Board Action Bulletin

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NCUA BOARD MEETING RESULTS FOR JUNE 17, 2011

NCUA Eases Burden for Credit Unions Seeking Low-Income Designation

Comments Sought on Hedging Interest Rate Risk;
Golden Parachute Rule Refined

ALEXANDRIA, Va. (June 17, 2011) – The National Credit Union Administration (NCUA) Board today convened its sixth open meeting in 2011 at the agency's headquarters and unanimously approved three items:

- An Amendment to NCUA's rules easing the burden on credit unions seeking a low-income designation that have lower-income members living in higher-income neighborhoods;
- An advance notice of proposed rulemaking to seek public comments about a potential rule that would permit consumer credit unions to engage in certain derivative activities that would hedge interest rate risk; and
- A technical change to NCUA's final rule imposing limits on golden parachute and indemnification payments to block unwarranted payouts to individuals whose actions undermine a credit union's finances.

The Board also received updates on the performance of the National Credit Union Share Insurance Fund (NCUSIF) and the Temporary Corporate Credit Union Stabilization Fund (Stabilization Fund). The NCUSIF remained steady at the end of May with a 1.29 percent equity ratio for the eighth straight month. The Stabilization Fund's net position increased $7 million over the last month.

Alternative Sampling Ability Added to Low-Income Designation Rule

To ease the burden on credit unions that seek to prove their low-income designation, NCUA amended its final rule (Part 701) to allow the use of income data drawn from surveys or statistically valid samples of member loan files.

This final rule permits federal credit unions to use statistically valid random samples of member income data either garnered through surveys or loan data to prove their low-income status to the agency.

This alternative approach helps credit unions that do not qualify as low-income according to the NCUA’s automated geocoding software, which uses member addresses and census data to evaluate qualification for low income status.

Some credit unions have argued that they serve low-income members who generally live in higher-income neighborhoods and therefore the geocoding approach does not accurately capture their membership’s income profile. These credit unions were previously burdened with an unduly difficult alternative to prove their low-income status.

Allowing federal credit unions to use statistically valid samples of member income data to qualify for low-income designation reduces a regulatory burden and responsibly responds to credit union concerns.

Federal credit unions will need to carry out sampling using consistent and careful methods, which the rule addresses.

The Board considered eight comments to the proposed rule that strongly supported its goal, and agreed with the basic structure and framework NCUA proposed.

The rule changes become effective 30 days following publication in the *Federal Register*.

Comments Sought on Using Derivatives to Manage Interest Rate Risk

Following up on previous indications that NCUA would consider allowing consumer credit unions to use financial derivatives to manage interest rate risk, the Board issued an advanced notice of proposed rulemaking (Part 703) to seek comments on this concept.

NCUA generally prohibits credit unions from making derivatives transactions. Today, NCUA limits the number of credit unions engaging in such transactions to those approved to participate in a 12-year-old investment pilot program. Most credit unions are unfamiliar with the risks derivatives present, and demand for such instruments has been low.

However, given the Dodd-Frank Act’s mandate related to clearing derivatives through clearinghouses, and after the experience of the pilot program, the NCUA Board agreed that it is timely to reconsider this regulatory arrangement.

The information request asks a series of questions for those who wish to comment. Among the considerations is whether to allow more credit unions to purchase derivatives under conditions that had been set forth in the pilot program. The advance notice of proposed rulemaking will also collect information about whether to allow derivative activities on a case-by-case basis, whether to allow federal credit unions to engage in derivative activities independently or through a third party, and what standards NCUA ought to set in both the approval and governance of the activity.

Comments must be received within 60 days of publication in the *Federal Register*.

Technical Change to Golden Parachute Rule Better Represents Board's Intent

To clarify its implementation, the Board made technical modifications to its recent rule (Part 750) covering golden parachutes and indemnification payments to institution-affiliated parties.

After publication in the *Federal Register*, NCUA staff discovered the Board's intent regarding certain deferred compensation plans was not accurately reflected in the text of the rule. The technical change clarifies the Board's intent that plans permissible under §457(b) of the tax code be excluded outright from the definition of golden parachute payment in the same way the rule treats §401(k) plans. To conform the rule text to the intent of the Board, the reference in the rule to §457 was corrected to read §457(b).

The rule prevents federally insured credit unions from providing lucrative rewards to departing executives in certain troubled situations. The "golden parachute" provisions apply to troubled credit unions affected by insolvency, a conservatorship, or rated CAMEL 4 or 5.

The interim final rule was made effective the same date of the original rule to avoid confusion.

NCUSIF Equity Ratio Remains Steady

For the eighth straight month, the NCUSIF equity ratio remains stable at 1.29 percent as of May 31. The NCUSIF ending reserve balance stood at $1.2 billion, which included an increase of $4.3 million in reserves for May.

Gross income for May was $19.4 million with expenses of $16.2 million**,** resulting in net income of $3.2 million. Cumulative net income for the year is $39.5 million. Ten credit unions have failed thus far in 2011 at a cost to the NCUSIF of $39.0 million.

As of May, 377 federally insured credit unions with assets of $40.5 billion and shares of $36.0 billion had CAMEL 4 or 5 designations. Additionally, 1,791 CAMEL 3 credit unions had assets of $146.5 billion and shares of $129.8 billion. Overall, approximately 20 percent of all credit union assets were in CAMEL 3, 4 or 5 institutions. The percentage of assets in CAMEL 1 and 2 credit unions has increased slightly in each of the past five months.

The Stabilization Fund total liabilities and net position stood at $401 million at the end of May, about $7 million higher than the end of April.

Financial data reported in 2011 for both the NCUSIF and the Stabilization Fund are preliminary and unaudited.

All open NCUA Board meetings are tweeted live. Follow @TheNCUA on Twitter. Board Action Memorandums are available online at www.ncua.gov under *Agency Leadership/NCUA Board* and *Actions/Draft Board Actions*. NCUA rule changes are posted online at www.ncua.gov under *Resources/Regulations, Legal Opinions and Laws*.