# Board Action Bulletin

*PREPARED BY THE OFFICE OF PUBLIC AND CONGRESSIONAL AFFAIRS*

**NCUA BOARD MEETING RESULTS FOR SEPTEMBER 20, 2012**

## NCUA Board Advances Regulatory Relief for Credit Unions

**ALEXANDRIA, Va. (Sept. 20, 2012) –** The National Credit Union Administration (NCUA) Board convened its fifth open meeting in 2012 at the agency's headquarters here today and unanimously approved four regulatory relief items as part of the agency's Regulatory Modernization Initiative. The Board adopted:

- A proposed rule to provide more than 1,600 credit unions with regulatory relief by raising the "small" credit union asset threshold from less than $10 million to less than $30 million.
- A proposed rule aimed at increasing the sustainability of certain federal credit unions by modifying the definition of a "rural district" to cover greater potential membership fields.
- An advance notice of proposed rulemaking to seek comments about improving the regulation of low-cost, consumer-friendly federal credit union alternatives to predatory payday loans.
- A proposed rule to enhance risk management by allowing federal credit unions to invest in the variable-rate instruments known as Treasury Inflation Protected Securities (TIPS).

"All four items on our September agenda address issues raised by credit unions during the Listening Sessions I hosted across the nation this year," said NCUA Board Chairman Debbie Matz. "As we begin the second year of our Regulatory Modernization Initiative, we will continue to listen to credit unions and other stakeholders to identify further opportunities to provide regulatory relief while protecting safety and soundness."

### *Regulatory Relief to Small Credit Unions Expanded*

As part of NCUA's ongoing efforts to provide regulatory relief, the Board voted to issue a proposed rule and Interpretive Ruling and Policy Statement to update the definition of a "small entity" under the Regulatory Flexibility Act to include federally insured credit unions with less than $30 million in assets.

"Small credit unions are essential to the credit union industry and to their own communities. To help more small credit unions remain viable, we need to provide greater resources and impose fewer burdens," said Chairman Matz. "This proposed rule would provide critically needed regulatory relief by decreasing compliance costs for more than 1,600 federal and state credit unions. This proposed rule would also better position NCUA's policies toward small credit unions in the future."

If finalized, the rule would provide the first update of the small credit union definition since 2003, when the threshold was raised from $1 million to $10 million.

In a new effort to ensure that the threshold will be modernized more frequently in the future, the Board voted to reevaluate the small credit union definition every three years. Each reevaluation would consider credit union asset growth combined with inflation and industry consolidation.

The Regulatory Flexibility Act generally requires federal agencies to determine and consider the effect of proposed and final rules on small entities. The proposed rule would grant relief to 1,603 federally insured credit unions and bring the total number covered by the definition to 4,041, an increase of 66 percent.

When NCUA adopted the $10 million threshold in 2003, 52 percent of credit unions had asset levels that qualified them as "small entities." Today, only 35 percent of credit unions fall under the $10 million threshold. The proposed rule change would raise the percentage of small credit unions below the threshold to 58 percent.

The threshold increase would require NCUA to more thoroughly evaluate the effect of proposed rules—including the proposed emergency liquidity regulation—to determine whether credit unions with less than $30 million in assets should be exempted from some provisions or separately considered. The Board also may use the revised threshold in the future when considering adjustments to examinations and developing policies and programs.

If finalized, the proposed asset threshold increase would also provide regulatory relief by excluding more credit unions from risk-based net worth requirements.

NCUA's final interest rate risk rule, scheduled to go into effect Sept. 30, 2012, would also be adjusted to correspond with the proposed threshold increase. All credit unions less than the revised asset threshold would be excluded from the requirement to adopt and implement an interest rate risk policy. However, until the small credit union threshold is updated, credit unions from $10 million to less than $30 million in assets will be expected to comply with the interest rate risk rule, as appropriate.

The proposed rule would also make more credit unions eligible for assistance and consultation from NCUA's Office of Small Credit Union Initiatives. The office is preparing to handle the potential increase in workload without adding staff, by increasing efficiency and employing technology.

In order to expeditiously provide small credit unions with regulatory relief, the Board issued the proposed rule with a 30-day comment period, once published in the *Federal Register*.

## *NCUA Moves to Protect Rural Credit Unions' Sustainability*

Responding to concerns about the sustainability of federal credit unions in rural areas, the Board voted to issue a proposed rule to change the definition of a "rural district" in the agency's Chartering and Field of Membership Manual.

The current definition includes a population ceiling of 200,000 people. The proposed change would allow a rural district if the population does not exceed the greater of 200,000 or three percent of the population of the state in which it is located. If the district crosses state lines, the three-percent component would be based on the population of the state containing the majority of the district.

“This proposed rule upholds the spirit of the Credit Union Membership Access Act, providing federal credit unions more flexibility to serve consumers in rural areas who otherwise might not have access to affordable financial services,” said Chairman Matz.

The change responds to feedback NCUA received that the current 200,000 population limit for a rural district may be too small to sustain a credit union in some cases and limits access to financial services to potential members.

For example, a rural area may be anchored by a small town that serves as an economic hub. That town may be important as a community center for entertainment, medical care, and commerce, including financial services. For that reason, the NCUA Board proposes to include such a community in a rural district to enhance a federal credit union’s economic potential. However, doing that could also push the district over the current 200,000 population limit.

Another consideration is the ability of a credit union to reach existing and potential members in widely dispersed populations. Board members noted that this is a particularly important consideration, because a greater potential membership field is sometimes necessary to ensure the viability of rural charters.

Only 43 federal credit unions currently have a rural district charter. The new definition would open opportunities for federal credit unions seeking community charters based around a rural district in the 13 states with populations greater than 6.67 million.

The Board issued the proposed change with a 60-day comment period, once published in the *Federal Register*.

### *Board Seeks to Enhance Features of Payday Alternative Loans*

Some federal credit unions have worked to provide their members with an affordable alternative to “payday” loans. Payday loans are small loans offered at very high interest rates and with very high fees by alternative financial services providers that may often engage in predatory practices.

In September 2010, the Board allowed federal credit unions to offer a new type of payday alternative loans (PALs) in an effort to both serve consumers’ needs and help them break the circle of financial dependency on these high-cost loans. To protect consumers, the rule, among other things, limits fees, extends payback periods up to six months and bans rollovers. Since introduction, more than 400 federal credit unions have begun to offer the product. As of June 30, those federal credit unions had 41,264 in outstanding PALs with $16.7 million in outstanding balances.

The Board currently is studying ways to improve market receptivity of these products. The Board’s goals are to increase the number of federal credit unions that offer these loans while retaining the responsible nature of PALs, to increase access to consumers who want and need them, and to protect the safety and soundness of credit unions that make them.

Through an advance notice of proposed rulemaking, the Board is seeking comments about the application fee and posing specific questions, such as:

- Should the Board increase the permissible PAL interest rate, currently 28 percent, based on 1,000 basis points above the maximum level for non-PALs?
- Should the Board expand the permissible PAL dollar range from the current $200 to $1,000?

- Should the Board permit PAL maturities shorter than one month or longer than six months?
- Should the Board allow federal credit unions to make more than one PAL at a time to a borrower?

The Board is also seeking information from credit unions offering other viable, responsible alternatives to payday loans and the business models they are using to execute these loan programs successfully.

The Board issued the advance notice of proposed rulemaking with a 60-day comment period.

### *Board Proposes Allowing Credit Unions to Invest in TIPS*

Finally, the Board issued a proposed rule to allow federal credit unions to invest in the variable-rate instruments known as TIPS.

"This proposal to permit TIPS originated from an idea we first heard at our recent Listening Session in Alexandria," said Chairman Matz. "Participants asked us to consider TIPS as a strategy to allow federal credit unions to buy government-backed investments that are not tied to interest rates. Because TIPS are backed by the U.S. Treasury, they carry no credit risk. And because TIPS are tied to the Consumer Price Index rather than a specific interest rate, they may carry less interest rate risk than other Treasury investments."

When the rule is finalized, federal credit unions could use TIPS to protect against inflation risk. Additionally, TIPS could be a valuable part of an effective risk-management program. However, the Board noted that TIPS may not be appropriate for all federal credit unions, and the decision to use them should be based on sound due diligence and a demonstrated effectiveness at managing risk.

TIPS differ from other securities in that they provide protection against inflation. The principal increases with inflation and decreases with deflation. TIPS are currently a prohibited investment for federal credit unions, because they re-price in response to changes in the Consumer Price Index (CPI), and the CPI is a prohibited index for variable-rate instruments. Federal credit unions may invest in variable-rate instruments whose rates are tied to a domestic interest rate, such as the Fed Funds rate, Treasury rates or LIBOR.

The purpose of this prohibition is to reduce the basis risk between the interest earned on assets and dividends paid on shares. Federal credit unions with greater access to asset/liability management tools to identify and measure risk may be better equipped to manage the risks associated with using CPI as an index.

The proposed rule was issued with a 60-day comment period, once published in the *Federal Register.*

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