



July 25, 2019

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

*Submitted electronically  
to regcomments@ncua.gov*

RE: RIN 3313-AF00; Public Unit and Nonmember Shares

Dear Mr. Poliquin,

The Credit Union Association of the Dakotas (CUAD), which represents state and federally chartered credit unions in the states of North Dakota and South Dakota, appreciates the opportunity to provide comment to the National Credit Union Administration (NCUA) regarding its proposed rule to amend parts 701 and 741 concerning public unit and nonmember shares.

The NCUA proposes to allow Federal credit unions (FCUs) 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 public unit and nonmember shares. This is an increase from the current 20 percent cap of total shares, but the proposal would also remove the previously included waiver process and impose due diligence if public unit and nonmember shares reach certain limits.

CUAD supports the proposed rule that 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 noted by the NCUA in its discussion of the proposed rule, the 20 percent cap was set in 1988. It is time for this provision to be modernized and provide more flexibility for credit unions.

Currently section 12 CFR 701.32(b)(1), which relates to FCUs, provides, "Unless a greater amount has been approved by the Regional Director, the maximum amount of all public unit and nonmember shares shall not, at any given time, exceed 20% of the total shares of the federal credit union or \$3 million, whichever is greater."

This proposed rule would amend 701.32(b) to provide:

- (1) "Aggregate limit on public unit and nonmember shares. Except as permitted under paragraph (c) of this section, a federal credit union may not accept public unit and

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nonmember shares in excess of 50 percent of the difference of paid-in and unimpaired capital and surplus and any public unit and nonmember shares, as measured at the time of acceptance of each public unit or nonmember share.

- (2) Required due diligence. Before accepting public unit or nonmember shares that, taken together with any borrowings, exceed 70 percent of paid-in and unimpaired capital and surplus, the board of directors must adopt a specific written plan concerning the intended use of these funds that is consistent with prudent risk management principles.” *84 FR 25022*

The proposed rule would remove the \$3 million dollar limit and waiver process from the current rule. Without the waiver process or the \$3 million dollar limit, some small FCUs may actually lose flexibility under the rule. CUAD supports a special exemption for newly chartered credit unions and “small low-income credit unions that demonstrate a need for large volumes of nonmember shares above the 50 percent paid-in and unimpaired capital and surplus limit” *84 FR 25020* as proposed by the NCUA.

As noted above, this proposed rule would remove the waiver process for a FCU wanting to exceed the cap and would require a board approved plan if public unit and nonmember shares, taken together with borrowings exceed 70 percent of paid-in and unimpaired capital and surplus. CUAD believes it is reasonable for the credit union to do some due diligence before receiving payment on a significant amount of public unit and nonmember shares and agrees the NCUA approach is reasonable.

Thank you for this opportunity to share our comments and concerns.

Respectfully,

Jeffrey Olson  
CEO/President

Amy Kleinschmit  
Chief Compliance Officer