



State of Washington
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF CREDIT UNIONS

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April 15, 2016

Mr. Gerald Poliquin
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314

Subject: Comments on Overhead Transfer Rate Methodology and impact to Federal Credit Union Operating Fee Schedule Methodology.

Dear Mr. Poliquin:

The Washington State Department of Financial Institutions (WDFI) is the primary prudential regulator of fifty-six (56) federally insured state-chartered credit unions (“FISCUS”) with aggregate assets of \$39.8 billion¹. Of these, BECU is our largest FISCO with assets of \$14.5 billion, making it the fourth largest credit union in the United States and the largest depository institution chartered in Washington State. The credit unions in Washington State represent 7% of the total assets in state chartered credit unions in the nation².

Thank you for the opportunity to comment on the Overhead Transfer Rate (OTR) Methodology and the Federal Credit Union (FCU) Operating Fee Schedule Methodology which we see as interrelated issues. The OTR methodology is used to determine the requisitions from the National Credit Union Share Insurance Fund (NCUSIF) to cover administrative and other expenses incurred in carrying out its share insurance responsibilities (Title II in the Federal Credit Union Act). The FCU operating fee schedule methodology is used to determine the aggregate amount of operating fees charged to FCUs to carry out its chartering responsibilities (Title I in the Federal Credit Union Act). The amounts collected from both methods fund the National Credit Union Administration (NCUA) budget.

¹ Data as of 12/31/2015 per NCUA aggregate financial performance report.

² As of 12/31/2015, the total assets in all federally insured credit unions in the nation were \$576.3 billion (48%) compared to \$628.1 billion (52%) assets in federally chartered credit unions.

Of concern is the trend of an increasing percentage (OTR) of the NCUA budget that was transferred from the insurance fund. In 2015, the OTR was 71.8%. The OTR has been climbing since the year 2000. Before 2000, it was 50% for 14 years. Correspondently, the FCU operating fees have declined over recent years. This is surprising during a time of significant changes to the consumer compliance related rules and additional supervision over interest rate risk and cybersecurity. We would expect increasing time for safety and soundness examinations for FCUs and not decreasing FCU operating fees to cover those exam costs. From a broad policy perspective on budget, the historical 50% OTR from the insurance fund and 50% from FCU operating fees appears to be more compatible to the dual functions of NCUA as a charter regulator and fiduciary of the insurance fund. An imbalance of the allocation between the insurance fund and the declining fees collected from FCUs has an inadvertent discriminatory effect on state charters that pay into the insurance fund.

The concern begins from a problematic basis of NCUA's methodology of both the OTR and the FCU operating fees in which NCUA policy is to transfer the safety and soundness examination work from its charter supervision to its insurance duties. This premise compromises the basic methodology and establishes a backward analysis.

In 1970, when NCUA was created, Congress expected the agency to supervise FCUs from revenues collected from fees and assessments paid by FCUs³. The responsibility of NCUA, as a charter supervisor to do safety and soundness exams of FCUs, is consistent with other banking regulators. All the following conduct safety and soundness exams, the Office of Comptroller of the Currency (OCC) for the supervision of its national charters, the Federal Reserve Bank for the supervision of its member banks, and the state regulators for the supervision of state chartered credit unions and banks.

However, NCUA policy is to allocate the cost of all safety and soundness exams to the insurance fund. This makes no sense. A plain reading of the FCUA leads to the opposite allocation. NCUA under Title I of the Federal Credit Union Act (FCUA) should be conducting safety and soundness examinations on FCUs as part of its charter supervision and then NCUA under Title II of the FCUA should be relying on those safety and soundness examinations for its insurance responsibilities.

The funding for the safety and soundness exams of FCUs should come fully from the FCU operating fees, not the insurance fund. FCU safety and soundness examinations conducted under Title I should represent a cost saving to NCUA for insurance purposes⁴. Under a similar premise, NCUA is expected to accept safety and soundness reports made by state credit union regulators⁵ as cost savings to the insurance fund.

³ 12 U.S.C. § 1781-1790

⁴ 12 U.S.C. § 1782(a)(5) in Title II states "Reports required under Title I of this Acts shall be prepared that they can be used for share insurance purposes."

⁵ 12 U.S.C. 1782 (a)(4) and (5) in Title II states (4)" The [NCUA] Board may accept any report of condition made to any commission, board, or authority having supervision of a State-chartered credit union and furnish to any such commission, board, or authority reports of condition made to the Board." (5)..." To the maximum extent feasible,

Title II of the FCUA does envision that the insurance fund may incur expenses related to its administration, including examination staff and other employees. This would be for insurance examinations conducted to determine specialized or unique risks not covered by the safety and soundness examinations.

We are not criticizing NCUA's budget. We believe NCUA is in the best position to determine its budget necessary to fulfill its responsibilities. We are focused on the methodology used to determine allocations. We respectfully ask the FCU operating fee methodology be revised to fully fund the supervision and safety and soundness examinations of FCUs. In addition, we ask the OTR methodology be revised to rely on safety and soundness examinations for FCUs and FISCUs to the maximum extent feasible, as a cost savings to the insurance fund. The reason to revise the methodology of both FCU operating fee and OTR is based on the plain reading of the FCUA that looks to NCUA to examine FCUs as the charter supervisor and use the FCU exams and state exams for cost savings for the insurance fund. The current methodology inadvertently discriminates against state charters by using the insurance fund to subsidize FCU safety and soundness exams while FCU operating fees decline.

Sincerely,



Linda K. Jekel
Director of Credit Unions