

# Cooperative Credit Union Association

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*Creating Cooperative Power*

October 30, 2020

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

## **RE: Cooperative Credit Union Association, Inc. Comments on the Overhead Transfer Rate and Operating Fee Schedule Methodologies**

**BY ELECTRONIC MAIL ONLY: <http://www.regulations.gov>**

Dear Mr. Poliquin:

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 (“NCUA”) Board on a proposed rule (“proposal”) relative to the method used to determine the overhead transfer rate (“OTR”) and on proposed changes to the approach used to determine operating fees for federal credit unions. 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.

The Association conducted a survey of its members on the provisions of the proposed rule and member views provide the basis for this comment letter. In addition, the Association filed a separate comment letter today to NCUA on its proposed rule to determine total assets used as the basis for calculating the operating fee due from any federal credit union.<sup>1</sup>

### **A. Overhead Transfer Rate**

While the OTR has significance for the funding of the NCUA’s insurance-related activities, the Association remains sensitive to micromanaging how the OTR is set. Members are interested in the NCUA maintaining an OTR process that is transparent and fair to both federal and state chartered, federally-insured credit unions. To further assist the NCUA in fulfilling this goal, this comment letter offers some suggestions to the OTR process that may be addressed.

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<sup>1</sup> A transparent and equitable assessment of operating fees and the OTR has been a longstanding area of concern for Association members. As recently as November 20, 2019, the Association offered comments in these areas as part of NCUA’s 2020-2021 budget and budget justification process.

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The Association appreciates that the NCUA seeks to focus on the principles it uses to determine the OTR. However, the Association requests that the NCUA further clarify and update federally-insured credit unions on the unique allocation factors used by certain offices within NCUA's central office. In addition, rather than relying on weighted allocation factors to determine the OTR, the Association suggests that simply calculating each year how much time each regional and central office actually spends on insurance related activities might be more straightforward in determining how much of the NCUA's costs should be borne by the National Credit Union Share Insurance Fund ("NCUSIF").

The principles that the NCUA uses to set the OTR are:

- 50 percent insurance related - Time spent examining and supervising FCUs.
- 100 percent insurance related - All time and costs the NCUA spends supervising or evaluating the risks posed by federally-insured credit unions or other entities the NCUA does not charter or regulate, such as third-party vendors and credit union service organizations.
- 0 percent insurance related - Time and costs related to the NCUA's role as charterer and enforcer of consumer protection and other non-insurance-based laws governing the operation of credit unions, such as field-of-membership requirements.
- 100 percent insurance related - Time and costs related to the NCUA's role in administering federal share insurance and the NCUSIF.

The Association has not historically challenged this allocation yet does question whether consumer protection enforcement is completely unrelated to insurance since noncompliance requires safety and soundness enforcement. The Association suggests that this area could be an issue for future consideration by the NCUA regarding the OTR methodology.

**B. Operating Fee Methodology Proposed Changes**

The NCUA proposes several changes to the operating fee calculation methodology. These are supported by the Association. One change seeks to clarify that capital project costs will be included in the NCUA's annual budget, and thus subject to the OTR. The Association notes that this approach is beneficial as it apportions capital acquisitions equitably among federally-insured credit unions on a more timely basis than the current method of reimbursement from the NCUSIF over several budget cycles. One concern, however, is that funding for capital projects are not given a higher priority than funding for examinations and safety and soundness supervision. Certainly, capital costs and supervision are related for the NCUA, but funding for the former must be driven by how such projects support the latter regarding safety and soundness.

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The NCUA also proposes to include projected miscellaneous revenues in the total annual budget also subject to the OTR. The Association supports this change as it may help reduce the amount of funding the NCUA needs through the OTR without burdening federal credit unions.

A third change regarding the operating fee methodology seeks to adjust the tier thresholds on the operating fee schedule using the same reporting data for determining federal credit union operating fees. The Association believes that this change is positive as it would result in the overall schedule reflecting data that is used to calculate individual federal credit unions' operating fees.

### **C. Additional Questions Raised**

The Board also requests comments on three questions:

1. Should NCUA consider modifying the operating fee schedule and what specific aspects and conditions of the credit union system should be evaluated when making such decisions?

This question deserves serious consideration and the Association suggests that the NCUA should develop a separate request for comment that permits stakeholders at least 120 days to respond. However, before issuing the request for comments, it is also suggested that NCUA should organize a representative credit union working group that can provide thoughtful consideration to whether changes are needed and how they could be structured.

2. Should NCUA raise the \$1 million threshold for excusing federal credit unions from paying an operating fee?

Association members did not think that the exemption level should be raised at this time, given the uncertainties of the economy and the pandemic that could result in greater demands on the NCUA's resources. This could be an issue for reconsideration at a later time when the impact of the pandemic is better understood, has declined and the economy has strengthened.

3. Should NCUA provide credit unions with a discount in the FCU operating fee for voluntary compliance with the NCUA's diversity assessment?

Association members support incentives that are available to both federal and state-chartered credit unions for participation at any level and support the voluntary nature of the assessment. One approach could be to offer grants to federally-insured credit unions to engage in qualified training and/or that complete the regulatory survey and seek to ensure that they have taken appropriate steps to foster diversity and inclusion among their members, volunteers and within their workforce. The Association also believes that the

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NCUA could take steps to further highlight credit unions' diversity efforts as positive examples for the entire financial services sector.<sup>2</sup>

**D. Conclusion**

The Association supports the proposed changes in the operating fee methodology and offers considerations to clarify the OTR. The Association encourages the NCUA to organize a credit union working group to better understand the impact and further address the fee schedule for federal credit unions. In addition, incentives, perhaps in the form of grants, could be useful in encouraging the use of the NCUA's diversity and inclusion efforts.

Thank you for the opportunity to share the views of the Association's members on the proposed rule relative to the OTR and operating fee schedule methodologies. 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](mailto:govaff-reg@ccua.org).

Sincerely,



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RM/mac/kb

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<sup>2</sup> The Association recognizes the far-reaching impact of the current pandemic and the challenges it poses to hosting in-person discussions. The NCUA's Diversity Equity & Inclusion ("DEI") Summit, launched on November 6, 2019, was instrumental in setting a benchmark for credit unions in the DEI landscape. The Association suggests that an online resource could be developed by NCUA that would share voluntarily submitted examples of efforts developing in credit union boardrooms and breakrooms to support DEI in the workplace. Insights into affirmative action programs, pay equity, protected activities, and related topics could also be included. Furthermore, the Association suggests that credit unions have a stakeholder interest in NCUA's own Culture, Diversity, and Inclusion Council, charged with a mission to build an organizational culture where shared values, beliefs, and behavioral norms around the principles of equity, diversity, inclusion, engagement, and leadership align with the NCUA's strategic priorities to optimize the agency's performance. Updates on the progress of this Council could also be included in the dedicated, on-line resource. These efforts will serve as a beacon to link industry ideas, suggestions and progress in between the delivery of NCUA DEI Summit programs.