



January 8, 2024

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

**Re: Docket Number NCUA-2023-0023, RIN 3133-AF55**

*Filed electronically via: <http://www.regulations.gov>*

Dear Ms. Conyers-Ausbrooks:

CrossState Credit Union Association (CrossState) appreciates this opportunity to share comments on the proposed rule to codify Interpretive Ruling and Policy Statement (IRPS) 19-1 and incorporate the Fair Hiring in Banking Act (FHBA) into NCUA regulations. CrossState is a regional trade association that advocates for nearly 500 credit unions located in the State of New Jersey and Commonwealth of Pennsylvania.

*Background*

Section 205(d) of the Federal Credit Union Act (FCUA) prohibits, without the prior consent of the NCUA Board, the hiring of certain individuals previously convicted of criminal offenses, by federally insured credit unions. Section 205(d) also includes many exceptions to the general prohibition. IRPS 08-01 was adopted in 2008 to provide additional guidance on the Section 205(d) prohibitions and excluded certain *de minimis* offenses and juvenile offenses from needing Board consent.

IRPS 19-1 was issued in 2019 to revise the previously issued IRPS 08-01 and expanded the definition of *de minimis* offenses to include convictions involving insufficient funds checks of a lesser value, small-dollar simple theft, false identification, simple drug possession, and some minor offenses committed when a person was under the age of 21.

In 2022, The National Defense Authorization Act (NDAA) was passed by Congress. The NDAA included the FHBA which amended Section 205(d). The FHBA further expanded the relief available to individuals with prior convictions seeking employment with an insured credit union.

The FHBA also amended the Federal Deposit Insurance Act's (FDI Act) Section 19 which contains similar provisions to NCUA's Section 205(d). The Federal Deposit Insurance Corporation (FDIC) implemented the changes in 2023.

*Proposed Rule*

The proposed rule would add Part 752 to NCUA's regulations and codify IRPS 19-1 and apply the changes required by the FHBA's amendments to Section 205(d). CrossState recognizes the importance of permitting individuals who have prior convictions, especially those of a *de*

*minimis* nature, and those committed by youthful offenders, the opportunity to participate in rewarding work and support from the communities in which they reside.

Credit unions in Pennsylvania and New Jersey are committed to helping reentrants transition back into their communities and develop strong financial foundations. In 2023, CrossState Credit Union Foundation and credit union volunteers from Pennsylvania and New Jersey teamed up with the PA Department of Corrections and the PA Department of Banking and Securities for a Financial Reality Fair dedicated to helping reentrants gain the skills they will need to be successful in managing their finances as they reenter communities.<sup>1</sup>

Additionally, in 2023, CrossState hosted a webinar to introduce other credit unions to a proposed federal credit union that hopes to provide a financial home for returning citizens and their families. The credit union will be dedicated to serving formerly incarcerated individuals and their families with the goals of reducing recidivism and banking the unbanked and underbanked.

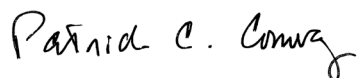
CrossState and its member credit unions support the proposed rule as it expands on the ability of credit unions to make their own hiring decisions and decreases the instances where a consent application would need to be submitted. Much of the language in the proposed rule is consistent with what has been required under IRPS 19-1.

We encourage NCUA to review its interpretation of crimes involving possession. In the commentary to IRPS 19-1, the Board stated that "[it] maintains that an application should be required for most drug offenses so it can determine the nature of the offense and elements of the crime; thus, it will continue the current requirement that an application be filed for drug offenses that do not qualify as *de minimis*."<sup>2</sup> By still requiring the consent application for possession with intent to distribute crimes, it does not mean that the application would not be approved, however it would still require the extra review of the Board, which is important where a crime is not of a *de minimis* nature.

We appreciate that the Board will issue guidance to go along with the proposed rule and we encourage the use of examples in the guidance. Examples can be especially helpful in circumstances where the timing of when an offense is committed, versus when a sentencing takes place, will be critical to a credit union's evaluation of whether a consent application will be required.

Thank you for the opportunity to provide comments on these important issues.

With best regards,



Patrick C. Conway  
President & CEO

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<sup>1</sup> [CrossState Credit Union Foundation and Partners Hold Financial Reality Fair for Individuals Reentering Society](#)

<sup>2</sup> *Exceptions to Employment Restrictions Under Section 205(d) of the Federal Credit Union Act ("Second Chance IRPS")*, 84 Fed. Reg. 65912 (proposed December 2, 2019).

cc: CrossState Board  
CrossState Government Relations Committee  
CrossState Regulatory Review Committee