

Cooperative Credit Union Association

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Creating Cooperative Power

February 2, 2021

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

RIN 3133–AF30

**Re: Cooperative Credit Union Association Inc.’s Comments on Proposed Rule:
Capitalization of Interest in Connection with Loan Workouts and Modifications**

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 a proposed rule (“proposal”) relative to the capitalization of interest in connection with loan workouts and modifications. 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 thrust of the proposal is to remove the prohibition imposed on the ability of federally-insured credit unions to capitalize interest in connection with loan workouts and modifications. The Association acknowledges that the proposal addresses the capitalization of interest which refers to the addition of unpaid interest to the principal balance of a loan. This practice is particularly useful in managing loans in deferment or forbearance. Most importantly for credit unions, it seeks to provide a welcomed opportunity to offer an economic lifeline to members still facing financial hardships.

For almost a year, policymakers in member states at every level have diligently encouraged and expected credit unions, as local lenders with a mission and focus on helping working families in times of the greatest distress, to defer loan payments during the pandemic. Often, these requests were significant in strength and without any understanding of underwriting, contractual terms, or regulatory expectations. In fact, regulatory call reports were amended to track this impact and regulators used direct data collection approaches to monitor market trends.

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To accomplish this goal, underwriting options faced by credit unions include recapturing the deferred interest first as the borrower resumes making payments, lowering the amount of principal balance reduction, and creating a balloon payment at maturity. Another option is to extend the loan by approximately the number of payments deferred. However, the additional interest added does not result in a benefit to the borrower as a longer repayment period exists. As Association credit unions closely monitored changes in their members' employment and financial conditions, borrowers expressly rejected any "kick the can down the road" approach. Not only did members repeatedly demonstrate a sincere desire to continue to make loan payments as best as they could, but they also expressed a genuine fear of the unknown in their financial future, some for the first time, facing the realistic possibility that things could become worse as the state of emergency endures, as job loss becomes closer and as other family obligations, including health scares, increase despite belt-tightening steps.

It is without question that the ability to use the tool set forth in the proposal is a long-awaited solution to the operational difficulty posed and a stress reducer for members. As the preferred relief requested by Association members since the initial declaration of emergency and as the pandemic and economic crises continue to evolve, it is strongly supported.¹ Association members agree with the NCUA that the current prohibition on authorizing additional advances to finance unpaid interest is overly burdensome and, in some cases, hampers a federally-insured credit union's good faith efforts to engage in loan workouts.

Key points of the proposal of particular interest to Association members which are supported include:

- Applies to workouts of all types of member loans, including commercial and business loans;
- Capitalization of interest constitutes the addition of accrued but unpaid interest to the principal balance of a loan;
- Permits advances to cover third party fees to protect loan collateral, such as force placed insurance or property taxes;
- Inserts a "best interest of the borrower" standard for workouts which, in essence, is a borrower's renewed willingness and ability to repay the loan²;

¹ The Association notes that the spotlight on the need for change as a tenet of member service accelerated due to the arrival of COVID-19 and that the proposal seeks to remove the existing prohibition permanently. Carefully crafted credit union policies and underwriting are the paths to ensure that loan delinquency is not masked when capitalizing interest under the proposal regardless of the nature or duration of a member's change in financial circumstances. Accordingly, if the NCUA determines that a permanent change is not possible in any final rule, then the Association requests that the proposal move forward and remain in effect through at least 2023 with the opportunity for extension.

² While credit unions are versed in underwriting loans that are in a borrower's best interests, the Association cautions the NCUA to strike an appropriate balance, considering the totality of

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- Prohibits loan terms that result in negative amortization; and
- Details policy requirements including limits on the number of modifications allowed for an individual loan; compliance with all applicable federal and state consumer protection laws and regulations; accurate written disclosures; appropriate reporting of loan status; prudent procedures to help borrowers resume affordable and sustainable repayments that are appropriately structured; and appropriate safety and soundness safeguards.

Further, the Association notes that the NCUA also requests comments under the proposal on the prohibition on additional advances to finance credit union fees and commissions and encourages the removal of this prohibition as well. Reasonable fees should be consensual and permitted to be capitalized as part of a modification. Prohibition of fee capitalization creates a further burden on a credit union's membership whenever members are already unable to meet their original loan commitments. The Association believes that credit unions should have the ability to collect reasonable unpaid fees, such as any modification fees, as long as there is fair and transparent consumer disclosure.

Finally, in all rulemaking, the credit unions support NCUA's efforts to create consistency with other banking regulators in lending and to facilitate operational ease wherever possible. Without the proposed correction, some Association members are faced choices to serve members using manual interest calculations or suspending the entire deferred interest until the end of the loan. The elimination of such operational nightmares and handcuffs on loan servicing options is overdue.

Thank you for the opportunity to share views on the proposal relative to the capitalization of interest in connection with loan workouts and modifications. The Association respectfully requests that the rulemaking proposed continue to advance as expeditiously as possible as the unprecedented pandemic continues. 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
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RM/mac/kb

circumstances, so that administrative burdens do not outweigh member benefits. Temporary income impairment may challenge documentary proof that examiners traditionally expect.