3138 10th Street North
Arlington, VA 22201-2149
703.522.4770 | 800.336.4644
f: 703.524.1082
nafcu@nafcu.org | nafcu.org

National Association of Federally-Insured Credit Unions

October 29, 2020

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

RE: Fees Paid by Credit Unions (RIN 3133-AF24)

Dear Mr. Poliquin:

On behalf of the National Association of Federally-Insured Credit Unions (NAFCU), I am writing in response to the National Credit Union Administration's (NCUA) notice of proposed rulemaking on fees paid by credit unions. NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve nearly 122 million consumers with personal and small business financial service products. Generally, NAFCU supports the proposal as it provides greater certainty to federal credit unions (FCUs) on operating fees owed and accurately portrays total assets. NAFCU has long supported formula-based methodologies that remove subjectivity from the operating fee calculation. Additionally, NAFCU appreciates the agency's transparency and technical amendments regarding operating fee refunds and fees owed when a conversion or merger occurs. NAFCU supports inclusion of language allowing the NCUA Board to exclude future government programs from the calculation of total assets, and supports a calculation based on the four most recently reported quarters.

General Comments

The FCU Act provides two main sources to fund the NCUA's budget, the first of which are Share Insurance Fund (SIF) payments and the second is operating fees assessed against FCUs. The FCU Act gives the Board the ability to determine the operating fee schedule. Under section 105 of the FCU Act, the Board has the authority to assess an operating fee on FCUs according to a schedule determined to be appropriate. In addition, the Board must consider the expenses of the NCUA in carrying out its responsibilities under the FCU Act and the ability of FCU's to pay the fee.

In assessing an operating fee to fund the NCUA's budget, it is imperative that the agency continue to operate in a fiscally prudent manner to alleviate any waste and ensure FCUs are not being over-charged. In a January 2020 letter to credit unions regarding the operating fee schedule adjusted for the year, the operating fees assessed were 1.13 percent higher than the previous year which the agency attributed to increased cash needs for capital investments planned for 2020 as well as the increased budget level. As NAFCU suggested in its July 29, 2020, comment letter on the midsession review of the budget, it is important that the agency carefully evaluate how it plans to utilize its remaining resources in 2020 and revisit the 2021 budget draft, which proposed another 3.8 percent increase over the 2020 budget. Given the continued uncertainty surrounding the COVID-19 pandemic, the NCUA must consider the difficulties FCUs are facing and their ability to pay operating fees.

NAFCU Supports Language Excluding Future Government Programs From Total Assets

NAFCU appreciates the proposal's inclusion of language removing Paycheck Protection Program (PPP) loans from the calculation of total assets and the ability to remove "similar government programs" in the future. As the NCUA stated in the proposal, the intent of the PPP program created by the *Coronavirus Aid, Relief, and Economic Security* (CARES) *Act* was to assist small businesses affected by the COVID-19 pandemic and the agency does not wish to disincentivize FCUs from partaking in the PPP lending program. Excluding all reported PPP loans, even if they are not pledged to the Federal Reserve Board's PPP Liquidity Facility, from total assets for purposes of calculating the annual operating fee will assist FCUs as these are short-term loans will be removed from balance sheets in the coming months. In addition, NAFCU supports legislative efforts to remove PPP loan from certain asset calculations, including the *Preventing Regulatory Penalties for PPP Lenders Act*. The PPP forgiveness portal opened in August and the Small Business Administration (SBA) began processing PPP forgiveness applications earlier this month. Therefore, NAFCU agrees that assessing an operating fee should not include assets that are part of a short-term, government loan program.

Although the situation is rare, it is imperative that the NCUA can quickly adapt to emergencies like the COVID-19 pandemic. Inclusion of language providing the Board with the ability to quickly remove future government programs from the operating fee calculation, without having to first amend existing regulations, provides the agency with flexibility that will assist FCUs if a similar situation arises in the future. NAFCU is supportive of efforts that allow the NCUA to quickly respond to the industry in a time of need.

NAFCU Supports a Calculation of Total Assets Based on the Four Most Recently Reported Quarters

One of the benefits of the proposal is reducing seasonal fluctuations. This will be particularly helpful for those FCUs that experience a higher seasonal fluctuation during the fourth quarter each year. Currently, FCUs are experiencing excess deposits as members have decreased spending and increased savings during the pandemic. FCUs who do not typically incur any sort of seasonal fluctuation have likely been experiencing an abnormal fluctuation since the pandemic started. Using total assets from the four most recently reported quarters may alleviate some of the concerns of incurring a higher than normal operating fee due to a short-term increase in deposits. Moreover, the proposed four quarter calculation seems to be a more accurate measure of a FCUs total assets.

In addition, the proposed calculation of total assets is the same as one of the forecasting methods used by the NCUA to update the prior year's asset levels. This forecasting method projects asset growth according to the four most recently reported quarters. Therefore, it is appropriate for the calculation of total assets to be based on the same forecasting methodology utilized, verses assessing an operating fee based on only year-end assets. NAFCU agrees that the proposal will likely minimize the over or under payment of annual operating fees as compared to the current calculation. Additionally, the proposed calculation provides clarity to FCUs about their respective operating fees for the upcoming year.

Conclusion

NAFCU appreciates the opportunity to share its members' views on this matter. Generally, NAFCU supports the proposal as it provides greater certainty to FCUs on operating fees owed and accurately portrays total assets. NAFCU asks the NCUA to continue operating in a fiscally prudent manner to alleviate any waste and ensure FCUs are not being over-charged on annual operating fees. Should you have any questions or require additional information, please do not hesitate to contact me at (703) 842-2249 or kschafer@nafcu.org.

Sincerely,

Kaley Schafer
Senior Regulatory Affairs Counsel