



## BOARD ACTION MEMORANDUM

**TO:** NCUA Board

**DATE:** August 30, 2022

**FROM:** Office of General Counsel

**SUBJ:** Subordinated Debt – Proposed Rule

**ACTION REQUESTED:** The NCUA Board’s approval of a proposed rule to amend the Subordinated Debt rule.

**DATE ACTION REQUESTED:** September 22, 2022.

**OTHER OFFICES CONSULTED:** Office of Examination and Insurance.

**VIEWS OF OTHER OFFICES CONSULTED:** Concur.

**BUDGET IMPACT, IF ANY:** None.

**SUBMITTED TO INSPECTOR GENERAL FOR REVIEW:** Yes.

**RESPONSIBLE STAFF MEMBER:** Justin M. Anderson, Senior Staff Attorney, Office of General Counsel and Tom Fay, Manager, Capital Markets, Office of Examination and Insurance.

**SUMMARY:** The proposal would make two changes to the Subordinated Debt rule (Current Rule) related to the maturity of Subordinated Debt Notes (Notes) and Grandfathered Secondary Capital (GSC). Specifically, this proposal would replace the maximum maturity of Notes with a requirement that any credit union seeking to issue Notes with maturities longer than 20 years demonstrate how such instruments would continue to be considered “debt.” This proposed rule would also extend the Regulatory Capital treatment of GSC to the later of 30 years from the date of issuance or January 1, 2052. The proposed rule would also make four minor modifications to the Current Rule to make it more user-friendly and flexible. Specifically, the proposal would amend the definition of “Qualified Counsel” to clarify that such person(s) is not required to be licensed to practice law in every jurisdiction that may relate to an issuance. The proposal would amend two sections of the Current Rule to remove the “statement of cash flow” from the Pro Forma Financial Statements requirement and replace it with a requirement for “cash flow projections.” Next, the proposal would revise the section of the Current Rule on filing requirements and inspection of documents. Finally, the proposal would remove a parenthetical reference related to GSC that no longer counts as Regulatory Capital.



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National Credit Union Administration

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**RECOMMENDED ACTION:** The NCUA Board approve the attached proposed rule with a 60-day comment period.

**ATTACHMENT:** Proposed rule.