



OHIO CREDIT
UNION LEAGUE

May 23, 2011

Via E-mail: regcomments@ncua.gov

Mary Rupp
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, Virginia 22314-3428

**Re: Ohio Credit Union League - Comments on
NCUA's Proposed Rulemaking for Part 741 on
Managing Interest Rate Risk**

Dear Ms. Rupp:

The Ohio Credit Union League (OCUL) appreciates the opportunity to provide comments on the National Credit Union Administration's (NCUA) proposal to amend Part 741 of its regulations to add new rules requiring federally-insured credit unions (FICUs) to have written interest rate risk (IRR) policies and an effective interest rate risk management program. Federally-insured credit unions that fail to develop and maintain such a policy and program would risk losing National Credit Union Share Insurance Fund (NCUSIF) coverage for their accounts.

The Ohio Credit Union League is the trade association for credit unions in Ohio advocating on behalf of the 386 credit unions, both federal and state chartered, and their 2.7 million members. The comments reflected in this letter represent the recommendations of the Ohio Credit Union League and input received from its Government Affairs Committee and member credit unions. We appreciate the opportunity to provide suggestions and feedback to NCUA prior to adoption of any rules as proposed.

Summary of Proposal

NCUA is proposing to amend its current rule, Section 741.3 of NCUA's Rules and Regulations, that addresses the qualifications for obtaining and maintaining federal share insurance from the NCUSIF. Currently, these provisions contain requirements for written lending and investment policies. The proposal would amend Section 741.3 to address additional requirements for a written Interest Rate Risk (IRR) policy and an effective IRR management program. Compliance with the proposal would be a part of a credit union's overall asset liability management and would be a condition of receiving and maintaining NCUSIF insurance.



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The proposal states that NCUA believes that “credit unions should have a written policy that expressly states the credit union’s IRR tolerance and an effective IRR program that “identifies, measures, monitors and controls IRR.” Such a program is an “essential component of safe and sound credit union operations.”

The proposal also contains:

- Asset-size and activity triggers for when the IRR requirements would be mandatory. FICUs with less than \$10 million in assets would not be required to have a written policy. FICUs between \$10 million and \$50 million in assets would have to meet written policy requirements if all of their first mortgages held in portfolio plus total investments with maturities of greater than five years are at least 100% of their net worth. All FICUs greater than \$50 million in assets would have to meet the written policy requirements.

NCUA states that less than 800 FICUs would be substantively affected and that 75% of affected FICUs already have interest rate risk policies in place as part of their lending and asset management policies.

- Duties and responsibilities of the credit union’s board and management in developing, implementing, measuring, and monitoring IRR policies.
- Standards for assessing a credit union’s IRR policy and its effectiveness.

Justification and Necessity for an IRR Proposal

Given the current state of the economy and interest rate environment, OCUL believes that there is just cause for IRR concerns. OCUL also believes that it is imperative that credit unions have policies and tools that track, monitor and alert credit union management and officials to their exposure and that management must continually adjust to balance sheet changes. However, OCUL questions the seemingly compelling need by NCUA to add another heavy burden of regulatory requirements on FICUs, on top of a mountain of current ball and chain type rules that are already holding back progressive credit unions. Additionally, data recently released by the Credit Union National Association indicates that credit unions have managed their interest rate risk exposure quite well over the last couple of interest rate cycles during the past fifteen years. Over this time, overall net worth, margins, membership growth, loans and savings have remained strong.

Yet, NCUA’s reaction to an uptick in IRR concerns seem to be premature, dictating a nationwide set of rules that all FICUs must abide by to address the faults of a relatively few number of credit unions. These are credit unions who NCUA considers to have not yet adequately addressed IRR.

NCUA estimates that about 25% of credit unions (who would become subject to the proposed rule, or about 800 in total), will need to develop a written IRR policy and others may need to revise their

policy to conform to the rule if it is adopted. It is OCUL's recommendation that NCUA should first focus on these 800 credit unions before considering any future need to adopt an across the board rule impacting all credit unions (which OCUL does not believe to be necessary).

In January 2010, the Federal Financial Institutions Examination Council issued an advisory on IRR management which was adopted by NCUA, along with other federal financial regulators. This advisory provides guidance on IRR policies and management that credit unions and examiners are supposed to be implementing. The "Supplementary Information" acknowledges that it is "impossible to establish specific, regulatory requirements for IRR that would be appropriate for all FICUs." Yet, the proposed rule now relies on credit unions implementing this "guidance" that accompanies the proposed rule changes. We believe that examiners will utilize the guidance as a checklist and rigidly enforce every element of it, disregarding the flexibility and judgment needed to address IRR in a real world environment.

More importantly, no other federal financial regulators have developed a similar proposal. OCUL believes that at the heart of the IRR issue, both examiners and credit union management and officials need training, education and awareness to adequately address IRR risk. It is OCUL's belief that there is no one size fits all ominous rule that will globally "fix" the problems of the identified 800 credit unions that need assistance. NCUA and its examiners should be intimately working with them on a one-on-one basis to correct any deficiencies.

IRR Compliance Tied with NCUSIF Coverage

Under NCUA's proposed rulemaking on Managing Interest Rate Risk, NCUA will require that compliance with this proposal would be part of a credit union's asset liability management and would be a condition of receiving and maintaining federal deposit insurance. OCUL does not agree with NCUA's justification for threatening the loss of NCUSIF coverage with noncompliance with IRR rules. Assessments by an examiner of a credit union's IRR policies, operations, financial condition and membership needs require subjectivity, as specifically noted in the proposal's *Supplementary Information*. Is it fair that one examiner's subjectivity to the "guidance" found in the proposed rule jeopardize a credit union's loss of share insurance? Will any disagreement between a credit union and its examiner result in such harsh punitive actions?

OCUL believes any tie to the loss of NCUSIF should be removed from any final rule adopted. IRR activities, while important, is a management directive - unlike fundamental activities such as lending and investment authorities that are specifically identified in the Federal Credit Union Act and referenced in Part 741 as activities tied to the loss of share insurance coverage.

The proposed rule does not address these critical matters. Any final rule adopted by NCUA must address a comprehensive and fair means to appeal to NCUA without fear of retaliation.

In addition, OCUL believes that correlating any perceived IRR noncompliance with the loss of NCUSIF coverage by this rule is a punitive, unnecessary step that is unwarranted and inappropriate.

There are many other safety and soundness powers of NCUA that can adequately address noncompliance as needed.

Standards for Assessing IRR Policy

OCUL believes that the issuance of the proposed rule, as opposed to guidelines/advice outside the regulatory process) creates an almost indistinguishable difference between guidelines and rules. Even with additional examples of policy standards and IRR measurement methods and monitoring parameters, these guidelines automatically become a checklist that an examiner will utilize to grade compliance. This means that all credit unions, even those with sound IRR policies and practices currently will need to conform to NCUA's IRR standards, unnecessarily increasing the regulatory burden for everyone.

Conclusion

The Ohio Credit Union League appreciates the opportunity to comment on the National Credit Union Administration's Proposed Rulemaking for Part 741, IRR Proposal and has provided its suggestions, comments and recommendations above and cannot support the proposed rule at this time. Therefore the Ohio Credit Union League respectfully requests that it not be approved as drafted.

Specifically, the Ohio Credit Union League sets forth the following issues and concerns:

- The Ohio Credit Union League has always supported and encouraged its credit unions to adopt and regularly review their policies that address risk management.
- While OCUL recognizes the importance of IRR for credit unions, expanded regulation is neither warranted, nor justified, in that credit unions have managed their IRR exposure quite well during the last fifteen years.
- NCUA currently has the authority to manage credit union IRR exposures as a result of its adoption of the Federal Financial Institutions Examination Council's advisory on IRR management in January 2010. None of the other federal financial regulating agencies has adopted additional IRR regulations.
- OCUL believes that this proposal is not warranted in that NCUA's advisory to address IRR management issues is sufficient in addressing IRR concerns.
- OCUL strongly disagrees with NCUA's justification to threaten a credit union with the loss of NCUSIF coverage if the credit union fails to comply with this proposed rule.

Mary Rupp, Secretary of the Board
National Credit Union Administration
May 23, 2011
Page 5

Finally, the Ohio Credit Union League reiterates its opposition to this proposed regulation in its entirety. However, if this proposal should be adopted, it should be restricted to only target toward those where risk exposure is greatest. OCUL urges NCUA to raise the threshold for credit unions from \$10 million to \$50 million in assets and limit concentration to only include fixed rate mortgages. It is OCUL's belief that this would address the risks more directly and not jeopardize safety and soundness. Further, if this rule is adopted in whole or in part, OCUL recommends that there should be a phase-in period for no less than one year for any affected institutions.

The Ohio Credit Union League appreciates the opportunity to present comments on behalf of Ohio's credit unions to the NCUA on its proposed rule to amend Part 741 of its regulations to add new rules requiring federally-insured credit unions to have written IRR policies and an effective IRR management program, respectfully requests consideration of the comments presented, and will provide additional information if requested. Thank you for your consideration. If you have any questions, please contact me at (614) 923-9766 or jkozlowski@ohiocul.org.

Sincerely,



John F. Kozlowski
General Counsel



David J. Shoup
Director, Compliance & Information

Cc: Mary Dunn, SVP and Deputy General Counsel, CUNA
Paul Mercer, President, Ohio Credit Union League
Tim Boellner, Chair, Ohio Credit Union League
Jennifer Ferguson, Chair, OCUL Government Affairs Committee