain in place if additional time is needed to partially occupy premises acquired for future expansion, the MCUL supports the elimination of the requirement to submit the request for a waiver within 30 months after the property is acquired. Credit unions will now have the flexibility to apply for a waiver beyond that timeframe as needed. This will be especially useful for credit unions dependent on third parties, where extended timeframes to occupy are beyond their control.

Full Occupancy

The NCUA is requesting comments on the lack of timeframes to fully occupy premises acquired for future expansion. The MCUL believes it is not appropriate for the NCUA to address or amend the full occupancy provisions of the existing rule. Each FCU's expansion plan will necessarily be different, including additional timeframes and other requirements to meet full occupancy requirements. Any such proposal would ultimately fail to achieve the NCUA's intentions of providing regulatory relief due to the level of variation between institutions.

Summary

FCUs that met requirements under the Regulatory Flexibility Act (RegFlex), prior to their repeal in 2010, were exempt from the waiver requirement if fixed assets exceeded the 5% limit. Given the current regulatory environment, NCUA's proposal to eliminate the waiver requirement is welcomed and warranted as relief from an undue burden. The MCUL appreciates the proposed revisions, such as the grandfathering provisions and the elimination of the requirement to submit a waiver request within 30 months after property is acquired. However, the MCUL encourages the NCUA to consider further relief by refining the "fixed asset" definition, to coincide with other state credit union and banking laws. The MCUL appreciates the opportunity to comment on this proposal.

Sincerely,

Ken Ross
Executive Vice President & Chief Operating Officer