



**New York State  
Credit Union League, Inc.  
and Affiliates**

*"Serving and supporting credit unions since 1917."*

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December 19, 2006

Deputy General Counsel Mary Dunn  
CUNA's Regulatory Advocacy Department  
601 Pennsylvania Avenue, NW  
6th Floor - South Building  
Washington, DC 20004

Dear Ms. Dunn:

As the President and CEO of the New York State Credit Union League, I would like to take this opportunity to comment on interim final rule RIN 3133-AD30 which, among other things, gives credit unions the authority to provide check cashing services for nonmembers. On behalf of the more than 500 state and federal credit unions represented by the League, I appreciate the speed with which NCUA has moved to grant credit unions these important powers. However, in promulgating the final rule, League members would be benefited by clarifying in more concrete terms the attendant obligations of credit unions seeking to offer check cashing services.

Most importantly, in its introductory comments announcing the interim rule NCUA stated that "[w]hen providing financial services to nonmembers federal credit unions should be mindful that they will have to meet some of the same compliance obligations with these transactions as they currently have for similar member transactions." Possible regulations implicated by these transactions include the Bank Secrecy Act; Customer Identification Program regulations; the Financial Right to Privacy Act and attendant regulations.

As credit unions go forward in offering this new service, it is important that they are mindful of what additional requirements, if any, exist. As currently drafted, the regulations when read in conjunction with the introductory comments do not meet this test. For example, 31 CFR 103.121, which implements the enhanced CIP requirements mandated under the Patriot Act defines an account as:

a formal banking relationship established to provide or engage in services, dealings, or other financial transactions including a deposit account, a transaction or asset account, a credit account, or other extension of credit. Account also includes a relationship established to provide a safety deposit box or other safekeeping services, or cash management, custodian, and trust services.

(ii) Account does not include:

(A) A product or service where a formal banking relationship is not established with a person, such as check-cashing, wire transfer, or sale of a check or money order; . . .

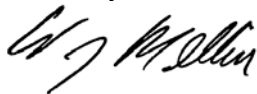
Similarly, regulations promulgated pursuant to 15 USC 6801 et seq defines a customer relationship as a “continuing relationship between a customer and a bank” which does not include obtaining financial services “only in isolated transactions.” See 2 C.F.R. §40.3.

Even 12 CFR 748 et seq, while potentially applicable, should be of little concern in the context of check cashing since there will be few instances in which a nonmember’s request to cash a check for which he is the payee will provide a basis for concluding that a suspicious activity is afoot. None of these statutes and regulations was designed or intended to impact check cashing as an activity incidental to traditional branch banking activity.

Against this backdrop, NYSCUL suggests that the final regulations clarify more specifically than provided in the interim rule to what extent these laws apply to check cashing. Furthermore such clarification should be consistent with requirements currently imposed on banks that engage in check cashing so as to avoid coupling check cashing powers with unduly burdensome compliance requirements. In this regard, I would point out that in adopting the final CIP requirements in 2003 regulators noted that “the final rule clarifies that ‘account’ excludes products and services where a formal banking relationship is not established with a person, such as check cashing, wire transfer, or the sale of a check or money order.” See 68 FR 25090-01.

NYSCUL feels that many of the services authorized under these new powers can provide important benefits to consumers as we seek to expand the number of ways in which we are authorized to serve the underserved. These comments are simply intended to ensure that these new powers are implemented with clarity and in a manner that puts credit unions on a level playing field with all other financial institutions.

Sincerely,



William J. Mellin  
President/CEO