



63

JUL 21 '05 PM 1:56 BOARD

July 18, 2005

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

RE: Proposed Interpretive Ruling and Policy Statement No. 05-1

Dear Ms. Rupp:

Water and Power Community Credit Union understands that the National Credit Union Administration ("NCUA") is proposing to adopt an Interpretive Ruling and Policy Statement ("IRPS") regarding Sales of Nondeposit Investments, which will replace the NCUA Letter to Credit Unions No. 150. As a credit union which has one of the longest running alternative investment services program in the state of California, we feel qualified to offer you some salient comments. We hope you find them helpful

We have long felt that the sale of nondeposit investments is a critical tool in helping members plan for their financial future. We also know that to truly benefit our members, the products must be sold in the member's best interest. The only way to ensure this is for the credit union to have control over its program. And, the only way to control a program is to have a thorough, current and active knowledge of the securities industry. Additionally, systems have to be put in place which will encourage ethical performance. We observe that unless personnel of the credit union obtain the requisite licenses, it is impossible for them to accomplish this task. And, in order to obtain these licenses, personnel must be affiliated with a broker/dealer.

Here are some specific comments:

Investments offered through CUSO Financial Services, L.P. (CFS), an Independent broker dealer, are: not NCUA/NCUSIF insured, not credit union guaranteed; and may lose value. Registered representatives are employees of Water and Power Community Credit Union, and registered with CFS (member NASD/SIPC).

1. Regulatory Flexibility Act

According to the NCUA, the IRPS will not have a significant economic impact on the small credit union. We disagree as credit unions would have to either train or hire staff with the appropriate background, knowledge and licensing to do a meaningful compliance analysis.

2. Proposed Contract Provisions

One of the IRPS proposed provisions for contracts between a credit union and a broker/dealer would require the credit union to identify and analyze the products that the broker may offer. As previously stated, unless the credit union truly has qualified staff, this would be impossible. At best, they would be rubber stamping what the broker/dealer told them to offer. At worst, they would not understand the ramifications of the product and seek to limit the offerings which could in fact hurt the member.

3. Compliance with the requirements of the IRPS and applicable law and regulation.

You are proposing that the compliance staff contact credit union members that have purchased nondeposit investments to ensure that the member received and understood the required disclosures. We believe that unless the staff of the credit union truly understood the product this could cause potential confusion and could in fact blur the required distinction between deposit and nondeposit products.

4. Dual Employees

Per the IRPS, the duties performed by a credit union should not bring the dual employee into contact with members that might also purchase nondeposit investments. Dual employees must perform functions for both the credit union and the brokerage firm. Therefore, it's not feasible to prevent such employees from coming into contact with members.

We do not agree with the IRPS provision, which states that the dual employee should not have management or policy setting responsibilities within the credit union related to nondeposit investments. The dual employees are likely the only employees with securities licensing and investment sales experienced. Therefore, the dual employees' guidance is critical with respect to investment practices.

The IRPS also states that the dual employees should not reference their positions at the credit union when conducting non deposit investment business. Again, we believe that this is not practical and impossible to supervise.

In closing, we would like to compliment NCUA in its rigorous quest to ensure that credit unions continue to serve in their member's best interest. At WPCCU we have developed and implemented the processes which allow us to successfully deliver a well rounded, member-focused alternative investment services program. This was accomplished over a period of time and with a cost; a cost that might be prohibitive and impossible for small credit unions.

Should you have any questions, please contact me at 213-580-1687.

Sincerely,



Celeste Zibelli,
Office of Supervisory Jurisdiction
Vice President of Marketing and Financial Services