



FEDERAL ELECTION COMMISSION

Washington, DC 20463

**MEMORANDUM**

**TO:** The Commission

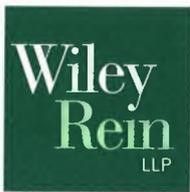
**FROM:** Commission Secretary's Office *DCB*

**DATE:** May 24, 2017

**SUBJECT:** Comments on Draft AO 2017-02  
(War Chest, LLC)

Attached are timely submitted comments received from Jan Witold Baran, D. Mark Renaud, and Andrew G. Woodson on behalf of the Credit Union National Association. This matter is on the May 25, 2017 Open Meeting Agenda.

Attachment



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May 24, 2017

Lisa J. Stevenson, Esq.  
Acting General Counsel  
Office of General Counsel  
Federal Election Commission  
999 E Street NW  
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**Re: Comments on Advisory Opinion Request 2017-02  
(War Chest, LLC)**

Dear Ms. Stevenson:

On behalf of the Credit Union National Association (“CUNA”), we are submitting these comments on the draft advisory opinion, labelled “Draft A,” that responds to War Chest, LLC’s request for guidance on a proposed financial program designed to bolster investor confidence and security. *See* AOR 2017-02 (Mar. 31, 2017). As further explained below, members of CUNA and the credit union system have decades of experience with a similar investment product, support Draft A’s conclusions as to Questions 1 & 3, and urge the Commission to adopt them in its final opinion.

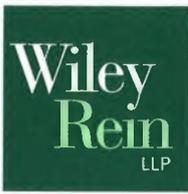
CUNA is the largest national trade association serving America’s credit unions, with the association governed by volunteer directors who are elected by their credit union peers from across the nation. With its network of affiliated state credit union associations, CUNA serves America’s nearly 6,000 credit unions, which are owned by more than 100 million consumer members.

Similar to the way Federal Deposit Insurance Corporation (“FDIC”) insurance operates, accounts at federally-insured credit unions are insured up to \$250,000 by the National Credit Union Share Insurance Fund (“NCUSIF”). Also like the investors contemplated in War Chest’s request, credit union members – and in certain cases, non-members<sup>2</sup> – who deposit more than \$250,000 at their local

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<sup>1</sup> CUNA expresses no opinion as to the Commission’s conclusion on Question 2 – i.e., whether the requestor here qualifies as a campaign depository under the Federal Election Campaign Act of 1971, as amended (“FECA”), and corresponding FEC regulations.

<sup>2</sup> Among others, non-members can include candidates, super PACs, separate segregated funds, and other political actors.



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credit union are interested in investment vehicles that provide greater protection against loss during periods of economic upheaval.

Responding to these concerns, over two decades ago corporate credit unions<sup>3</sup> created a credit union service organization called Primary Financial. This entity, in turn, owns and operates a product called SimpliCD, which is a certificate of deposit (“CD”) program that enables large depositors to have their funds invested across multiple, independently-insured credit unions in increments between \$99,000 and \$248,000. Since each CD is located at a separately-insured credit union, the customer has the certainty of knowing that each of these individual investments qualifies for NCUSIF’s \$250,000 guarantee. This turnkey program further benefits credit union customers in that SimpliCD does all the work to identify the best rates on CDs around the country each day, to acquire the CDs for customers in a custodial capacity, and to provide customers with a single monthly statement detailing their entire investment portfolio.

With respect to Question 1, given its more than two decades of experience with this type of financial program, CUNA and the credit union system are well-positioned to comment on why approval of War Chest’s proposal would both remain faithful to the FECA’s core principles and also keep up with evolving trends in the financial services industry. As an initial matter, the Commission should be aware that the type of product contemplated here is becoming more and more commonplace across the financial services industry, as such programs “increase[] the stability of the banking system” and reduce “the risk of runs on [financial institutions]” – particularly in the wake of the 2008 recession. Nathaniel Popper and Jessica Silver-Greenberg, *Big Depositors Seek a New Safety Net*, N.Y. Times (Dec. 30, 2012); see also Maureen Farrell, *Companies: in FDIC We Trust*, CNNMoney.com (Dec. 12, 2011), available at [http://money.cnn.com/2011/12/12/news/companies/fdic\\_banks/](http://money.cnn.com/2011/12/12/news/companies/fdic_banks/). In other words, the request before the Commission is not merely an academic exercise; instead, it typifies a product that more and more consumers are looking for from their financial institution.

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<sup>3</sup> A corporate credit union is commonly referred to as the “credit union’s credit union.” Alloya Corporate Federal Credit Union is one of the ten corporate credit unions that owns Primary Financial and is also one of the depositories identified by the Credit Union Legislative Action Council, CUNA’s federal PAC, on its Statement of Organization.

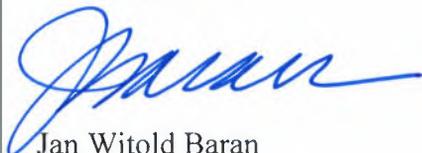
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As Draft A itself notes, War Chest's proposal follows along well-trod ground and is clearly permissible under a long line of advisory opinions. Moreover, this is precisely the type of proposal the Commission should be approving, as programs like War Chest and SimpliCD provide direct benefits to various participants in the political process. For example, those contributing to campaigns can have confidence knowing that the full amount of their contributions will be available for use by the candidate or committee to whom they were given instead of being lost during an economic recession or because of mismanagement at a particular financial institution. For their part, candidates and campaigns will have confidence that the money they raise will be secure, accessible, and invested in a responsible manner. To that end, like the SimpliCD product, War Chest's proposed program provides consolidated reporting information that makes it easier for candidates and committees to track, account for, and audit their investments. *See* AOR 2017-02 at 2-3. The alternative method – where each candidate or committee goes out and individually invests in and churns through dozens or hundreds of financial products in relatively short time periods – is unwieldy and makes it more difficult for political organizations to accurately account for their assets.

As to Question 3, Draft A also correctly concludes that the individual sub-custodian banks need not be separately listed on the Statement of Organization. Not only does Draft A (at 9 n.9) correctly recognize the “substantial burden” such a requirement would impose on political committees, but the information to be gained from such continuous amendments would be of little value to the public. Moreover, investment accounts like those at issue here are not actually used by the political committee participants for expenses, and so there is no basis for requiring their disclosure.

Thank you for the opportunity to comment on this draft response. Please feel free to contact us if you have any questions.

Sincerely,



Jan Witold Baran  
D. Mark Renaud  
Andrew G. Woodson

**From:** Woodson, Andrew  
**To:** [AO](#)  
**Cc:** [Baran, Jan](#); [Renaud, Mark](#)  
**Subject:** Comments on AO Request 2017-02 (War Chest), Draft A  
**Date:** Wednesday, May 24, 2017 11:44:09 AM  
**Attachments:** [War Chest LLC.PDF](#)

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On behalf of the Credit Union National Association, we are pleased to submit the attached comments responding to Draft A of the advisory opinion requested submitted by War Chest, LLC (2017-02). A hard copy of these comments are being filed with the Commission as well.

Please let us know if you have any questions.

Thanks,

Andrew

Andrew G. Woodson | Attorney at Law

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