



National Association
of Federal Credit Unions
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September 27, 2012

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

RE: Proposed Rule on Maintaining Access to Emergency Liquidity

Dear Ms. Rupp:

On behalf of the National Association of Federal Credit Unions (NAFCU), the only trade association that exclusively represents federal credit unions (FCUs), I am writing to you regarding the National Credit Union Administration's (NCUA) proposed rule requiring federally-insured credit unions (FICUs) to maintain access to emergency liquidity. *See* 77 Fed. Reg. 44503 (July 30, 2012).

General Comments

First, we strongly urge the NCUA to include both Federal Home Loan Bank (FHLB) membership and the holding of a certain percentage of assets in short-term Treasuries as options for meeting any backup liquidity requirement. The NCUA's short list of sources, we believe, is ill-advised because it runs afoul of the principle of diversification, thereby substantially and unnecessarily increasing systemic risk within the credit union system. Furthermore, it unnecessarily subjects credit unions to the potential loss of capital as occurred during the recent financial crisis. The Central Liquidity Facility (CLF), even if unlikely, is just as vulnerable to failing to meet the liquidity needs of credit unions during emergencies as a FHLB. The same can be said for the short-term Treasuries market.

We also believe it is critical that the NCUA is transparent as to the callability of the capital that credit unions subscribe for direct membership to the CLF. We are particularly concerned with NCUA staff public statements that a credit union's subscribed capital is safe, as the credit union can redeem it at any time. Such statements are misleading because the NCUA may choose to hold the capital for up to six months, thus potentially affecting: (1) the type of capital it would be under Basel III, and/or (2) the flexibility that the credit union may need at any time to better serve its members.

Access to reliable sources of liquidity is vital to a credit union's sustainability and to the industry as a whole. As the NCUA knows, during the most difficult periods of the

financial crisis, especially in times when liquidity was difficult to obtain, NAFCU worked hard to ensure that credit unions had continued access to as many sources of liquidity as possible, including the Central Liquidity Facility. We provided our member credit unions with information about accessing the CLF directly or through a corporate credit union, the Federal Reserve Discount Window and membership in a FHLB. Further, and importantly, we worked diligently to ensure that Congress increased the CLF borrowing authority. At that time, and still, we continue to believe that it is critical that credit unions' access to all available liquidity sources remains intact and that credit unions have as much information as possible about emergency sources of liquidity.

NAFCU has always supported low-cost means of meeting credit unions' liquidly needs. As a result, NAFCU remains convinced that it is important that a viable and dependable CLF exists to offer credit unions an alternative to obtain liquidity when necessary. We do object to a regulatory regime where a credit union could have so few choices for backup liquidity that in effect, they would be forced to join the CLF.

Proposed Requirements

In the Advance Notice of Proposed Rulemaking (ANPR) that preceded the proposed rule, the NCUA signaled its intention to prescribe a regulation that would require FICUs to have access to backup sources of liquidity in one of four ways: (1) becoming a member in good standing of the CLF directly; (2) becoming a member in good standing of the CLF through a corporate credit union; (3) obtaining and maintaining demonstrated access to the Federal Reserve Discount Window; or (4) maintaining a certain percentage of assets in highly liquid Treasury securities.

In our comment letter on the ANPR, we expressed our concern about and opposition to the contemplated regulatory regime as unnecessary. If the NCUA proceeded with that route, however, we urged the agency to broaden the list of ways to fulfill the regulatory requirement, to include at the very least, membership to a FHLB.

Unfortunately, the agency has chosen to proceed with the rulemaking to require credit unions with over \$100 million in assets to have access to one of only two sources of liquidity – the CLF (directly or through an agent) or the Federal Reserve Discount Window. FICUs with less than \$10 million in assets would be required to maintain a board-approved basic written policy that provides for managing liquidity risk and a list of contingent liquidity sources that can be tapped under adverse circumstances. Finally, FICUs with assets between \$10 million and \$100 million would be required to have a formal written contingency funding plan (CFP) which sets out the strategies for addressing liquidity shortfalls in emergency situations.

NAFCU remains opposed to a regulatory requirement that specifies sources of liquidity to which FICUs must have access. We strongly believe that credit unions are well-equipped to make their own determination regarding their liquidity needs, both as regards sources to meet their day-to-day liquidity needs as well as emergency needs.

NCUA's stated reason for pursuing this rulemaking is the imminent closure of U.S. Central Bridge Corporate Federal Credit Union (U.S. Central), which currently subscribes to the CLF stock on behalf of a vast majority of credit unions. Upon U.S. Central's closure, these credit unions will not have access to the CLF unless they subscribe to the CLF stock and become direct members.

NCUA's concern, as the administrator of the National Credit Union Share Insurance Fund (NCUSIF), is understandable, but its proposed action is not justifiable. NAFCU supports a viable CLF, but credit unions should have choices for their liquidity needs. Indeed, at the very least, in its dual regulatory oversight and NCUSIF administrator capacities, the NCUA should delay this rulemaking so that it can observe and assess how federally insured credit unions (FICUs) are addressing their particular liquidity needs, including liquidity contingency planning.

Nonetheless, if the agency proceeds with this rulemaking and chooses to restrict the list of emergency sources of liquidity, we reiterate our call to include membership to FHLBs. The NCUA has intimated that it has rejected our prior calls on this issue because FHLBs are private entities and can choose to halt providing liquidity at any time. In fact, the agency's staff, during the NCUA Board meeting at which the proposed rule was issued, claimed that the FHLBs did just that during the liquidity crisis.

NAFCU respectfully, but strongly, disagrees with the contention that the mere fact that FHLBs are not governmental entities should disqualify the option. Further, that FHLBs ceased to make liquidity available during the liquidity crisis is at least arguable if not incorrect. In fact, it is our understanding that access to liquidity from FHLBs was very reliable during that time.

Lastly, the NCUA has requested comments on whether the liquidity provisions of Basel III should be applied to credit unions over \$500 million in assets. NAFCU believes this issue needs careful further study and should not be a part of this current rulemaking.

NAFCU appreciates the opportunity to provide comments to the NCUA on the proposed rule. Should you have any questions or would like to discuss these issues further, please contact me at fbecker@nafcu.org or (703) 842-2215, or Tessema Tefferi, NAFCU's Regulatory Affairs Counsel, at ttefferi@nafcu.org or (703) 842-2268.

Sincerely,



Fred Becker, Jr.
President and CEO