The Wisconsin Credit Union League

One League, One Focus - Your Success!

Submitted via email: *boardcomments@ncua.gov*

Aug. 29, 2017

Mr. Gerard Poliquin
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Arlington, VA 22314-3428

Re: Requests for Comment Regarding Revised Overhead Transfer Rate Methodology

Dear Mr. Poliquin:

The Wisconsin Credit Union League (the League) appreciates the opportunity to comment on the National Credit Union Administration Board's (the Board's) revised overhead transfer rate (OTR) methodology proposal.

On behalf of Wisconsin's credit unions® and their nearly 3 million members, we thank the Board for thoughtfully considering all of the comments submitted in response to its 2016 OTR proposal and revising its approach accordingly. The methods now being proposed would be simpler and more transparent. They would streamline the formula for determining how much of NCUA's operating expenses should be allocated to the National Credit Union Share Insurance fund (NCUSIF), by consolidating the methodology to three steps (from the current eight-step calculations) and eliminating the examination time survey. The Board's willingness to consider different allocation strategies is commendable.

In 2016, The League's concerns focused on equitable treatment for both federal credit unions (FCUs) and federally insured, state-chartered credit unions (FISCUs). The proper allocation of expenses to the NCUSIF is of concern to Wisconsin's credit unions. All of them are federally insured through NCUSIF – since Wisconsin law does not allow state-chartered credit unions to use private share insurance – and all but three of them are state-chartered. It is important to each of them that NCUA fairly allocate its budget between FCUs and FISCUs, not unduly favoring or burdening either charter type.

However, we have seen a worrisome trend recently. For 14 years prior to 2000, the OTR was 50% – meaning that half of the NCUA's budget was requisitioned from the NCUSIF and the other half from FCU operating fees. As federal charters have declined and operating fee revenues have followed suit, the OTR grew from 50% to 73.1% for 2016. Granted, the 2017 OTR declined to 67.7%, largely because of reduced state examination hours and the reassignment of 20,000 of these hours to compliance and training activities. This also resulted in more reliance on examinations and supervision by state supervisory authorities (SSAs), which increased the SSA imputed value by $10.2 million. Still, the allocation remains unbalanced, which has a discriminatory impact on FISCUs that pay into the insurance fund. Essentially, the shift has subsidized FCUs at the expense of FISCUs.

The Board's revised proposal would move the allocation in a more equitable direction, but not enough. If the methodology now being proposed were used for 2017, the OTR would drop from the current 67.7% to 60.0%, meaning that both FCUs and FISCUs would see a decrease in their allocation transferred from the NCUSIF; however, the operating

N25 W23131 Paul Road Pewaukee, Wisconsin 53072-5779
Phone: (262) 549-0200 or (800) 242-0833 Fax: (262) 549-7722 Web: www.theleague.coop
Member Credit Union National Association

fee, which only FCUs pay, would rise by about 24% – from $96.4 million to $119.2 million. This would be an additional 24% increase over the approximately 24% increase from last year.

We believe that the NCUA budget should be funded 50/50 from the OTR and from FCU operating fees, as it was for many years. This reflects the fairest, simplest and more straightforward approach to balancing the OTR and operating fee components. We understand that the Board opposes that approach. In its revised proposal, it explained that five of the commenters in 2016 (including The League) favored setting the OTR at a fixed 50% of the operating budget. The Board dismissed the idea:

> Commenters that supported setting the OTR at 50 percent indicated that it is easily understandable, more in line with the dual functions of NCUA as regulator and insurer, and that the OTR was set at 50 percent for many years. The Board does not believe it is transparent or appropriate to set the OTR at any level, such as the 50 percent recommended by commenters, without a *reasoned basis to demonstrate that level of agency operating costs are properly allocated* to Title II activities. (See 12 U.S.C. 1783(a).) [Emphasis added.]

We respectfully suggest that certain aspects of the revised proposal similarly lack a "reasoned basis." The proposed formula would apply four underlying principles to the allocation of NCUA operating costs:

1. Time spent examining and supervising FCUs would be allocated as 50% insurance related.

2. All time and costs NCUA spends supervising or evaluating the risks posed by FISCUs or other entities NCUA does not charter or regulate (for example, third-party vendors and CUSOs) would be allocated as 100% insurance related.

3. Time and costs related to NCUA's role as charterer and enforcer of consumer protection and other non-insurance based laws governing the operation of credit unions (like field of membership requirements) would be allocated as 0% insurance related.

4. Time and costs related to NCUA's role in administering federal share insurance and the Share Insurance Fund would be allocated as 100% insurance related.

The Board offers a fairly thin explanation for these allocations, explaining its reasoning for the first two principles this way:

> The 50 percent allocation [for FCUs] mathematically emulates an examination and supervision program design where NCUA would alternate examinations, and/or conduct joint examinations, between its insurance function and its prudential regulator function if they were separate units within NCUA. It reflects an equal sharing of supervisory responsibilities between NCUA's dual roles as charterer/ prudential regulator and insurer given both roles have a vested interest in the safety and soundness of federal credit unions. It is consistent with the alternating examinations FDIC and state regulators conduct for insured state-chartered banks as mandated by Congress. Further, it reflects that NCUA is responsible for managing risk to the Share Insurance Fund and therefore should not rely solely on examinations and supervision conducted by the prudential regulator.
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> … NCUA does not charter state-chartered credit unions nor serve as their prudential regulator. NCUA's role with respect to federally insured state-chartered credit unions is as insurer. Therefore, all examination and supervision work and other agency costs attributable to insured state-chartered credit unions is allocated as 100 percent insurance related.

With all due respect, those assumptions offer little in the way of "reasoned basis" for proper allocation. They are based on presumptions, not statistical information or supporting data of any kind. The Board may as well simply assert that a 50/50 allocation, which was adequate for 14 years prior to 2000, still reasonably reflects the proper allocation of the NCUA's operating expenses to the NCUSIF.

In closing, we want to stress that the Board's revised proposal is a significant improvement over its original 2016 proposal, and we generally support the direction the Board has taken; however, we still maintain that the NCUA budget should be funded 50/50 from the OTR and from FCU operating fees, as it was for many years. This would reflect the fairest, simplest and more straightforward approach to balancing the OTR and operating fee components without unduly disadvantaging either federal or state charters.

Thank you.

Sincerely,

Paul Guttormsson
Legal Counsel
The Wisconsin Credit Union League