



August 7, 2017

Mr. Gerard Poliquin
Secretary to the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314

Re: NASCUS Comments on Appeals Procedures

Dear Secretary Poliquin:

The National Association of State Credit Union Supervisors (“NASCUS”), the professional association of the state credit union regulatory agencies and the nation’s state credit union system, submits the following comments in response to the National Credit Union Administration’s (“NCUA”) proposed changes to its procedures for a credit union seeking to appeal a regulatory determination to the NCUA Board. NCUA’s proposed changes would introduce consistency to the now varied processes by which a credit union may appeal an NCUA regulatory determination to the NCUA Board.

NASCUS supports the consolidation of the varied processes for appealing program office regulatory decisions to the NCUA Board. Below, we offer several suggestions for refinement of the proposed changes.

1) Publication of Appeal Results

NASCUS has previously urged NCUA to improve the appeals process by incorporating an annual reporting requirement that would inform stakeholders of the utility of appealing agency actions.¹ While our reporting suggestions have heretofore referred to the Supervisory Review Committee process, we believe the some form of regular accounting as to the results of appeals to the NCUA board would likewise be helpful. For example, when the NCUA Inspector General reported that only 6 credit unions had availed themselves of the appeal process in a given year, it prompted stakeholder

¹ NASCUS Comments on NCUA Exam Flexibility Initiative (Aug. 1, 2016). Available at <http://nascus.org/regulatory-resources/08.01.16%20Comment%20exam%20flexibility%20initiative.php>.
NASCUS Comments on 2016 Regulatory Review (Aug. 8, 2016). Available at <http://nascus.org/regulatory-resources/08.08.16%20Comment%20Regulatory%20Review%202016.php>.
NASCUS Comments on Interim Final Interpretive Ruling and Policy Statement (IRPS) No.: 11-1 (Feb. 22, 2011). Available at <http://nascus.org/Regulatory/RegCommentLetters/2-22-11-NASCUS-comments-Interim-Final-IRPS-11-1.pdf>.

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discussions of what might improve the appeal process.² We recommend that NCUA include an explicit provision establishing a regular reporting of the appeals process.

2) Part 741 and Ease of Reference for Federally Insured State Chartered Credit Unions (FISCUs)

We support the consolidation of the various processes for appealing a program office action to the NCUA Board into a single uniform rule. However, rather than creating new § 746 as proposed, we recommend NCUA codify the appeals process as a Subpart D of § 741 rather than as a new section. The appeals process applies to all federally insured credit unions. For FISCUs, NCUA's Part 741 is supposed to contain all of the rules that apply to them. To the extent that the appeals process contains deadlines and instructions for FISCUs, those provisions should appear in the share insurance rules section where a FISCU would know to look for them.

3) Notification of State Regulators for Appeals Involving FISCUs

With respect to FISCUs, the appeals process should include copying the state regulator in all correspondence between NCUA and the FISCU.

Thank you for the opportunity to comment on NCUA's proposed changes to the various regulatory appeals embedded in NCUA's Rules and Regulations. We would be happy to discuss our comments in more detail at your convenience.

Sincerely,

- signature redacted for electronic publication -

Brian Knight
Executive Vice President and General Counsel

² "Review Of NCUA's Examination And Complaint Processes For Small Credit Unions," Report #OIG-12-10, August 31, 2012,