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January 8, 2024

Submitted Electronically via <https://www.regulations.gov>

Ms. Melane Conyers-Ausbrooks
Secretary of the Board
National Credit Union Administration
1755 Duke Street
Alexandria, VA 22314

**Re: NCUA Fair Hiring in Banking Proposed Rulemaking (RIN 3133-AF55);
Docket Number NCUA-2023-0023**

Dear Ms. Conyers-Ausbrooks:

On behalf of TruStage (formerly CUNA Mutual Group), which includes CUMIS Insurance Society, Inc., we are pleased to provide comments to the National Credit Union Administration (NCUA) on the agency's proposal (Proposed Rule) to incorporate its "Second Chance" Interpretive Ruling and Policy Statement 19-1 (IRPS 19-1) and the Fair Hiring in Banking Act into its regulations.

TruStage is the nation's leading provider of financial products and services to credit unions and credit union members. In addition to fidelity bond coverage, CUMIS offers credit unions a comprehensive suite of coverages so credit unions can appropriately manage property, financial, liability, and accident risks. Company coverages protect the majority of federal and state-chartered credit unions as well as many corporate credit unions and credit union service organizations. CUMIS brings nearly 60 years of experience related to these lines of coverage and takes seriously the Company's role in protecting the financial health of the credit union movement.

TruStage Supports Second Chances

Like the NCUA, and as shared in our comment letter dated September 27, 2019, regarding the NCUA's Notice of Proposed Guidance Regarding Prohibitions Imposed by Section 205(d) of the Federal Credit Union Act, TruStage continues to support second chances. TruStage appreciates the NCUA's thoughtful Proposed Rule, which modifies and expands the current exception for de minimis offenses deemed automatically approved by the NCUA Board for purposes of hiring decisions. Further, TruStage appreciates the NCUA's aim to make reasonably consistent the de minimis exceptions available between the NCUA and Federal Deposit Insurance Corporation (FDIC). NCUA's Proposed Rule is balanced and tailored to reduce regulatory burden for credit unions, keeping the focus on

protecting federally insured credit unions from risk posed by individuals previously convicted of certain criminal offenses.

TruStage Bondability Underwriting Unchanged by Proposed Rule

As was the case under IRPS 19-1, TruStage's bondability review will continue to operate largely as it has in the past under the Proposed Rule. In the fidelity bond application and renewal processes, as well as when prospective employees are vetted, TruStage will continue to require full disclosure of all pertinent, known facts to prevent later triggering the dishonest acts clause in fidelity bond contracts. TruStage's fidelity bond policyholders will still be strongly encouraged to check the Company's Bondability Database. Credit unions share information of this kind with TruStage every day and the Company is often willing to provide coverage on a fact-intensive, case-by-case basis. All facts related to employees and prospective employees will remain relevant to TruStage underwriting decisions under the Proposed Rule.

The Proposed Rule will relieve credit unions from some process burdens currently in place for hiring certain otherwise qualified candidates with a history of de minimis criminal activity. The Proposed Rule appropriately and expressly excludes from the definition of de minimis criminal activity occasions of burglary, forgery, robbery, identity theft, and fraud.

While we support second chances, TruStage also supports the limits of the Proposed Rule. The Proposed Rule, like IRPS 19-1, retains a credit union's ability to exercise more stringent criteria for hiring and does not require insurers to provide fidelity bond coverage for all candidates who meet the second chance standards.

NCUA Clarification Needed Regarding Proposed Rule's Use of "Shall be Covered by a Fidelity Bond"

TruStage is concerned the Proposed Rule, as currently written, could result in incorrect assumptions that fidelity bond carriers are required to provide coverage if an individual who meets the second chance criteria is offered a position that by law must be bonded.

The Proposed Rule would require credit unions to obtain fidelity bond coverage for those individuals whose offenses fall under a de minimis exception to the same extent as coverage obtained for other hires without prior offenses. The Proposed Rule's use of the phrase "shall be covered" may mislead credit unions into thinking the burden is on bond providers, and that all bond providers will write the required coverage for a proposed hire. In practice, this will not always be the case.

In our experience as a bond provider, institutions are often surprised when informed they are unable to secure fidelity bond coverage for a new hire where they are not otherwise prohibited from hiring the individual. Ultimately, each bond provider has a risk appetite, and even though an individual may be eligible for hire, their past acts may not align with the insurer's underwriting guidelines. Our suggested revisions to the Proposed Rule below seek to reduce potential confusion on this point. Further, the recommended text clarifies that the

burden is on the individual and/or credit union to seek and obtain the requisite coverage, and that bond coverage is not ensured simply because a particular offense does not require a consent application.

§ 752.8 *De minimis* offenses

(c) **Fidelity bond coverage and disclosure to institutions.** Fidelity bond coverage shall be obtained on a Any person who meets the criteria under this section ~~shall be covered by a fidelity bond~~ to the same extent as others in similar positions, and the person shall disclose the presence of the conviction(s) or program entry(ies) to all insured credit unions in the affairs of which he or she intends to participate.

TruStage Recommends Removal of Narrowing Language Related to Financial Institutions

Throughout the Proposed Rule, NCUA makes several references to applicant activities that previously took place at an “insured credit union” or “insured depository institution.” TruStage respectfully encourages the NCUA to eliminate the “insured” requirement and, as with revisions made when IRPS 19-1 was proposed, change any references to simply “credit union,” “depository institution” or “financial institution.”

The currently proposed language is overly specific, putting weight on whether an institution is insured and provides depository services. TruStage recommends that the NCUA instead broaden the Proposed Rule's scope to apply more scrutiny where there is any dishonest act at any financial institution. TruStage believes prior offenses by an applicant at *any* financial institution can increase an insured's risk. The suggested edits below acknowledge that former employees of any financial institution are subject to a higher duty in hiring, not just former employees at an insured depository institution or insured credit union.

§ 752.8 *De minimis* offenses

(a)(4) Each covered offense was not committed against an ~~insured~~ depository institution or ~~insured~~ credit union.

(b)(2)(ii) No ~~insured~~ depository institution or ~~insured~~ credit union was a payee on any of the “bad” or insufficient funds checks that were the basis of the conviction(s) or program entry(ies); and

(b)(3)(ii) The theft was not committed against an ~~insured~~ depository institution or ~~insured~~ credit union;

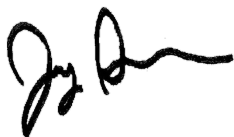
As described in our 2019 comment letter to the NCUA, the full implications of this proposal may not be known for several years. In considering the Proposed Rule, TruStage anticipates that beyond fidelity bond coverage, there could be impacts for risk management services provided to credit unions as well as

business auto and business liability coverages as new general, safety concerns may arise. TruStage does not currently anticipate any immediate premium adjustments for credit unions stemming from the NCUA's Proposed Rule. However, the Company will continue to reevaluate that position along with credit unions' experience under the proposed terms over time, keeping in mind the important goals underlying this NCUA proposal.

In closing, TruStage appreciates the NCUA's consideration of these comments and joins the NCUA to advocate for second chances. Importantly, we recommend NCUA clarify that the Proposed Rule is but one component to guide credit union hiring decisions. Even after the Proposed Rule goes into effect, credit unions will still be required to ensure their fidelity bond provider, such as TruStage, will bond each individual they want to hire for a bonded position to prevent surprises later in the hiring process.

Please reach out with any questions or if we can offer additional information to support these comments. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Jay Isaacson", with a stylized, flowing script.

Jay Isaacson
SVP, Lending and P&C Solutions