

February 6, 2013

Ms. Lisette Garcia
Senior Investigator
Judicial Watch
425 Third Street, S.W., Suite 800
Washington, DC 20024

Dear Ms. Garcia:

13-FOI-00034; 2013 – APP – 0003

On December 18, 2012, you filed a Freedom of Information Act (FOIA) request seeking copies of records reflecting “all communications, facts, and analysis respecting LIBOR vis a vis TARP.” Your request specified a time frame beginning on January 21, 2009 and ending with the date of the request.

On January 8, 2013, Regina Metz, staff attorney in NCUA’s Office of General Counsel, responded to the request. Ms. Metz indicated that, following her consultation with other agency personnel and conducting a search, NCUA had no records that were responsive to the request.

You appealed Ms. Metz’s initial determination by letter dated January 9, 2013. In your appeal, you have asserted that NCUA received an “outlay” under the TARP of \$58 billion, which, you assert, was used to place two credit unions into conservatorship and to cushion a third credit union from anticipated losses associated with asset-backed securities. Your letter asserts that this outlay under the TARP was “keyed to LIBOR.” Thus, according to your letter, NCUA’s failure to identify or locate any responsive documents is attributable either to its failure to conduct any search whatsoever or because NCUA is “dangerously oblivious to and unconcerned about” the effect of manipulation of LIBOR on its obligations under the TARP.

Your appeal is denied. There are no responsive documents because, contrary to your characterization, NCUA’s efforts to resolve the corporate credit union crisis had no component involving TARP. NCUA neither received nor administered funds under TARP. Consequently, NCUA has no obligation to repay or oversee the repayment of such funds, whether at rates based on LIBOR or any other index. NCUA accomplished the resolution of the crisis confronting the corporate credit union system through a combination of non-TARP resources, including the National Credit Union Share Insurance Fund, borrowings by the National Credit Union Central Liquidity Facility and the Temporary Corporate Credit Union Stabilization Fund (TCCUSF) directly from the U.S. Treasury, and proceeds from NCUA’s Guaranteed Note (NGN) program. Through the NGN program, notes backed by legacy assets acquired from failed corporate credit unions were issued to investors, supported with an agency guarantee. The current indebtedness of the TCCUSF to the U.S. Treasury bears interest at Treasury bill rates, not LIBOR.

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Comprehensive materials describing NCUA's efforts to resolve the corporate credit union system are posted to and available from the NCUA website, www.NCUA.gov.

At the request of the U.S. Treasury, NCUA assisted several low-income designated credit unions in obtaining some TARP funds. NCUA reviewed the applications and made recommendations to the U.S. Treasury concerning approval. Approximately \$70 million in TARP funds were invested directly by the U.S. Treasury in the form of long term, secondary capital in 48 participating credit unions. The obligations bear interest at a fixed rate of 2 percent per annum, which increases to 9 percent after eight years. Some participating credit unions have determined to redeem this investment early, with NCUA's approval. However, since LIBOR plays no role in any aspect of these transactions, no documents that are responsive to your request exist in connection with them.

Pursuant to 5 U.S.C. 552(a)(4)(B) of the FOIA, you may seek judicial review of this determination by filing suit against the NCUA. Such a suit may be filed in the United States District Court where you reside, where your principal place of business is located, the District of Columbia, or where the documents are located (the Eastern District of Virginia).

Sincerely,

Michael J. McKenna
General Counsel

GC/RPK
SSIC 3212
13-FOI-00034; 2013-APP-00003