Velocity
CREDIT UNION

July 25, 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:

Velocity 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.

We are writing to provide general comments on the IRPS as follows:

1. **Regulatory Flexibility Act**

   According to the NCUA, the IRPS will not have a significant economic impact on the small credit union. We disagree based on the following.

   The independent compliance effort that the IRPS would require of a credit union necessitates the acquisition of trained employees with the requisite securities knowledge and experience to effectively conduct the compliance functions. Preferably, the compliance staff would be securities licensed to obtain the requisite knowledge of applicable regulations and be subject to ongoing continuing education requirements. However, since only NASD registered broker/dealers can hold an individual's securities licenses, credit unions are unable to maintain such licensing for employees.

   Due to the current regulatory climate, competent compliance personnel are in high demand and companies are competing to retain them. As a result, salaries for compliance positions are extremely competitive.

   Additionally, there is a significant cost associated with the development and implementation of a compliance program. Given the complexity and progression of securities regulations, credit unions would be required to create costly surveillance systems in order to conduct the specific reviews as proposed in the IRPS.

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Contrary to the NCUA's position, we believe that the additional cost for the credit union's compliance surveillance as proposed in the IRPS is unwarranted and burdensome to a credit union of our size and by degrees even more so for a credit union classified as "small". The compliance efforts that are being suggested as to be required in the IRPS are duplicated to a great extent by the current compliance practices of the broker/dealer firms which already have a compliance system in place that is subject to oversight by multiple securities regulators.

2. Paperwork Reduction Act

According to the NCUA, the IRPS will not increase paperwork requirements. We disagree based on the following.

The IRPS proposes that a credit union's independent compliance program contact investment clients, monitor customer complaints, review accounts for churning and suitability and ensure that the broker's supervisory personnel make scheduled examinations. It is naïve to suggest that such a level of oversight as this could be accomplished, documented, reviewed, approved, scanned, stored, etc. without extensive clerical efforts and the generation of considerable "paperwork" including, among other things surveillance reports, trade reviews, audits, and correspondence with clients and regulators. The clerical effort and paperwork generation required would be duplicated by the broker/dealer firm compliance department and therefore would constitute an unnecessary burden and expense to the credit union.

3. Proposed Contract Provisions

The below proposed contract provisions may negatively affect and/or are not practical for credit unions as follows.

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. We don't believe that the credit union is in the best position to conduct this task. One of the benefits of the collaboration between a credit union and a third party provider such as a broker/dealer is the access to the expertise and experience of a firm that is familiar with a service not previously offered by the credit union. The decision as to what specific products to offer to the credit union membership should be a collaborative decision between the broker/dealer and the credit union, albeit one in which the credit union may need to lean heavily on the expertise of the broker/dealer. The objective of the collaborative process should be to provide a full array of suitable investments for the members. Initially, most credit unions lack the experience to determine a thorough and diversified product line for its' members and thus rely on the expertise of the broker/dealer. Without this collaboration the credit union

inadvertently subject the credit union to unnecessary risk and liability for what might be inappropriate or inadequate product choices for its members.

An additional proposed contract provision states that the brokerage firm should allow the credit union the right to check for compliance and access member brokerage accounts for oversight. The broker/dealer's compliance program is reviewed by various industry and regulatory bodies who specialize in the securities business. Adding another layer of review by the credit union would be repetitious and inefficient. Furthermore, allowing the credit union to access client brokerage accounts may violate state and broker/dealer privacy policies.

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

The below proposed compliance requirements may negatively affect and/or are not practical for credit unions as follows.

As discussed above, the IRPS proposes that the compliance staff of the credit union contact credit union members that have purchased nondeposit investments to ensure that the member received and understood the required disclosures. We believe client contact for the purpose of discussing investments with credit union personnel who are independent from the investment sales program may potentially confuse clients by blurring the required distinction between credit union deposit and nondeposit functions. The IRPS discusses the separation of the investment sales activity from the receipt of deposits, yet this requirement that non security-licensed staff that are not part of the investment advising and sales program contact directly members and question them about the details of their investment transactions certainly, it seems to us, to deliver a message inconsistent with the separation of the investment operations from the usual business of the credit union. By asserting supervision over the investment process the credit union would place itself directly in line for being responsible for the investment program's practices and expose it to more liability rather than less.

Importantly, several securities products are extremely complex. Thus, our concern is whether the credit union employee who is independent of the investment sales can fully understand and competently discuss required disclosures or ably respond to clients' investment inquiries.

In addition to contacting clients, the IRPS proposes that the independent compliance staff monitor customer complaints, review accounts for churning and suitability and ensure that the broker's supervisory personnel make scheduled examinations. These reviews are already being conducted by the brokerage firms' OSJ's (Office of Supervisory Jurisdiction) and compliance departments and subject to oversight by the SEC, NASD, Self Regulatory Agencies and the individual state securities regulators. The employees of the brokerage firm with the requisite licensing, knowledge and experience are responsible for compliance

functions. There may be no employee at the credit union with qualifications required to conduct these functions. The obvious burden on the credit union to comply with this section is outweighed by any benefit since these tasks are being conducted by brokerage firms.

5. Dual Employees

The below restrictions on dual employees may negatively affect and/or are not practical for credit unions as follows.

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 broker/dealer firm. Does the IRPS requirement mean that if an investment professional is meeting with a member, the discussion cannot cover both the appropriateness of a credit union deposit and security investments? If so then this does a disservice to the credit union member. 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. The dual employees provide a tremendous resource to the management of the credit unions with respect to the investment area and many other facets of personal financial management for the members. 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.

With respect to the dual employee compensation provision, the IRPS states that the dual employee should have an employment contract with employers, the credit union and the brokerage firm. However, the dual "employee" may be an independent contractor with the brokerage firm in which case an employment agreement would be inappropriate.

According to the IRPS, the use of dual employees increases the risk a credit union may be held liable for abusive sales practices. We disagree. In fact, we believe that the IRPS as proposed, increases credit union risk. If credit unions are required to perform compliance functions over the investment center as currently proposed, clients may successfully allege that the credit union failed to meet this obligation.

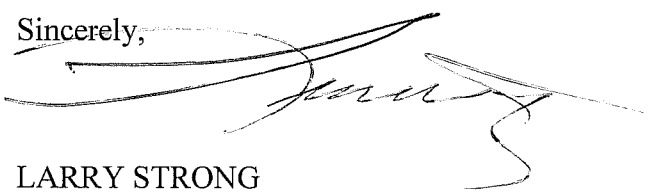
6. Non Deposit Sales to Nonmembers

While we agree that credit unions need guidance in this area, the solution to allow a percentage minimum of non-member business would be expensive and difficult if not impossible to measure, would create cost and administrative burden that is greater than the issue it seeks to address and is not practical given the actual circumstances that result in services to non-members. We understand the need to limit business to credit union members only, but in order to facilitate the practical reality of a representative servicing his/her prior book of business (which in a new program, may be 100% of revenue), we suggest that the credit union be allowed to receive reimbursement for the credit union's direct and indirect expenses (which includes compensation to the representative in a dual employee program and program management expenses) related to this business.

In summary, we believe that the requirement for credit unions to have an independent compliance function is (i) not practical since the credit union may not have staff qualified for this function, (ii) redundant since the brokerage firm already has this function, (iii) an unnecessary additional expense for the credit union and (iv) will likely increase, and not reduce, credit union liability for investment activities.

We appreciate the time and effort the NCUA has devoted to supervising federal credit unions. We look forward to reviewing the NCUA's continuing efforts to carry out its mission.

Sincerely,



LARRY STRONG
CEO/President