



November 20, 2017

Via E-Mail  
[boardcomments@ncua.gov](mailto:boardcomments@ncua.gov)

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

**Re: Comments on NCUA Regulatory Reform Agenda**

Dear Mr. Poliquin:

In its request for comment in August 2017 (12 CFR Chapter VII), the National Credit Union Administration (“NCUA”) seeks public comment if any other regulatory changes should be made beyond NCUA’s Regulatory Reform Task Force’s initial report. We appreciate this opportunity to comment and strongly support the Agency’s efforts to evaluate existing regulations and make reasonable modifications. This letter is submitted by the Trust for Credit Unions (“TCU”) in response to NCUA’s request.

TCU is an open-end diversified management investment company registered under the Investment Company Act of 1940 (the “1940 Act”) and the Securities Act of 1933. Mutual funds advised by TCU (the “TCU portfolios”) are offered only to federal credit unions (“FCUs”) and state chartered credit unions. Shares of each TCU portfolio are designed to qualify as eligible investments for FCUs pursuant to Sections 107(7), 107(8) and 107(15) of the Federal Credit Union Act (“FCUA”), Part 703 of NCUA Rules and Regulations and NCUA Letter Number 155, and may or may not qualify as eligible investments for particular state chartered credit unions. Each investment practice and technique that may be used by the TCU portfolios is permitted by the 1940 Act but utilized only to the extent permitted by NCUA Rules and Regulations. ALM First Financial Advisors, LLC (“ALM First”) is the investment adviser for the TCU portfolios. ALM First is a financial advisory firm that provides consulting, non-discretionary and discretionary investment and financial management services, primarily for financial institutions. ALM First was founded in 1995 and has approximately \$20 billion under management.

TCU previously submitted comment letters regarding the use of derivatives in mutual funds to the 2011 Advance Notice of Proposed Rulemaking (“ANPR”) 3133-ADTO (76 FR 37030), 2012 ANPR 3133-AD90 (77 FR 5416), and 2013 Proposed Rule on Derivatives (RIN 3133-AD90). These comment letters are attached. In the issuance of the final Derivatives Rule (703 Subpart B), these comments were not addressed. In fact, 703.100(b)(2) specifically excludes mutual funds that contain derivatives from being a permissible investment for a Federal credit union.

As our comment letters describe, TCU believes that mutual funds could be effective in mitigating interest rate risk (“IRR”) by engaging in limited derivative activities. Mutual fund managers with a high level of derivatives expertise and a well-developed derivatives program infrastructure such as ALM First could help mitigate the portion of IRR attributable to credit unions’ indirect investments. Mutual funds marketed to credit unions and restricted to FCU-permissible investments, such as the TCU portfolios, should be expected to encounter risks similar to those faced by FCUs themselves. Those risks, including IRR, are passed on to shareholder credit unions if left unmitigated by the portfolios. We recommend that, in considering Regulatory Reform, NCUA clarify that mutual funds such as the TCU portfolios have access to the same IRR-mitigating derivatives as credit unions themselves. We believe this broad, comprehensive view of IRR mitigation would ultimately reduce risk to the National Credit Union Share Insurance Fund (“NCUSIF”).

We propose explicitly stating that, in addition to investing in all other FCU-permissible investments, mutual funds that possess an NCUA-approved level of financial sophistication, risk management and operational capabilities (and market to credit union investors) may invest in Permitted Derivatives to mitigate the inherent risks of those other FCU-permissible investments. We believe that this change could be implemented with a low degree of effort given the regulatory and compliance infrastructure a 1940 Act mutual fund such as TCU already has in place. We also believe this could have a significant impact given the limited number of credit unions that have been granted derivative authority to date. We believe this should be considered as a Tier 2 or Tier 3 regulation.

Thank you for the opportunity to comment on the Proposed Rule. TCU and ALM First would also greatly welcome an opportunity to discuss further (in person or via teleconference) any regulatory reform that could benefit credit unions and mitigate risk to the NCUSIF, whether set forth in this letter or proposed by others. Please do not hesitate to contact me at 202-223-3920.

TRUST FOR CREDIT UNIONS



By: \_\_\_\_\_  
Jay Johnson, President

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