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September 17, 2007

Joanne Conrad  
Project Manager/Specialist Consultant  
Washington Department of Financial Institutions  
P.O. Box 41200  
Olympia, Washington 98504-1200

Re: Proposed Rule: Credit Union Alternative Share Insurance Program

Dear Ms. Conrad:

The Independent Community Bankers of America (ICBA)<sup>1</sup> appreciates the opportunity to file supplemental comments with regard to the Washington State Department of Financial Institutions (WDFI) proposed rule on alternative share insurance programs for credit unions chartered by the State of Washington.

In our letter to you dated August 30, 2007, ICBA stated our general concerns about a private deposit insurance system and our specific concerns about allowing state chartered credit unions to be privately insured. Since our letter, more information has come to light about the extent of the problems that regulators are now facing with Noralco Credit Union and New Horizons Community Credit Union in Colorado and Huron River Area Federal Credit Union in Michigan and how these credit unions got so deeply involved in a Florida real estate scheme that eventually led them to be put into conservatorship.

Although the facts are still unfolding as lawsuits are filed, it appears that all three of these credit unions were part of a Florida land speculation scheme called "Millionaire University" which purportedly taught people how to become rich from the booming

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<sup>1</sup>*The Independent Community Bankers of America represents 5,000 community banks of all sizes and charter types throughout the United States and is dedicated exclusively to representing the interests of the community banking industry and the communities and customers we serve. ICBA aggregates the power of its members to provide a voice for community banking interests in Washington, resources to enhance community bank education and marketability, and profitability options to help community banks compete in an ever-changing marketplace.*

*With nearly 5,000 members, representing more than 18,000 locations nationwide and employing over 268,000 Americans, ICBA members hold more than \$908 billion in assets, \$726 billion in deposits, and more than \$619 billion in loans to consumers, small businesses and the agricultural community. For more information, visit ICBA's website at [www.icba.org](http://www.icba.org).*

Florida real estate market. Using TV infomercials and other advertising, students from all over the United States were enticed to enroll in the “university” and take courses on how to get rich in real estate. At the end of their courses, teachers at Millionaire University promised students inflated returns of up to 14% if they agreed to make a modest downpayment to construct and buy a home in the Coral Gables area that was pre-leased. Millions of dollars of construction and residential real estate loans were then made by these three credit unions to the students of Millionaire University and were then participated out in loan pools to dozens of other credit unions. To get around credit union membership requirements, students were told that they could become members of the credit unions by merely paying a \$5 fee at their loan closing.

Two of the credit unions, Noralco and Huron River, that hold approximately \$468 million in loans to residential borrowers in Millionaire University are currently under NCUA conservatorship. New Horizons, which in addition to Millionaire University was also involved in the failure of subprime auto lender Centrix Financial, was sold after being in conservatorship and after the NCUA assumed a \$100 million of the failed credit union’s assets. All three of these institutions are now involved in lawsuits from not only members who claim they were defrauded by the land scheme, but also from other credit unions from all over the U.S. that participated in the loans.

The failure of these credit unions has raised many important legal and regulatory questions. How were the credit unions able to make so many Florida construction loans without violating the 12.25% business lending cap? How could these institutions become involved in granting construction loans to residents from as far away as California, Florida, and Massachusetts without violating the field of membership rules? Why did the Colorado State Commissioner of Financial Institutions and the NCUA keep the conservatorships a secret for over two months? How did the students of Millionaire University get away with inflated appraisals and calling their investment properties “second homes” on their credit union loan documents?

More importantly, the failure of these three credit unions raises the question of what would have happened if these credit unions had been insured by one private insurer. It is estimated that the National Credit Union Share Insurance Fund or the NCUSIF may experience up to \$500 million in loan losses from just these three credit union failures. These losses would have been very challenging for any private insurer, particularly one that has no reinsurer to cover catastrophic losses. The announcement of these failures could have provoked a state credit union crisis as members withdraw funds from those credit unions that are privately insured. ICBA believes that these failures point out the importance of the government guarantee to the stability of our deposit insurance system and how easily the public could lose confidence in a banking crisis with a private primary insurance system.

These credit union failures and the unfolding Florida land scheme also should be a wake-up call about the dangers of allowing credit unions to participate in risky business lending activity. If private insurance was allowed in Washington, ICBA is concerned that some state chartered credit unions would seek private deposit insurance as a way to avoid federal regulations and in particular, the 12.25% business lending cap. The purpose of the

business loan cap, as the legislative history of the Credit Union Membership Access Act indicates, is to ensure that credit unions fulfill their specified mission of meeting the credit and savings needs of consumers, especially persons of modest means, and avoid additional safety and soundness concerns through an emphasis on consumer rather than business loans.<sup>2</sup> Allowing state credit unions to circumvent the federal business loan cap and engage in riskier lending activities would jeopardize the private insurance fund and put the entire state financial system at risk.

ICBA believes that no private insurance system can ever be equivalent to federal deposit insurance or provide the same stability and instill the same confidence in the public. Allowing credit unions to engage in riskier activities will unnecessarily expose credit union members, the credit union industry, and ultimately the taxpayers to financial risks. Accordingly, we urge the WDFI to carefully review the facts surrounding the failures of Noralco, Huron River and New Horizons Credit Unions as it considers its private insurance proposal. Ultimately, we hope that the WDFI will withdraw its alternative share insurance proposal.

ICBA appreciates the opportunity to offer these supplemental comments in connection with WDFI's proposed rule on an alternative share insurance program for credit unions. If you have any questions about our letter, please do not hesitate to contact me at 202-659-8111 or [Chris.Cole@icba.org](mailto:Chris.Cole@icba.org).

Sincerely,



Christopher Cole

Regulatory Counsel

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<sup>2</sup> *Report of the Senate Committee on Banking, Housing and Urban Affairs*, 105-193, pp.9 -10