

February 22, 2011

Mary Rupp
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, Virginia 22314-3428

re: National Credit Union Administration; Accuracy of Advertising and Notice of Insured Status; 12 C.F.R. Part 740; 75 Federal Register 82323, December 30, 2010

Dear Ms. Rupp:

The National Credit Union Administration (NCUA) Board (the Board) issued a proposed rule to amend provisions of its official advertising statement rule. Unfortunately, some of the proposed changes will differ from the requirements set forth by the Federal Deposit Insurance Corporation (FDIC). Specifically, the American Bankers Association (ABA)¹ believes that rules governing the accuracy of advertising and notice of insured status should be consistent between FDIC and NCUA. Otherwise, there is a risk that such differences may mislead depositors. After all, both FDIC and NCUA provide identical protection for bank and credit union depositors, and both enjoy the full faith and credit protection of the federal government and should be subject to comparable standards. ABA believes that enhancing NCUA's name recognition, so as to compete with the FDIC, is not an appropriate policy goal.

Background

The Board proposes to revise certain provisions of NCUA's official advertising statement rule.

First, the Board is proposing to rescind three exemptions from its rule requiring the use of the official advertising statement. The three exemptions that are to be rescinded include radio and television advertisements that do not exceed 30 seconds in time and annual reports and other statements of condition required to be published by law. NCUA contends that including the official advertising statement will enhance consumer confidence and NCUA's name recognition.

Second, the current rule does not define the term "advertisement." The Board proposes to define the term, which is consistent with that used by the FDIC in its official advertising statement rule.

Third, the proposed rule will clarify the size requirements for the official advertising statement in print materials.

¹ The American Bankers Association represents banks of all sizes and charters and is the voice for the nation's \$13 trillion banking industry and its two million employees. The majority of ABA's members are banks with less than \$165 million in assets. ABA's extensive resources enhance the success of the nation's banks and strengthen America's economy and communities.

ABA's Position

ABA encourages the Board to retain its current exemptions with respect to the use of official signage. This would ensure that NCUA's regulation remains consistent with FDIC's regulation.

Under current NCUA regulations, Section 740.5(c)(1) corresponds with Section 328.3(d)(1) of FDIC's regulations, which exempts "[s]tatements of condition and reports of condition of an insured depository institution which are required to be published by State or Federal law" from official signage. Section 740.5(c)(8) and (9) corresponds to Section 328.3(d)(8) official signage exemption – "[a]dvertisements by radio or television, other than display advertisements, which do not exceed thirty (30) seconds in time."

However, if NCUA adopts the proposed rule, NCUA will delete Section 740.5(c)(1), (8), and (9). As a result, NCUA's regulations governing the use of official signage will differ from FDIC's regulations. ABA believes that such differences may *mislead depositors* into thinking that the coverage provided by NCUA and FDIC is different, which of course is not true.

NCUA justifies the change in regulation as enhancing NCUA's name recognition. According to the December 16 transcripts of the NCUA Board meeting, NCUA Chairman Matz stated, "What we've tried to do is look for ways to enhance the visibility of the federal insurance fund and of NCUA so that people know when they see that NCUA logo, they'll know what it is." She also points out that the agency wants consumers "to understand the distinction between NCUA and FDIC and to know what NCUA is."

But enhancing NCUA's name recognition vis-à-vis the FDIC is **not** an appropriate policy goal. According to the transcripts of the October 21, 2010, NCUA Board meeting, John McKechnie, Director, Office of Public and Congressional Affairs, in discussing the Share Insurance Fund Public Education Campaign stated, "FDIC, as I think we all would agree, has a much higher profile in the American public's awareness. And NCUA and NCUSIF insurance, frankly, has not had that kind of profile for a variety of reasons."

ABA believes that it is inappropriate for NCUA to engage in a competition with the FDIC about name recognition. It is not the purpose of the agency to market itself, as it looks like an attempt to gain market share.

Both FDIC and NCUSIF provide identical protection for bank and credit union depositors and both enjoy the full faith and protection of the federal government. Therefore, there is not any justification for such a disparate treatment with respect to the use of the official statement and thus it is not an appropriate change.

Sincerely,



Keith Leggett
Vice President and Senior Economist