



NCUA Corporate Credit Union Stabilization Fund Frequently Asked Questions

1. Why is NAFCU asking NCUA to rebate monies to credit unions now?

NAFCU has consistently urged the NCUA to pursue any and all options available to refund monies to credit unions to offset their costs for the corporate stabilization effort as soon as possible. The NAFCU Board strongly believes that NCUA should be constantly and fluidly examining how it is managing the stabilization fund and credit union money.

As of the second quarter of 2016, credit unions have paid \$4.8 billion in stabilization assessments and \$5.6 billion in depleted capital into the Temporary Corporate Credit Union Stabilization Fund (Stabilization Fund) to cover resolution costs for the failure of five corporate credit unions during the Great Recession.

On November 2, 2016, NCUA announced recoveries of more than \$3 million from Nomura Asset Acceptance Corporation and Nomura Home Equity Loan, Inc. to settle claims related to the sale of faulty residential mortgage-backed securities (MBS) that contributed to the failure of two corporate credit unions. NCUA had already recovered \$4.3 billion in MBS claims as of September 2016. In October, the agency announced its intent to fully repay to the U.S. Department of the Treasury the \$1 billion outstanding balance on the agency's borrowing line.

In light of the continued improvement of the U.S. economy and the overall condition of the Stabilization Fund, including the payment to Treasury, NAFCU is advocating that NCUA undertake a review of whether or not any monies are available for a prompt rebate of funds to insured credit unions.

2. What is the NCUA Corporate Credit Union Stabilization Fund?

On May 20, 2009, the President signed into law the *Helping Families Save Their Homes Act of 2009*. The legislation amended the Federal Credit Union Act (FCU Act) to provide NCUA with authorities to mitigate costs associated with stabilizing the corporate credit union system, so those costs would not have to be borne by the National Credit Union Share Insurance Fund (NCUSIF). Acting under its new authority granted by Congress, in June 2009, the NCUA Board implemented the Stabilization Fund to cover the costs of the Corporate System Resolution Program, approved in September 2010 as a comprehensive strategy to address the failure of five corporate credit unions due to investment losses. Initially, the Stabilization Fund was set to expire after seven years. However, NCUA and the Department of the Treasury agreed in September 2010 to extend the life of the Stabilization Fund until June 30, 2021.

3. Why are federally insured credit unions obligated to cover the corporates' losses and the costs of the Corporate System Resolution Program?

Under Section 202 of the FCU Act, any NCUSIF premiums or assessments must be shared proportionally by all federally insured credit unions based on the credit union's insured shares. The Corporate System Resolution Program was established as a means to cover corporate resolution costs within the credit union system.

4. What was the purpose of the Stabilization Fund?

The primary purpose of the Stabilization Fund was to mitigate assessment burdens by spreading over multiple years the costs to insured credit unions for the corporate credit union stabilization effort. By isolating corporate stabilization costs in the Stabilization Fund, separately from the NCUSIF, insured credit unions were relieved from bearing a significant onetime assessment burden for stabilizing the corporate system. The Stabilization Fund allowed the NCUA Board to improve the NCUSIF's equity ratio in order to be well positioned to cover future insurance losses.

5. What are NCUA Guaranteed Notes?

As a key part of the Corporate System Resolution Program, NCUA developed the NCUA Guaranteed Note (NGN) Program to address a large group of distressed investment securities (referred to as the Legacy Assets) from the failed corporate credit unions. To protect credit unions from realizing the full market loss of the Legacy Assets at liquidation, NCUA adopted a strategy to re-securitize those investments by transferring the Legacy Assets to NGN trusts and then issuing NGNs, in a series of thirteen securitization transactions, each collateralized by Legacy Assets. The NGNs have a NCUA guaranty for timely payment of interest and principal at maturity. The guaranty is backed by the full faith and credit of the United States and primarily funded by the Stabilization Fund.

6. Will credit unions be required to pay future annual assessments to the Stabilization Fund?

Under the FCU Act, the NCUA Board has the authority to determine annual assessments until the Stabilization Fund expires in June 2021. Whether credit unions will be subject to future assessments is based on a number of factors, including the current year's cash needs relative to the Stabilization Fund, as well as performance and projected losses and cash flows on the Legacy Assets. As of the second quarter of 2016, NCUA projects there will likely be no need for future assessments. In fact, the projected net assessments range of negative \$4.0 billion to negative \$2.4 billion indicates the possibility of a refund at the end of the Stabilization Fund in 2021. Further, in October 2016, NCUA announced plans to fully repay the \$1 billion outstanding balance on the agency's borrowing line with the U.S. Treasury. With this final payment, the Stabilization Fund's outstanding borrowings are fully paid off, which might further indicate that future rebates or recoveries to insured credit unions may be possible.

7. Given the improving condition of the Stabilization Fund, will credit unions see a rebate soon?

NCUA has previously maintained that 2021 is the earliest credit unions may expect any potential rebate. There are two potential rebates or recoveries that could become available to credit unions. First, investors with claims for depleted capital of the failed corporate credit unions could see capital recoveries from the corporate credit union asset management estates, but only after all senior claims against the liquidation estates are fully paid. Section 709.5(e) of NCUA's regulations provides that "[a]ll unsecured claims of any category or class or priority . . . shall be paid in full, or provisions made for such payment, before any claims of less priority are paid." Any Stabilization Fund claims, including guaranty payments, are senior to a capital holder claim. Thus, while NCUA's current projections might indicate the availability of funds for recoveries by former corporate credit union capital holders, NCUA must first satisfy any outstanding senior obligations of the Stabilization Fund and corporate credit union asset management estates. If the corporate credit union asset management estates have assets that are



collateralizing NGNs and covered by a contingent Stabilization Fund guaranty, capital recoveries cannot occur until provisions are made for payment of those contingent obligations. As such, it is unclear whether NCUA will make any recoveries available to capital holders until 2021, after all senior claims are fully satisfied.

Second, a rebate could become available for insured credit unions that paid assessments to the Stabilization Fund. However, the FCU Act does not provide for a mechanism for an assessment rebate from the Stabilization Fund itself; rather, the statute provides that any funds and assets remaining in the Stabilization Fund will be distributed to the NCUSIF when the Stabilization Fund closes. The NCUA Board, “at [its] discretion,” may close the Stabilization Fund earlier than June 30, 2021, but there is no provision to reopen it, and closing the Stabilization Fund would foreclose an important contingency funding source that could be necessary for disposition of the NGNs. If the Stabilization Fund closes prematurely, NCUA may be required to use the NCUSIF to satisfy future agency contingent funding needs, including obligations of the NGNs, which would negatively affect the NCUSIF equity ratio. For this reason, NCUA may not consider it prudent to close the Stabilization Fund prior to 2021. In addition, NCUA has indicated that possible assessment rebates are based on projections that can change over time and projected values of the Stabilization Fund and the corporate credit union asset management estates may not be realized until 2021. The agency has also cautioned that future changes in the economy or the performance of the Legacy Assets securing the NGNs could change their value.

However, once the Stabilization Fund is closed and remaining assets are distributed to the NCUSIF, an assessment rebate to insured credit unions could occur if the NCUSIF’s equity ratio exceeds the normal operating level (between 1.2 and 1.5 percent), and the available assets ratio exceeds 1.0 percent at the end of a calendar year. Any assessment rebate would be distributed pro-rata to all insured credit unions. NCUA indicates the current projection for the total amount of a potential future rebate to all insured credit unions is an estimated \$2.4 billion to \$4 billion.

8. Is it possible that credit unions could receive a rebate prior to 2021?

NCUA has indicated that, although future assessments will likely not be necessary and Treasury borrowings are now fully repaid, no funds will be immediately available to provide refunds to federally insured credit unions. NCUA will provide additional information in the near future related to the timing of potential rebates and capital recoveries. NAFCU, however, strongly supports the issuance of rebates prior to 2021 and is strongly advocating for the agency to thoroughly examine and consider all options for a refund to credit unions well before 2021.

It appears the NGN Program is currently over-collateralized, which affords NCUA the opportunity to explore additional options for an expeditious rebate to credit unions. In addition, NCUA has recently stated that two NGNs are expected to mature by the end of 2016, freeing up 133 securities with a total market value of \$1.1 billion. In addition to the securities that become available in 2015 and 2016, NCUA will actively manage about 225 securities with a total market value of approximately \$1.7 billion by year-end 2016. While there could be legal obligations relative to these securities, NAFCU is urging NCUA to consider if any modifications to these obligations could be made. NAFCU will continue to urge the agency to develop a concrete plan to dissolve the Stabilization Fund, and to be fully transparent in its management of the fund.

