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National Association of Federally-Insured Credit Unions

August 9, 2021

Michael R. Drayne
Acting Executive Vice President
Government National Mortgage Association
425 3rd Street SW
Washington, DC 20024

RE: Request for Input – Eligibility Requirements for Single Family MBS Issuers.[1]

Dear Mr. Drayne:

On behalf of the National Association of Federally-Insured Credit Unions (NAFCU), I am writing in response to the Request for Input (RFI) from the Government National Mortgage Association (Ginnie Mae) on potential changes to the financial requirements that must be met to obtain or maintain Single Family issuer approval. NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve 125 million consumers with personal and small business financial service products. NAFCU generally supports the proposals in the RFI as it relates to the added net worth and liquidity requirements for all issuers because credit unions typically have higher amounts of net worth and liquidity. The risk-based capital (RBC) requirement, as it relates to non-banks or other financial institutions, is appropriate to mitigate risks posed by these underregulated entities and maintain the stability of the housing finance system. But NAFCU urges Ginnie Mae to provide credit unions parity with banks and exclude all credit unions from the additional capital requirements imposed on non-depository institutions proposed in this RFI. Much like banks, credit unions should only be subject to the capital requirements set by their prudential regulator, the National Credit Union Administration (NCUA).

General Comments

According to Ginnie Mae's Mortgage-Backed Security (MBS) guide, MBS issuer applicants must meet certain capital requirements.[2] Credit unions are specifically excluded from the category of banks and included in the category of "other financial institutions" in the guide. The RFI excludes banks, bank holding companies, thrifts and savings, and loan companies from the requirements of the proposed change, like the MBS guide in its categorization of banks and "other financial institutions." This would effectively establish Ginnie Mae capital requirements for credit unions in addition to the NCUA's existing capital framework and new RBC rule. The NCUA regulates credit unions just as the Office of the Comptroller of the Currency (OCC), Federal Deposit Insurance Corporation (FDIC), and Federal Reserve System regulate banks; therefore, the NCUA should be the only one setting standards for credit unions.

[1] *Voluntary response provided to HUD in response to an RFI. This is not a required submission for participation in a federal program*
[2] Ginnie Mae 5500.3, Rev. 1

Other non-bank entities, such as mortgage companies, pose a systemic risk to the housing market because they are not regulated by a specific federal agency. Mortgage companies or "other financial institutions" are subject to regulation by state supervisory authorities and, if they are large enough, the Consumer Financial Protection Bureau (CFPB) but they do not have a specific federal regulator and are not subject to safety and soundness examinations. Non-bank mortgage servicers play an important part in the housing finance system, especially in helping low- and moderate-income individuals obtain mortgage credit, and it is important they have sufficient capital and can withstand liquidity shortages.

The Financial Stability Oversight Council (FSOC) has identified non-bank mortgage companies as a potential emerging threat to the U.S. economy, specifically with respect to the origination and servicing of mortgage loans held by Fannie Mae, Freddie Mac, and Ginnie Mae.[3] In its 2020 Annual Report, the FSOC encouraged "relevant state and federal regulators to take additional steps to coordinate, collect and share data and information, identify and address potential risks, and strengthen the oversight of non-bank companies involved in the origination and servicing of residential mortgages."[4] It is critical to the safety and soundness of the entire housing finance ecosystem that non-bank servicers, which comprise the most rapidly growing segment of the mortgage market, are held to stringent capital and liquidity requirements. Accordingly, NAFCU generally supports the proposed capital standards in this RFI as applied to non-bank mortgage companies that are Ginnie issuers.

On the other hand, federally-insured credit unions (FICUs) are required to follow all the regulations of the NCUA regardless of the products and services they offer; they are also subject to yearly examinations that rate the important aspects of the credit union to ensure its safety and soundness. The NCUA requires changes to be made to a FICU's operations and certain frameworks must be followed if a credit union receives a less than satisfactory rating during an examination. This oversight ensures that credit unions do not pose a risk to the National Credit Union Share Insurance Fund or the credit union system.

Ginnie Mae should defer to the NCUA's capital requirements for credit unions

The proposed revisions do not represent reasonable and appropriate controls on counterparty risk within the Ginnie Mae program as they relate to credit unions. Credit unions' net worth and capital are already regulated by the NCUA therefore Ginnie Mae should allow the NCUA to be the sole regulator of credit unions. The NCUA serves as the prudential regulator for the credit union industry and has an established track record of protecting the safety and soundness of the credit union system. Beginning in 2022, credit unions will be subject to the NCUA's RBC rule, which is comparable to the risk-based capital regulation applicable to banks.[5] The RBC rule requires

[3] Financial Stability Oversight Council, 2019 Annual Report, https://home.treasury.gov/system/files/261/FSOC2019AnnualReport.pdf.
[4] Financial Stability Oversight Council, 2020 Annual Report, https://home.treasury.gov/system/files/261/FSOC2020AnnualReport.pdf
[5] https://www.federalregister.gov/documents/2019/12/17/2019-27141/delay-of-effective-date-of-the-risk-based-capital-rules

complex credit unions (those with $500 million or more in total assets) to have an RBC ratio of 10 percent to be regarded as well capitalized for RBC purposes. The risk weighting used to determine the RBC ratio follows a framework that is similar to that adopted by the other federal banking regulators. Likewise, the NCUA has recently proposed adopting similar deductions from the numerator of the ratio, such as for mortgage servicing assets (MSAs) that exceed 25 percent of the sum of the capital elements specified in section 702.104(b)(1) of the NCUA's 2015 RBC rule.

Section 216(b)(1)(A) of the FCU Act requires the NCUA to adopt by regulation a system of prompt corrective action (PCA) for credit unions that is comparable to section 38 of the FDI Act. Section 216(d)(1) of the FCU Act also requires that the NCUA's system of PCA include, in addition to a statutorily defined net worth ratio requirement, "a risk-based net worth requirement for credit unions that are complex, as defined by the Board."[6]

In July 2021, the NCUA published a proposed rule that offers credit unions an alternative mechanism for demonstrating risk-based capital adequacy, which consists of a simplified net worth calculation. The NCUA calls this approach the Complex Credit Union Leverage Ratio (CCULR), which is similar in concept to the Community Bank Leverage Ratio (CBLR) approved by the other federal banking agencies and authorized by Congress under Section 201 of the Economic Growth, Regulatory Relief, and Consumer Protection Act. Complex credit unions that meet the CCULR's minimum net worth requirement, which may include a net worth ratio of less than 10 percent, will be regarded as well capitalized and avoid the administrative burden of calculating an RBC ratio as described in the 2015 RBC rule. This is not unlike the CBLR for community banks.

The NCUA's calibration of its RBC rule and the CCULR reflect its experience as the credit union system's prudential regulator. While the NCUA's RBC rules may differ slightly from those of banking regulators, there are more similarities than differences. Section 216(b)(1)(B) requires that the Board, in designing the PCA system, also take into account the "cooperative character of credit unions."[7] Credit unions are not-for-profit cooperatives that do not issue capital stock and must rely on retained earnings to build net worth. Accordingly, NAFCU cannot agree with the premise of the RFI, which arbitrarily imposes a blanket RBC requirement on all non-bank issuers and ignores the important similarities between bank and credit union capital requirements as well as the critical need to tailor certain aspects of RBC requirements to reflect the unique structure of credit unions. To regard the NCUA's necessary tailoring of credit union capital standards as completely divergent from bank regulation, to the extent that credit unions should be treated as non-bank mortgage lenders (not subject to the prudential oversight of a functional bank regulator), would overstate the differences and harm credit unions. Consequently, credit unions should be exempt from the proposed changes in this RFI.

[6] 12 U.S.C. 1790d(d)(1).
[7] 12 U.S.C. 1790d(b)(1)(B).

The proposed changes may deter FICUs from becoming Ginnie Mae issuers and negatively impact communities

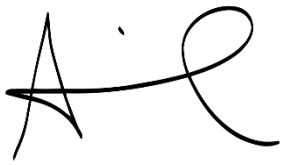
The proposed revisions are not implementable without undue or counterproductive disruptions to credit union issuers' ability to conduct business. The changes proposed in the RFI are now stricter than the NCUA's capital standards and will likely discourage credit unions from becoming Ginnie Mae issuers. If a credit union chooses to adopt the CCULR and not meet an RBC ratio of 10 percent, then they may no longer qualify as a Ginnie Mae issuer. Alternatively, a credit union using the CCULR that offers Federal Housing Administration (FHA) loans or Veterans Affairs (VA) loans may be dissuaded from even considering becoming a Ginnie Mae issuer due to these capital requirements. This could negatively impact communities, especially low- and moderate-income (LMI) borrowers and borrowers of color, as some credit unions may be forced to adjust their loan offerings if they are no longer able to act as a Ginnie Mae issuer.

This will have a chilling effect on the market for FHA loans, preventing some LMI borrowers from becoming homeowners and further expanding the racial homeownership gap that prevents many Black and brown consumers from building and maintaining wealth. If the changes proposed in this RFI serve as a barrier to credit unions becoming Ginnie Mae issuers, it will hurt the members and the communities at large that the FHA was created to help and protect. This is especially troubling as data has shown that such communities have been disproportionately impacted by the economic downturn caused by the COVID-19 pandemic. Not only would this change harm prospective LMI homebuyers, but it would further exacerbate the economic challenges posed by the pandemic on communities that should be benefiting from government support and flexible loan options.

Conclusion

NAFCU appreciates the opportunity to comment on the RFI and generally supports the proposed changes but requests that Ginnie Mae grant credit unions parity with banks by excluding credit unions from the additional capital requirements imposed on non-depository institutions. NAFCU urges Ginnie Mae to consider the chilling effect that more stringent capital requirements may have on the FHA. If you have any questions or concerns, please do not hesitate to contact me at (703) 842-2268 or amoore@nafcu.org.

Sincerely,



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