

# CUNA Regulatory Advocacy Comment Call

## NCUA - Proposed Rule, Parts 703 and 723 - Authorizing Charitable Donations

### \* 1. Please provide information about yourself and your credit union

Name:	<input type="text"/>
Credit Union:	<input type="text"/>
Title	<input type="text"/>
Email Address:	<input type="text"/>
Phone Number:	<input type="text"/>

### Summary:

#### **Executive Summary:**

NCUA released a proposal that would establish a Charitable Donation Account (CDA) as a preapproved incidental power of a federal credit union. CDAs are hybrid charitable and investment vehicles that primarily benefit a charity, such as the National Credit Union Foundation. Through charitable donation accounts, federal credit unions would be able to make investments that are otherwise prohibited, provided that the proceeds are primarily for charitable purposes. This would facilitate a federal credit union's charitable activities by allowing investments that could have a higher return.

#### **Highlights of the Proposal:**

The proposed rule contains several requirements for federal credit unions that invest in these accounts, including:

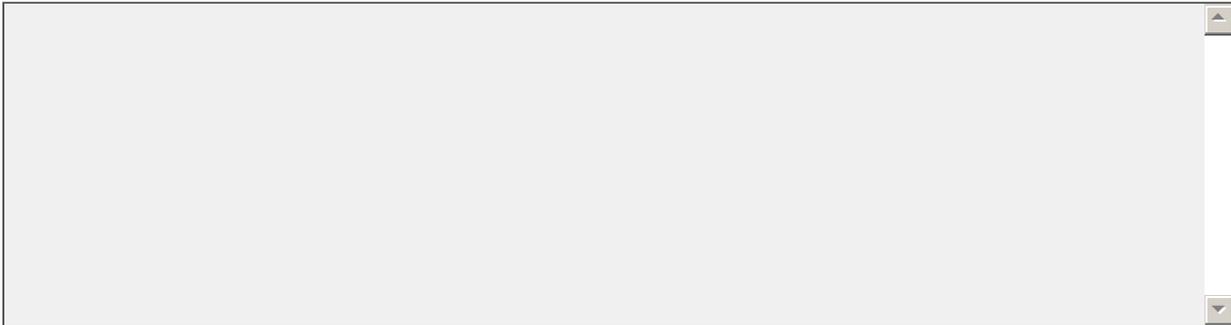
- The primary purpose of the accounts must be to generate funds for tax-exempt charities chosen by credit unions.
- The total investment in all such accounts must be limited to three percent of the credit union's net worth for the duration of the accounts. This means that at all times, the aggregate book value of all such investments must not exceed 3 percent of net worth, regardless of the level of the initial investment.
- A minimum of 51 percent of the total return from such an account must be distributed to one or more qualified charities.
- Distributions must be made to qualified charities no less frequently than every five years.
- Assets of these accounts must be held in segregated custodial accounts or special purpose entities regulated by the Office of the Comptroller of the Currency, the U.S. Securities and Exchange Commission, or other federal regulatory agency. Credit unions could make their own investment decisions, but if another entity is doing so, that entity would have to be a Registered Investment Advisor.

#### **Initial Areas of Concern and Questions for Credit Unions**

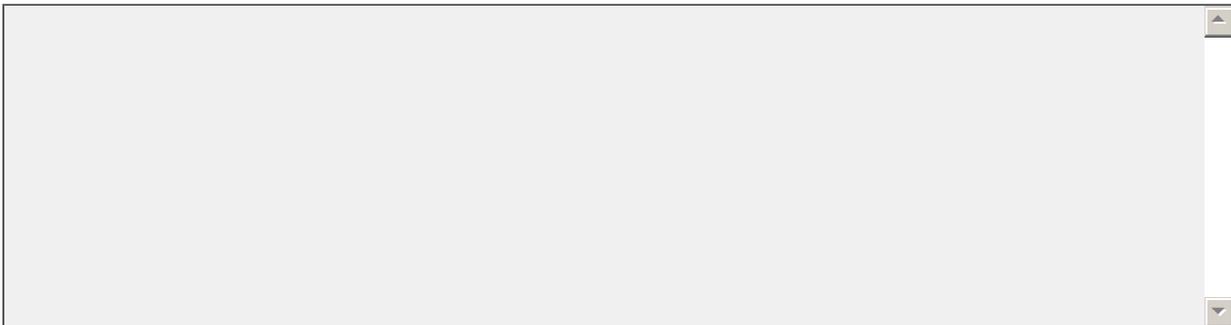
On the next page, we have identified several initial concerns with certain individual aspects of the proposal, and would like credit union feedback on these issues.

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**2. The requirement that 51% of investment proceeds be donated may limit the attractiveness of this for credit unions. However, it demonstrates that the primary purpose of the CDA investment is to benefit charity, which may be necessary for the regulation to comply with the Federal Credit Union Act. Should NCUA lower the minimum donation requirement of the investment proceeds?**

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**3. There may be redundant oversight requirements for trust vehicles. In particular, we note the requirement that the entity making investment decisions, other than the credit union, would have to be a Registered Investment Advisor regulated by the SEC. Most trusts are already regulated by OCC. In the case of trust companies with oversight from OCC, it may be that the SEC registration requirement leads to oversight that is redundant. Should NCUA require trust companies regulated by OCC to be investment advisors registered with the SEC?**

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**4. The 3 percent net worth limitation, which as currently worded would apply against the total value of the account, not the initial investment amount. In years in which the investments generate large gains, this could cause a credit union to need to prematurely reduce its holdings in its CDA. This would reduce the amount of benefit both to the charity and the credit union. Should the three percent net worth limitation be raised? What is an appropriate level to ensure safety and soundness?**

