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National Association of Federally-Insured Credit Unions

August 3, 2017

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

RE: Appeals Procedure

Dear Mr. Poliquin:

On behalf of the National Association of Federally-Insured Credit Unions (NAFCU), the only national trade association focusing exclusively on federal issues affecting the nation's federally insured credit unions, I am writing to you regarding the National Credit Union Administration's (NCUA) proposal to adopt procedures to govern appeals to the Board that would apply to agency regulations that currently have their own embedded appeals provisions.

NAFCU firmly supports this proposal because it would provide a simple and consolidated process for appeals procedures. Although most of these changes do not directly impact substantive provisions of the appeals procedure, this proposal's uniformity would increase transparency and utilization of appeals.

Currently, the appeals procedures for a myriad of regulations are codified in each separate regulation. NAFCU believes that homogenizing the appeals procedure into one, consolidated regulation, with each substantive regulation cross-reference to the newly created part 746, Subpart B, would greatly increase credit union comprehension of the appeals process.

In addition to the provisions discussed in the proposed rule, NAFCU asks that NCUA consider several other changes that would leverage the benefits of this rule. Namely, NAFCU advocates that NCUA review its current operations to determine what efficiencies can be made. Additionally, NAFCU recommends that NCUA establish a credit union advisory council, and increase the utilization of the Office of the Ombudsman.

Operational Improvements

Although not directly related to the proposal, NAFCU urges NCUA to review current operations and assess whether improvements can be made, which would potentially mitigate the need for an appeal process. For example, NCUA's current process for

reviewing a FOM-related application fails to provide FCUs with notifications or updates on the status of their request except for the final decision. This lack of transparency and communication during the amendment process increases uncertainty and limits the FCUs ability to undertake prudent future business planning activities.

Applicable to the proposal under consideration, a FOM application process that incorporates automated, electronic updates could facilitate better information sharing between the applicant and NCUA, thereby negating the need for an eventual appeal of a final decision.

NAFCU believes NCUA could eliminate this unnecessarily cumbersome, lengthy, and confusing process by providing definitive directions on OCP's application expectations and the timeframe for agency action. We recommend that NCUA establish a formal notification process with the FCU, requiring regular status updates to the FCU about pending applications.

Greater Use of Ombudsman

Similar to the recommendation made in NAFCU's comment letter regarding the Supervisory Review Committee proposal, we suggest that NCUA increase the utility of the Ombudsman. NAFCU believes that the full potential of the Ombudsman is not being met, and that additional focus should be directed toward ways to increase access to, and outreach from, that office. To that end, NAFCU welcomes any education of advocacy efforts proffered by the Ombudsman.

Establishment of credit union advisory council

Although not contemplated in the proposal, NAFCU believes that the Board should address how an advisory council could play a role in the appeals process. NAFCU believes that a council could regularly meet to review any agency progress on this proposal. Additionally, the council could serve as a sounding board for additional appeals ideas that would further increase their benefit.

NAFCU appreciates NCUA's efforts to improve the appeals process, and we would welcome the opportunity to further discuss any of the recommendations made above. Should you have any questions or would like to discuss these issues further, please contact me at (703) 842-2249 or memancipator@nafcu.org.

Sincerely,



Michael Emancipator
Senior Regulatory Affairs Counsel