

**YOUNG, SHERON**

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**From:** \_Regulatory Comments  
**Sent:** Tuesday, July 26, 2005 9:10 AM  
**To:** YOUNG, SHERON  
**Subject:** FW: Comments on Proposed IRPS (Sales of Nondeposit Investments)

[Adobe to Web](#)

-----Original Message-----

**From:** Beverley Rutherford [mailto:beverley.rutherford@vacu.org]  
**Sent:** Monday, July 25, 2005 2:02 PM  
**To:** \_Regulatory Comments  
**Cc:** ktatlock@vacul.org; mdunn@cuna.com  
**Subject:** Comments on Proposed IRPS (Sales of Nondeposit Investments)

Thank you for the opportunity to comment on your proposal to adopt an IRPS on Sales of Nondeposit Investments, which updates and replaces NCUA's Letter 150. I am responding on behalf of a state-chartered credit union located in Virginia. We do have concerns about two areas contained within the IRPS.

First, the IRPS states "compliance personnel should conduct periodic, random samplings of account activity to look for evidence of abuse." We believe by requiring this of credit unions, we will all incur additional liability as well as increased costs. In order to effectively perform this review, which would include contacting members to ensure they received and understood the required disclosures, someone that is licensed in securities and independent of the function would have to perform this review, ultimately requiring added expense to credit unions. With current oversight by NASD and SEC, as well as internal compliance responsibilities by the brokerage firm contracted with, we question the benefit an internal review would provide related to the expense. Additionally, we are concerned that if we are performing an account review and we fail to uncover any abuses by the third party broker, the member may contend the credit union was negligent, thus increasing our liability.

Another area of concern was with regards to a third party brokerage arrangement using dual employees. Specifically, the IRPS mentions the duties performed for the credit union should not bring the employee into contact with members that might also purchase nondeposit investments. In many credit unions, including ours, a branch manager is a dual employee licensed to sell approved investments through a third party broker arrangement as well as meet with members on credit union products. It would appear that this arrangement would not be permissible, even if proper disclosures and safeguards are followed. Additionally, it would create a disadvantage for credit unions in competing with banks who are permitted to have this type of arrangement. We respectfully ask for further clarification if this is not NCUA's intent and reconsider this part of the proposal if it is.

Thank you for the opportunity to comment on the proposed IRPS. Should you have any questions about these comments, please feel free to contact me.

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