



April 28, 2021

Ms. Melane Conyers-Ausbrooks
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, Virginia 22314-3428.
Submitted electronically: OGCMail@ncua.gov

Re: Proposed Rule on Credit Union Service Organizations (CUSOs) RIN 3133-AE95

Dear NCUA Board Members,

Inclusiv respectfully submits these comments on the NCUA proposed rule on credit union service organizations (CUSOs). The rule, as proposed, would expand the list of permissible activities and services for CUSOs to include originating any type of loan that a federal credit union may originate; and grant the NCUA Board additional flexibility to approve permissible activities and services. Inclusiv opposes the rule as structured and believes it could have harmful effects on credit union lenders, the members and communities we serve and the future reputation of the credit union industry. By enacting this rule, CUSOs could essentially act as payday, car title and/or online lenders directly marketing and lending to both existing credit union members and non-members; without being subject to federal credit union interest rate limits and sufficient oversight by the NCUA.

Inclusiv is a national association of *community development* credit unions and a certified CDFI intermediary that raises and deploys capital into credit unions, builds capacity and supports credit unions to connect low-income people and communities to responsible financial products and services. Our mission is to build financial independence of low-income and underserved people through credit unions. The Inclusiv network is composed of 380 credit unions serving more than 13 million people in 46 states, DC and Puerto Rico. These institutions range from under \$10MM in assets to more than \$10B; and collectively manage \$184B in assets under management.

Background

NCUA stipulates that the agency historically has been reluctant to grant CUSOs general lending authority for the following reasons:

- Concern that this could be perceived as a dilution of the FCU common bond requirement serving people that are not members of an FCU and thereby enabling credit unions to benefit from profits generated from nonmembers.
- The duty to examine such loans and need to stricter NCUA examination authority over CUSOs.
- Concerns that increasing CUSO lending authority could negatively affect affiliated credit union services



We do not believe that this proposed rule has adequately addressed these historic concerns. The rule has not demonstrated the Agency's duty to examine CUSOs and the loans made through these vehicles; and specifically the rule has not addressed how consumer protections and interest rate caps currently applied to credit unions will be equally applied to CUSOs. The proposed rule will adversely affect affiliated (and non-affiliated) credit unions services establishing an uneven playing field between CUSOs and credit unions engaging in direct lending. It also opens up the entire credit union industry to suffer from negative perceptions for potential harmful lending practices from a handful of potential bad actors.

Proposed Rule

CUSO lending is currently restricted to the following activities: (1) business; (2) mortgage; (3) student; and (4) credit cards. The justification for allowing CUSOs to enter these activities included: enabling an FCU to deliver business lending that they might not otherwise be able to make on their books; to hire a level of expertise in lending a single FCU on their own may not be able to afford; invest in back-end infrastructure with some economies of scale. NCUA notes the Board has previously cited the strict rules governing these activities as justification for limiting CUSO lending authority to just these activities.

The current proposed rule offers no such compelling reason for easing restrictions in terms of the stated goals for CUSOs of establishing economies of scale, investment in infrastructure or the complexity of lending or that a single FCU would be capable or able to develop. Nor is the proposal necessary to accomplish those goals, as CUSOs are already able to facilitate collective investment in technology without broadened lending powers. In fact, this rule offers no compelling justification as to why CUSO lending is needed to deliver the basic lending and financing activities of a typical credit union.

In citing a broad justification for its purpose the proposed rule cites, "The Board now believes that permitting CUSOs to originate any type of loan that an FCU may originate may better enable FCUs *to compete effectively in today's marketplace* and better serve their members." This begs the question: **Compete with whom?** The answer appears to be the ability to compete with payday lenders and other predatory service providers to deliver high-cost destabilizing loans to consumers. The major justification to expand CUSO lending to delivering this broad range of financial products and services appears to be skirting existing regulation, interest rate caps and consumer protections that ensure that credit union members and potential members receive affordable and responsible products.

This rule will enable CUSOs to make high-cost payday loans that have a disparate impact on people of color that are not allowed under the FCU charter, creating a two-channel system for members and non-members that creates a disparate impact. Thus, the proposal will disproportionately harm consumers historically *excluded*, namely communities of color, exacerbating the inequity of financial access even as the Board elsewhere emphasizes racial equity and financial inclusion.

The proposal undermines fundamental principles of the FCU Act by allowing lending that exceeds the FCU Act's interest rate ceiling and posing safety and soundness risks to the credit union system. It also undermines our own calls for greater federal and state protections against unregulated fintech and predatory lenders.



We urge the Board to abandon this proposal or at the very least to amend the proposal with changes that are critical to protecting credit union members and the credit union system. Most critically, any expansion of CUSO lending activity must be limited to loans on the same terms that FCUs are themselves empowered to make.

We look forward to future discussions on this important issue and opportunities to weigh in more deeply. If you have any questions, please contact me at cmahon@inclusiv.org or Jules Epstein-Hebert (jhebert@inclusiv.org).

Sincerely,

A handwritten signature in black ink that reads "Cathleen A. Mahon". The signature is fluid and cursive, with a long horizontal stroke at the end.

Cathleen A. Mahon
President and CEO