

October 26, 2015

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Office of Management and Budget  
ATTN: Desk Officer for the National Credit Union Administration  
Office of Information and Regulatory Affairs  
Washington, DC 20503

Re: Comments on OMB Review and Clearance under the Paperwork Reduction Act

Dear Sir/Madam:

The Credit Union National Association (CUNA) appreciates the opportunity to submit comments concerning the National Credit Union Administration's (NCUA) information collection and Office of Management and Budget's (OMB) review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. Chapter 35). CUNA represents America's credit unions and their more than 100 million members.

NCUA amended 12 CFR part 712 to address what the NCUA characterizes as safety and soundness concerns about activities conducted by Credit Union Service Organizations (CUSOs). Among other items, the amendments imposed various requirements on credit unions to obtain a written agreement with a CUSO to provide accounting, financial statements, audits, reporting and legal opinions. We note that the NCUA does not have direct jurisdiction over CUSOs. The NCUA at one point was provided such authority by Congress for purposes of Y2K to examine CUSOs but those provisions expired in December 2001. See Examination Parity and Year 200 Readiness for Financial Institutions Act, P.L. 105-164. The fact Congress allowed this authority to expire clearly demonstrates it did not intend the agency to regulate CUSOs in the long term. It is well established law that an agency should not require by regulation what Congress does not permit it to do by statute. See, e.g., NCUA v. First Nat'l Bank & Trust Co., 522 U.S. 479, 499-501 (1998) *Indep. Ins.*

Agents v. Hawke, 211 F. 3d, 638, 643-645 (D.C. Cir. 2000). Nonetheless, the NCUA has, through the back door, imposed these requirements on credit unions to collect and require these items on CUSOs, a de facto, albeit indirect, exercise of authority over CUSOs.

The purpose of the Paperwork Reduction Act and OMB clearance is to ensure that the public (or the regulated) is not overburdened by data collection by an agency. In this instance where the purpose for the collection is questionable, at a minimum the act would demand the agency collect the information in the least burdensome manner possible. We note the Federal Register Notice indicates this collection requires approximately 4,116 respondents on an occasional or annual frequency to respond, imposing 11,558.5 hours of burden, at a total annual cost of \$76,177.20.

A better alternative for the agency would be to collect this information during an examination or supervisory visit and not require additional reporting by a credit union. We believe this is a much less burdensome alternative that reduces the reporting burden on the public.

Thank you for the opportunity to express these views to the NCUA. If you have further questions or would like to discuss CUNA's comments in more detail, please feel free to contact me at 202-508-3630.

Sincerely,

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