

Updated June 26, 2014

# **NASCUS**

  

# **POLICIES**

# Introduction

## Using the NASCUS Policies

NASCUS policies are defined as those policies or positions the Board establishes on issues of general importance and application to the credit union system. The NASCUS Policies consists of three sections. The first section lists all current NASCUS policies.

Under the heading of each current policy, the original enactment date is listed as well as subsequent histories. For those current policies that have been amended, the actual changes to the policy may be found in Appendix I. Note: Appendix I will only contain notes on amended policies. Inactive policies are found in Appendix II.

# Current NASCUS Policies<sup>1</sup>

<u>Policy</u>	<u>Enacted/Sunset</u>
1) Policy: Litigation Assistance	'94/'17
2) Policy: NASCUS/NCUA Document of Cooperation	'99/'17
3) Policy: Expanding the NCUA Board	'95/'16
4) Policy: Separation of Insurance from Supervision	'96/'16
5) Policy: Consolidation of Rules	'99/'15
6) Policy: Federal Examination Fees for State-Chartered Institutions	'00/'15
7) Policy: Net Worth Definition	'02/'16
8) Policy: Federal Deposit Insurance Coverage	'02/'15
9) Policy: NASCUS Policy on Specific State Issues	'03/'17
10) Policy: Protecting State Credit Union Powers & Options	'03/'17
11) Policy: NASCUS Policy on Endorsements and Sponsorships	'03/'15
12) Policy: Converting a State-Chartered Credit Union to another Financial Institution	'04/'15
13) Policy: UBIT	'04/'15
14) Policy: Compliance with Federal Regulations	'05/'15
15) Policy: Enhancing the Value of the Credit Union Charter	'05/'17
16) Policy: Partnerships to Enhance Education & Training	'12/'15

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**Appendix I                      Amendments to Current NASCUS Policies**

**Appendix II                     Past NASCUS Policies**

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<sup>1</sup> See Appendix I for history of amendments to current policies. See Appendix II for rescinded/sunset policies.

## **1) Policy: Litigation Assistance**

Enacted: September 1994  
Amended & Re-enacted: August 23, 2005  
Re-enacted: May 9, 2008  
Re-enacted: June 24, 2011  
Re-enacted: June 18, 2014

Scheduled to sunset: August 2017

- 1) NASCUS may provide assistance from its counsel or other available legal resources when called upon by regulator member who is involved in a matter of general interest to a NASCUS member.
- 2) NASCUS will participate in litigation on appeal with its regulator members only with the approval of its Board of Directors. In evaluating whether NASCUS should submit pleadings, briefs or documents in litigation on appeal, the Board should consider:
  - a) The importance of the issue to dual chartering or regulatory autonomy;
  - b) The degree to which a decision is likely to be premised upon a matter of importance to dual chartering or regulatory autonomy;
  - c) The extent to which NASCUS participation appears to be critical on appeal;
  - d) The extent to which NASCUS is able to present matters which would be as effectively presented by others;
  - e) The extent to which the litigant or others will assist in the financial burden to NASCUS.
- 3) Exceptions to this litigation assistance policy may be made by the NASCUS Board upon timely application and proof of extraordinary circumstances which justify such an exception.

## **2) Policy: NASCUS/NCUA Document of Cooperation**

Enacted: June 1999  
Amended & Re-enacted: August 23, 2005  
Amended & Re-enacted: August 2008  
Re-enacted: June 24, 2011  
Re-enacted: June 18, 2014

Scheduled to Sunset: August 2017

NASCUS seeks to maintain a cooperative working relationship with the NCUA. As the federal insurer, NCUA's actions impact the state credit union system and affect state

regulators. To facilitate a cooperative working relationship with NCUA, NASCUS will maintain a signed Document of Cooperation establishing standards of interaction between the State regulatory system and NCUA. As needed, NASCUS will work with NCUA to amend and update the Document of Cooperation so it shall remain a valid and useful tool to balance the dual interests of the state and federal regulators.

### **3) Policy: Expanding the NCUA Board**

Enacted: September, 1995  
Amended & Re-enacted: August 23, 2005  
Re-enacted: May 9, 2008  
Re-enacted: June 24, 2011  
Amended & Re-enacted: June 11, 2013

Scheduled to Sunset: August 2016

NASCUS supports expanding the NCUA Board from three to five members. Furthermore, NASCUS supports dedicating one NCUA Board seat for a person with experience as a state credit union regulator. .

If unable to achieve expansion of the NCUA Board through amendment to the FCUA, NASCUS remains committed to achieving a dedicated NCUA Board seat for an individual with experience as a state regulator.

### **4) Policy: Separation of Insurance from Supervision**

Enacted: September, 1995  
Amended & Re-enacted: August 23, 2005  
Amended & Re-enacted May 2007  
Re-enacted: June 2010  
Re-enacted: June 2013

Scheduled to Sunset: August 2016

NCUA's role as the chartering authority for federal credit unions and as the administrator of the credit union share insurance fund presents a potential conflict of interest within the Agency unless those functions are internally separated.

The Title II insurance and Title I supervision functions of the NCUA should be separated within the agency.

### **5) Policy: Consolidation of Rules**

Enacted: March 1999  
Amended & Re-enacted: August 23, 2005  
Re-enacted May 2009  
Re-enacted June 2012

Scheduled to Sunset: August 2015

NCUA should consolidate all federal share insurance rules in a single section of its Rules and Regulations. The current practice, incorporation by reference, creates an unnecessary burden on credit unions and examiners. Complete incorporation would eliminate any doubts as to which rules apply to federally insured credit unions in whole or in part.

### **6) Policy: Federal Examination Fees for State Chartered Institutions**

Enacted: March 20, 2000  
Amended & Re-enacted: August 23, 2005  
Re-enacted: May 29, 2009  
Re-enacted June 2012

Scheduled to Sunset: August 2015

NASCUS opposes federal examination fees for federally insured state-chartered credit unions.

### **7) Policy: Net Worth Definition**

Enacted: March 24, 2002  
Amended & Re-enacted: August 23, 2005  
Amended & Re-enacted: May, 2007  
Amended & Re-enacted: June 2010  
Re-enacted: June 2013

Scheduled to Sunset: August 2016

NASCUS supports broadening the definition of “net worth” in the Federal Credit Union Act to permit state-chartered credit unions to include other forms of capital in any capital calculations. NASCUS will:

1. Support modernizing the definition of net worth in the Federal Credit Union Act to permit supplemental capital to be counted as regulatory capital to improve the safety and soundness of the credit union system and add additional protection for the NCUSIF.
2. Support the addition of risk -based capital to the net worth calculation for the current NCUA federal PCA/net worth requirement.

### **8) Policy: Federal Deposit Insurance Coverage**

Enacted: March 24, 2002  
Re-enacted: August 23, 2005  
Re-enacted: May 29, 2009  
Re-enacted: June 2012

Scheduled to Sunset: August 2015

NASCUS will support parity of treatment for state-chartered credit unions in any federal legislation that would provide support for increases in federal deposit insurance coverage.

### **9) Policy: NASCUS Policy on Specific State Issues**

Enacted: March 8, 2003  
Amended & Re-enacted: March 3, 2008  
Re-enacted: June 24, 2011  
Amended & Re-enacted: June 18, 2014

Scheduled to Sunset: August 2017

NASCUS may become involved in specific state issues when requested by a NASCUS *state supervisory authority member*, or when requested by a credit union member or a Dual Chartering Benefactor if there is no objection by the state supervisory authority.

### **10) Policy: Protecting State Credit Union Powers & Options**

Enacted: March 8, 2003  
Re-enacted: August 23, 2005  
Amended and Re-enacted: May 9, 2008  
Re-enacted: June 24, 2011  
Re-enacted: June 18, 2014

Scheduled to Sunset: August 2017

The dual chartering system is predicated upon the ability of states to authorize varying powers for their state credit unions. NASCUS will actively oppose efforts to preempt and infringe upon state authority to empower their credit unions under state specific rules to engage in activities deemed appropriate in that state. NASCUS should take an active role in advocating for the state system's rights to define credit union powers.

**11) Policy: NASCUS Policy on Endorsements and Sponsorships**

Enacted: September 6, 2003  
Re-enacted: August 23, 2005  
Re-enacted: May 29, 2009  
Amended and Re-enacted: June 2012

Scheduled to Sunset: August 2015

NASCUS will not endorse products or services provided by third-party vendors. A third-party endorsement is defined as support for a product or service which would imply an exclusive arrangement, recommendation, or "seal of approval" by NASCUS. NASCUS may solicit or accept sponsorships or other support, provided that such acceptance does not result in a third-party endorsement. This prohibition does not extend to partnerships through which NASCUS may facilitate the access of examiners and credit unions to high quality training and educational opportunities.

**12) Policy: Converting a State-Chartered Credit Union to Another Financial Institution**

Enacted: March 6, 2004  
Re-enacted: August 23, 2005  
Re-enacted: May 29, 2009  
Re-enacted: June 2012

Scheduled to Sunset: August 2015

The process for converting a state-chartered credit union to another financial institution charter is a matter that should be determined by state law and regulation.

**13) Policy: UBIT**

Enacted: February 18, 2004  
Re-enacted: August 23, 2005  
Amended and Re-enacted: May 29, 2009  
Amended and Re-enacted: June 2012

Scheduled to Sunset: August 2015

NASCUS supports equitable tax treatment between state and federal credit unions with regard to federal UBIT and NASCUS shall take action necessary and appropriate to influence IRS to achieve this objective.

**14) Policy: Compliance with Federal Regulations**

Enacted: August 23, 2005

Re-enacted: May 29, 2009

Re-enacted: June 2012

Scheduled to Sunset: August 2015

NASCUS encourages state regulatory agencies to examine state-chartered credit unions for compliance with applicable federal laws and regulations. State examination for compliance in these areas strengthens the state credit union system, bolsters state autonomy, and reduces regulatory burdens on state-chartered credit unions by reducing the need for independent federal examination for compliance.

**15) Policy: Enhancing the Value of the Credit Union Charter**

Enacted: June 10, 2005

Amended and Re-enacted: May 9, 2008

Re-enacted: June 24, 2011

Re-enacted: June 18, 2014

Scheduled to Sunset: August 2017

NASCUS generally supports Congressional efforts to improve the value of the credit union charter that do not preempt the authority of state regulations or compromise safety and soundness and the dual chartering system.

**16) Policy: Partnerships to Enhance Education and Training**

Enacted: September, 2012

Scheduled to Sunset: September, 2015

To support a strong state credit union system, excellence in state credit union supervision, and safe and sound credit union operations, NASCUS provides high quality training and educational opportunities for its members. In order to maintain a vibrant, timely and effective training program NASCUS shall continuously develop its educational curriculum, faculty and delivery platforms.

As appropriate, NASCUS may partner, promote, or otherwise affiliate with entities in furtherance of providing or expanding access to high quality training for NASCUS members and the state system.

As necessary, the Board shall review such relationships to ensure the relationships remain consistent with NASCUS' mission, purpose and identity.

# Appendix I

## Amendments to Current NASCUS Policies

### 1) **Policy: Litigation Assistance**

POLICY: NASCUS establishes the following policy:

- 1) NASCUS may provide assistance from its counsel or other available legal resources when called upon by regulator member who is involved in a matter of general interest to a NASCUS member.
- 2). NASCUS will participate in litigation on appeal with its regulator members only with the approval of its Board of Directors. In evaluating whether NASCUS should pleadings, briefs or documents in a litigation on appeal, the Board should consider:
  - a) The importance of the issue to dual chartering or regulatory autonomy;
  - b) The degree to which a decision is likely to be premised upon a matter of importance to dual chartering or regulatory autonomy;
  - c) The extent to which NASCUS participation appears to be critical on appeal;
  - d) The extent to which NASCUS is able to present matters which would be as effectively presented by others;
  - e) The extent to which the litigant or others will assist in the financial burden to NASCUS.
- 3) Exceptions to this litigation assistance policy may be made by the NASCUS Board upon timely application and proof of extraordinary circumstances which justify such an exception.

### **3) Policy: NCUA's Corporate Credit Union Rule**

The National Association of State Credit Union Supervisors (NASCUS) opposes the NCUA's rule Part 704's uniform application to all corporate credit unions. The inability of state regulators to innovate and empower their state chartered corporate credit unions to engage in activities not addressed in Part 704 debilitates the state charter and homogenizes the corporate credit union system in a manner that increases system-wide risk.

### **4) Policy: NASCUS/NCUA Rulemaking Template**

NASCUS seeks to maintain a cooperative working relationship with the NCUA. As the federal insurer, NCUA's actions impact the state credit union system and affect state regulators. To facilitate a cooperative working relationship with NCUA, NASCUS will develop a Document of Cooperation establishing standards of interaction between NASCUS and NCUA, and seek NCUA's approval of, and signature on, such a document.

### **6) Policy: Separation of Insurance from Supervision**

The Title II insurance and Title I supervision functions of the NCUA should be separated within the agency.

The policy below was incorporated into Policy # 6 during the May 2007 Board meeting.  
Policy: Net Worth Definition

NASCUS supports broadening the definition of "net worth" in the Federal Credit Union Act to permit state-chartered credit unions to include other forms of capital in any capital calculations.

### **8) Policy: Consolidation of Rules**

**NCUA should consolidate all federal share insurance rules in a single section of its Rules and Regulations. The current practice, incorporation by reference, creates an unnecessary burden on credit unions and examiners. Complete incorporation**

would eliminate any doubts as to which rules apply to federally insured credit unions in whole or in part.

### **9) Policy: MBL Rules**

NASCUS supports state initiatives to adopt state specific MBL rules. At the request of a state regulator, NASCUS will assist state regulatory agencies in working with NCUA to obtain NCUA approval of a state specific MBL rule.

### **10) Policy: Federal Examination Fees for State Chartered Institutions**

Enacted: March 20, 2000

NASCUS opposes federal examination fees for federally insured state-chartered credit unions.

### **11) Policy: NASCUS Policy on Endorsements and Sponsorships**

Enacted: September 6, 2003

Re-enacted: August 23, 2005

Re-enacted: May 29, 2009

Amended & Re-enacted June 2012

NASCUS will not endorse products or services provided by third-party vendors. A third-party endorsement is defined as support for a product or service which would imply an exclusive arrangement, recommendation, or “seal of approval” by NASCUS. NASCUS may solicit or accept sponsorships or other support, provided that such acceptance does not result in a third-party endorsement.

**Management Recommendation: AMEND & RE-ENACT**

*NASCUS will not endorse products or services provided by third-party vendors. A third-party endorsement is defined as support for a product or service which would imply an exclusive arrangement, recommendation, or “seal of approval” by NASCUS. NASCUS may solicit or accept sponsorships or other support, provided that such acceptance does not result in a third-party endorsement. This prohibition does not extend to partnerships through which NASCUS may facilitate the access of examiners and credit unions to high quality training and educational opportunities. It also does not prevent NASCUS from promoting the skills, accomplishments and services of those experts used as faculty by NASCUS nor*

~~prevent NASCUS from making referrals. (the strike thru language was rejected by the Board)~~

### **13) Policy: NASCUS Policy on Specific State Issues**

Enacted: March 8, 2003  
Amended & Re-enacted: March 3, 2008  
Scheduled to Sunset: March 2011

NASCUS may become involved in specific state issues when requested by a NASCUS *state supervisory authority member* and *the request is authorized by the NASCUS Chairman Board*, and when requested by a member of the Advisory Council or a Dual Chartering Benefactor if there is no objection by the state supervisory authority and the request is authorized by the NASCUS ~~Chairman~~ **Board**.

Amended June 18, 2014

#### **9) Proposed Revised Policy: NASCUS Policy on Specific State Issues**

NASCUS may become involved in specific state issues when requested by a NASCUS *state supervisory authority member* ~~and the request is authorized by the NASCUS Board,~~ ~~and or~~ when requested by a **credit union member** ~~of the Advisory Council~~ or a Dual Chartering Benefactor if there is no objection by the state supervisory authority. ~~and the request is authorized by the NASCUS Board.~~

### **Policy: Separation of Insurance from Supervision**

During the February 2007 Board meeting, the Board directed management to revise the Separation of Insurance from Supervision Policy by “discussing the importance of the resource allocation of NCUA resources.”

Below, in italics, is the policy as it currently exists. Below that, is the revised policy as enacted by the Board.

*Enacted: September, 1995*  
*Amended & Re-enacted: August 23, 2005*  
*Scheduled to Sunset: August 2008*

*NCUA’s role as the chartering authority for federal credit unions and as the administrator of the credit union share insurance fund presents a potential conflict of interest within the Agency unless those functions are internally separated.*

*The Title II insurance and Title I supervision functions of the NCUA should be separated within the agency.*

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**Policy: Separation of Insurance from Supervision**

Enacted: September, 1995  
Amended & Re-enacted: August 23, 2005  
Amended and Re-enacted May 12, 2007  
Scheduled to Sunset: May 2010

As the chartering authority for federal credit unions and the administrator of the credit union share insurance fund, NCUA performs two distinct roles in the credit union system. While the two roles may overlap, they also may diverge in a manner that potentially present conflicting interests to NCUA.

In order to maintain the integrity of its dual roles, NCUA must properly separate its chartering and insurance functions. Such separation must be reflected in an equitable and distinct distribution of Agency resources. Inherent in NCUA's distribution of its resources is an obligation for the Agency to ensure that the insurance fund, partially supported by state-chartered federally insured credit unions, is used exclusively for appropriate insurance related functions as defined by Title II of the Federal Credit Union Act.

**14) Policy: Protecting Share Insurance Options for SCUs**

**Policy: Protecting State Credit Union Powers and Options**

Enacted: March 8, 2003  
Re-enacted: August 23, 2005  
Amended and Re-enacted: May 9, 2008  
Scheduled to Sunset: August 2011

~~NASCUS will actively oppose efforts to preempt and infringe state authority by NCUA with regard to share options of state credit unions; and that state regulators that allow privately insured credit unions should take an active role to educate others, including state regulators, the NCUA Board Members, GAO and Congress, as appropriate.~~

*The dual chartering system is predicated upon the ability of states to authorize varying powers for their state credit unions. NASCUS will actively oppose efforts to preempt and infringe upon state authority to empower their credit unions under state specific rules to engage in activities deemed appropriate in that state. NASCUS should take an active role in advocating for the state system's rights to define credit union powers.*

**19) Policy: CURIA and State Authority**

**Policy: Enhancing the Value of the Credit Union Charter**

Enacted: June 10, 2005  
Amended and Re-enacted: May 9, 2008  
Scheduled to Sunset: August 2011

NASCUS supports the provisions of regulatory improvement in CURIA that do not preempt the authority of state regulations.

*NASCUS generally supports Congressional efforts to improve the value of the credit union charter that do not preempt the authority of state regulations or compromise safety and soundness and the dual chartering system.*

**14) Policy: UBIT**

Enacted: February 18, 2004  
Re-enacted: August 23, 2005  
Amended and Re-enacted: May 29, 2009  
**Amended and Re-enacted June 2012**

~~RESOLVED, That the NASCUS/Council Board supports the national credit union system's efforts, as outlined in the background section, to resolve any Unrelated Business Income Taxation issues that can be resolved through direct engagement with the Internal Revenue Service.~~

~~And be it further~~

~~RESOLVED, That appropriate NASCUS senior staff members are authorized and directed to take action necessary and appropriate to influence IRS to achieve a positive outcome consistent with the national credit union strategy.~~

NASCUS supports equitable tax treatment between state and federal credit unions with regard to federal UBIT and NASCUS shall take action necessary and appropriate ~~to~~ **influence IRS** to achieve this objective.

**8) Policy: Net Worth Definition**

Enacted: March 24, 2002  
Amended & Re-enacted: August 23, 2005

Amended & Re-enacted: May, 2007  
Scheduled to Sunset: May 2010

NASCUS supports broadening the definition of “net worth” in the Federal Credit Union Act to permit state-chartered credit unions to include other forms of capital in any capital calculations. NASCUS will:

1. Support federal legislation that would substitute a risk-based capital concept for the current NCUA federal PCA/net worth requirement.
2. Support modifications to the definition of net worth in the Federal Credit Union Act that would include all forms of capital that are consistent with GAAP accounting principles and address potential FASB merger rules.
3. Continue to support redefining net worth in the Federal Credit Union Act to permit credit unions to issue supplemental capital to improve the safety and soundness of the credit union system and add additional protection for the NCUSIF.

*Management Recommendation: AMEND & RE-ENACT*

*The current economic downturn and declining average credit union net worth reinforces the propriety of this policy. Management recommends the policy be amended to better reflect NASCUS’ priorities. Under the policy as presented above, point (3) should be moved to point (1) and should be amended as follows: “support modernizing the definition of net worth in the Federal Credit Union Act to permit supplemental capital to be counted as regulatory capital to improve the safety and soundness of the credit union system and add additional protection for the NCUSIF.”*

*Current point (1) would become point (2). Current point (2) could be deleted as redundant after the above changes are made. The amended policy would read as follows:*

*Policy #8 Net Worth Definition*

*NASCUS supports broadening the definition of “net worth” in the Federal Credit Union Act to permit state-chartered credit unions to include other forms of capital in any capital calculations. NASCUS will:*

- 3. Support modernizing the definition of net worth in the Federal Credit Union Act to permit supplemental capital to be counted as regulatory capital to improve the safety and soundness of the credit union system and add additional protection for the NCUSIF.*
- 4. Support the addition of risk -based capital to the net worth calculation for the current NCUA federal PCA/net worth requirement.*

**3) Policy: Expanding the NCUA Board**

Enacted: September, 1995  
Amended & Re-enacted: August 23, 2005  
Re-enacted: May 9, 2008  
Re-enacted: June 24, 2011  
Scheduled to Sunset: August 2014

The Board of Directors of the National Association of State Credit Union Regulators (NASCUS) supports expanding the NCUA Board from three to five members. Furthermore, NASCUS supports dedicating one NCUA Board seat for a state credit union regulator member.

If unable to achieve expansion of the NCUA Board through amendment to the FCUA, NASCUS remains committed to achieving an NCUA Board seat dedicated for a state credit union regulator.

*2013 Management Recommendation: Amend and RE-ENACT*

*Management recommends this policy be amended (and re-enacted) to clarify that the designated seat sought on the NCUA board be for an individual that formerly served as a state regulator. As currently written, the policy might be taken to be seeking a seat for an individual that would serve concurrently both as a state regulator and NCUA board member. A draft amended version of the policy is below:*

*NASCUS supports expanding the NCUA Board from three to five members. Furthermore, NASCUS supports dedicating one NCUA Board seat for a person with experience as a state credit union regulator. .*

*If unable to achieve expansion of the NCUA Board through amendment to the FCUA, NASCUS remains committed to achieving a dedicated NCUA Board seat for an individual with experience as a state regulator.*

# Appendix II

## *Sunset/Rescinded NASCUS Policies*

### **Policy: Overhead Transfer**

Enacted: August, 1991

Amended: June, 1992

Re-enacted: August 23, 2005

Scheduled to Sunset: August 2008

**Rescinded February 2007**

The National Association of State Credit Union Supervisors (NASCUS) opposes the NCUA's method of allocating actual administrative or overhead expenses associated with the insurance function of the NCUSIF through an accounting procedure known as the overhead transfer.

#### **Background:**

For a number of years, NASCUS has been opposed to the overhead transfer. The Overhead Transfer Task Force, comprised of NASCUS and Advisory Council members, studied the issue and prepared an analysis of the overhead transfer issue. The following points are included in the analysis:

NASCUS believes the policy of transferring operating funds from the NCUSIF to defray the expenses of NCUA works a continuing inequity on the regulatory fee structures of state regulators. The reserves of the NCUSIF are provided on an equal basis by all credit unions, whether state or federally chartered. The overhead transfer rate, in effect, provides a dividend in the form of a reduction of regulatory costs for federally chartered credit unions.

On June 7, 1989, the Advisory Council wrote to the NASCUS Board, stating: "...the NCUSIF should not be used to fund any supervisory activities of the agency which NCUA would be obliged to perform if the fund did not exist. All charges to the fund should require itemized billing from the agencies or other suppliers of services that perform the work."

On October 19, 1990, NCUA Chairman Roger Jepsen released a statement in which he named the NCUA's Deputy Executive Director to chair a committee to develop specific guidelines for a pilot program on funding the agency's operations to be presented to the NCUA Board in 1991. Chairman Jepsen stated "We will now increase our efforts to find ways to compensate qualifying state programs for regulatory services that can specifically be identified as 'those regulatory services to the insurance fund that

satisfactorily substitute for federal regulatory services'...Our (NCUA's) goal is that we reduce as much as possible the operating fees of all federally insured credit unions."

On August 1, 1991, NASCUS President Ella Robinson wrote NCUA Chairman Jepsen, expressing NASCUS' disappointment with the Funding Committee's report...NASCUS had hoped a pilot program...would be underway by now...the overhead transfer issue has been a major concern of NASCUS' for several years...We have repeatedly requested a satisfactory resolution...Apparently, the only solution to resolving the problem is through a separation of the NCUSIF from the NCUA."

In 1992, several letters from NASCUS' President Richard Murakami were written to the NCUA with regard to the overhead transfer; however, the funding mechanism remains unchanged. In 1994, the NCUA Board voted to approve the continuance of the 50 percent overhead transfer rate for Fiscal Year 1995; to waive the completion of a time study survey during FY 1995 and FY 1996; and to adopt the 50 percent overhead transfer rate for FY 1996 and FY 1997.

In 1992, the Overhead Transfer Committee was formed to work with NCUA to revisit the overhead transfer issue. Members working on the committee included John Hale (TX), Steve Bridges (GA), George Latham (VA) and Mike Fitzgerald (MI).

### **Policy: Random Exam Program**

Enacted: June 1999  
Re-enacted: August 23, 2005  
Rescinded: February 2007

The NASCUS Board directs management to address this issue with the NCUA, to examine the Document of Cooperation with regard to the Random Exam Program, and to develop an approach which keeps the NCUA's interaction with state chartered credit unions in the 8% to 12% range.

### **Policy: Overhead Transfer**

Enacted: March 10, 2001  
Re-classified as Action Item: August 23, 2005

The NASCUS Board directs management to take measures to determine and clearly define the limits of legal authority for the NCUA to apply the overhead transfer.

### **Policy: NCUA Restructuring/NCUA Overheard Transfer Rate**

Enacted: June 12, 2003

In connection with the ongoing NASCUS effort to rectify the NCUA overhead transfer rate issue, NASCUS Board Member Roger W. Little (MI) agreed to develop a white paper that would address the issue. The paper entitled “Eliminating the Inherent Conflict of Interest at the NCUA: NASCUS Proposal for Restructuring the NCUA” was presented to the NASCUS Boards for their consideration and appropriate action. The boards expressed their appreciation to Roger Little and to Brian Knight, and after discussion of the report findings and possible sources of support or opposition from other elements of the credit union community, the Boards agreed to submit the study to the NCUA Board members for their review and comment as a courtesy before any public release of the study.

The Boards accepted the report developed by Roger Little and approved the recommendations contained in the report as a statement of NASCUS policy. NASCUS staff was directed to work with CUNA and other credit union parties to build coalition support for this NASCUS policy regarding the reorganization of the NCUA.

**Policy: Safety and Soundness Concerns of State Regulators**

Enacted: March, 1995  
Sunset: August 23, 2005

The National Association of State Credit Union Supervisors (NASCUS) Board approved the following policy resolution as drafted by state regulators of state chartered corporate credit unions.

Whereas the National Association of State Chartered Credit Union Supervisors (NASCUS) is the professional association composed of 48 state credit union supervisors; and

Whereas state credit union supervisors have a strong interest in the safety and soundness of the state chartered credit unions which they charter and supervise; and

Whereas 27 state regulators have supervisory authority over corporate credit unions and have the statutory responsibility for safety and soundness of their credit unions; and

Whereas the NCUA has represented that it has serious safety and soundness concerns in corporate credit unions that have not been adequately addressed by state supervisors; and

Whereas the state supervisors of state chartered corporate credit unions are sincerely interested in resolving safety and soundness problems which the NCUA believes are caused by interlocks or other factors in corporate credit unions; and

Whereas each state corporate credit union supervisor has agreed to address any safety and soundness problem which does exist in a corporate credit union which he or she supervises;

Now therefore be it resolved by NASCUS, on behalf of all state corporate credit union supervisors, as follows:

NASCUS urges NCUA to immediately advise the state supervisor of any safety and soundness problem which it feels exists in corporate credit unions in his or her state, whether caused by “interlocks” or otherwise; and

Each individual state corporate credit union supervisor will meet with the NCUA Board of Directors, the Chairman of the NCUA Board, or their designee to specifically identify the safety and soundness concerns resulting from management interlocks or other factors in corporate credit unions; and

Each state corporate credit union supervisor will utilize and exercise the supervisory authority prescribed by state law to eliminate and prevent a further occurrence of the jointly identified safety and soundness concerns; and

Each state corporate credit union supervisor will work with NCUA to identify, discuss, and resolve legitimate safety and soundness concerns that may cause losses to the National Credit Union Share Insurance Fund (NCUSIF).

Resolved and agreed upon by the NASCUS Board of Directors on the 14th day of March, 1995, as evidenced by the following signature: George H. Latham, VA, Chairman

**Background:**

On March 14, 1995, the NASCUS Board of Directors, responding to public and constant comments made by Chairman Norman E. D’Amours that NASCUS had not taken a position on corporate credit unions and interlocks, adopted as policy the above-referenced resolution which had been approved by all 27 of the state supervisors of state chartered corporate credit unions. The resolution expresses NASCUS’ regulators are as concerned about safety and soundness issues as are federal regulators and reinforces NASCUS’ willingness to take care of any specific safety and soundness concerns which may exist in state chartered corporate credit unions. At the March 13 meeting held by state regulators, it was decided that NASCUS should have a public response to the NCUA allegation that NASCUS has no interlocks position, alleviating the NASCUS “dead silence” issue for NCUA. NASCUS advised NCUA of its commitment to work with NCUA as insurer to cooperatively identify and resolve any safety and soundness concerns in state chartered corporates.

**Policy: Shared Service Facilities**

Enacted: September, 1993

Re-classified as Action Item: August 23, 2005

The NASCUS Board urges all state regulators to:

1) strive to ensure that state chartered credit unions’ access to shared facilities systems is not encumbered;

- 2) invoke the federal parity provisions of their state acts, where applicable, to make access for state chartered credit unions similar to the access available to federal credit unions;
- 3) commit to simplifying and expediting any approval process which is required by state law; and
- 4) where legislative changes are necessary, work with credit unions, shared facilities service providers and the trade associations to expedite the enactment of legislation which will allow state chartered credit unions to join with other credit unions or other organizations in the operation and utilization of shared service facilities.

**Background:**

In March 1993, NASCUS Chairman Gavin Gee (ID) appointed a task force to work with CUNA on a model provision on shared services/interstate branching. The Shared Branching Task Force issued a report discussed by the Board in September. NASCUS Board members expressed concern that NASCUS should avoid any suggestion that it was promoting shared facilities. Rather, NASCUS should be a facilitator of shared facilities and exercise caution about how the association communicates the task force recommendations. Accordingly, the NASCUS Board agreed that while it neither endorses nor opposes the concept of shared service facilities, NASCUS will continue to work with state credit union supervisors and the NCUA to make certain that state chartered credit unions can participate in shared service facilities to the same extent as federally-chartered credit unions. The Board agreed to accept the recommendations of the Shared Branching Task Force on September 18, 1993.

In September 1994, the Shared Facilities Task Force again urged NASCUS regulators to review their state laws, regulations, etc., to determine if state chartered credit unions are being disadvantaged with regard to their access to shared facilities and urged NASCUS to look at the facilities as ATMs, rather than as branches.

**Policy: CUNA's Commission on Regulatory and Insurance Structure (CRIS)**  
**Proposal**

Enacted: March, 1994

Re-classified as Action Item: August 23, 2005

The National Association of State Credit Union Supervisors (NASCUS) Board approved the recommendation of the NASCUS Share Insurance Task Force that NASCUS take no action on CRIS Part One, the report's recommendations to improve the federal regulatory system, and that it actively support and promote CRIS Part Two which urges credit union leagues to work with state agencies to improve the quality of supervision and encourage state regulators to become accredited. The NASCUS Board encourages NASCUS members to meet with leagues to review together and identify weaknesses and strengths of the state agency's supervision program, all with a view toward accreditation.

**Background:**

In September 1993, the report of CUNA's Commission on Regulatory and Insurance Structure was released. Part One of the report contains proposals to fundamentally change the current federal share insurance program, including expanding the NCUA Board to five members, creating deductibles and co-payments for share insurance and separating the NCUA from the NCUSIF. Part Two of the report urges credit union leagues to assess its state regulatory program, to develop an action plan to rectify any deficiencies and recognizes the NASCUS accreditation program as a method by which to improve state regulation.

**Policy: NCUA'S Merger and Conversion Authority**

Enacted: March, 1994

Merged into Policy # 45: August 23, 2005

The National Association of State Credit Union Supervisors (NASCUS) opposes the NCUA's proposal to amend section 205(b)(1) of the Federal Credit Union Act regarding merger and conversion authority because the NCUA should not exert authority over a decision properly made by state regulators.

**Background:**

In March 1994, the NASCUS Government Relations Committee discussed at length the NCUA's proposal to amend section 205(b)(1) of the Federal Credit Union Act regarding merger and consolidation authority. The Board agreed with the Committee's recommendation that although the NCUA's proposal to amend section 205(b)(1) is an issue that needs to be addressed and acknowledges that it is a problem, it is incorrect for the NCUA to exert authority over a decision that is properly made by state regulators.

**Policy: FASB 115 Compliance**

Enacted: September, 1994

Merged in to Policy #47: August 23, 2005

The National Association of State Credit Union Supervisors (NASCUS) Board encourages all NASCUS members to promote FASB 115 compliance with other credit unions.

**Background:**

In September 1994, the NASCUS Regulatory Committee discussed the need to encourage all NASCUS members to comply with FASB 115. The NASCUS Board agreed with the committee recommendation that all state agencies should promote FASB 115 compliance with other credit unions.

**Policy: Document of Cooperation**

Enacted: March, 1994

Combined with Policy # 15: August 23, 2005

The National Association of State Credit Union Supervisors (NASCUS) Board approved the Document of Cooperation as presented by the NASCUS Regulatory Development Committee and directed management to obtain NCUA Board approval. On June 23, 1994, NASCUS Chairman Gavin M. Gee (ID) and NCUA Board Chairman Norman E. D'Amours signed the Document of Cooperation.

**Background:**

For several years, NASCUS and NCUA have formally entered into an agreement, the Document of Cooperation. On June 23, 1994, a new agreement was signed which is the culmination of months of discussion and work. The agreement provides for increased cooperation between the state and federal regulators, and has three broad improvements over the earlier DOC. First, a new dispute resolution process gives state credit union regulators an avenue for resolving differences of opinion over nearly every aspect of the supervisor examination and insurance review. Next, the revised document, by specific reference, incorporates all of the provisions of the revised Chapter XIII of the NCUA Federal Examiner's Guide which stipulates, among other provisions, that the state examiner is always the examiner-in-charge when the NCUA and the state regulator examine a state chartered credit union. Thirdly, the new document recognizes that examination reports from NASCUS accredited state agencies may be used more frequently by the NCUA to determine that a federally insured state chartered credit union continues to be insurable by the National Credit Union Share Insurance Fund (NCUSIF).

**Policy: Multi-State Tax Commission's Proposed Definition of Financial Institution**

Enacted: June, 1994  
Sunset: August 23, 2005

The National Association of State Credit Union Supervisors (NASCUS) Board is opposed to the Multi-State Tax Commission's (MTC) proposal that a state's definition of a financial institution should include state chartered credit unions with loan assets in excess of \$50 million; that the NASCUS Board's concern will be communicated to the NASCUS members from the twenty states which are expected to ratify the MTC proposal; that the Board encourages NASCUS members to communicate the credit union supervisors' concern to state tax commissioners and will provide them with information which they may use when discussing the credit union regulator's concerns with state tax commissioners.

**Background:**

During its June Board meeting, NASCUS President/CEO Doug Duerr provided the Board with information about the expected recommendation forthcoming by the MTC with regard to the state's definition of a financial institution. Although no definition of financial institution was provided, the appendix to the MTC's report recommends that a state's definition of financial institutions should include state chartered credit unions with

loan assets in excess of \$50 million. The proposal will be sent to the 20 members of the MTC who will be asked to consider adopting the proposal. If a majority agrees, the proposal will be presented for approval at the MTC's annual meeting in July, 1994. The proposal only affects state chartered credit unions if their state tax laws are amended and if the legislature were to define financial institutions along the guidelines suggested in the appendix.

The Board was also advised of the Council Board's policy position on the MTC's proposed definition of financial institution. Various aspects of the proposal were discussed, including the recordkeeping burden on state chartered credit unions, the escalation of an interest by all states which are looking at increasing their tax bases especially in light of the upcoming interstate branching legislation. This would set an unwanted precedent for taxation of credit unions. The NASCUS Board agreed that state tax commissioners should be provided with sufficient information when considering the MTC's recommendation, particularly as it relates to the treatment of federal credit unions versus state credit unions and the impact on state regulatory agencies.

**Policy: S. 883, the CURE Legislation**

Enacted: June, 1995  
Sunset: August 23, 2005

The Board of Directors of the National Association of State Credit Union Regulators (NASCUS) is opposed to S. 883, the CURE bill, as an unwarranted attack on the state regulatory system. The bill gives the NCUA the authority to make supervisory decisions and to veto decisions rightfully made by the boards of state chartered credit unions, state regulators and state legislatures.

**Background:**

On June 6, 1995, Senate Banking Committee Chairman Alfonse D'Amato introduced, S. 883, the Credit Union Reform and Enhancement Act of 1995, legislation which has major implications for the dual chartering system. After extensive discussion, the NASCUS Board voted unanimously to vigorously oppose the bill, concluding that the bill's concepts are inconsistent with the mission and purpose of NASCUS and that there is no way to amend the bill which would allow NASCUS to support it. The Board instructed management to educate its members on the onerous implications of the bill and to implement a strategy to vigorously oppose the bill at each stage of the legislative process.

**Policy: Federalism Act of 1999**

Enacted: September 1999  
Sunset: August 23, 2005

The NASCUS Board supports the Government Relations request to direct management to support efforts to enact the federalism act of 1999, work with interested groups such as the NCSL, NGA and the Conference of Mayors, and communicate NASCUS' support of the legislation to Members of Congress and the White House. Further NASCUS should

encourage its membership to write letters of support to their respective Congressional delegation and the White House.

**Policy: Bennett Amendment to S. 650, The Regulatory Relief Act**

Enacted: March, 1996  
Sunset: August 23, 2005

The National Association of State Credit Union Supervisors (NASCUS) Board does not challenge the prerogative of Congress to conduct the study of the NCUA; however, NASCUS believes that any such study should be conducted only by entities which do not stand to benefit from the study.

**Background:**

S. 650, the Economic Growth and Regulatory Paperwork Reduction Act of 1995, was reported on December 14, 1995, in the Senate by the Senate Banking Committee. The bill, as approved by the committee, includes an amendment authored by Senator Bennett of Utah. The amendment provides that the Secretary of the Treasury, in consultation with the Federal Reserve Board, the Comptroller of the Currency and the NCUA, shall conduct a study and evaluation of: 1) the oversight and supervisory practices of the NCUA concerning the NCUSIF; 2) the potential for, and potential effects of, administration of the NCUSIF by an entity other than the NCUA; 3) the ten largest corporate credit unions in the U.S.; 4) the regulations of the NCUA; and 5) the supervision of the corporate credit unions by the NCUA.

While NASCUS should not take exception to congressional interest in the study of the NCUSIF or the corporate system, the Treasury and FDIC have a vested interest in the results of the study. NASCUS contends the study should be conducted by those with no interest in the outcome or a vested interest in the issues. The NASCUS Executive Committee approved the policy position in February, and the NASCUS Board approved the Executive Committee's actions in March.

**Policy: Bank Secrecy Testing**

Enacted: March, 1996  
Combined into Policy #47: August 23, 2005

The National Association of State Credit Union Supervisors (NASCUS) Board encourages NASCUS regulators to incorporate Bank Secrecy Act compliance testing into the credit union examination process.

**Background:**

The NASCUS Regulatory Development Committee discussed the probability of state regulatory agencies conducting compliance testing for the Bank Secrecy Act (BSA). Management and representatives of the U.S. Treasury Department and the IRS held several meetings in which the issue of BSA compliance testing was discussed. Treasury proposed that the state regulatory agencies conduct BSA compliance testing, similar to the state agencies' TIS testing. The alternative method of testing would be for the IRS to conduct the tests. The Board agreed with management and the committee's recommendation to encourage NASCUS members to include BSA testing in their state credit union examinations.

**Policy: ATM Surcharging**

Enacted: June, 1996  
Sunset: August 23, 2005

The National Association of State Credit Union Supervisors (NASCUS) Board approves the following policy statement on ATM surcharging:

While ATM surcharging significantly impacts state chartered credit unions, it does not uniquely affect them. Therefore, it is inappropriate for State Regulators to take a position on these legislative proposals. However, in keeping with NASCUS' mission statement, we would oppose any legislation which would disproportionately affect state chartered credit unions.

**Background:**

The NASCUS Board discussed the proposed legislation introduced by Senator Al D'Amato (R-NY) and Congressman Charles Schumer (D-NY) and determined that it was inappropriate for NASCUS to take a position on the legislative proposals inasmuch as they do not uniquely affect state chartered credit unions. The Board, however, concluded that in keeping with its mission statement, NASCUS would oppose any legislation that disproportionately affects state chartered credit unions.

**Policy: Accreditation Decision**

Enacted: September, 1998  
Rescinded and moved to Operating Procedures: August 23, 2005

The final accreditation decision rests with the NASCUS Performance Standards Committee as assisted in the accreditation process by the Accreditation Audit Committee and the Accreditation Review Team. The official notification to the state agency that it is an "accredited" state credit union supervisory agency is the duty of the NASCUS Board

which shall deliver an official accreditation certificate signed by the ANSCUS Board Chairman, the PSC chairman and the NASCUS President/CEO.

**Policy: CLF Action**

Enacted: March 1999  
Sunset: August 23, 2005

The NASCUS Boards support efforts, including administrative and legislative remedies, to win funding for the Central Liquidity Fund, (CLF) so it can be used to provide Year 2000 liquidity for state chartered credit unions.

**Policy: Investment Tax**

Enacted: March 1999  
Sunset: August 23, 2005

The NASCUS Boards join with ASAE's coalition of associations and direct management to express its support of ASAE's opposition to the proposed tax on the investment incomes of 501 (c)(6) associations, to sign the "Open Letter to Congress" and to defeat the proposal.

**Policy: Task Force Funding**

Enacted: March 1999  
Sunset: August 23, 2005

It shall be the policy of the NASCUS Board to require that all appointments, other than appointments to the standing committees provided for in bylaws, be accompanied by a fiscal impact statement which shall be prepared by the President and the Treasurer. The Statement shall detail the expected budget impact which the appointment(s) may have and shall set forth a recommendation for funding such expenses.

It is expected that policies recommended for adoption by the Board, whether from committees or from Board Members, shall be accompanied by a statement prepared by the President and the Treasurer which details the budget impact which the policy may have, and if there is a budget impact, sets forth a recommendation for funding such expenses.

**Policy: Privacy Provisions**

Enacted: September 1999  
Sunset: August 23, 2005

The NASCUS Board supports the Government Relations request to direct management to continue to monitor the privacy provisions as contained in the financial modernization

bills and survey state regulators to determine if state privacy law is preempted and obtain other appropriate information relative to provisions in the bill that may affect state agencies and state chartered credit unions.

**Policy: Regulatory Relief Legislation**

Enacted: September 1999

Sunset: August 23, 2005

The NASCUS Board supports the Government Relations request to direct management to review proposed amendments to determine whether there are any negative implications on state regulatory authority or state chartered institutions, and to continue to work with NCUA and the Banking Committee in the coming months, as appropriate.

**Policy: Predatory Lending**

Enacted: September 1999

Sunset: August 23, 2005

The NASCUS Board directs management to (1) notify member credit unions and member regulators of NASCUS growing concern about these practices; (2) ask member credit unions and to work with the industry to draft, promote regulations/legislation applicable to predatory lending practices; (3) to put the NCUA on notice that the state credit union system is examining this issue; and (4) gather activity about what is happening in the states.

**Policy: Alternative Share Insurance Study Group**

Enacted: September 1999

Re-classified as Action Item: August 23, 2005

The NASCUS Board directs the Alternative Share Insurance Study Group to continue and prepare discussion papers to raise the consciousness of the issue of alternative share insurance opportunities, to educate as to the distinction of alternatives available and to create a dialogue to identify awareness and demand for share insurance alternatives.

The purpose is to raise the consciousness of the issue of alternative share insurance opportunities and to educate the council members in particular as to the distinctions and alternatives that are available which include the evolution of existing alternatives, the need for share insurance or lack thereof and finally to create a dialogue to identify awareness and demand for alternative share insurance.

**Policy: Increasing the State Credit Union Influence on NCUA Board**

Enacted: September 7, 2002

Re-classified as Action Item: August 23, 2005

NASCUS will proceed with developing an approach to increase the state credit union system's influence on decisions made by the NCUA Board.

**Policy: Restructuring the NCUA Board**

Enacted: November 2002  
Combined with Policy #17: August 23, 2005

NASCUS will pursue a legislative change to the Federal Credit Union Act which requires that one of the three NCUA Board members must have state credit union regulatory experience.

and

NASCUS will proactively encourage qualified state credit union supervisors to seek an appointment to fill the next NCUA Board vacancy.

**Policy: Restructuring the NCUA Board-Implementation of Action Plan**

Enacted: September 2003  
Re-classified as Action Item: August 23, 2005

The Revised NCUA Board Representation Political Action Plan was adopted and the 2005 dates for implementation were advanced by six months or more.

**Policy: Small Business Administration**

Enacted: March 24, 2002  
Sunset: August 23, 2005

NASCUS will support efforts to seek expanded lending authority for all credit unions to participate in the Small Business Administration 7(a) lending program.

**Policy: Alternative Capital Task Force**

Enacted: March 6, 2004  
Combined with Policy #38: August 23, 2005

4. Support federal legislation that would substitute a risk-based capital concept for the current NCUA federal PCA/net worth requirement.
5. Support modifications to the definition of net worth in the Federal Credit Union Act that would include all forms of capital that are consistent with GAAP accounting principles and address potential FASB merger rules.
6. Continue to support redefining net worth in the Federal Credit Union Act to permit credit unions to issue supplemental capital to improve the safety and

soundness of the credit union system and add additional protection for the NCUSIF.

**Policy: Truth-in-Savings Compliance Examinations**

Enacted: March, 1994  
Re-enacted: August 23, 2005  
Allowed to Sunset: May 9, 2008

The National Association of State Credit Union Supervisors (NASCUS) Board urges all NASCUS members to do Truth-in-Savings (TIS) compliance examinations on the state level.

**Background:**

In March 1994, the NASCUS Regulatory Committee discussed TIS testing and the far-reaching effects of the TIS compliance regulations inasmuch as NCUA had authority over all credit unions. The Committee recommended that TIS compliance testing should be done on the state regulator level whenever possible in order to keep the federal insurer from examining state chartered credit unions. The NASCUS Board agreed with the committee recommendation that all state agencies should do TIS compliance testing in examinations of state chartered credit unions.

**7) Policy: NISCUE – NASCUS Educational Arm**

Enacted: September 1998  
Re-enacted: August 23, 2005  
Allowed to Sunset: May 9, 2008

The National Institute for State Credit Union Examination (NISCUE) provides financial support for educational offerings made under the identity of the National Association of State Credit Union Supervisors (NASCUS). NASCUS supports the efforts of the NISCUE Board of Trustees as they develop financial support to meet the needs of the NASCUS membership.

**Background:**

Expanding NISCUE educational opportunities has been a priority of management and the NISCUE Board of Trustees over the past several years. Increasing and promoting the benefits state regulators receive from NASCUS' educational offerings is important because many state agencies lack funds to send examiners to the educational offerings. An ongoing funding program was developed whereby financial support could be generated for NISCUE.

**7) Policy: MBL Rules**

Enacted: March 20, 2000  
Amended & Re-enacted: August 23, 2005

Allowed to Sunset: May 2009

NASCUS supports state initiatives to adopt state specific MBL rules. At the request of a state regulator, NASCUS will assist state regulatory agencies in working with NCUA to obtain NCUA approval of a state specific MBL rule.

**2) Policy: NCUA's Corporate Credit Union Rule**

Enacted: September, 1994

Amended & Re-enacted: August 23, 2005

Re-enacted: May 9, 2008

Allowed to Sunset: June 24, 2011

The National Association of State Credit Union Supervisors (NASCUS) opposes the NCUA's rule Part 704's uniform application to all corporate credit unions. The inability of state regulators to innovate and empower their state chartered corporate credit unions to engage in activities not addressed in Part 704 debilitates the state charter and homogenizes the corporate credit union system in a manner that increases system-wide risk.

-End-