August 30, 2017

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

Re: NASCUS Comments on Requirements for Insurance: National Credit Union Share Insurance Fund Equity Distributions

Dear Secretary Poliquin:

The National Association of State Credit Union Supervisors ("NASCUS"), is the professional association of the state credit union regulatory agencies and the nation's state credit union system. NASCUS submits the following comments in response to the National Credit Union Administration's ("NCUA's") request for comments on managing equity distributions from the National Credit Union Share Insurance Fund (NCUSIF) in general, and the surplus of the Temporary Corporate Credit Union Stabilization Fund (TCCUSF) in particular.[1] NCUA's stated purpose in proposing changes to Part 741.4, the provision governing equity distributions from the NCUSIF, is "to provide FICUs with greater fairness, transparency, and predictability regarding NCUSIF equity distributions."[2] NASCUS wholeheartedly supports those goals.

I. Distributions of NCUSIF Equity

For future equity distributions from the NCUSIF (distributions not related to the closing of the TCCUSF), NCUA is proposing to begin using a credit union's average insured shares based on the previous four quarter end call reports to determine proportionate shares of the distribution. NCUA asserts that the proposed change represents a better distribution methodology that balances the interests of large and small credit unions. We agree. NACUS supports NCUA's proposal to amend the distribution calculation by using a four quarter-end look back to determine insured shares. Furthermore, NASCUS believes that limiting the look-back to the immediate previous four quarters is sufficient to account for seasonal fluctuation while maintaining a reasonable workload balance for NCUA in calculating a credit union's share of a distribution.

While NCUA is proposing the four quarter-end look-back, the agency specifically asks for comments on using the year end Call Report to establish a credit union's insured shares. NCUA notes the benefits of this approach is its consistency with how NCUA

[1] Requirements for Insurance: National Credit Union Share Insurance Fund Equity Distributions, 82 Fed. Reg. 35705 (August 1, 2017).
[2] Id. 35706.

calculates the distribution share of a credit union that converts to NCUSIF during the year for which a distribution is announced and its easing of the administrative burden of calculating the shares of merged credit unions. Finally, NCUA notes the year-end approach would obviate the need for a new provision denying credit unions terminating their NCUSIF coverage their pro-rated share of a distribution. As discussed below, we oppose denying a converting credit union its pro-rata share of an NCUSIF equity distribution and therefore we oppose the year-end call report methodology.

II. Equity Distributions to Credit Unions that Terminate NCUSIF Coverage

NCUA is proposing to reverse its long standing policy of recognizing the contributions to a NCUSIF equity surplus of credit union that's terminate their NCUSIF coverage during the year for which an equity dividend is declared. We disagree with this policy change.

Presumably, a credit union that terminates its NCUSIF coverage in a year for which an equity distribution is declared nonetheless contributed to the accumulation of equity in the insurance fund. For those credit unions, and their members, honoring the longstanding commitment to return their pro-rata share of a distribution is the right thing to do.[3] It is also worthy of note that the traditional commitment of the NCUSIF to return the equity value to all credit union members in a distribution year is not open-ended. The existing methodology only applies to credit unions, and their members, that were NCUSIF insured during the year giving rise to the dividend.

III. NCUSIF Distributions resulting from TCCUSF Surplus

With respect to distributions resulting from TCCUSF recoveries, we agree that the last in – first out (LIFO) method would be preferable and more manageable. However, we share NCUA's concerns regarding the statutory permissibility of such an approach. It is incumbent on regulators to uphold not only the letter, but the spirit of their statutes and regulations. We would recommend NCUA seek a legal opinion verifying the permissibility of managing TCCUSF equity distributions in a unique manner once the two funds are merged.

We thank NCUA for the opportunity to share our views on equity distributions from the NCUSIF, and would be happy to discuss our comments in detail at NCUA's convenience.

Sincerely,

- *signature redacted for electronic publication* -

Brian Knight
Executive Vice President and General Counsel

[3] That a stockholder would not receive a dividend after having sold the stock is not exactly germane to an NCUSIF equity distribution. In that case, it is likely that the stockholder recognized their contribution to the build-up in value of the stocks at the time of sale.