

September 1, 2004

Mr. Jonathan G. Katz  
Secretary  
Securities and Exchange Commission  
450 Fifth Street, NW  
Washington, DC 20549-0609

In Re: File Number S7-26-04

Dear Mr. Katz:

On behalf of the Credit Union National Association, I am pleased to respond to the Security and Exchange Commission's request for comments on the proposed Regulation B to implement provisions of the Gramm-Leach-Bliley Act regarding exemptions for commercial banks from broker requirements under the Securities and Exchange Act of 1934 and to provide limited exemptions for credit unions, among other provisions. By way of background CUNA, is the largest credit union trade association, representing more than 90% of our nation's nearly 9,800 state and federal credit unions.

#### **Summary of CUNA's Position**

- CUNA commends the SEC staff for their efforts to develop a regulatory approach that would provide equitable treatment to financial institutions engaged in securities activities.
- CUNA believes the proposal represents a reasonable approach to the regulation of securities activities by credit unions and is consistent with the agency's authority under the Securities Exchange Act. If the SEC does not adopt this regulatory approach, inequities will arise among different types of financial institutions offering brokerage services, and the regulatory burden for broker-dealers working with banks and credit unions will increase.
- More specifically, CUNA supports the networking authority for credit unions as proposed. However, we do not support placing additional limitations on credit unions that enter into networking arrangements with broker-dealers.
- CUNA also supports the exceptions for sweep accounts and for securities transactions credit unions enter into for investment purposes for themselves and as a trustee or fiduciary.
- CUNA agrees with the proposal that all credit unions, including those with private insurance, should be covered by the regulation. This will help ensure uniformity in the regulation of securities activities within the credit union system.
- In response to the SEC's request for information about the regulation of privately insured credit unions, state regulators fully supervise these institutions, as they do all other financial institutions under their purview.
- In response to the SEC's proposed treatment of additional exemptions for credit unions, CUNA would like to work with SEC staff to develop a process under which future exemptions for additional activities could be considered for credit unions.

## **CUNA's Comments**

In our view, the SEC staff has worked very hard to develop a proposal, based on previous comments and statutory requirements that would provide equitable treatment to financial institutions engaged in securities activities. Under the proposal, as directed by the GLB Act, banks and savings and loans would be exempted from the definition of "broker" and allowed to engage in eleven brokerage activities without having to register with the SEC under Section 15(a) of the Securities Exchange Act.

The proposal would permit credit unions to have such exemptions regarding three securities activities: net working arrangements with broker-dealers; sweep accounts; and investments undertaken for the credit union's own account or as a trustee or fiduciary.

While the relevant GLB Act amendments addressed bank broker-dealer activities, we believe the proposed regulatory framework to develop a rule that governs such activities for all financial institutions is fully consistent with the SEC's authority under the Securities Exchange Act. More specifically regarding credit unions, we feel this approach is appropriate, given the current activities in which credit unions are engaged.

We also believe that if such a comprehensive approach is not adopted, inequities will arise among different types of financial institutions offering the same or very similar brokerage services. Further, the compliance responsibilities for broker-dealers working with banks and credit unions will be more complex if different regulatory arrangements apply to each group of institutions.

### **Exceptions for Credit Unions**

CUNA supports the networking authority for credit unions as proposed and agrees that the SEC's Chubb letter, which addressed the conditions under which a networking arrangement could be established without the institution having to register as a broker-dealer, should be superceded.

However, because we are not aware of problems arising from such arrangements with credit unions, we do not think any additional limitations on credit unions that enter into networking arrangements with broker-dealers are appropriate. The Supplementary Information accompanying the proposal has not identified any particular concern the SEC has about credit union net working arrangements, and we believe there is no justification for including additional restrictions in the final rule.

CUNA supports the exceptions for sweep accounts that would allow credit unions to move funds from deposit accounts into no-load money market funds. We agree that investor protection issues do not arise and there would be few, if any, incentives for abuse with these accounts. Similarly, we agree that securities transactions that credit unions enter into for investment purposes for themselves and as a trustee or fiduciary

should be permitted without dealer requirements being triggered. Regulatory safeguards already in place provide sufficient consumer safeguards for these activities.

### **Scope of the Rule**

In our view, the fact that the proposal would cover all credit unions, including those with private insurance, that are engaged in certain securities activities reflects good public policy and will help ensure uniformity in the regulation of securities activities within the credit union system. The SEC is requesting information about the regulation and supervision of privately insured credit unions. These institutions are chartered under state law and are heavily regulated by relevant state authorities. We would be pleased to provide additional information regarding the regulation of state chartered privately credit unions if that would be useful to the agency.

### **Additional Activities and Exemptions**

Several of the comments we have received from our members support authority for credit unions to be able to offer safekeeping and custodian activities without triggering broker-dealer requirements. We believe such activities would not raise safety and soundness concerns and would be appropriate exemptions for credit unions. At a minimum, CUNA would like to work with SEC staff to develop a process under which future exemptions for additional activities, such as safekeeping of securities, could be considered for credit unions.

We also want to express our appreciation for agency staff's consideration of issues relating to credit union service organizations. We would welcome the opportunity to meet with SEC staff again regarding these matters and to continue discussions on the regulation of broker-dealer activities of such organizations.

In closing, considerable effort was expended by SEC staff to develop a comprehensive and reasonable proposal. CUNA supports the proposed treatment of credit unions and urges the adoption of the proposal as a final rule, consistent with our comments in this letter.

Sincerely,

Juri Valdov  
Chairman, Brokerage Activities Task Force  
Credit Union National Association