



July 29, 2013

**BY ELECTRONIC SUBMISSION  
AT WWW.REGULATIONS.GOV**

Ms. Mary Rupp  
Secretary of the Board  
National Credit Union Administration  
1775 Duke Street  
Alexandria, Virginia 22314-3428

**Re: Proposed Rule — Derivatives (RIN 3133-AD90)**

Dear Ms. Rupp:

The Federal Home Loan Bank of Atlanta ("FHLBank Atlanta") appreciates this opportunity to comment on the above-referenced proposed rule (the "Proposed Rule") published by the National Credit Union Administration ("NCUA") in the Federal Register on May 29, 2013. The Proposed Rule would permit federal credit unions ("FCUs") and certain federally insured, state-chartered credit unions ("FISCUs," together with FCUs, "Credit Unions") to engage in limited derivatives activities for the purpose of mitigating interest rate risk ("IRR") provided that the Credit Union seeking derivatives authority submits an application for one of two levels of authority and complies with the limits and requirements imposed with respect to derivatives transactions that are set forth in the Proposed Rule.

We are supportive of the NCUA's proposal to modify its rules to expand the circumstances under which Credit Unions may engage in derivatives transactions. We agree that Credit Unions should have the authority to enter into derivatives transactions and understand the NCUA's desire to set parameters regarding the eligibility of participants and restrictions with respect to such derivatives transactions. In order to afford Credit Unions access to certain derivatives that other federally insured depository institution members of the Federal Home Loan Banks ("FHLBanks") are able to utilize, we request that the NCUA consider a number of modifications to the Proposed Rule, particularly with respect to limitations regarding counterparties, collateral and specific terms of derivatives transactions. As discussed in this letter, we believe a number of modifications to the Proposed Rule would help limit or reduce the costs of derivatives transactions to Credit Unions and allow Credit Unions more flexibility in determining how best to manage their individual IRR through the use of derivative transactions.

***The FHLBanks***

The twelve FHLBanks are government-sponsored enterprises of the United States, organized under the authority of the Federal Home Loan Bank Act of 1932, as amended, and structured as cooperatives. Each FHLBank is independently chartered and managed, but the

FHLBanks collectively issue their consolidated debt obligations for which each is jointly and severally liable. The FHLBanks serve the general public interest by providing liquidity to approximately 7,800 member financial institutions, thereby increasing the availability of credit for residential mortgages, community investments, and other services for housing and community development. The FHLBanks' member institutions, which include banks, savings institutions, credit unions, community development financial institutions, and insurance companies, are also their shareholders. The FHLBanks provide readily available, low-cost sources of funds to their member financial institutions through secured loans referred to as "advances."

The FHLBanks enter into swap transactions as end-users with swap dealers to facilitate their business objectives and to mitigate financial risk, including primarily IRR. As of March 31, 2013, the aggregate notional amount of over-the-counter interest rate swaps held by the twelve FHLBanks collectively was approximately \$565 billion. Certain of the FHLBanks also provide their member institutions, particularly smaller, community-based institutions, with access to the swap market by intermediating swap transactions between the member institutions and the large swap dealers, thus allowing such members to hedge IRR associated with their respective businesses. In an intermediated swap transaction, the FHLBank typically enters into the swap transaction directly with the member institution and then hedges the resulting IRR by entering into a back-to-back swap with a swap dealer.

### ***Counterparty Requirements***

The proposed rule limits permissible derivatives counterparties for Credit Unions to swap dealers and major swap participants as defined by the Commodity Futures Trading Commission ("CFTC"). We note that this requirement excludes a number of low-risk, highly-rated counterparties that are not registered swap dealers or major swap participants, including the FHLBanks.

FHLBanks, as cooperatives, play a unique role in assisting their member institutions in managing IRR through intermediated swaps. By intermediating swaps for their member institutions, the FHLBanks, as large, highly-rated institutions, are able to pass along favorable pricing and swap terms to their member institutions that might not receive such terms if they entered into such transactions directly with swap dealers. In its rulemaking process, the CFTC has also recognized the unique position of cooperatives in the swap market by carving out an exclusion from the dealer registration requirement for cooperatives. In its release of the final rules regarding the definition of swap dealer, the CFTC concluded, ". . . the dealer analysis excludes swaps between a cooperative and its members, so long as the swaps in question are reported to the relevant SDR by the cooperative and are subject to policies and procedures of the cooperative which ensure that it monitors and manages the risk of such swaps."<sup>1</sup>

By requiring that all Credit Unions enter into swaps directly with swap dealers or major swap participants, the NCUA's Proposed Rule would prevent cooperatives from engaging in swap transactions with Credit Union members unless such cooperatives elected to register as swap dealers or major swap participants. Such a requirement is contrary to what the CFTC intended when it

---

<sup>1</sup> See Further Definition of "Swap Dealer," "Security-Based Swap Dealer," "Major Swap Participant," "Major Security-Based Swap Participant" and "Eligible Contract Participant" (77 Fed. Reg. 30,595) (May 23, 2012).

provided cooperatives an exclusion from the dealer registration requirements for swaps entered into with their members. Moreover, requiring Credit Unions to enter into swap transactions with counterparties that are swap dealers or major swap participants would prevent Credit Unions from taking advantage of the benefits that their membership in cooperatives such as FHLBanks can offer with respect to the use of derivatives.

We believe limiting counterparties to swap dealers and major swap participants under the Proposed Rule is unnecessary to accomplish the NCUA's goal of limiting credit risk. Therefore, we respectfully request that the NCUA consider removing this limitation or at a minimum provide an exception to the swap dealer and major swap participant requirement that is similar to the exception provided by the CFTC for cooperatives entering into swap transactions with their members.

### ***Eligible Collateral***

The Proposed Rule limits the eligible collateral that Credit Unions may accept to secure derivatives transactions to cash, Treasury securities, fixed-rate non-callable agency debentures, and zero-coupon non-callable agency debentures. The rationale provided in the Proposed Rule for limiting eligible collateral to these categories is that these limitations are necessary to ensure collateral will be highly liquid and easy to value.

The list of eligible collateral in the Proposed Rule is extremely restrictive given the alternative options for highly liquid and easy-to-value collateral in the market. Thus, we urge the NCUA to consider expanding this list to include other forms of highly liquid collateral, including debt of government-sponsored enterprises such as the FHLBanks, Fannie Mae and Freddie Mac. As issuers of FHLBank consolidated debt obligations ("FHLBank Consolidated Obligations"), we appreciate this opportunity to highlight the fact that FHLBank Consolidated Obligations, like Treasuries, are recognized in the market as safe and highly liquid investments.<sup>2</sup> We believe allowing Credit Unions to accept additional collateral, such as the debt of government-sponsored enterprises, in derivatives transactions would help Credit Unions better position themselves in the derivatives market and give the parties to the transaction more control over their liquidity. In addition to expanding the list of collateral that Credit Unions may accept, we request that the NCUA clarify in its Proposed Rule that while Credit Unions are limited to accepting only the listed types of collateral, Credit Unions will have the flexibility to post additional types of collateral to their counterparties to the extent that their counterparties are willing to accept such collateral. A benefit FHLBank Atlanta regularly offers to member institutions that are engaging in intermediated swaps is the option of posting mortgage loans or other types of collateral as long as the posted collateral is of a type that FHLBanks are permitted to accept in support of member advances under the regulations that govern the FHLBanks. The Proposed Rule is silent regarding whether there are any limitations on the types of collateral that Credit Unions may post to their counterparties. Therefore, we request a clarification that no such limitations exist. If such a limitation was intended under the Proposed

---

<sup>2</sup> Following an onslaught of comments from market participants regarding the liquidity of FHLBank Consolidated Obligations and how well the FHLBanks performed during the most recent financial crisis, the CFTC included FHLBank Consolidated Obligations in the list of permitted investments for customer funds held as collateral by futures commission merchants and derivatives clearing organizations. See Investment of Customer Funds and Funds Held in an Account for Foreign Futures and Foreign Options Transactions (76 Fed. Reg. 78,776) (December 19, 2011).

Ms. Mary Rupp  
July 29, 2013  
Page 4

Rule, we request that an exception be allowed for FHLBank intermediated swaps. We believe allowing Credit Unions to post additional types of collateral to their counterparties provides a distinct benefit to the Credit Unions and could free up their liquid assets to be used for other purposes.

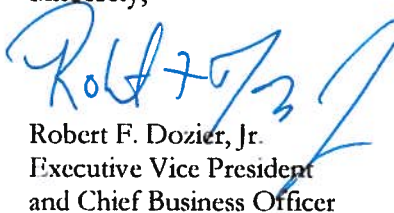
***Swap Limits***

The Proposed Rule includes limits on the individual maturities of derivatives transactions and the combined weighted average life of derivatives transactions depending on the level of authority. While we do not oppose the NCUA's desire to impose limits regarding the maturities of the derivatives transactions, we believe imposing a weighted average life can be problematic in that it could force Credit Unions to accept undesirable terms for certain swaps in order to keep the entire portfolio within the proper limits. With respect to the maturity limits, we suggest that the NCUA consider allowing the derivatives of both Level I and Level II entities to have the longer maturity of ten years as we understand that some Credit Unions applying for authority under Level I may benefit from a longer maturity.

\* \* \*

We appreciate this opportunity to provide comments on this important rulemaking process and appreciate your consideration of these comments.

Sincerely,



Robert F. Dozier, Jr.  
Executive Vice President  
and Chief Business Officer