Credit Union National Association
CUNA

Jim Nussle
President & CEO
Phone: 202-508-6745
jnussle@cuna.coop

99 M Street SE
Suite 300
Washington, D.C. 20003-3799

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The Honorable Rodney E. Hood
Chairman
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314

Dear Chairman Hood:

On behalf of America's credit unions and their more than 120 million members, thank you for your responsiveness to our concerns during the COVID-19 crisis, and for your outreach to credit unions, state leagues, and CUNA committees during the past several months.

We are now six months into this unprecedented crisis, and the credit union industry continues to face new issues. I am writing today to reiterate concerns we are hearing from credit unions and their members, and to offer policy recommendations for your consideration.

Exclusion of Certain Assets from Net Worth Ratio

Since the pandemic began, credit unions have been flooded with deposits. While most of these deposits are associated with members' federal stimulus checks, some of them result from a decrease in spending and increase in precautionary saving. Credit unions are increasingly investing these funds in zero- and low-risk assets, such as shorter-term Treasury securities. These deposits and resulting investments, however, have caused a decrease in the net worth ratio for many credit unions. Therefore, we ask the NCUA to follow the lead of the federal banking regulators and exclude such investments from the net worth ratio calculation.

The NCUA has broad authority in defining "total assets," which comprises the denominator of the net worth ratio. The NCUA Board acknowledged this authority in its interim final rule earlier this year that amended section 702.2(k) to allow credit unions to exclude from "total assets" loans pledged as collateral for Paycheck Protection Program (PPP) loans. Specifically, in that rule, the Board stated:

> The Board has broad authority to define the term "total assets." While 12 U.S.C. 1790d defines "net worth"—the numerator for determining the net worth ratio—it does not define the term "total assets," which comprises the denominator of the equation. However, the Board has elected to define the term in part 702. In addition to the Board's broad authority to define the term "total assets," the Board finds that given the unique and unprecedented nature of the COVID-19 pandemic, encouraging use of the PPP Facility by excluding pledged PPP loans from total assets would further the purpose of § 1790d. Pledged covered PPP loans present less risk and would potentially facilitate resolving the problems of credit unions at the least possible long-term cost to the NCUSIF compared to non-pledged covered PPP loans.[1]

[1] 85 Fed. Reg. 23,212, 23,214 n.18 (Apr. 27, 2020).

CUNA supported that NCUA interim final rule, as we think it is important to encourage credit union participation in PPP lending. After further review, we think that NCUA can extend this treatment to all PPP loans.

We believe it is equally important to amend the definition of "total assets" to exclude certain zero- and low-risk assets. Since we continue to find ourselves in a "unique and unprecedented" situation given the ongoing pandemic, it is imperative the agency provide additional flexibility regarding credit union capital. Thus, we ask the NCUA to explore ways to reduce the denominator of the net worth ratio—including by excluding certain assets from the calculation—given that the savings growth is a result of the current environment as opposed to something credit unions are actively encouraging. Credit unions are not in the business of turning away members or their deposits, but this is a possible though unfortunate alternative that could stem declining net worth ratios.

Capitalizing Interest on Consumer Mortgage Loans

As stated in our letters to you on April 8[2] and June 29,[3] we believe the NCUA should permit credit unions to capitalize interest on consumer mortgage loans in connection with loan modifications made during the time of the pandemic.

We appreciate the recent interagency guidance on loan modifications and troubled debt restructurings (TDRs).[4] However, to further ease compliance requirements for loan modifications, the NCUA should reinterpret the capitalized interest section of Part 741, Appendix B to be consistent with the requirements of Fannie Mae and Freddie Mac, the government-sponsored enterprises (GSEs), as well as the other federal financial regulators.

Currently, in order to make a TDR modification related to COVID-19 work for credit union members, the credit union must pursue one of the following options:

1) Collect interest current at the time of the modification: This causes additional hardship for members, especially as many members have become unemployed;
2) Forgive the interest: This harms the credit union, making it difficult to loan to other members and creates potential tax ramifications for the members;
3) Defer the interest until the end of the loan term: This creates balloon payments for the members and could cause additional hardship; or
4) Adjust the amortization on the loan and bifurcate it to create a modified rate component and a zero-interest component: This is confusing for members and poses operational challenges for the credit union, as systems are not designed to easily incorporate such an adjustment.

It is clear another, more consumer-friendly option is needed. Thus, we urge the NCUA to permit credit unions to capitalize the interest on loans modified in connection with the pandemic. This is especially critical as it may take many months for many consumers to become financially healthy given the ongoing COVID-19 crisis.

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[2] CUNA Letter to NCUA Chairman Rodney Hood (Apr. 8, 2020), *available at* https://www.cuna.org/uploadedFiles/Advocacy/Actions/Comment_Calls,_Letters_and_Testimonies/2020/Comment_Letters/Letter%20from%20CUNA%20CEO%20to%20NCUA%20Chairman%20Hood.pdf.

[3] CUNA Letter to NCUA Chairman Rodney Hood (June 29, 2020), *available at* https://www.cuna.org/uploadedFiles/Advocacy/Actions/Comment_Calls,_Letters_and_Testimonies/2020/Comment_Letters/Letter%20to%20NCUA%20Chairman%20Hood%20from%20Jim%20Nussle%206.29.2020.pdf.

[4] Interagency Statement on Loan Modifications and Reporting for Financial Institutions Working with Customers Affected by the Coronavirus (Revised) (Apr. 7, 2020), *available at* https://www.ncua.gov/files/press-releases-news/interagency-statement-tdr-policy-revised.pdf.

Risk-Based Capital (RBC)

It may take years for consumers to recover from the economic consequences of COVID-19, social distancing, lockdowns, and unemployment. Credit unions must dedicate the next several months and years to ensuring members have the necessary resources available to them as they recover from this crisis. While we have always maintained that NCUA's new risk-based capital rule is unnecessarily burdensome for credit unions and a solution in search of a problem, this is particularly evident given the current economic environment.

Therefore, we reiterate our comments in our April and June letters asking NCUA to further delay the RBC effective date to, at earliest, January 1, 2023, to provide more time to study whether additional changes can be made to these requirements or whether this rule is practical at this time.

National Credit Union Share Insurance Fund (NCUSIF)

CUNA is concerned about the National Credit Union Share Insurance Fund (NCUSIF) equity ratio declining given the current abnormal environment, which is expected to be temporary. We urge the NCUA to forebear on any assessments, consistent with the forbearance toward distressed members the agency has urged credit unions to embrace, and the temporary, lower prompt corrective action capital trigger thresholds for required supervisory actions the agency has also adopted. A temporary forbearance approach to the existing NCUSIF equity ratio policy on levying insurance premiums is consistent with the stated approach of the Federal Deposit Insurance Corporation (FDIC).

Overdraft Policy

As we stated in our June letter[5], we again request the NCUA revisit the recently tabled interim final rule on overdraft policy that would permit credit unions to adopt reasonable, flexible policies for members to resolve overdrawn accounts rather than the 45-day time limit required by the current regulation.[6] We support the rule's adoption and believe the NCUA's use of an interim final rule is appropriate given the exigency created by the ongoing national emergency.

The best path forward for the NCUA Board is to give credit unions the tools and flexibility to develop customized solutions to secure members' financial well-being, without jeopardizing safety and soundness, and overdraft protection is one such vital tool. We strongly recommend the Board reconsider and approve the interim final rule on overdraft policy.

Payday Alternative Loans

We encourage NCUA to consider CUNA's recommendation to issue an interim final rule amending Part 701.21 to eliminate the requirement that a borrower "be a member of the credit union for at least one month"[7] before receiving a Payday Alternative Loan I (PALs I). This change would ensure credit unions have the flexibility necessary to meet the emergency credit needs of new credit union members. In the current environment, economically distressed new members often cannot wait a month to be eligible for a PAL I loan, and instead of waiting may turn to other more costly or predatory lending sources, which is not a desired outcome and undermines the purpose of NCUA's PAL program.

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[5] CUNA Letter to NCUA Chairman Rodney Hood (June 29, 2020), *available at* https://www.cuna.org/uploadedFiles/Advocacy/Actions/Comment_Calls,_Letters_and_Testimonies/2020/Comment_Letters/Letter%20to%20NCUA%20Chairman%20Hood%20from%20Jim%20Nussle%206.29.2020.pdf.

[6] Draft Interim Final Rule on Overdraft Policy *available at* https://www.ncua.gov/files/agenda-items/AG20200521Item3b.pdf.

[7] 12 CFR 701.21(c)(7)(iii)(A)(6).

The NCUA should also provide additional guidance for credit unions assisting financially distressed borrowers with outstanding PALs. In some instances, members borrowed PALs at the maximum term permitted and now, as a result of a change in their financial situation, are seeking options to amend or extend their loans. We recommend the NCUA provide credit unions the flexibility to refinance these outstanding loans into other low-cost emergency credit products or to potentially extend the loan terms.

Conclusion

Thank you for your consideration of and assistance on these important issues. Please contact me to discuss these or any other issues further.

Sincerely,

Jim Nussle
President & CEO

cc: The Honorable Todd M. Harper, National Credit Union Administration
The Honorable J. Mark McWatters, National Credit Union Administration