California
CREDIT UNION LEAGUE

November 24, 2021

Commissioner of Financial Protection and Innovation
Attn: Regulations Coordinator, Legal Division
300 So. Spring Street, Suite 15513
Los Angeles, CA 90013

Via Email (regulations@dfpi.ca.gov)

Re: Comments on Third Modified Proposed Regulations Concerning Credit Union Regulations (PRO 09/17)

Dear Acting Commissioner Shultz:

I am writing on behalf of the California Credit Union League (League), one of the largest state trade associations for credit unions in the United States, representing the interests of approximately 230 California credit unions and their more than 11.6 million members.

On June 26, 2020, the California Department of Financial Protection and Innovation (DFPI), formerly California Department of Business Oversight (DBO), issued proposed amendments to Title 10, Chapter 1, Subchapter 30, of the California Code of Regulations (CCR) pertaining to credit unions (Original Proposed Amendments). Based on initial comments received, on February 24, 2021, the DFPI proposed further modifications to Section 30.300(b) and Section 30.803(a), and non-substantive changes to Section 30.102 (First Modifications). On April 23, 2021, the DFPI proposed a second set of modifications in response to further comments received (Second Modifications). On November 9, 2021, the DFPI proposed further modifications to the regulations (Third Modifications).

In response to the proposed Third Modifications, the League continues to have concerns related to the proposed investment limit of 10 percent of the credit union's equity capital in amended 10 CCR §30.300. We respectfully offer the following comments.

Third Modifications

Investments – 10 CCR §30.300(b)

In the Third Modifications, the reference regarding the process for a state-chartered credit union to request written authorization pursuant to Financial Code §14653.5 to make an investment in one person in an amount that exceeds 10 percent of the credit union's equity capital, and the DFPI's evaluation of such request was removed.

While the League appreciates the DFPI making positive steps to help provide credit unions with the capability for broader investment opportunities, we do, however, continue to have concerns regarding the 10 percent limitation.

- **10 Percent Limitation Remains Too Restrictive**

The League continues to receive feedback from multiple credit unions that the proposed limit of 10 percent of the credit union's equity capital remains too restrictive. For a number of years, state-chartered credit unions have been placed at a disadvantage in terms of investments due to outdated regulations. An example of these challenges is the Federal Reserve Board's (FRB) use of the monetary policy tool "quantitative easing" (QE). The FRB adopted this tool during the 2008 financial crisis and has used it in response to the COVID-19 pandemic. Through this tool, the FRB can be the most influential market buyer on different tenors of the yield curve, resulting in state credit unions competing directly with the FRB for the same permissible securities. This can lead to various risks where it would be prudent to respond quickly and diversify. The proposed 10 percent limit would be insufficient to allow credit unions the flexibility to respond in a manner best suited to ensure their long-term safety and soundness.

To prevent state-chartered credit unions from being disadvantaged, it is important for them to have sufficient flexibility in their investment opportunities in order to more effectively respond to the constant ebbs and flows in the marketplace. The League urges the DFPI to remove the 10 percent limitation.

- **Federal Credit Union Parity**

In our previous letters on March 11, 2021, and May 10, 2021, we expressed concerns that the proposed investment regulations do not put state-chartered credit unions on equal footing with federally chartered credit unions. Part 703 of NCUA Rules and Regulations places limits on certain investment activities that are deemed higher risk.[1] Moreover, federal credit unions are specifically permitted to invest in bank notes with weighted maturities of less than five years.[2] With this, federal credit unions are able to diversify investment portfolio holdings and, accompanied with a prudent level of credit due diligence and risk limitation, enhance portfolio return. This is something that is currently unavailable to state chartered credit unions. We have repeatedly heard from credit unions about the need to be afforded with the same ability and flexibility as federal credit unions. As drafted, it is simply unclear as to whether bank notes are contemplated in the list of permissible investments in the Third Modifications. In order for California's state-chartered credit unions to compete on a level equal to federally chartered credit unions, the League urges greater clarity to ensure parity.

Additional Comments

Member Business Loans – 10 CCR § 30.803(a) – Date of Reference

The Third Modifications deleted the date of reference for the applicable National Credit Union administration (NCUA) regulations.

The League supports this amendment and thanks the DFPI for listening to our concerns regarding this matter.

Final Comments

We continue to believe that is critical for credit unions to have flexible investment authority in order for them to best serve their members and meet the demands of a rapidly changing financial marketplace, particularly during this COVID-19 pandemic crisis. Accordingly, we are concerned that the proposed 10

[1] *See, e.g., NCUA Rules and Regulations §703.14*
[2] *See, e.g., NCUA Rules and Regulations §703.14(f)(5).*

percent limitation would hinder state-chartered credit unions in taking full advantage of the most prudent investment opportunities. Further, we continue to recommend parity with federally chartered credit unions as to investment authority.

We thank you for the opportunity to comment on the proposal and for considering our views. If you have any questions regarding our comments, please contact me.

Sincerely,

[redacted]

Diana R. Dykstra
President and CEO
California Credit Union League