



June 25, 2015

The Honorable Dean Heller
United States Senate
Washington, D.C. 20510

The Honorable Mark Warner
United States Senate
Washington, D.C. 20510

Re: NASCUS Support for S. 924, the National Credit Union Administration Budget Transparency Act

Dear Senators Heller and Warner:

On behalf of the National Association of State Credit Union Supervisors (NASCUS), the professional association of the 46 state credit union regulatory agencies that charter and supervise the nation's state-chartered credit unions, I am writing you today to express our strong support for the National Credit Union Administration Budget Transparency Act (S. 924). Thank you for your leadership in promoting oversight, accountability, and transparency in the agency's allocation of costs and expenses.

As you know, the bill would require the National Credit Union Administration (NCUA) to open its budget process to notice and comment from stakeholders and the public. A formal notice and comment requirement for NCUA's budget, including the overhead transfer rate (OTR), is not only sound public policy; it also helps ensure an equitable playing field for state and federally chartered credit unions.

NCUA is unique in that it both charters federal credit unions and administers the credit union share insurance fund. As both a charterer and share insurer, NCUA funds its operations through an operating fee charged directly to federal credit unions, and by transferring money from the share insurance fund to the agency through the OTR. How NCUA allocates its expenses and draws its operating funds substantially impacts the dual chartering system.

Currently, the agency funds 71.8% of its total budget from the OTR. Although the OTR is meant to cover only "insurance related" costs, NCUA charges virtually all activities related to safety and soundness in federal credit unions to the share insurance fund. By contrast, state-chartered credit unions pay the cost of their safety and soundness examinations to their chartering authority: state regulators. As a result, the cost of federal credit union examinations are being subsidized by the insurance fund, artificially reducing the cost of a federal charter as compared to a state charter.

For example, FCU Operating Fees budgeted for 2014 dropped \$10.5 million (11.3%) as compared to the 2013 FCU Operating Fees, notwithstanding a \$26.5 million increase in the NCUA Operating Budget for 2014. The reduction in FCU Operating Fees was a direct result of the corresponding 10.1% increase in the OTR for the same period. This represents a significant reallocation of direct assessment expenses for federal credit unions into indirect insurance fund contributions that are borne by both state and federal credit unions.

One of the reasons that the U.S. financial system is the most innovative in the world is that, at its core, it is a dual chartering system that fosters cooperative competition between state and federal chartering authorities. How NCUA allocates its operating costs has the potential to artificially imbalance the dual chartering system with respect to the credit union sector. A formal notice and comment process provides stakeholders a meaningful opportunity to evaluate and formally respond to NCUA's allocation of expenses across the industry.

Furthermore, a legal analysis recently commissioned by NASCUS from a Washington, D.C. law firm concluded that NCUA's failure to submit the OTR to notice and comment is a violation of the Administrative Procedure Act (APA). The OTR's bearing on costs and competition in the credit union industry make it a "major rule" under the APA, and, notably, the other federal banking agencies all follow the APA notice and comment process for similar deliberations regarding assessments and fees. Nevertheless, NCUA has never opened the OTR rate or methodology to formal notice and comment. It is imperative that Congress take action to ensure that NCUA is abiding by its obligations under the APA to consider stakeholder concerns.

On behalf of the nation's state credit union supervisors and the state-chartered credit unions they regulate, we appreciate all of your hard work on this important legislation. If NASCUS can be of any assistance, please don't hesitate to reach out to me directly, or to our Regulatory and Public Policy Counsel, Sabrina Bergen, at (703) 528-0669.

Sincerely,



Lucy Ito
President & CEO