Cooperative Credit Union Association

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Creating Cooperative Power

June 18, 2021

Ms. Melane Conyers-Ausbrooks
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314

RIN 3133-AF19

Re: Cooperative Credit Union Association Inc.'s Comments on Interim Final Rule on Temporary Regulatory Relief in Response to COVID-19-Prompt Corrective Action

BY ELECTRONIC MAIL: http://www.regulations.gov

Dear Ms. Conyers-Ausbrooks:

On behalf of the member credit unions of the Cooperative Credit Union Association, Inc. ("Association"), please accept this letter relative to the request for comments issued by the National Credit Union Administration Board ("NCUA") on its recent interim final rule relative to Temporary Regulatory Relief in Response to COVID-19-Prompt Corrective Action ("Rule").[1] The Association is the state trade association representing approximately 200 state and federally-chartered credit unions located in the states of Delaware, Massachusetts, New Hampshire, and Rhode Island, which further serve over 3.6 million consumer members.

I. OVERVIEW

The Association conducted a survey of its members on the provisions of the Rule and member views provide the basis for this comment letter. As issued, the Rule extends COVID-19-related Prompt Corrective Action ("PCA") relief by temporarily modifying the PCA regulations to help federally-insured credit unions ("FICUs") remain operational and liquid during the COVID-19 pandemic. The rule became effective on April 19, 2021 and will remain effective until March 31, 2022.

The temporary modifications to the PCA regulations consist of two amendments to address the significant asset growth FICUs are temporarily experiencing, straining their net worth position, due to the preference of members to choose credit unions as their preferred financial services provider and the deposit of stimulus checks received by individual taxpayers under the American Rescue Plan Act of 2021. First, the Rule enables the NCUA to issue orders,

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[1] Interim Final Rule on Temporary Regulatory Relief in Response to COVID-19-Prompt Corrective Action, 86 Fed. Reg. 20258 (Apr. 19, 2021).

applicable to all FICUs that are adequately capitalized, to waive the earnings-retention requirement under the Federal Credit Union Act. Second, the Rule modifies the specific documentation, including streamlined procedures, required for net worth restoration plans for FICUs that become undercapitalized as a result of share growth.

The Rule is substantially similar to the interim final rule the NCUA published on May 28, 2020, which expired December 31, 2020.[2]

All of the Association's members that responded to the survey support the Rule and reported that they experienced increased share growth in the first half of 2021. In addition, the Association also strongly urges the NCUA to make the application of the Rule retroactive as an extension of its previous temporary COVID-19 relief PCA rule which expired on December 31, 2020.[3]

As a preliminary observation, one survey respondent commented that increases in share growth are welcomed even though the short-term impact is negative. Credit unions have been through similar cycles before and understand how to prudently manage the balance sheet. Strategies to manage risk include reducing deposit rates and using short-to-mid-term investments with reasonable returns.[4] Adding excessive, long-term, historically low-rate mortgages into portfolio was not undertaken. Furthermore, in 2019, credit unions were criticized for tight liquidity options. Two years later, credit unions are criticized for the opposite. History has proven that credit unions understand how to endure the "long game" and that the model is working and effective.

II. IMPACT AND NEED FOR RETROACTIVE APPLCATION

Finalizing the April 2021 rule with a retroactive application to January 1, 2021 for FICUs with COVID-19-related share growth serves as a restoration of the status quo ante after only a brief interlude. Retroactive application is also a logical outgrowth of the April 2021 interim final rule. The preamble of the April 2021 interim final rule provided public notice of this policy option including discussing comments that NCUA received in response to the May 2020 interim final rule urging an extension of the original rule's expiration date until at least December 31, 2021. Furthermore, the Association suggests that any retroactivity be limited to FICUs with negative net worth ratio trends stemming predominantly from credit losses or other documented issues

[2] Interim Final Rule on Temporary Regulatory Relief in Response to COVID-19-Prompt Corrective Action, 85 Fed. Reg. 31592 (May 28, 2020).

[3] The May 2020 temporary COVID-19 relief PCA rule expired only 14 weeks prior to the issuance of the Rule during a transition in Presidential administrations that disrupted the usual course of federal government operation in unprecedented fashion. The expiration of the NCUA's previous temporary COVID-19 relief PCA rule was premature and presumably due at least in part to federal administrative policymaking and procedural limitations existing during the transition period. This is supported by the timing of the reissuance of a substantially similar interim final rule for good cause so soon after the May 2020 rule expired.

[4] Another survey respondent offered that additional liquidity was used to purchase loan participations and investments.

arising from COVID-19-related share growth. Marketplace impact which has occurred due to non-COVID-19 related situations should be excluded. Accordingly, the Association also believes that the flexibility found within the Rule under these parameters does not present safety and soundness concerns.

The need for the Rule and its retroactive application is clear for FICUs that have had significant COVID-19-related share growth. This temporary increase in shares is largely the result of a combination of the flight to safety by consumers into credit unions during the pandemic as well as the result of governmental COVID-19-related relief in the form of direct financial payments to taxpayers.[5] Temporary PCA relief is necessary because the negative net worth trends of FICUs are intervening, temporary changes, directly stemming from the unique and unprecedented nature of the COVID-19 pandemic.[6] They are beyond the control of FICUs and are not materially related to the long-term economic condition of FICUs.[7] Most FICUs can only build net worth through earnings retention, which takes time and is difficult to do when the credit union is temporarily flooded with short-term shares that must be invested in similarly short-term, low-yielding assets for liquidity management reasons. The Association further notes that low-income-designated credit union secondary or supplemental capital has a minimum term of five years and typically possesses a cost of capital that is not justified in the context of a temporary increase in shares for a shorter period.

III. EARLIER CAPITAL FLEXIBILITY FURTHER SUPPORTS REISSUANCE OF THE RULE AS NEED CONTINUES

In June 2020, the NCUA first took rulemaking action and approved regulatory relief measures related to the PCA regulations in anticipation that some FICUs may experience a temporary reduction in earnings and regulatory capital ratios due to their COVID-19 response efforts. These temporary modifications expired on December 31, 2020.

After their expiration and as early as March, 2021, the Association joined its colleague credit union leagues across the country and the American Association of Credit Union Leagues to request that NCUA adopt an interim final rule essentially identical to the 2020 interim final rule adopted that provided relief to credit unions experiencing PCA issues related to an increase in

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[5] One survey respondent commented that most of the share growth is not anticipated to be temporary, rather, it is expected to remain on the balance sheet.
[6] Another survey respondent noted that NCUA neglected to include a waiver as part of the second phase of relief. Waivers not granted during this period should be reconsidered and credit union's that made earnings transfers in the first quarter should be allowed to reverse the same.
[7] Survey respondents noted that direct credit union steps were taken to reduce dividend rates as a mechanism to stem the flow of deposits. Another respondent discontinued the promotion of deposit products and another halted matching marketplace rates to try to encourage rate shoppers to take deposit funds elsewhere. Such actions were reluctantly undertaken as they are to the detriment of members. Another respondent commented that the low dividend rate strategy continues to be implemented.

share growth.[8] In the interim, the Association continued member discussions with NCUA, during which each of the Board members recognized the significance of the dilemma.

Following the request, NCUA stepped forward and acted. A notation vote was taken in April to approve the issuance the Rule, which is substantially similar to NCUA's earlier COVID-19 relief PCA interim final rule issued that expired on December 31, 2020, and NCUA also released a related Letter to Credit Unions.[9] The continued impact of the COVID-19 pandemic is the basis for NCUA in reintroducing the two temporary changes to PCA regulations to prevent further operational disruptions caused by temporary COVID-19 related conditions.

The Association acknowledges that the temporary escalation in share growth and the related temporary decrease in net worth ratios for some FICUs will pass at some point just as the COVID-19 pandemic will pass.[10] The exact date when members feel financially secure enough to move away from holding cash in insured credit union accounts, however, remains undetermined. In addition to government COVID-19-relief payments being deposited in FICU accounts, many individuals have shifted away from their pre-pandemic jobs and have started small businesses or freelance work where they need to hold cash for liquidity purposes. Other individuals negatively impacted by the pandemic withdrew from retirement accounts pursuant to federal COVID-19 relief legislation and deposited those funds with FICUs. It is not expected that these individuals will move away from cash until the psychological impact of the pandemic has abated more than is presently the case.

Accordingly, the Association suggests that the extension of the Rule through March 31, 2022 is warranted and reasonable. It helps to ensure that these important and prudent PCA relief measures are available throughout the pandemic and the resulting economic turbulence and volatility. Such action also ensures that the flexibility does not expire at an arbitrary date that may require additional rulemaking. Finally, the Association suggests that the result of these collective regulatory actions serves to further promote public confidence in the credit union system.

IV. <u>Conclusion</u>

The importance of capital planning cannot be overstated. The Association commends the steps that NCUA has taken during the past 15 months to address pressures on credit unions in connection with the COVID-19 pandemic. The Rule represents another important step in this process. As a result, the Association is pleased to support the Rule and respectfully urges NCUA to make its application retroactive to January 1, 2021 as an extension of the substantially similar May 2020 interim final rule. In addition, the Association further encourages NCUA to actively

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[8] Cooperative Credit Union Association, Inc. Request Letter to NCUA, March 19, 2021.
[9] NCUA Letter to Credit Unions, 21-CU-04, June 2021.
[10] One survey respondent observed that the simple fact that credit union members turned to them during this crisis, to safeguard their money, should be viewed as a strength and not a weakness. This is when credit unions grow, historically. An economic crisis hits, rapid increases to shares occur, and net worth drops. Then credit unions build up their reserves again over time and without drastic consequences to the membership and employees. This is who credit unions are.

pursue legislative changes to section 1790d of the Federal Credit Union Act to provide additional tools to aid otherwise healthy credit unions that encounter crisis-induced PCA challenges.

The Association appreciates the opportunity to comment on NCUA's interim final rule on Temporary Regulatory Relief in Response to COVID-19-Prompt Corrective Action. If you have any questions about the recommendations set forth in this comment letter or require further information, then please do not hesitate to contact the Association at **govaff-reg@ccua.org.**

Sincerely,

Ronald McLean
President/CEO
Cooperative Credit Union Association, Inc.

RM/MAC/KB