August 30, 2017

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

Re: NASCUS Comments on Stabilization Fund Closure

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 the closing of the Temporary Corporate Credit Union Stabilization Fund (TCCUSF). In addition to merging the TCCUSF into the National Credit Union Share Insurance Fund (NCUSIF), NCUA proposes raising the NCUSIF's operating level from its current 1.3% to 1.39%, and changing the policy by which the NCUA board sets the NCUSIF's normal operating level in the future.[1]

The statute creating the TCCUSF contained specific provisions establishing prerequisites for the fund's closure. We agree with NCUA's conclusion that the statutory criteria have been met and that it is within NCUA's discretion to close the TCCUSF before 2021.[2]

The benefits to NCUA and the credit union system of merging the TCCUSF into the NCUSIF this year are straightforward. Merging the two funds now, rather than in 2021, provides NCUA the opportunity to return value to federally insured credit unions (FICUs) in the form of an NCUSIF distribution rebating a portion of assessments paid into the TCCUSF to help fund the NCUA Guaranteed Notes and the resolution of the corporate management estates. As of March 20117, the TCCUSF has a net positive of $1.6 billion. The current surplus in the TCCUSF, once merged into the NCUSIF, is sufficient to raise the NCUSIF's equity ratio above the current normal operating level of 1.3% to a proposed 1.39% *and* fund a distribution back to FICUs of approximately $600 million - $800 million.[3]

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[1] Closing the Temporary Corporate Credit Union Stabilization Fund and Setting the Share Insurance Fund Normal Operating Level, NCUA Board meeting (July 20, 2017). Available at https://www.ncua.gov/About/Documents/Agenda%20Items/AG20170720Item4b.pdf.
[2] Helping Families Save Their Homes Act of 2009, Public Law 11-22.
[3] NCUA Request for Comments, p. 7 and 28.

The risk of closing the TCCUSF and distributing its current surplus is that the NCUSIF assumes the exposure to the financial obligations of the corporate resolution program going forward. Should there be an economic downturn, the value of the legacy estates would decline, in turn triggering a decline in the NCUSIF's equity ratio. Under that scenario, NCUA would need to charge NCUSIF premiums to all insured credit unions to restore the equity ratio of the insurance fund.

NCUA has indicated it believes the benefits of closing the TCCUSF in 2017 outweighs the risks. While the integrity of the NCUSIF and its administration are NCUA's responsibility, the burden and the cost of the risk of merging the two funds is ultimately borne by FICUs. In spite of this financial risk, many of the state chartered credit union stakeholders with which we have discussed this issue are in favor of merging the funds and initiating distribution of the TCCUSF surplus back to FICUs. We believe that state chartered credit unions understand the risk of merging the two funds this year and initiating distribution of the current surplus in 2018.

NASCUS recognizes that over the past nine years, credit unions have worked incredibly hard to pull thru the recession and serve their members while having paid substantial amounts in TCCUSF and NCUSIF assessments and premiums. With respect to closing the TCCUSF, we defer to credit unions whose funds constitute a portion of the surplus and who ultimately shoulder the financial burden of whatever decision is made.

In addition to comments on the closing of the TCCUSF, NCUA has also requested comments on raising the equity ratio of the NCUSIF to 1.39% in order to provide a cushion for the insurance fund should an economic downturn encumber the performance of the legacy estates as well as precipitate losses in natural person credit unions. Temporarily increasing the normal operating level of the NCUSIF for the duration of the corporate resolution is prudent. However, that the credit union system will be uneasy about increasing the equity ratio to 1.39% is easily foreseeable. The increase in the operating level decreases the funds available for distribution, and nothing in the proposal guarantees that an operating level of 1.39% for the NCUSIF will not become the new normal. That NCUA is on record asserting the need for an NCUSIF equity ratio of 2% does little to assuage the concerns of credit unions.[4]

We recommend NCUA take steps to create a mechanism that guarantees any increase in the NCUSIF normal operating level as a hedge against a recession sunset automatically at the conclusion of the corporate resolution.

Finally, NCUA proposes to change its policy for establishing the future normal operating ratio of the NCUSIF. We have no objections to NCUA considering a new policy and revised formula to inform the normal operating level of the NCUSIF. The Federal Credit Union Act (FCUA) accords NCUA considerable flexibility to establish the normal operating level between statutorily defined parameters of 1.2-1.5%. In addition, regardless of the operating level set by NCUA, the FCUA limits NCUA's ability to charge

[4] National Credit Union Share Insurance Fund Improvements, NCUA White Paper (September 2013), p. 11.

premium assessments to FICUs to times when the actual equity ratio of the fund is above 1.3%.[5]

We thank NCUA for the opportunity to share our views on issues related to the closure of the TCCUSF. NASCUS 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

[5] This limitation contributes to the concerns of some that NCUA would permanently retain some of the TCCUSF surplus to maintain a 1.39% operating level for the NCUSIF after the corporate resolution because the agency is constrained in raising the equity ratio above 1.3% by means other than investment income.