



**America's  
Credit Unions**

September 24, 2024

Ms. Melane Conyers-Ausbrooks  
Secretary of the Board  
National Credit Union Administration  
1775 Duke Street  
Alexandria, VA 22314

**RE: Revisions to Credit Union Profile (Form 4501A) (OMB Control Number 3133-0204)**

Dear Ms. Conyers-Ausbrooks:

On behalf of America's Credit Unions, I am writing in response to the National Credit Union Administration's (NCUA) notice and request for comment (RFC) on proposed revisions to the Credit Union Profile (Form 4501A).<sup>1</sup> As described below, we have concerns with several of the proposed additional questions. We disagree with including questions seeking specific information on credit unions' third-party vendors. While this information may be obtained through the examination process, we disagree with including it in the Profile. Further, we ask the NCUA to utilize the formal notice and comment process when proposing significant changes to the Profile. America's Credit Unions is the voice of consumers' best option for financial services: credit unions. We advocate for policies that allow the industry to effectively meet the needs of their over 140 million members nationwide.

**Proposed Revisions to the Credit Union Profile**

All federally insured credit unions (FICU) must submit a Profile to the NCUA within 10 days after an election or appointment of senior management or volunteer officials or within 30 days of any change of the information in the Profile. According to the NCUA, the operational information reported on the Profile is essential to agency's supervision of federal credit unions. Further, this information also facilitates NCUA monitoring of other credit unions with share accounts insured by the National Credit Union Share Insurance Fund (NCUSIF).

The NCUA has submitted to the Office of Management and Budget (OMB) revisions to the Profile that are set to take effect with the December 31, 2024 report date. As part of the request to OMB, the NCUA is soliciting comments on the proposed changes.

We agree with the NCUA regarding the importance of the information collected in the current Profile. In addition to the proposed changes to simply clarify and rearrange existing fields, the NCUA is proposing several new data points to be collected in the Profile. As described below, we are concerned with a few of the new questions that would be added to the Profile; we have no issue with the majority of the proposed revisions.

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<sup>1</sup> 89 Fed. Reg. 60,662 (July 26, 2024).

As proposed, the revised Profile includes nearly 90 changes. The vast majority of the changes are either minor, such as renumbering, reorganizing, or clarifying existing questions, or new questions we agree with or have no concerns with, such as a new indicator regarding origination of same-day ACH transactions. However, there are several new questions that we believe are unnecessary and we disagree with their inclusion in the Profile. These questions, included on the *General Information*, *Payment System Service Provider Information*, and *Information Technology* pages, seek specific information on vendors. We believe the existing Profile, which seeks limited vendor information, such as whether an external party is used to provide certain services, is adequate.

We oppose the addition of question eleven on the *General Information* page, questions six and eight on the *Payment System Service Provider Information* page, and questions five and twelve on the *Information Technology* page. Each of these questions seeks specific vendor information. Specifically, question eleven on the *General Information* page seeks the name of the credit union's anti-money laundering (AML) system. Questions six and eight of the *Payment System Service Provider Information* page seek the payment system service provider the credit union uses or plans to use for a number of payment services, such as ATM and debit and credit card processing. On the *Information Technology* page, question five seeks the vendor and product name regarding various digital banking services, and question twelve requests the name of the vendor the credit union uses for Managed Security Service Provider services.

For the new vendor-specific questions that we are concerned with, the NCUA's justification for adding them is that they enhance the NCUA's ability to evaluate a credit union's BSA/AML program or provide additional data to enhance the NCUA's supervision of payment systems or information technology.<sup>2</sup> We do not necessarily disagree that additional information may enhance the agency's ability to evaluate and supervise credit union operations. However, we believe such a general, blanket statement is insufficient to justify such extensive revisions to the Profile. We ask the NCUA to provide specific data on how a lack of information regarding the specific vendors a credit union utilizes for its AML system, payment system services, digital banking services, and Managed Security Service Provider services increases risk to the NCUSIF. As discussed below, we acknowledge that credit unions typically share this information with the agency during an examination. However, we have concerns with including such information in the Profile.

We have two general concerns with including this information in the Profile. First, we are concerned with the public release of this information. Second, we believe disclosure of vendor information through the Profile is inappropriate given the agency's current lack of third-party oversight authority.

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<sup>2</sup> Docket Document, NCUA 4501A Changes 2024-Q4 (July 26, 2024), <https://www.regulations.gov/document/NCUA-2024-0088-0001>.

We recognize that each of these vendor-related questions is designated as “non-public and the NCUA will not release this information to the public.”<sup>3</sup> However, we have significant concern given the substantial harm that could occur if this information is released publicly. As the agency is aware, many vendors—particularly those in the Bank Secrecy Act/AML space—require credit unions to sign a non-disclosure agreement regarding their relationship. The credit union is of course on the hook and liable in the event such information is disclosed publicly.

We recognize that NCUA examiners may obtain vendor information during an examination. However, unlike information reporting to the NCUA through the Profile, privilege exists in the context of an examination. Information provided to the NCUA during an examination is treated differently than that provided to the NCUA through the Profile. The NCUA makes clear in the RFC that “[e]xcept for select sensitive items, the Profile Form 4501A is not given confidential treatment.”<sup>4</sup> The agency has not indicated that any of the proposed vendor-related questions would qualify as “select sensitive items.”

Further, “non-public” is of course not the same as confidential. Information given confidential treatment by the agency is handled and protected differently to ensure such sensitive information is not disclosed to unauthorized parties, including taking measures such as encryption, access controls, and secure storage to maintain the confidentiality of the data. In addition, the Profile is a public document that includes certain non-public sections. The information provided in response to those non-public questions is currently not treated as publicly available; however, given that this information is not privileged or otherwise confidential, there is little assurance that such treatment will persist in the future.

Consistent with America’s Credit Unions’ general opposition to statutory amendments to the Federal Credit Union Act to provide the agency with unlimited third-party vendor oversight authority, we oppose—otherwise unnecessary—changes that indirectly move the agency in a direction of greater direct oversight of third parties. To be clear, we support the agency’s practice of obtaining necessary information regarding credit union service organizations (CUSO) and other third-parties utilized by credit unions from those credit unions during the examination process. If Congress amends the Federal Credit Union Act in a way to expand the agency’s direct oversight authority, our concerns in this regard would be diminished. However, the agency must currently work with its regulated entities to obtain certain information related to third-party vendors; we support continuing this effective and efficient practice. We do not support regulatory initiatives that may chip away at this practice, absent Congressional action.

Further, in addition to the vendor-related questions addressed above, we also disagree with extending the timeframe throughout the Profile from 12 to 24 months in terms of planned

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<sup>3</sup> Docket Document, NCUA Profile Form 4501A Instructions (July 26, 2024), <https://www.regulations.gov/document/NCUA-2024-0088-0002>.

<sup>4</sup> 89 Fed. Reg. 60,662, 60,663.

operational changes, such as included on the *Payment System Service Provider Information* page in questions four and seven. We believe 24 months is excessive. It is difficult for credit unions to assess whether they will participate in a certain service two years off. As such, we ask the NCUA to retain the existing 12-month timeframe for purposes of planned changes to various services.

Lastly, it is unclear which sections and fields a user must complete. The instructions indicate that fields marked with an asterisk are mandatory and must be completed. Similarly, the Profile indicates that fields identified with an asterisk are mandatory. In addition, certain sections are labeled as mandatory in the Profile, such as the entire Sites page. However, based on member feedback, credit unions are unable to skip any fields, including those not labeled as mandatory.

According to the NCUA, all items are required to be reported on the Profile unless they are not applicable to the credit union, and that fields marked mandatory are those items that must be completed in order for the Profile to be submitted in the CUOnline system. Essentially, this would mean that all fields are mandatory, regardless of designation by an asterisk. It is unclear which, if any, sections are optional. Thus, we ask the NCUA to clarify both in the instructions and in the Profile itself which fields are mandatory—both for purposes of advancing to the next field and submission in the CUOnline system. Further, if certain fields are not mandatory the Profile should be revised to allow the user to skip a field and advance to the next.

### **Adhering to Notice and Comment Process**

Earlier this year, the NCUA adopted significant changes to the 5300 Call Report requiring credit unions above \$1 billion in assets to report revenue from overdraft and non-sufficient funds fees.<sup>5</sup> Following the requirements of the Paperwork Reduction Act of 1995, the agency submitted the information collection to the Office of Management and Budget for approval. As part of this process, the NCUA accepted public comments.

We agree with the agency that for most changes to the Call Report and the Credit Union Profile, the notice and comment requirements of the Administrative Procedure Act (APA) do not apply.<sup>6</sup> However, for changes as significant as those made to the Call Report earlier this year as well as the proposed changes to the Profile, we urge the agency to utilize the notice and comment process under the APA, even in instances where strict adherence to the APA may not be required. The full notice and comment process provides greater opportunity for the industry and the public at large to review and provide input regarding changes impacting credit unions.

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<sup>5</sup> 88 Fed. Reg. 85,327 (Dec. 7, 2023).

<sup>6</sup> 5 U.S.C. §§ 551–559.

## Conclusion

America's Credit Unions appreciates the opportunity to comment on the RFC regarding the proposed revisions to the Credit Union Profile. Should you have any questions or require any additional information, please contact me, Regulatory Advocacy Senior Counsel at [LMartone@americascreditunions.org](mailto:LMartone@americascreditunions.org) or (202) 508-6743.

Sincerely,

A handwritten signature in blue ink that reads "Luke Martone". The signature is written in a cursive style with a horizontal line extending from the end of the name.

Luke Martone  
Regulatory Advocacy Senior Counsel