



OHIO CREDIT
UNION LEAGUE

August 28, 2017

Mr. Gerard Poliquin
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, Virginia 22314-3428

Re: Request for Public Comments Regarding Revised Overhead Transfer Rate
Methodology

Dear Mr. Poliquin,

The Ohio Credit Union League (OCUL) welcomes the opportunity to submit comments on the National Credit Union Administration's (NCUA) proposal on the Overhead Transfer Rate (OTR) methodology.

A significant amount of NCUA's budget is derived from fees assessed by the National Credit Union Share Insurance Fund (NCUSIF) from federally-insured credit unions. The appropriate allocation of these costs is of significant importance as the equitable distribution impacts the strength of the dual-charter model used in the U.S. credit union movement. In 2016, Ohio was home to 81 state-chartered, federally-insured credit unions, 54 state-chartered, privately-insured credit unions, and 155 federal-chartered credit unions.

Previously, the OTR and its methodology have been subject to public scrutiny, leading some in the industry to question NCUA's formula basis for the OTR. Last year, on the Advanced Notice of Proposed Rulemaking (ANPR), NCUA requested comments on OTR methodologies and proposed ideas. As a continuation of the process and expanding upon previous comments, NCUA is seeking comments on the formula driven approach. We commend NCUA for engaging with the industry, taking steps to ensure transparency, and seeking to modify and streamline the OTR.

While we appreciate NCUA's proposed OTR methodology and support this long-awaited change, we believe the proposed rule has room for improvement. In the interest of fairness, we urge NCUA to refine their proposed rule to meet the following conditions:

1. The determination should be published and subject to the formal rulemaking process;
2. NCUA must re-evaluate which examination costs are "insurance-related;" and therefore, properly attributable to its role as insurer rather than prudential regulator and charterer; and,
3. The proposed rate should be fair, equitable, and efficient for the agency, the NCUSIF, and most notably, state- and federally-chartered credit unions alike.

Continued Public Input on OTR Methodology

OCUL urges NCUA to continue to publish requests for comments concerning the OTR on the *Federal Register*. While NCUA's position remains that the OTR is outside of the Administrative



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Procedure Act's (APA) public notice and comment, NCUA commits to soliciting public input at least every three years on the OTR methodology and anytime when a change to the methodology is considered. Public comment on the OTR ensures NCUA receives adequate input from the industry and valuable and insightful feedback.

While NCUA's commitment is a step in the right direction, we are concerned NCUA would not be compelled to maintain procedural transparency in the future. NCUA's proposed approach does not ensure interested parties may comment before any OTR changes, nor does it obligate NCUA to respond to concerns. Simply put, public disclosure is not a substitute for the measured accountability that accompanies a formal rulemaking.

Acknowledgement of Chartering Responsibilities Under Title I

OCUL applauds NCUA's acknowledgement in the current proposal that NCUA, in fact, has safety and soundness chartering responsibility. In the past, a primary source of contention was NCUA's failure to recognize (and account for) NCUA's safety and soundness responsibility as the chartering authority for federal credit unions.

OCUL has previously commented that "safety and soundness" should not be a catch-all by which NCUA can allocate all of its activities for purposes of having the NCUSIF fund the agency. We believe that providing a clearer line between NCUA's examination as a prudential regulator/charterer and its examination as an insurer will also assist in reducing the overlap that currently occurs during dual examinations of federally-insured, state-chartered credit unions by state supervisory authorities as prudential regulator and NCUA as insurer.

OTR Methodology

OCUL appreciates NCUA's thoughtful review of the 2016 ANPR, which garnered 40 comments on the methodology regarding whether a formula driven approach is appropriate. OCUL supports the allocation proposal: 50% of time examining and supervising federal credit unions is allocated as insurance related. We believe this is an acceptable compromise.

A formula-driven approach is an equitable consistent method of determining the OTR, provided that the data used in the formula is accurate; i.e., that specific examination and administrative costs are properly identified as belonging to NCUA as a prudential regulator, NCUA as an insurer, or a combination of both. Appropriate value for the examination work performed by the state supervisory authorities should be included in the formula.

However, we have other concerns with the formula and how certain recent changes by NCUA will affect the OTR. In the proposal, 13% of the office of Consumer Financial Protection and Access's budget is allocated from NCUSIF. Yet, NCUA recently proposed a reorganization that would change this office and its mission. The proposal also states that 60% of the board's budget is allocated from NCUSIF. This is counter-intuitive to the 50% allocation regarding federally-chartered credit unions. We believe the NCUA should clarify budget allocations, especially in light of the reorganization efforts.

Conclusion



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To summarize our view, we urge NCUA to:

- Subject the OTR to the formal rulemaking process;
- Re-evaluate whether costs are appropriately allocated as “insurance-related” and represent the NCUA reorganization; and,
- Set an OTR that is fair, equitable, and efficient for the agency, the NCUSIF, and state- and federally-chartered credit unions alike.

We respectfully request NCUA to consider our rule suggestions and implement appropriate changes to NCUA’s proposal on the OTR methodology. On behalf of Ohio’s 287 credit unions, we welcome the opportunity to continue the dialogue so that Ohio’s credit unions can receive fair and equitable treatment in regards to fee assessments. If you have further questions or would like to discuss OCUL’s comments in more detail, please feel free to contact us at 800-486-2917.

Respectfully,

Handwritten signature of Paul L. Mercer in black ink.

Paul L. Mercer
President
Ohio Credit Union League

Handwritten signature of Miriah Lee in black ink.

Miriah Lee
Manager of Policy Impact
Ohio Credit Union League



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