Filed via: regcomments@ncua.gov

May 23, 2011

Ms. Mary Rupp
Secretary to the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314

Re: NCUA Proposed Rulemaking for Part 741, Interest Rate Risk Proposal

Dear Ms. Rupp:

On behalf of the California and Nevada Credit Union Leagues, I appreciate the opportunity to comment on NCUA's proposal to amend Part 741 of its regulations to add a new rule regarding credit union policies and management of interest rate risk (IRR). By way of background, the California and Nevada Credit Union Leagues (Leagues) are the largest state trade associations for credit unions in the United States, representing the interests of more than 400 credit unions and their 10 million members.

Summary of the Proposal and the Leagues' Position

NCUA is proposing to amend its regulation on federal share insurance to include a requirement that federally insured credit unions have a written interest rate risk policy and an effective interest rate risk management program as part of their asset liability management. Since this new requirement would be added to the criteria used by NCUA in determining the insurability of a credit union, failure to develop and maintain such a policy and program would subject a federally insured credit union to the risk of losing federal share insurance coverage for their members' accounts.

The Leagues recognize the importance of having sound risk management practices in place to measure, monitor, and control IRR exposures. We understand that the current financial market and economic conditions present risk management challenges to credit unions of all sizes, and support robust IRR management by all credit unions. However, we believe that the regulation as proposed is unnecessary, burdensome for credit unions, and will have undesirable, unintended consequences for both credit unions and the NCUA. Therefore, the Leagues do not support it, and we urge NCUA not to implement a regulation on IRR management at this time.

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A Regulation is Not Needed

NCUA Already Has Sufficient Supervisory Means to Address IRR Management
Over the past several years NCUA has issued the following Letters to Credit Unions on interest rate risk:

- *Real Estate Lending and Balance Sheet Management (99-CU-12)*
- *Asset Liability Management Procedures (00-CU-10)*
- *Liability Management - Rate-Sensitive and Volatile Funding Sources (01-CU-08)*
- *Managing Share Inflows in Uncertain Times (01-CU-19)*
- *Non-maturity Shares and Balance Sheet Risk (03-CU-11)*
- *Real Estate Concentrations and Interest Rate Risk Management for Credit Unions with Large Positions in Fixed Rate Mortgages (03-CU-15)*

In addition, in January 2010 the Federal Financial Institutions Examination Council issued an advisory on IRR management, which was adopted by all member agencies, including NCUA. The purpose of the advisory was to address expectations of regulators for all financial institutions to manage their IRR exposures by utilizing evaluation methods and systems that reflect their net worth, complexity, operations and other issues. It appears that this advisory forms the basis of NCUA's proposal.

The Leagues have learned that examiners are currently utilizing the advisory as a tool to help evaluate the adequacy of credit unions' IRR policies and management, including how well institutions are documenting, monitoring, and updating key assessments they use in assessing their IRR management. It is our understanding that credit unions also rely on the advisory. We believe this approach addresses safety and soundness issues while still taking into account that a "one-size-fits-all" approach is not appropriate for IRR policies and management.

NCUA does not indicate in the proposal why the agency feels the need to move from the use of Letters to Credit Unions and the FFIEC advisory to a regulation. It should be noted that the FDIC does not appear to share the same level of concern as NCUA regarding IRR; to date the banking regulator has not issued an IRR regulation.

Credit Unions Are Already Effectively Managing IRR

While the Leagues acknowledge that overall IRR exposure has grown recently for institutions of all sizes, we do not agree with NCUA's concern that IRR risk at credit unions has risen to a degree necessitating a regulation, nor does the proposal provide any data, analysis, or discussion to support the agency's concern. NCUA's entire argument for the need of a regulation appears to be the following from the proposal:

> *"…IRR has risen at credit unions due to changes in balance sheet compositions and increased uncertainty in the financial markets. The Board therefore believes it is appropriate to create a regulatory requirement addressing the policy and practice of interest rate risk management at FICUs supported by clear and comprehensive guidance."*

It is interesting to note that immediately prior to this statement, NCUA states:

> *"NCUA…believes FICUs generally are managing IRR adequately."*

The Leagues agree with this second statement, which is supported by data provided by CUNA in their comment letter to NCUA on this proposal. We believe CUNA's data shows that credit unions understand—and are actively managing—their IRR risk exposure recently, as well as over the last two interest rate cycles. It's clear from their data that the strong IRR management demonstrated by credit unions is the result of robust asset liability management policies already in place in credit unions, backed up by effective tools and implementation. As already discussed, NCUA has the necessary tools it needs to monitor adequate IRR management. The agency can do this by having examiners review ALM policies and practices already in place at credit unions. There is no need for a new, separate regulation on IRR.

We urge NCUA to give thoughtful consideration of CUNA's data, and in turn to provide data and analysis to support the agency's assertion that a regulation is needed.

A "Checklist Approach" to IRR Management is Unwise

While the proposal states "it is impossible to establish specific, regulatory requirements for IRR that would be appropriate for all FICUS," it is obvious that the detailed guidance that accompanies the proposal will form the basis of compliance with the rule. In other words, the guidance would be used by examiners as "specific, regulatory requirements for IRR." If past experience is an indication of what to expect going forward, examiners will utilize the guidance as a checklist and rigidly enforce it. We believe that this type of "checklist approach"—that is, applying a one-size-fits-all standard to a unique situation—is unwise when evaluating IRR programs and management, as it is not based on each credit union's own individual mission, structure, and circumstances. We are very concerned that such an approach could lead to irrelevant, inappropriate, and costly policy change requests of credit unions by examiners. Conversely, the use of a checklist approach could create a false sense of security for examiners and credit unions.

IRR Policy and Management Should Not Be Connected to NCUSIF Coverage

The proposal would make an IRR policy and management program one of the criteria that a credit union must meet to obtain and continue federal share insurance. NCUA notes in the proposal that compliance with lending and investment policy requirements is also a condition of share insurance and that including the IRR requirements is consistent with that approach. The Leagues strongly disagree with that assertion.

The lending and investment authorities are fundamental credit union activities specifically detailed in the Federal Credit Union Act. While significant, the issue of IRR management is a regulatory directive and is not addressed in the Act.

Furthermore, as noted earlier, IRR compliance is necessarily subjective, requiring programs that accommodate a credit union's operations, financial conditions, and membership need. Likewise, examiners' evaluations of credit unions' IRR policies and management must take into consideration that IRR programs will vary based on these factors. Lending and investment requirements, by contrast, are objective and apply consistently, and typically do not require much subjective analysis by examiners.
To impose the penalty that share insurance could be lost based on an examiner's subjective evaluation of a credit union's IRR program is unwarranted and unnecessarily punitive.

In closing, it's important to remember that credit unions are already under an extraordinarily heavy regulatory burden due to the flood of new rules being issued by numerous agencies, including regulations pursuant to Dodd-Frank. New regulations—additional burdens—should only be imposed if they are clearly justified by a compelling need. The Leagues do not believe that NCUA's proposal provides a convincing reason for implementing a regulation governing IRR policy and management, and we urge the agency to discontinue this rulemaking

I appreciate your thoughtful consideration of our views and recommendations.

Sincerely,

Diana R. Dykstra
President/CEO

cc: League Member CEOs