March 7, 2022

Kathleen A. Scott
Deputy Superintendent of Banking
NYS Department of Financial Services
One State Street
New York, NY 10004

Re: Request for Information Regarding "Vacation Policy as an Internal Control Safeguard"

Dear Ms. Scott,

The New York Credit Union Association (the Association) appreciates the opportunity to provide information about the New York State Department of Financial Services' (the Department) "Vacation Policy as an Internal Control Safeguard" to detect irregularities.

The Association, which represents both federally and state-chartered credit unions, believes that the Guidance Letter needs to be updated for the reasons below.

The Guidance Letter is almost 30 years old and is no longer responsive to today's needs. The policy was put in place when fourteen days represented a reasonable time frame for negotiating checks. Today's financial transactions are executed on an hourly basis and members are increasingly expecting balances to be instantly credited. As a result, in today's digital world, financial institutions have procedures in place to guard against and detect fraud on a same day basis. A fourteen-day timeframe is meaningless.

Not only is the existing guidance antiquated, but it imposes a pernicious burden on all credit unions, irrespective of their size. A fourteen-day mandatory vacation policy means that CEO's of some of the largest financial institutions in the world are supposed to have no contact with businesses that control trillions of dollars. It also means that a ten-person credit union is supposed to manage the staffing difficulties of maintaining technical operations without the help of some of their most senior employees. The HR challenges have been exacerbated during the COVID-triggered “great resignation”.

This problem is made even more challenging because of the failure of the state in defining what positions are “sensitive.” In fact, given the technological advancements that have taken place in the last 30 years, nearly every employee of a financial institution could be considered a “sensitive” employee who has to take two consecutive weeks off every year. Additionally, employees need to have accrued enough paid time off to accommodate the policy, but this is often difficult for newer employees. This has been especially difficult during the pandemic when many people switched employers.

The existing guidance should be replaced with a holistic assessment of the steps credit unions take to prevent, detect and mitigate insider abuse. Furthermore, this assessment should be based on the size and complexity of a given institution. In many respects, this is the approach already being taken, for state-regulated institutions, which are subject to the state’s cybersecurity regulations [23 CRR-NY |500]. Similarly, the National Credit Union Administration (NCUA) only mandates two weeks’ vacation where “it is practical” for the credit union to do so. In addition, a credit union’s vacation policy is only one component of the agencies assessment of a credit union’s internal controls [NCUA Examiner’s Guide, Chapter 4 Internal Controls; page 4.6]

The Association strongly supports the Department’s initiative to review this outdated and disruptive policy. Credit unions have been focused on delivering quality financial services to their members for more than 100 years. Today, a key part of that mission is the detection of fraud in all its forms. For the reasons stated above however, the existing fourteen-day vacation mandate is counterproductive to these efforts.

Sincerely,

William J. Mellin
President/CEO

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