

July 26, 2019

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

RE: Comments on Public Unit and Nonmember Shares Proposed Rule; RIN 3313-AF00

Dear Mr. Gerald Poliquin,

I am writing on behalf of the California and Nevada Credit Union Leagues (Leagues), one of the largest state trade associations for credit unions in the United States, representing the interests of approximately 250 credit unions and their more than 11 million members.

The National Credit Union Administration (NCUA) Board is proposing to amend the NCUA's Public Unit and Nonmember Shares rule to allow federally insured credit unions to receive public unit and nonmember shares up to 50 percent of the credit union's paid-in and unimpaired capital and surplus less any exiting public unit and nonmember shares. The Leagues support the proposed rule as it will enhance credit unions' ability to serve their members and communities while still providing adequate protection of the Share Insurance Fund.

Background

Section 107(6) of the Federal Credit Union Act (FCU Act) permits federal credit unions (FCUs) to receive payments on shares from public units and political subdivisions thereof and nonmember credit unions. Additionally, low-income designated credit unions (LICUs) may also receive payments on shares from other nonmembers. The limitations the NCUA Board may prescribe to these accounts is not statutory.

Currently Part 701.32 of NCUA's regulations generally limits the total amount of nonmember shares that an FCU may have to 20 percent of the credit union's total shares or \$3 million, whichever is greater. This limit applies to public unit shares regardless of whether the public unit is a member of the credit union. Additionally, credit unions may apply for a waiver to exceed the limit. The limits in Part 701.32 also apply to federally insured state-chartered credit unions as per Part 741.204.

When the Board issued an Advanced Notice of Proposed Rulemaking on Alternative Capital in 2017, they also requested comments regarding the limits on public unit and nonmember shares. Also in 2017, the NCUA Regulatory Reform Task Force recommended raising the nonmember deposit limit from 20 percent to 50 percent. The Task Force stated that public unit and nonmember shares are the functional equivalent of borrowings and, therefore, should be subject to the borrowing limit for FCUs set out in Section 107(9) of the FCU Act. In December 2018 the Regulatory Reform Task Force moved this recommendation from a Tier 2 to a Tier 1 priority.

Comments on Proposed Changes

Limits

The proposed rule increases the current 20 percent of total shares limit to 50 percent of paid-in and unimpaired capital and surplus less any public unit and nonmember shares, as measured at the time of acceptance of each public unit or nonmember share.

The proposed change in standard from "total shares" to "paid-in and unimpaired capital and surplus less any existing public unit and nonmember shares" is meant to provide credit unions with greater ability to accept public unit and nonmember deposits because undivided earnings are included in the measurement of a credit union's paid-in and unimpaired capital and surplus.

The Leagues agree with the Regulatory Reform Task Force's assessment that public unit and nonmember shares are the functional equivalent of borrowings and, therefore, should be subject to the borrowing limit for FCUs set out in Section 107(9) of the FCU Act. In addition, NCUA's analysis of the proposal indicates the proposed change will increase the credit union system's overall funding capacity by 6 percent. We believe the proposed limit will provide credit unions greater flexibility, increased liquidity, and will not introduce any increased risk to the Share Insurance Fund.

The agency's analysis shows that a minimum net worth ratio of 17% would be required to fully utilize the proposed authority. Since smaller credit unions tend to have higher net worth ratios and generally are less complex and more likely to accept deposits, the Leagues agree with NCUA's view that the proposal will likely be most beneficial to small and low-income credit unions. The Leagues strongly believe it is vital that the system support small and LICUs and provide them the tools they need to succeed.

The Leagues agree that the proposed limit is sufficiently high that an alternative \$3 million limit is unnecessary. Likewise, we support the proposed elimination of the waiver process. However, we urge the Board to consider those credit unions who may be currently taking advantage of the \$3 million alternative limit or an approved waiver. We recommend the Board grandfather those credit unions under their current alternative limits.

Plans Regarding Use of Funds

The proposed rule requires a written plan regarding the use of funds only if a credit union's public unit and nonmember deposits plus borrowings are greater than 70 percent of paid-in and unimpaired capital and surplus. The proposed rule does not require FICUs to submit the plans to the NCUA for prior approval. The NCUA will continue to review a FICU's business model and asset-liability management to ensure the FICU is operating in a safe and sound manner. The Leagues support this proposed amendment as it reduces regulatory burden for credit unions while maintaining an expectation of prudent management of the credit union's balance sheet.

Conclusion

The Leagues thank the Board for the opportunity to comment on the Public Unit and Nonmember Shares proposed rule. We fully support the proposed rule as it provides greater flexibility and enhances liquidity and safety and soundness of credit unions. We recommend the Board consider those credit unions who may be currently taking advantage of the \$3 million alternative limit or an approved waiver and grandfathering those credit unions under their current alternative limits.

Thank you for considering our views and recommendations. If you have any questions regarding our comments, please contact me.

Sincerely,

Diana R. Dykstra
President and CEO
California and Nevada Credit Union Leagues

cc: CCUL