



August 29, 2017

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

RE: NCUA Revised Overhead Transfer Rate Methodology

Via e-mail: boardcomments@ncua.gov

Dear Mr. Poliquin,

The Michigan Credit Union League (MCUL), the statewide trade association representing 100% of the 243 credit unions located in Michigan and their 5 million members appreciates the opportunity to comment on the National Credit Union Administration's (NCUA) Request for Comment regarding proposed changes to the Overhead Transfer Rate (OTR) methodology. As noted in previous comments, the credit union industry has experienced a significant reduction in the number of credit unions operating nationally due to consolidation through mergers and closures. The state of Michigan is no stranger to this trend, seeing a reduction over the past 10 years from 399 to 243 credit unions.

The MCUL believes in the importance of a strong dual chartering system as it creates incentives for the NCUA and state regulators to continually improve their charter to the ultimate benefit of credit unions and the industry as a whole. The primary goal of the NCUA's proposed methodology is to reduce the complexity of the calculation, thereby reducing the resources needed by the NCUA to administer the OTR. While the MCUL is pleased to see the NCUA taking such initiatives concern remains as to the proposed methodology.

As discussed in our previous comments to the NCUA, it is not our intent, nor should it be that of the NCUA, to benefit a Federal credit union over a State-chartered credit union or vice versa.¹ The MCUL represents both State and Federal credit unions. Our goal is to ensure fair distribution of the charges for supervision of credit unions consistent with the Federal Credit Union Act (FCUA). To that end, we would discourage any NCUA action which would create a competitive advantage for one charter over the other.

¹ 12 U.S.C. 1790 states: "It is not the purpose of this subchapter to discriminate in any manner against State-chartered credit unions and in favor of Federal credit unions, but it is the purpose of this subchapter to provide all credit unions with the same opportunity to obtain and enjoy the benefits of this subchapter."

As with any matter impacting credit unions, the MCUL believes in full transparency and open communication. We commend the NCUA for opening the revised Overhead Transfer Rate Methodology for public comment. With this background in mind, the MCUL submits the following comments.

Comments on OTR Methodology

The MCUL is pleased to see the NCUA seeking comment on whether the NCUA should publish for comment in the Federal Register the OTR Methodology at least every three years, and whenever the NCUA seeks to change the OTR Methodology. The MCUL wholly supports this effort. As previously stated the MCUL believes with any matter impacting credit unions opportunities for full transparency and open communication should be provided.

Additionally, the MCUL applauds the NCUA on its efforts to reduce expenses. The reduction from 67.7% to 60% OTR is certainly a step in the right direction. However, we would continue to challenge the NCUA to look for greater efficiencies in order to reduce the OTR while keeping the operating fees paid by Federal credit unions as low as possible particularly given the significant increase in the OTR over the past 10 years as outlined below.

| Year | OTR |
|-------------|------------|
| 2008 | 52.0% |
| 2009 | 53.8% |
| 2010 | 57.2% |
| 2011 | 58.9% |
| 2012 | 59.3% |
| 2013 | 59.1% |
| 2014 | 69.2% |
| 2015 | 71.8% |
| 2016 | 73.1% |

“Insurance-Related Activities” equating to “Safety and Soundness”

While the NCUA is proposing to adopt a number of recommendations from the 2016 comment period, the agency continues to stress in the preamble to the proposal, that there is little statutory support for the assertion that the agency has safety and soundness responsibilities as a chartering authority. In fact, the NCUA stresses that the words “safety” and “soundness” only appear twice in Title I of the Federal Credit Union Act, but appears 19 times in Title II. The MCUL would like to restate our previous position that the responsibility of the NCUA to conduct safety and soundness examinations of Federal credit unions, is consistent with other banking regulators. The Office of Comptroller of Currency (OCC) for the supervision of national charters, the Federal Reserve Bank for the supervision of member banks, and the state regulators for the supervision of state chartered credit unions and banks all share similar responsibilities.

Under the present formula, the NCUA appears to consider that “everything” is insurance related. The present OTR calculation, through the mapping of procedures and regulations, presumes

virtually all safety and soundness related examination costs are assumed to be an insurance related cost. This definition provides the unnecessary assumption that there will be no safety and soundness oversight in connection with its role as a prudential regulator under Title I of the FCUA. Ultimately conflating “Insurance Related Activities” into “Safety and Soundness” activities, warps the formula by under-emphasizing costs for federally chartered entities and over-emphasizing costs for state chartered entities. NCUA acknowledges this in part noting, “some consumer protection regulations may also be directed at safety and soundness”.²

The problem with this definition is the shift of charges to the NCUSIF for all safety and soundness functions (other than those related to consumer protection), where some of the safety and soundness function should be clearly allocated to the proper Title I function and assessed only to federally chartered credit unions. The guise of safety and soundness should not be a “catch-all” by which the NCUA can allocate all of its activities for purposes of having the NCUSIF fund the agency.

A plain reading of the FCUA runs contrary to the NCUA’s present process of allocating the cost of all safety and soundness examinations to the NCUSIF. Under Title I of the FCUA, the NCUA should be conducting safety and soundness examinations on Federal credit unions as part of its charter supervision. When operating under Title II of the FCUA, the NCUA should be relying on the safety and soundness examinations conducted under Title I for responsibilities as insurer. If the NCUA is charging 100% of the cost of safety and soundness examinations to the NCUSIF what does the federal credit union operating fee pay for?

Reliance on State Supervisory Authorities

In the MCUL’s previous comments we strongly encouraged the NCUA, to further increase efficiencies and reduce costs, to utilize the resources available under the dual examination system and work more closely with the state regulators to identify and implement new and existing efficiency measures. While the MCUL appreciates the NCUA’s efforts to streamline the examination process for state and federally chartered credit unions, including advance and remote work, the MCUL remains concerned that the NCUA appears reluctant to rely upon the State Supervisory Authorities to the extent they could.

The NCUA states in the proposal – “To ensure the methodology is fair and equitable across all federally insured institutions, the Imputed SSA Value is intentionally designed to reflect the replacement cost to NCUA if the agency had to do the insurance-related work it relies on the state regulators to conduct.”³

While the NCUA is working for greater efficiencies MCUL member credit unions continue to express the same concerns identified in the MCUL’s 2016 Examination Survey. Those comments include:

There needs to be better coordination and communication between the two agencies;

² See Request for Comment Regarding Overhead Transfer Rate Methodology, 81 FR 4804 – 4805 (January 27, 2016)

³ Federal Register/Vol.82, No. 125 p.29941

It was a very frustrating exam since it felt as though the two teams were adversarial;

At times there seems to be a disconnect in communication between NCUA/DIFS examiners onsite. The relevant materiality of issues can be viewed differently as well as the interpretation of testing. Also, there can be ambiguity as to who is really in charge of the examination. ⁴

The MCUL urges the NCUA to continue its efforts in seeking greater examination efficiencies and relationships with the State Supervisory Authorities.

Conclusion

The MCUL appreciates the NCUA's efforts in evaluating the methodology to determine the best scenario, however we believe there is additional work to be done. As such, we do not wish to see increases in fees to institutions that are already hit hard in other areas, particularly regulatory burden. In a rapidly consolidating industry measures should be taken to assist these institutions not add additional costs.

Sincerely,

A handwritten signature in black ink, appearing to read 'DA', with a long horizontal flourish extending to the right.

Dave Adams
CEO, Michigan Credit Union League and Affiliates

⁴ MCUL Examination Survey, Q4, 2015.