



**Indiana Credit Union League**  
*The association of Indiana credit unions*

August 3, 2020

Regulatory Review (2020)  
Office of General Counsel  
National Credit Union Administration  
1775 Duke Street  
Alexandria, Virginia 22314-3428

RE: Regulatory Review (2020)

Dear Office of General Counsel:

The Indiana Credit Union League (ICUL) appreciates the opportunity to submit comments on the National Credit Union Administration's 2020 Regulatory Review. The ICUL member credit unions represent 99% of assets and members of Indiana's credit unions, with those memberships totaling more than 2.6 million consumers.

ICUL believes NCUA should review and make the appropriate changes to Part 721, Incidental Powers, as it relates to conflict of interest for officials, during its regulatory list review for 2020 within which Part 721 falls. NCUA's requirements governing officials' duties and conflicts are in numerous places (Section 701.4, 701.21(c)(8), 701.33, 721.7 and the FCU Bylaws, Article XVI, Section 4). More specifically, Section 721.7 states: "No official, employee, or their immediate family member may receive any compensation or benefit, directly or indirectly, in connection with your engagement in an activity authorized under this part, except as otherwise provided in paragraph (b) of this section." Thus, when referencing Section 721.3 that contains specifically listed permitted incidental powers, officials in certain professions (e.g., financial counseling and marketing) are unable to serve as an official and have a financial interest resulting from a contractual relationship with the credit union to provide such services. It seems baseless to alienate specific professions. In addition, NCUA has other requirements in place to avoid any unethical situations.

First, Section 701.4 states officials must carry out their duties in good faith and in the best interests of the credit union, and must administer the credit union's affairs fairly, impartially and without discrimination. Section 701.33 also contains safeguards: "Only one board officer, if any, may be compensated as an officer of the board...No other official may receive compensation for performing the duties or responsibilities of the board or committee position to which the person has been elected or appointed." Further, FCU Bylaws, Article XVI, Section 4, addresses conflicts of interest and contains safeguards:

*No director, committee member, officer, agent, or employee of this credit union may participate in any manner, directly or indirectly, in the consideration or determination of any question affecting his or her pecuniary or personal interest or the pecuniary interest of any corporation, partnership, or association (other than this credit union) in which he or she is directly or indirectly interested.*

*If the board receives a matter affecting any director's interest, the director must withdraw from the consideration or determination of that matter. If the remaining qualified directors present at the meeting plus the disqualified director or directors constitute a quorum, the remaining qualified directors, by majority vote, may exercise with respect to this matter all the powers of the board. In the event of the disqualification of any member of the credit committee, if applicable, or the supervisory committee, that committee member must withdraw from the deliberation or determination.*

NCUA's compensation restrictions for officials performing certain professions resides in NCUA's Rules and Regulations, and there are no such restrictions in the Federal Credit Union Act. Section 1761(c) states: "No member of the board or of any other committee shall, as such, be compensated, except that reasonable health, accident, similar insurance protection, and the reimbursement of reasonable expenses incurred in the execution of the duties of the position shall not be considered compensation."

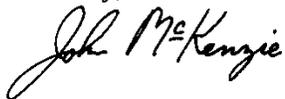
NCUA should give credit unions more latitude, especially if a credit union implements the following:

- The official in question recuses himself from any matters that relates to his business dealing or contract
- The Board of Directors has the sole authority to approve or deny the business dealing or contract
- The Board of Directors is provided periodic updates or briefings on the services being provided
- The credit union receives bids for the contracted service and those bids are reviewed by the Board of Directors, and the Board approves the winning bid

We do not understand why certain professions are being singled out, and we urge the NCUA Board to remove the conflict of interests from Part 721. We believe the conflict of interest safeguards and requirements are sufficiently addressed in Sections 701.4, 701.21(c)(8), 701.33 and the FCU Bylaws, Article XVI, Section 4. We understand that other types of depository institutions have the latitude that we are recommending.

We appreciate the opportunity to comment on Part 721, incidental powers. We ask NCUA to consider the changes we discussed above. If you have any questions about our letter, please do not hesitate to give me a call at (317) 594-5320.

Sincerely,

A handwritten signature in black ink that reads "John McKenzie". The signature is written in a cursive, slightly slanted style.

John McKenzie  
President, Indiana Credit Union League