CUNA
Credit Union National Association

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September 5, 2017

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

Re: Requirements for Insurance; National Credit Union Share Insurance Fund Equity Distributions

Dear Mr. Poliquin:

The Credit Union National Association (CUNA) appreciates the opportunity to submit comments concerning the National Credit Union Administration's (NCUA) plan to update its share insurance distribution rule. CUNA represents America's credit unions and their 110 million members.

CUNA fully supports NCUA updating the share insurance distribution rule to modernize the process and address the only way allowed by the Federal Credit Union Act (FCU Act) to distribute funds after closing the Temporary Corporate Credit Union Stabilization Fund (TCCUSF or Stabilization Fund). This update is required so NCUA can equitably distribute a portion of the assessments paid by credit unions to stabilize the insurance fund during the financial crisis.

CUNA's TUCCSF Position:

- CUNA agrees with NCUA's legal analysis that TCCUSF repayment cannot be made from the TCCUSF and can only be made from the National Credit Union Share Insurance Fund (NCUSIF) after the funds merge; any other opinion is not based on sound legal analysis.
- CUNA supports commencing distributions as early in 2018 as possible. Further, in the event that distributions do not begin in 2018 because the two Funds are not merged this year, CUNA urges that no premium be charged this year in consideration of the fact that substantial equity will be available to Share Insurance Fund from the Stabilization Fund in the next few years.
- CUNA supports a temporary 4 basis point increase in the normal operating level (NOL) while the Fund holds corporate legacy assets in addition to traditional Treasury securities. However, we insist the increase be temporary – and phased down from 1.34% in 2018 to 1.3% in 2021 as the relative exposure to the legacy assets diminishes.
- CUNA supports a transparent accounting of distributions that ensures every credit union is repaid pro rata based on past assessments. Any payments required to return the NCUSIF

to 1.3% as of the end of 2017 or to fund future NCUSIF operations should be based on contemporaneous credit union insured shares.

As you know, CUNA provided comments to NCUA on the closing of the TCCUSF on August 31, 2017, where we supported closing the TCCUSF and merging it with National Credit Union Share Insurance Fund in 2018. Closing the TCCUSF in 2017 with a distribution in 2018 to credit unions is the most efficient and way to transfer credit union funds back to credit unions.

CUNA's Recommended TCCUSF Distribution Method

We agree with the proposal "to adopt a temporary provision to govern any NCUSIF equity distributions resulting from the Corporate System Resolution Program. For purposes of this temporary provision, any NCUSIF equity distributions declared for calendar years 2017 through 2021 are deemed to be 'resulting from the Corporate System Resolution Program'" is proper for a temporary regulation to dispose of TCCUSF assets. The Board proposes repayment of corporate assessments on either a first-in, first-out (FIFO) or a last-in, first out (LIFO) basis.

Both methods have merit, which the NCUA laid out in the proposed rule. Unfortunately, each method results in payouts that favor different classes of credit unions, and therefore neither method would distribute refunds in proportion to total assessments paid. A LIFO system would favor credit unions whose insured shares grew faster than average from 2009 to 2013. FIFO would have the opposite effect. For that reason, CUNA proposes an alternative method that will be fair and equitable.

We suggest that NCUA prorate all refunds during the special distribution period on the basis of total stabilization assessments paid by each credit union from 2009 to 2013. Specifically, NCUA should first aggregate the total assessments paid by each credit union, and calculate each credit union's share of the total equity to be transferred from the Stabilization Fund to the Share Insurance Fund based on its share of total assessments collected. Next, NCUA should debit this amount for each credit union by the amount necessary to increase the NCUSIF equity ratio to its historical NOL of 1.3% based on each credit union's current insured shares. Furthermore, should NCUA decide to raise the NOL above 1.34% for reasons having to do with the Share Insurance Fund's future projected operations (an increase CUNA does not support), the amount necessary to make that increase should be debited to total assessment refunds based on current insured shares. It should be noted that CUNA supports a NOL of 1.3%, but we will not oppose NCUA's proposed 4 basis points while the NCUSIF holds volatile assets from the TCCUSF.

This method of accounting and payment would ensure that future refunds from the Corporate Stabilization program are based on the actual amount of stabilization assessments paid by each credit union, and current and future costs of the share insurance fund are paid on the basis of contemporaneous insured shares. This method would also be transparent and equitable, which is important in the repayment of credit unions' money. We realize this method will create minor extra work and expense for NCUA as it creates a general ledger (GL) or other method for accounting for each credit union's total refund and expenditure for NCUSIF premiums, but the transparency is worth the small cost.

The CUNA method would follow the FCU Act's requirement that the TCCUSIF and NCUSIF are merged and that payments to credit unions are made from the NCUSIF. It would further allow for transparent accounting to credit unions.

Normal Equity Distributions

CUNA recommends that NCUA adopt the four quarter average of insured shares method for normal distributions. As the NCUA noted, this method is somewhat more complex than simply the using the year-end insured share balances method. But, it is also the most equitable as it captures a more complete picture of a credit union's insured balance through a year.

Privately Insured Credit Unions

Thirteen credit unions have converted from federal to private insurance since the fourth quarter of 2009. Although it affects only a handful of credit unions, the fairness of distributing refunds on the basis of past assessments suggests that credit unions that have converted to private share insurance since 2009 should also receive their pro rata share of stabilization refunds. NCUA should seek a mechanism to make such payments if at all possible.

Conclusion

We commend the NCUA Board for publishing this proposal for public comment and again, we appreciate the opportunity to comment. On behalf of America's credit unions and their 110 million members, thank you for your consideration of our views. If you have further questions or would like to discuss CUNA's comments in more detail, please feel free to contact me at 202.508.6705.

Sincerely,

J. Lance Noggle

Lance Noggle
Senior Director of Advocacy and Counsel