



National Credit Union Administration

Office of the Chairman

August 14, 2018

Hon. Blaine Luetkemeyer, Chairman
Subcommittee on Financial Institutions and Consumer Credit
House Financial Services Committee
2230 Rayburn House Office Building
Washington, D.C. 20515

RE: Regulatory Relief

Dear Chairman Luetkemeyer:

Thank you for the recent opportunity to discuss the NCUA's supervisory program and the appropriate ways the NCUA uses agency guidance documents as part of it. See the attached letter, dated July 25, 2018, from me to you in that regard. As a follow-up, we would like to inform you of some of the programs and initiatives the NCUA has established to provide regulatory relief and minimize the burdens facing credit unions.

During the past two years, the NCUA and its bipartisan Board have engaged in several initiatives to provide credit unions with regulatory relief helping to ensure that these nonprofit, financial cooperatives are not unduly burdened by unnecessary regulation and bureaucratic red tape. As discussed in more detail below, the NCUA is using these initiatives to reduce regulatory burden, enhance due process, increase transparency, and improve agency efficiency.

1) Regulatory Relief

Consistent with the spirit of President Trump's regulatory reform agenda and Executive Order 13777, the NCUA has established a Regulatory Reform Task Force to oversee the implementation of the agency's own regulatory reform agenda. Although the NCUA, as an independent agency, is not required to comply with Executive Order 13777, we have chosen to comply with its spirit and have reviewed all of the NCUA's regulations to that end. The Regulatory Reform Task Force published for public comment the NCUA's first report in August 2017,¹ which proposed a four-year, three-tiered regulatory relief plan with approximately 40 regulatory relief recommendations.

Since that time, the NCUA has completed nine of the report's initial regulatory relief recommendations and proposed rules or commenced action on four other recommendations. Specifically, the NCUA has issued final regulations or taken other final action designed to: (1)

¹ 82 FR 39702 (Aug. 22, 2017), available at <https://www.ncua.gov/About/Pages/board-actions/comments/Documents/regulatory-review-notice-2017.pdf>.

provide additional flexibility to corporate credit unions' capital standards;² (2) improve the NCUA's emergency mergers process;³ (3) allow federal credit unions to engage in asset securitization;⁴ (4) improve the NCUA's Supervisory Review Committee for review of examination determinations to ensure due process and fairness;⁵ (5) improve and centralize the NCUA's appeals procedures in one section of the NCUA's regulations;⁶ (6) provide greater transparency regarding the calculation of each eligible financial institution's pro rata share of a declared equity distribution from the National Credit Union Share Insurance Fund;⁷ (7) decrease the burden associated with, and improve the efficiency of, the NCUA's capital planning and stress testing rules;⁸ (8) decrease burden and add flexibility to the NCUA's advertising requirements;⁹ and (9) add flexibility to the NCUA's field of membership processes.¹⁰

Additionally, the NCUA has proposed or sought advanced comment on amendments that would provide regulatory relief by: (1) improving the NCUA's regulations governing federal credit union bylaws;¹¹ (2) making clarifying and technical changes to improve the user-friendliness of the NCUA's loan maturities requirements;¹² (3) clarifying the NCUA's limits on loans to a single borrower or group of associated borrowers;¹³ and (4) delaying for further study the NCUA's risk-based capital rule and decreasing the number of credit unions to which it would apply.¹⁴

The NCUA will also be publishing its second Regulatory Reform Task Force report in the coming months. This report will provide an updated blueprint for the agency's regulatory reform agenda and a formal means of measuring the agency's regulatory relief efforts moving forward.

Finally, the NCUA's Office of General Counsel (OGC) will continue its annual regulatory review to provide stakeholders with a means of providing feedback on regulatory burden. As part of this process, OGC reviews and solicits public comment on one-third of the agency's regulations each year. OGC then provides the NCUA Board with regulatory relief recommendations based in part on the comments received. The NCUA will seek comment on the first third of its regulations in January 2019.

2) Enhanced Due Process

Several of the rulemakings that the NCUA has completed as part of the current regulatory reform agenda were specifically aimed at improving the NCUA's appeals procedures. The NCUA

² 82 FR 55497 (Nov. 22, 2017).

³ 82 FR 60283 (Dec. 20, 2017).

⁴ Asset Securitization Authority, NCUA OGC Op. Ltr. 17-0670 (June 21, 2017), available at <https://www.ncua.gov/regulation-supervision/Pages/rules/legal-opinions/2017/asset-securitization-authority.pdf>; and

82 FR 29699 (June 30, 2017).

⁵ 82 FR 50270 (Oct. 30, 2017).

⁶ 82 FR 50288 (Oct. 30, 2017).

⁷ 83 FR 7954 (Feb. 23, 2018).

⁸ 83 FR 17901 (Apr. 25, 2018).

⁹ 83 FR 17910 (Apr. 25, 2018).

¹⁰ 83 FR 30289 (June 28, 2018).

¹¹ 83 FR 12283 (Mar. 21, 2018).

¹² 83 FR 39622 (Aug 10, 2018).

¹³ *Id.*

¹⁴ 83 FR 38997 (Aug. 8, 2018).

revised its appeals¹⁵ and Supervisory Review Committee¹⁶ processes to ensure enhanced due process for credit unions and procedures that are efficient, consistent, and more easily understood.

Specifically, the NCUA issued a new appeals regulation to make the process for a credit union to appeal agency decisions to the NCUA Board more efficient and transparent. The new regulation incorporated into one section a uniform, comprehensive set of procedures that apply in cases in which a decision by a regional director or other program office director is appealable to the NCUA Board. The new regulation also added the right for appellants, upon the approval of any member of the NCUA Board, to receive an oral hearing before the NCUA Board. Our bipartisan Board has already held one hearing under this process.

Additionally, the NCUA Board also approved a final rule that modified the procedures for a credit union to appeal material supervisory determinations to the NCUA's Supervisory Review Committee (Committee). These new procedures contain safeguards designed to provide credit unions with enhanced due process and promote greater consistency with the federal banking agencies' appeals procedures. The final rule also significantly expanded the number of material, examination-related supervisory determinations that are appealable to the Committee. Most agency decisions that could significantly affect a credit union's capital, earnings, operating flexibility, or the nature or level of supervisory oversight of a credit union are now appealable to the Committee.

3) Transparency

One of my first initiatives upon joining the NCUA Board was to bring increased transparency to the NCUA's budgetary process. My colleague, Board Member Metsger has strongly supported and shared in this endeavor. We are ever mindful that our budget is financed by the finite resources of federal and state-chartered credit unions and their members. We should only allocate these funds following thoughtful reflection as to the necessity of the expenditures and whether the costs have been undertaken in the most efficient, effective, transparent, and fully accountable manner. The NCUA has voluntarily held public budget hearings for, and solicited comment on, the agency's proposed 2017–2018 and 2018–2019 budgets.¹⁷ The NCUA has also posted an extremely thorough, nearly 100 page budget justification and numerous other budget documents on our website.¹⁸ The recently enacted Economic Growth, Regulatory Relief, and Consumer Protection Act (S.2155) statutorily requires the NCUA to continue its transparent budget practices. The NCUA recently held its mid-session budget briefing at our August 2, 2018, open Board meeting and has tentatively scheduled our next budget hearing for October 18, 2018.¹⁹

¹⁵ 12 CFR Part 746, Subpart B.

¹⁶ 12 CFR Part 746, Subpart A.

¹⁷ See NCUA BUDGET AND SUPPLEMENTARY MATERIALS, <https://www.ncua.gov/About/Pages/budget-strategic-planning/supplementary-materials.aspx>.

¹⁸ *Id.*

¹⁹ Economic Growth, Regulatory Relief, and Consumer Protection Act § 212, 12 U.S.C. § 1789(b) (2018).

Additionally, the NCUA has undertaken a multi-year process to simplify and make more transparent its Overhead Transfer Rate methodology.²⁰ The Overhead Transfer Rate is the mechanism by which the NCUA determines how much of the NCUA's operating budget covers insurance-related expenses and should thus be requisitioned from the National Credit Union Share Insurance Fund. This is important because requisitions are one of the NCUA's two primary funding sources for agency expenses and the only one funded by all federally insured credit unions (both federal and state-chartered credit unions). This effort resulted in a simplified Overhead Transfer Rate methodology that is more easily understood by stakeholders. Further, in an effort to remain transparent, the NCUA has voluntarily committed to seeking public comment on the Overhead Transfer Rate methodology every three years or when there are changes to the methodology.

4) Increasing Agency Efficiency

As the NCUA looks to improve the regulatory environment for credit unions, we also seek to improve how we carry out our critical safety and soundness mission. An in-depth review of the NCUA's office space and staffing needs conducted in 2017 has resulted in a plan that reduces the agency's regional structure from five to three regional offices, a reduction of 80 percent of leased space, and reorganizes several central office functions to achieve cost reductions and greater efficiencies. This aspect of the reorganization plan is being implemented now.

As part of the agency's broader reform plan, we have also undertaken a number of initiatives to increase efficiency in our examination, data collection, and reporting efforts. Specifically, we call your attention to the following three programs that the NCUA has created to achieve such ends.

a. The Enterprise Solution Modernization Program²¹

This program serves to modernize the NCUA's technology solutions to create an integrated examination and data environment. The multi-year effort will introduce emerging and secure technology solutions that support the NCUA's examination, data collection and reporting efforts to improve key, integrated business processes. The result will be a flexible technology architecture that integrates modernized systems and tools across the agency and makes examinations, data collection, and reporting more effective and cost efficient. The program will improve the examination process and ease burdens on credit unions and staff by reducing the amount of examination and supervision time spent onsite in credit unions. The NCUA expects an improved user experience and increased efficiencies when the new systems are in place.

b. The Call Report Modernization Project²²

²⁰ 82 FR 55644 (Nov. 22, 2017).

²¹ See NCUA ENTERPRISE MODERNIZATION (ESM) PROGRAM, <https://www.ncua.gov/About/Pages/open-government/enterprise-solution-modernization-program.aspx>.

²² See NCUA CALL REPORT MODERNIZATION, <https://www.ncua.gov/About/Pages/open-government/call-report-modernization.aspx>.

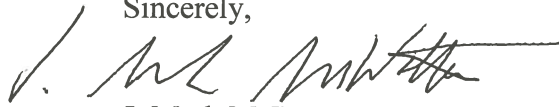
This project complements the Enterprise Solution Modernization Program. The project involves a comprehensive review of Call Report²³ and Profile data content. The NCUA has undertaken a comprehensive review, which has included soliciting public comment, to simplify the reporting process without sacrificing any important information necessary for proper supervision and data analyses. The NCUA estimates that the proposed changes will reduce the number of account codes in the Call Report by roughly 40 percent. If adopted, the schedules and instructions for the Call Report also will be streamlined, making it easier for credit unions to complete this critical regulatory filing.

c. The NCUA's Exam Flexibility Initiative.²⁴

This initiative is designed to provide greater examination efficiency, greater flexibility for credit unions and the agency, and improved coordination with state supervisors. Recommendations under the initiative include adjusting the frequency of examinations based on a credit union's size, complexity, operating condition, and, in the case of state-chartered credit unions, the frequency of state examinations. Well-managed credit unions will be examined less frequently, while problem institutions will be examined more frequently. This initiative has resulted in meaningful regulatory relief for the vast majority of credit unions, led to greater coordination between federal and state regulators, and allowed the NCUA to focus more efforts on troubled credit unions, thus addressing some problems earlier when they are easier and less expensive to resolve.

Thank you again for the opportunity to highlight the NCUA's supervisory achievements. Please contact me with any questions related to the NCUA's regulatory relief and burden reduction efforts or any other matters.

Sincerely,



J. Mark McWatters
Chairman

²³ The NCUA uses the Call Report and Profile to collect financial and nonfinancial information from federally insured credit unions. The resulting data are integral to risk supervision at institution and industry levels, which is central to safeguarding the integrity of the National Credit Union Share Insurance Fund.

²⁴ See NCUA EXAM FLEXIBILITY INITIATIVE, <https://www.ncua.gov/About/Pages/open-government/exam-flexibility-initiative.aspx>.