
Board Action Bulletin



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NCUA BOARD MEETING RESULTS FOR MAY 24, 2012

NCUA Board Finalizes Two Regulatory Relief Measures

Troubled Debt Restructuring Relief and RegFlex Expansion Pass Unanimously

ALEXANDRIA, Va. (May 24, 2012) – The National Credit Union Administration (NCUA) Board convened its third open meeting of 2012 at the agency’s headquarters here today and unanimously approved three items:

- A final rule and guidance on troubled debt restructurings (TDRs) to facilitate loan modifications and help distressed credit union members remain in their homes;
- A final rule extending existing Regulatory Flexibility (RegFlex) provisions to all federal credit unions and eliminating the RegFlex designation program; and
- A policy statement removing RegFlex revocations from the list of material supervisory determinations made by the Supervisory Review Committee.

The Board also received a report on the performance of the National Credit Union Share Insurance Fund (NCUSIF) and the Temporary Corporate Credit Union Stabilization Fund (Stabilization Fund) for the quarter ending March 31. The NCUSIF equity ratio rose by 2 basis points to 1.32 percent during the quarter. The Stabilization Fund’s net position remained steady.

TDR Changes Keep Credit Union Members in Their Homes

Through prudent and sound loan workouts, credit unions can help their financially distressed members to remain in their homes. To help keep even more families in their homes, the Board adopted a final TDR rule (Part 741) and loan workout guidance (Part 741, Appendix C). The changes are designed to ensure that members who can no longer afford to make full payments on their original mortgages can keep their homes, if they agree to certain modified terms with their credit union.

“We listened to credit unions who asked NCUA to provide more flexibility when dealing with financially distressed borrowers and to remove unnecessary regulatory burdens on troubled debt restructurings,” said NCUA Board Chairman Debbie Matz. “We struck a balance and acted quickly to modernize our rules and policies on loan workouts. In response to comments on the proposed rule, our final rule sets no limit on the amount of troubled loans that credit unions can

work out with members. And, in addition to benefiting members, these changes provide regulatory relief for credit unions by removing unnecessary manual tracking procedures.”

As a result of the changes approved by the Board, credit unions will now be able to modify loans without having to immediately classify TDRs as delinquent. Specific changes include:

- Requiring federally insured credit unions to adopt and adhere to written policies that govern loan workout arrangements that assist borrowers.
- Allowing credit unions to calculate the past due status of all loans consistent with loan contract terms, including amendments made to loan terms through a formal TDR.
- Eliminating the dual and often manual delinquency tracking burden on credit unions for managing and reporting TDR loans.
- Reaffirming current industry practices by requiring credit unions to discontinue interest accrual on loans past due by 90 days or more and to establish requirements for returning such loans to accrual status.

Modified loans are still very high risks for default as more than 16 percent of outstanding TDRs are delinquent. In approving this rule change, the Board therefore sought to strike a balance between providing more flexibility in loan workouts to help credit union members overcome short-term financial difficulties, while requiring credit unions to charge off non-performing loans that are unlikely to get repaid.

The below chart summarizes the timetable for credit union compliance with the TDR rule changes adopted by the Board:

Regulatory Change	Effective Date	Compliance Date	NCUA Action
Treatment of TDR past due status consistent with revised loan contract	30 days after posting in the <i>Federal Register</i>	June 30, 2012	Effective for the quarter ending June 30, 2012, NCUA will change Call Report instructions on the delinquency supplemental schedule consistent with the guidance accompanying the final rule
Written loan workout policy	30 days after posting in the <i>Federal Register</i>	October 1, 2012	Starting in the fourth quarter of 2012, NCUA examiners will review policies during supervisory contacts and examinations
Non-accrual requirement implementation	30 days after posting in the <i>Federal Register</i>	October 1, 2012	Starting on October 1, 2012, credit unions will no longer be able to accrue for loans past due 90 days or more
Revisions to remainder of data collection on TDRs	30 days after posting in the <i>Federal Register</i>	December 31, 2012	Effective with the quarter ending December 31, 2012, NCUA will revise Call Report data collections and instructions consistent with the guidance accompanying the final rule

RegFlex Expanded to Cover All Federal Credit Unions

The Board approved a final rule (Parts 701, 703, 721, 723, and 742) enabling all federal credit unions to engage in activities permitted by the existing RegFlex rules without the need to first apply for a RegFlex designation. By expanding RegFlex, NCUA is complying with the intent of President Obama's Executive Order 13579 which asked independent agencies to modify, streamline, expand, or repeal regulations to provide relief from unnecessary burdens.

“NCUA has improved the regulatory environment by removing barriers to Regulatory Flexibility provisions for more than 1,700 credit unions,” said Chairman Matz. “By lifting unnecessary restrictions, granting additional powers, and increasing management flexibility, this RegFlex relief expansion advances NCUA's Regulatory Modernization Initiative and complements the President's efforts to ease regulatory burdens where appropriate.”

The final RegFlex relief rule closely mirrors the proposed rule and has seven components. These RegFlex relief changes become effective 30 days after publication in the *Federal Register*. Specifically, the final rule allows all federal credit unions to:

- Make charitable contributions to charities of their choosing.
- Accept non-member deposits, up to the greater of 20 percent of shares or \$3 million, from local governmental entities or other credit unions.
- Use a six-year time horizon (instead of three years) to partially occupy unimproved property acquired for future expansion.
- Obtain certain exceptions to constraints on purchasing whole loans from other federally insured credit unions.
- Enter into borrowing-repurchase transactions in which the purchased securities have maturities exceeding the maturity of the borrowing-repurchase agreement, provided the investment value does not exceed net worth and subject to certain constraints.
- Purchase private-label commercial mortgage-related securities, subject to certain net worth constraints and safety and soundness investment criteria.
- Invest in zero-coupon securities, subject to certain net worth and investment maturity limits.

The final rule's preamble includes a summary table to assist readers in distinguishing between the authorities for federal credit unions that meet well-capitalized standards and for federal credit unions that may not. The table furthers NCUA's efforts to comply with the Plain Writing Act.

When issuing the proposed RegFlex relief rule, NCUA inadvertently omitted changes removing references to RegFlex in the fidelity bond rule (Part 713). The Board therefore issued an interim final rule in conjunction with the final RegFlex rule changes outlined above. The Board encourages all interested individuals or groups to submit comments on the interim final rule within 60 days of publication in the *Federal Register* so that the Board can consider any amendments at a later date.

RegFlex Dropped from Supervisory Review Committee Duties

The Board issued an Interpretative Ruling and Policy Statement (IRPS 12-1) to change the Guidelines for the Supervisory Review Committee and remove RegFlex revocations from the list of material supervisory determinations federal credit unions can appeal. Because a RegFlex

designation is no longer required to earn regulatory flexibility, federal credit unions no longer have a need to appeal. In issuing the policy statement, the Board provided a 30-day comment period. The new guidelines become final 90 days following publication in the *Federal Register*, unless the Board withdraws the changes within 60 days after publication.

NCUSIF Equity Ratio Rises and Stabilization Fund Remains Steady

The Chief Financial Officer briefed the Board about the performance of the NCUSIF and Stabilization Fund during the first quarter of 2012.

The NCUSIF equity ratio rose to 1.32 percent as of March 31, 2012, up from 1.30 percent three months earlier. This ratio is based on insured shares of \$795.3 billion as of Dec. 31, 2011, and includes a net increase of \$149 million in credit union contributed capital billed in March 2012. For the first three months of 2012, the NCUSIF had a net income of \$18.9 million, with gross income of \$54.6 million, operating expenses of \$31.8 million, and insurance loss expenses of \$3.9 million.

During the first quarter, seven credit unions failed. Three failures were assisted mergers, and four failures were involuntary liquidations of which three were assisted purchase and assumptions. The total year-to-date cost of the seven failures is \$5.1 million.

The number, shares, and assets of troubled credit unions continued to decline during the first quarter. As of the end of March, 396 federally insured credit unions had CAMEL code 4 or 5 designations, with assets of \$26.7 billion and shares of \$23.7 billion. Additionally, 1,662 CAMEL code 3 credit unions had assets of \$135.4 billion and shares of \$120.3 billion. Overall, 16.3 percent of credit union assets were in CAMEL code 3, 4 or 5 credit unions, down from 17.2 percent three months earlier, but exposure levels are still elevated compared to historical norms.

In the first quarter, the Stabilization Fund's total net position remained constant at negative \$5.2 billion. The Stabilization Fund had a net operating income of \$20.8 million for the quarter.

In the first quarter, the Stabilization Fund also received a \$278.6 million distribution from the NCUSIF. The Federal Credit Union Act requires NCUA to transfer any NCUSIF equity above the normal operating level of 1.30 percent at year's end, as long as the Stabilization Fund has an outstanding balance with the U.S. Treasury. The Stabilization Fund continues to have \$3.5 billion in such borrowings.

The 2012 financial data for the NCUSIF is preliminary and unaudited. Monthly NCUSIF statements are available at www.ncua.gov for January, February, and March. Additionally, financial data reported in 2011 and 2012 for the Stabilization Fund is preliminary and unaudited. NCUA anticipates completing the 2011 Stabilization Fund audit by the July open Board meeting and updating the Corporate System Resolution loss projections through year-end 2011 on NCUA's Corporate System Resolution Costs webpage by August.

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