Credit Union
ASSOCIATION
New York

June 4, 2008

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

RE: Comments on Proposed IRPS 08-1

Dear Ms. Rupp:

On behalf of the Credit Union Association of New York (the "Association"), I would like to take this opportunity to comment on NCUA's Proposed Interpretative Ruling and Policy Statement 08-1, interpreting 12 USCA 1785(d)(1). NCUA is putting forward this proposal out of concern that credit unions are unaware of how to comply with their existing obligations under this statute. To address this concern and assist credit unions in complying with this mandate, certain aspects of this interpretive ruling are being clarified.

Section 12 U.S.C.A. 1785(d)(1) generally prohibits any person who has been involved in a criminal offense involving dishonesty or breach of trust from being an "institution affiliated party" of the credit union or otherwise participating directly or indirectly in the affairs of a credit union without the approval of the NCUA. While employees, board members, and volunteers clearly are "instituted affiliated parties," NCUA should include a more definitive explanation as to precisely who is a person considered to be participating in the affairs of the credit union for purposes of this statute. It is suggested that in the final Ruling, rather than decline to define precisely who is considered to be a participant in the affairs of the credit union, NCUA take the opportunity to define such persons exclusively as those persons who exercise major policy-making functions at the credit union. Codification of this language will clarify that the purpose of this statute is *not* to drag every third party vendor, no matter how minor, into the dragnet of the statute.

In describing the obligations of credit unions under this statute, NCUA appropriately believes that credit unions should be required to make reasonable inquiry regarding the history of every applicant or employee. It points out that such a screening process would, at a minimum, include applications which inquire as to whether or not someone has previously been convicted of a crime. This interpretation would be strengthened by making it clear that credit unions are not required to conduct extensive criminal background checks and they may rely on the answers of their applicants in satisfying their due diligence under this statute.

Finally, in interpreting 12 U.S.C. 1785, NCUA should consider explaining the interplay between this federal mandate and existing state law obligations. For example, under New York State law, persons generally cannot be denied employment because they have previously been convicted of a criminal offense unless the employer proves that there is a direct relationship between the offense and the type of employment or because the applicant represents a risk to the public (New York Correction Law Section 752). In order to avoid any unnecessary confusion between State and Federal obligations, it is suggested that a provision of the interpretive ruling include a statement to the effect that good faith compliance with similar state laws may satisfy the requirements under the Federal Act.

I hope these comments have been useful to you.

Sincerely,

William J. Mellin
President/CEO