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# Board Action Bulletin

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## NCUA BOARD MEETING RESULTS FOR MAY 19, 2011

### **NCUA Unveils Proposal for Voluntary Prepaid Stabilization Fund Assessments**

#### ***Board Votes to Ease Community Development Loans and Block Unwarranted Golden Parachutes***

**ALEXANDRIA, Va. (May 19, 2011)** – The National Credit Union Administration (NCUA) Board today convened its fifth open meeting in 2011 at the agency’s headquarters to consider:

- A plan for a program requested by stakeholders allowing voluntary prepayments of assessments in order to improve the liquidity of the Temporary Corporate Credit Union Stabilization Fund (Stabilization Fund);
- A proposed rule to ease regulatory burdens, improve transparency, and remove the interest rate barrier on the Community Development Revolving Loan Fund;
- A final rule imposing limits on golden parachute and indemnification payments to block unwarranted payouts to individuals whose actions undermine a credit union’s finances;
- Final revisions to NCUA’s advertising regulation to enhance public understanding of credit unions protected by federal insurance; and
- A final rule to clarify the Dodd-Frank Act’s requirement to provide temporary unlimited deposit insurance coverage for non-interest bearing transaction accounts.

The Board approved all proposed and final rules presented. The Board also received updates on the performance of the National Credit Union Share Insurance Fund (NCUSIF) and the Stabilization Fund. The NCUSIF, which recently received a clean 2010 audit, remained steady at the end of April with a 1.29 percent equity ratio for the seventh straight month.

### **NCUA Seeks Input on Plan for Voluntary Prepaid Assessments**

In an effort to improve the liquidity of the Corporate Stabilization Fund and provide enhanced flexibility in setting future Stabilization Fund assessments, the Board received a briefing about a proposal to create a voluntary prepaid assessment program.

When NCUA implemented the Corporate System Resolution Program, materials made it clear that credit unions could expect somewhat elevated assessments in 2011 and 2012 to cover the Stabilization Fund’s cash management needs. The Stabilization Fund will need approximately \$2.94 billion in additional funding to retire corporate debt through Oct. 2012.

NCUA could obtain some of this needed funding through a voluntary prepaid assessment program. This proposal responds to requests of credit union stakeholders who want to better manage corporate funding needs and could allow reduced assessments over the next two years. Key elements of the voluntary prepaid assessment proposal:

- Participation would be purely voluntary and open to all federally insured credit unions able to meet the minimum participation amount of \$10,000;
- Liquidity would be provided to the Stabilization Fund by augmenting the 2011 and 2012 assessments from participating credit unions; and
- NCUA would implement the voluntary prepaid assessment program only if a minimum aggregate amount (at least \$300 million) could be raised, which would reduce mandatory assessments for all federally insured credit unions in 2011 and 2012;
- Beginning in 2013, NCUA would offset each participating credit union's future Stabilization Fund assessments with any contributions they made to the voluntary program.

Voluntarily prepaying future assessments would not change the ultimate cost of the corporate resolution plan. Rather, credit unions that elect to participate would help conserve capital and put the industry's substantial liquid balances in excess of \$80 billion to good use. Maximum participation in the program could raise \$2.8 billion, which would result in both a significant reduction of 2011 and 2012 assessments and an additional reduction in the amount of funds borrowed from the U.S. Treasury by the Stabilization Fund.

A program outline regarding this proposal is available at <http://go.usa.gov/jVy>. The Board did not vote on the proposed plan, but invited public feedback to measure interest and ensure the effective operation of a voluntary prepaid assessments program.

## **NCUA Proposes Streamlining Community Development Loan Process**

In an effort to encourage low-income credit unions to apply for below-market-rate loans from NCUA, the Board issued a proposed rule intended to lessen regulatory burdens, eliminate outdated procedures, and advance transparency with respect to loans and technical assistance. Overall, the proposed rule greatly streamlines the program requirements and improves flexibility to administer the Community Development Revolving Loan Fund (Part 705).

NCUA anticipates the proposed rule will result in increased loan demand due, in part, to reduced program burdens on participating credit unions, thereby enhancing the provision of basic financial services for low-income households.

The proposed rule adds definitions, eligibility requirements, examples of how loans from this fund can be used, and significantly simplifies the current rule. Most significantly, the proposed rule removes the requirement that NCUA charge an interest rate between 1 and 3 percent APR. This is intended to provide flexibility to charge below-market APR no matter how low or how high the prevailing rates move in the future. The proposal also better details the application and award processes, and post-award reporting requirements.

By a 3-0 vote, the Board issued the proposed rule with a 60-day comment period.

**Golden Parachute Rule Curtails Payouts at Troubled Credit Unions** To protect credit union members and guard against unwarranted disbursements to individuals whose actions may have contributed to a credit union's distressed financial condition, the Board approved a final rule covering golden parachutes and indemnification payments to institution-affiliated parties (Part 750).

The rule prevents federally insured credit unions from providing lucrative rewards to departing executives in certain situations. The "golden parachute" provisions would apply to troubled credit unions affected by insolvency, a conservatorship, or rated CAMEL 4 or 5. The rule also differentiates between legitimate severance payments or *bona fide* deferred compensation arrangements and improper golden parachutes.

The rule also establishes limits on a federally insured credit union's ability to provide indemnification. The new rule will only apply in conjunction with administrative enforcement actions brought by the agency (or by a state regulator in the case of a state-chartered institution), such as the assessment of a civil monetary penalty, the imposition of a cease-and-desist order, or removal from office.

This rule has exemptions that apply to certain types of employee benefits, severance agreements and current employment contracts. The rule also provides for a method, under certain circumstances, in which a credit union may make an advance indemnification payment.

As adopted, the final amendments also consolidate in one place those provisions that overlapped with the corporate credit union rule (Part 704.20). Upon the effective date, the final amendments to the new golden parachute rule delete the duplicative sections in the corporate credit union rule.

After carefully reviewing comment letters from 18 organizations, the Board made revisions to the proposed rule issued in July 2010.

The Board unanimously approved the final rule. The rule changes become effective 30 days following publication in the *Federal Register*.

## **Advertising Rule Intended to Promote Federal Insurance**

In an effort to improve public understanding about and confidence in credit unions' federal insurance coverage, the Board amended provisions of NCUA's advertising statement rule (Part 740).

The amendments require inclusion of a specified federal insurance coverage statement in a greater number of radio and television advertisements, annual reports and other statements of condition required by law. The amendments also dictate the size of the statement required in print advertising to ensure legibility.

Within the amended rule, NCUA newly defines the word "advertisement" as a "commercial message, in any medium, that is designed to attract public attention or patronage to a product or business." This meaning conforms to the Federal Deposit Insurance Corporation's definition.

The Board is sensitive to the needs of credit union access to affordable advertising outlets. As such, the Board changed the proposed rule from requiring the statement in all radio and TV ads to only require the statement in ads 15 seconds or longer. Radio and TV ads of that length will need to at least include the statement “Federally insured by NCUA.” Print ads will need to include a similar statement or the official NCUA insurance sign.

The Board approved the amendments by a 2-1 vote. Although the rule’s effective date occurs 30 days after publication in the *Federal Register*, mandatory compliance is delayed until Jan. 1, 2012, to ease the burden on credit unions that have already produced ad campaigns for 2011.

### **Board Clarifies Dodd-Frank’s Share Insurance Changes**

Upon enactment, Section 343 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 fully insured, on a temporary basis, the net amount depositors at insured credit unions maintain in non-interest bearing transaction accounts. The temporary insurance coverage remains in effect until Dec. 31, 2012.

To clarify several aspects related to this law, the Board approved a new rule with three parts (Part 745):

- The final rule defines a non-interest bearing transaction account to include “non-dividend bearing” to encompass standard credit union terminology, as well as including official checks from insured credit unions in the definition.
- The regulation also provides that this new insurance coverage is separate from, and in addition to, other coverage by NCUA’s share insurance rules.
- Additionally, the rule imposes a requirement for certain notices and disclosures.

By a 3-0 vote, the Board approved the final rule without any changes from the proposal.

### **NCUSIF Equity Ratio Remains Steady, Scores Clean 2010 Audit**

The NCUSIF received an unqualified or “clean” audit opinion for its 2010 financial reports. In addition to the NCUSIF, auditors recently certified the financial accuracy of the three other permanent NCUA funds: the Operating Fund, the Community Development Revolving Loan Fund, and the Central Liquidity Facility. KPMG LLP completed the audits of all four funds. Expected this summer, KPMG also will provide its opinion of the financial statements for the Stabilization Fund.

The NCUSIF remains stable, ending April with a 1.29 percent equity ratio for the seventh straight month. In addition, the NCUSIF ended the month with a \$1.19 billion reserve balance.

During the first four months of 2011, the NCUSIF had total income of \$76 million and total expenses of \$39.6 million, resulting in net income of \$36.4 million. Seven credit unions have failed during this period with year-to-date costs of \$34.2 million.

In April, 374 federally insured credit unions with assets of \$41.6 billion and shares of \$36.9 billion had CAMEL code 4 or 5 designations. Additionally, 1,794 CAMEL code 3 credit unions had assets of \$147.9 billion and shares of \$130.9 billion. Overall, approximately 21 percent of all

credit union assets were in CAMEL code 3, 4 or 5 institutions. The percentage of assets in CAMEL 1 and 2 credit unions has increased slightly in each of the past four months.

The Stabilization Fund total liabilities and net position stood at \$393.9 million at the end of April, about \$3 million higher than the end of March.

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

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