

April 26, 2016

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

Re: Request for Comment Regarding National Credit Union Administration
Operating Fee Schedule and Overhead Transfer Rate Methodology

Dear Mr. Poliquin:

The fees collected from all federally-insured credit unions fund the National Credit Union Administration's (NCUA) operations in its dual role as a prudential regulator, as charterer of federal credit unions (FCUs), and as the insurer of both FCUs and state-chartered federally-insured credit unions (FISCUs). The allocation of the costs of agency operations is done through the two fee methodologies under discussion today. The equitable distribution of these costs impacts the strength of the dual-chartering model used in the U.S. credit union movement.

In response to the NCUA's request for comments on the agency's Operating Fee Schedule and Overhead Transfer Rate Methodology, the Ohio Credit Union League (OCUL) offers the following comments and observations. Although the agency divided these issues into two separate comments, it is our position that they are so interrelated that our comments will be combined in this letter.

In the interest of fairness, we urge the National Credit Union Administration Board, as part of the regulatory process regarding the overhead transfer rate, to adopt a new policy that prohibits any overhead transfer of agency expenses to the National Credit Union Share Insurance Fund (NCUSIF) unless the following conditions are met:

1. NCUA must re-evaluate which examination costs are "insurance-related" and therefore properly attributable to its role as insurer rather than prudential regulator and charterer.
2. This determination should be published and subject to comment by stakeholders.
3. The proposed rate should be fair, equitable, and efficient for the agency, the NCUSIF, and most notably, state and federal credit unions alike.

Operating Fee Methodology

NCUA's Operating Fee is derived by totaling the costs of administering the agency, then subtracting out sources of revenue to offset some of these costs. The most significant of

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these sources is the Overhead Transfer Rate, designed to cover expenses specific to NCUA's role as insurer, which will be discussed later in these comments.

Regarding its Operating Fee Methodology, the agency asks the following:

1. Are the asset determination thresholds reasonable?

We agree with the usage of a tiered system to allocate operating fees based on the asset size of the FCU and the exemption of the smallest FCUs from any operating fee at all. We also applaud the simplicity of the current tiers (two tiers for corporate credit unions and three for natural-person FCUs) in the interests of keeping the calculations as uncomplicated as possible while equitably allocating costs across the FCU system.

2. Is the method for forecasting projected asset growth for the credit union system reasonable?

The use of a composite forecast combining different methods to derive projected growth seems sound, although we recommend that NCUA periodically re-evaluate the historical accuracy of its method in order to adjust it if needed.

However, we are concerned that the OTR methodology used by NCUA currently allocates most of the "safety and soundness" elements of its examinations as "insurance-related" costs. This appears to contradict the definition of NCUA's role as prudential regulator as well as insurer. Because the OTR has been artificially inflated by this classification, the Operating Fee has been correspondingly artificially reduced and does not accurately reflect the equitable distribution of agency costs between FCUs and FISCUs. Until this balance is restored, any consideration of the fairness of the Operating Fee Methodology will be flawed.

Overhead Transfer Rate

When the NCUSIF was established in 1970, a second subchapter was added to the Federal Credit Union Act (FCUA), outlining how the insurance fund is to be administered. Regarding its expenses, Title II as it relates to charges in connection with Share Insurance related activities in 12 U.S.C §1781(b) provides in pertinent part:

(1) to pay the reasonable cost of such examinations as the Board may deem necessary in connection with determining the eligibility of the applicant for insurance: Provided, That examinations required under subchapter I of this chapter shall be so conducted that the information derived therefrom may be utilized for share insurance purposes, and examinations conducted by State regulatory agencies shall be utilized by the Board for such purposes to the maximum extent feasible;

Clearly, the addition of the share insurance fund did not transfer the examination responsibility from NCUA as prudential regulator to NCUA as insurer. The agency is directed to use examinations performed by the prudential regulator of an insured credit

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union (either NCUA under Title I of the FCUA, or the state supervisory authorities) as sources of information to the maximum extent feasible.

Title I spells out many of the powers of a Federal credit union; the majority of these powers are also outlined in the various state credit union acts, including Ohio's. These powers include such things as the ability to make loans (residential and business), to invest funds, to make contracts, to sue and be sued, and to purchase and hold property. The various credit union acts, including the FCUA, also require the submission of financial reports, examinations, access to books and records, and overall supervision by NCUA (for FCUs) and each state supervisory authority (for state-chartered credit unions). The conclusion to be drawn is that therefore these activities are not "insurance-related" and examiner time spent reviewing them should not be included in calculation of the OTR.

However, NCUA's current methodology essentially equates all activities related to "safety and soundness" (other than specific consumer protection regulations) as being "insurance-related." Safety and Soundness should not be a catch-all by which NCUA can allocate all of its activities for purposes of having the NCUSIF fund the agency.

Providing a clearer line between NCUA's examination as a prudential regulator/charterer and its examination as an insurer will also assist in reducing the overlap that currently occurs during dual examinations of FISCUs by state supervisory authorities as prudential regulator and NCUA as insurer. Both the FCUA and NCUA's own rule (Part 741.1) contain the express directive to utilize other examinations to the maximum extent possible. Using the examination results of the state regulators should reduce overall examination costs, thereby reducing the OTR, and indirectly, the Operating Fees charged FCUs, since all agency costs would thereby be reduced.

In its request for comments, NCUA outlined four questions to be considered:

1. *Whether the OTR should continue to be determined using a formula-driven approach, or instead be set largely at the discretion of the Board.*

A formula-driven approach is an equitable consistent method of determining the OTR, provided that the data used in the formula is accurate, i.e., that specific examination and administrative costs are properly identified as belonging to NCUA as prudential regulator, NCUA as insurer, or a combination of both. Appropriate value for the examination work performed by the state supervisory authorities should be included in the formula. Identification of regulatory and administrative costs should be subject to public notice and comment, and therefore should be explicitly outlined by NCUA.

2. *The definition NCUA uses for insurance-related activities.*

The current definition used by NCUA for insurance-related activities is too broad, essentially equating the vast majority of "safety and soundness" concerns

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as primarily or only insurance-related. This is not a correct assumption, as many of these issues are more properly under NCUA's examination as the prudential regulator of FCUs.

3. *Adjustments or changes to the current calculation.*

The current calculation is flawed because too many items have been included in calculation of the OTR as "insurance-related" concerns rather than being properly identified as issues related to NCUA's examination authority as charterer and prudential regulator. These should be explicitly identified by NCUA and then made subject to public notice and comment.

4. *Alternate methodologies to arrive at an accurate and fair allocation of costs.*

Adjustments should be made based on properly allocating costs as indicated above.

Conclusion

In the interest of fairness and transparency, we urge the National Credit Union Administration Board to re-examine its allocations of costs to more accurately reflect its separate roles as prudential regulator/charterer and as insurer. This determination should be published and subject to comment by stakeholders. The final desired result is a rate that is fair, equitable, and efficient for the agency, the NCUSIF, and most notably, state and federal credit unions alike.

OCUL seeks a regulatory environment that promotes safety and soundness while allowing Ohio's 307 credit unions to serve their almost 3 million members. We offer these suggestions in an effort to improve the efficiency of NCUA as a prudential regulator, share insurer, and partner for Ohio credit unions in providing affordable financial services safely and soundly. We are available to provide additional comments or information if so requested. If you have any questions, please do not hesitate to contact Vice President of Government Affairs Patrick Harris at (800)486-2917, ext. 212, or pharris@ohiocul.org.

Sincerely,



Paul L. Mercer
President



Patrick Harris
VP, Government Affairs

cc: Stan Barnes, OCUL Chair
Barry Shaner, OCUL Government Affairs Committee Chair
Jim Nussle, Credit Union National Association