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National Association of Federally-Insured Credit Unions

September 5, 2017

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

Re: Comments on Requirements for Insurance; National Credit Union Share Insurance Fund Equity Distributions.
RIN 3133-AE77

Dear Secretary Poliquin,

On behalf of the National Association of Federally-Insured Credit Unions (NAFCU), the only national trade association focusing exclusively on federal issues affecting the nation's federally-insured credit unions, I would like to share with you our thoughts regarding NCUA's proposed rule for National Credit Union Share Insurance Fund (NCUSIF or SIF) Equity Distributions. As an initial matter, we would like to reiterate our concern that NCUA's proposal to close the Temporary Corporate Credit Union Stabilization Fund (TCCUSF or Stabilization Fund) in conjunction with an increase to the normal operating level (NOL) does not serve the best interests of credit unions. NAFCU stood by the NCUA and assisted the agency in passing Stabilization Fund legislation during the financial crisis. In creating the Stabilization Fund Congress recognized that risk relative to the share insurance fund and risk relative to the corporate crisis were separate. Together, the NCUA and NAFCU, under the leadership of our Board, supported a solution that mitigated the impact of downstream corporate losses on credit unions, but it was credit unions who shouldered the burden.

Any proposal that raises the NOL to 1.39 percent, the highest level in the history of the SIF, as a precondition for closing the Stabilization Fund would deprive credit unions of a full and fair return of paid-in corporate assessments. NAFCU believes credit unions should receive all of their money back as soon as possible - not just a portion. Credit union money is members' money. Should the agency move forward with merging the funds either now or in the not too distant future, we would support NCUA's efforts to identify a fair and transparent method for determining a federally-insured credit union's (FICU) proportionate share of a SIF equity distribution. In any case, as a guiding principle, the agency should seek to apportion any potential distributions based on the total amount of assessments paid by the FICU. In addition, NCUA should also determine a FICU's proportionate share of a future equity distribution by measuring the average of its four quarter-end insured share balances reported during the calendar year applicable to the distribution.

NAFCU believes that using the four quarter average of insured shares to determine a FICU's proportionate share of an equity distribution is preferable because it would properly account for seasonal fluctuations in insured share levels. In addition, this method would provide no incentive for FICUs to inflate their year-end insured share levels to exploit a static, year-end measure of current share balances. Although the four quarter average method may require some commitment of administrative resources, tracking individual mergers of FICUs during the calendar year to combine FICUs' insured shares should not be particularly onerous for NCUA.

NAFCU also supports the selection of a fair methodology for determining the order of pro rata NCUSIF equity distributions resulting from the Corporate System Resolution Program. NAFCU understands that factors such as individual share growth coupled with fluctuating assessment rates from 2009 to 2013 introduce variables which could complicate efforts to identify an optimal method for reimbursing credit unions. Whether NCUA opts for making distributions on a first in, first out (FIFO) basis, or on a last in, last out (LIFO) basis, the underlying consideration should be fairness. NAFCU urges NCUA to identify a method of reimbursement that will seek to maximize equity distributions for credit unions.

NAFCU also supports amendments that would ensure that equity distributions are directed to credit unions that maintain federal share insurance coverage at the time the TCCUSF is closed and merged with the NCUSIF. By contrast, NAFCU believes that a FICU's liquidation estate should not receive an equity distribution resulting from the Corporate System Resolution Program if the FICU terminated its share insurance coverage during the calendar year applicable to the distribution. In addition, termination of share insurance coverage should be deemed to occur on the date that the FICU enters liquidation. Delineating termination of share insurance coverage in this way would provide a more transparent process for reimbursing credit unions that have paid corporate assessments. Such a rule would also place fair limits on the extent to which general creditors may benefit from equity distributions made while a FICU's liquidation estate is held open.

Conclusion

As stated previously, NAFCU is opposed to the agency's proposal to close the Stabilization Fund while substantially increasing the NOL. NAFCU cannot support a proposal that shortchanges credit unions the money they are owed—let alone one that refunds only 15 percent of their original assessments. Meanwhile, the agency would retain almost $1 billion within the SIF. NAFCU believes all of the funds in the Stabilization Fund should rightfully be returned to credit unions and their members.

NAFCU appreciates the opportunity to provide feedback on this proposal. Should you have any questions or would like to discuss these issues further, please contact me at (703) 842-2234 or chunt@nafcu.org.

Sincerely,

Carrie R. Hunt
EVP of Government Affairs and General Counsel