

Updated: June 6, 2019

# NASCUS POLICIES

The logo for NASCUS, featuring the word "NASCUS" in a bold, blue, sans-serif font. A light blue, curved line sweeps across the middle of the letters, starting under the 'N' and ending under the 'S'.

The National Voice of the State Credit Union System

# Introduction

NASCUS policies are defined as those policies or positions the Board establishes on issues of general importance and application to the credit union system.

# Current NASCUS Policies

	<b><u>Policy</u></b>	<b><u>Enacted</u></b>	<b><u>Sunset</u></b>
1	Litigation Assistance	1994	2020
2	NASCUS/NCUA Document of Cooperation	1999	2020
3	Expanding the NCUA Board	1995	2019
4	Separation of Insurance from Supervision	1996	2019
5	Consolidation of Rules	1999	2021
6	Federal Examination Fees for State-Chartered Institutions	2000	2021
7	Net Worth Definition	2002	2019
8	NASCUS Policy on Specific State Issues	2003	2020
9	Protecting State Credit Union Powers & Options	2003	2020
10	NASCUS Policy on Endorsements and Sponsorships	2003	2021
11	Converting a State-Chartered Credit Union to another Financial Institution	2004	2021
12	Compliance with Federal Regulations	2005	2021
13	Enhancing the Value of the Credit Union Charter	2005	2020
14	Partnerships to Enhance Education & Training	2012	2021
15	NCUA Third Party Authority	2015	2019
16	Cannabis Banking Legislation	2015	2020
17	Statutory Changes to the NCUSIF	2016	2019
18	NCUA's Establishment of the Overhead Transfer Rate	2016	2021
19	Creation of an NCUA Federally Insured Credit Union Advisory Council	2017	2020
20	Federal Cybersecurity Legislation & Breach Notification	2019	2022

\*\*\*\*\*

## **1) Policy: Litigation Assistance**

Enacted: September 1994  
Amended & Re-enacted: August 23, 2005  
Re-enacted: May 9, 2008  
Re-enacted: June 24, 2011  
Re-enacted: June 18, 2014  
Re-enacted: March 2, 2017

Scheduled to sunset: August 2020

- 1) NASCUS may provide assistance from its counsel or other available legal resources when called upon by regulator member who is involved in a matter of general interest to a NASCUS member.
- 2) NASCUS will participate in litigation on appeal with its regulator members only with the approval of its Board of Directors. In evaluating whether NASCUS should submit pleadings, briefs or documents in litigation on appeal, the Board should consider:
  - a) The importance of the issue to dual chartering or regulatory autonomy;
  - b) The degree to which a decision is likely to be premised upon a matter of importance to dual chartering or regulatory autonomy;
  - c) The extent to which NASCUS participation appears to be critical on appeal;
  - d) The extent to which NASCUS is able to present matters which would be as effectively presented by others;
  - e) The extent to which the litigant or others will assist in the financial burden to NASCUS.
- 3) Exceptions to this litigation assistance policy may be made by the NASCUS Board upon timely application and proof of extraordinary circumstances which justify such an exception.

## **2) Policy: NASCUS/NCUA Document of Cooperation**

Enacted: June 1999  
Amended & Re-enacted: August 23, 2005  
Amended & Re-enacted: August 2008  
Re-enacted: June 24, 2011  
Re-enacted: June 18, 2014  
Re-enacted: March 2, 2017

Scheduled to sunset: August 2020

NASCUS seeks to maintain a cooperative working relationship with the NCUA. As the federal insurer, NCUA's actions impact the state credit union system and affect state regulators. To facilitate a cooperative working relationship with NCUA, NASCUS will maintain a signed Document of Cooperation establishing standards of interaction between the State regulatory system and NCUA. As needed, NASCUS will work with NCUA to amend and update the Document of Cooperation so it shall remain a valid and useful tool to balance the dual interests of the state and federal regulators.

### **3) Policy: Expanding the NCUA Board**

Enacted: September, 1995  
Amended & Re-enacted: August 23, 2005  
Re-enacted: May 9, 2008  
Re-enacted: June 24, 2011  
Amended & Re-enacted: June 11, 2013  
Re-enacted: April 20, 2016

Scheduled to Sunset: August 2019

NASCUS supports expanding the NCUA Board from three to five members. Furthermore, NASCUS supports dedicating one NCUA Board seat for a person with experience as a state credit union regulator.

If unable to achieve expansion of the NCUA Board through amendment to the FCUA, NASCUS remains committed to achieving a dedicated NCUA Board seat for an individual with experience as a state regulator.

### **4) Policy: Separation of Insurance from Supervision**

Enacted: September, 1995  
Amended & Re-enacted: August 23, 2005  
Amended & Re-enacted May 2007  
Re-enacted: June 2010  
Re-enacted: June 2013  
Amended & Re-enacted: April 20, 2016

Scheduled to Sunset: August 2019

NCUA's role as the chartering authority for federal credit unions and as the administrator of the credit union share insurance fund presents a potential conflict of interest within the Agency unless those functions are internally separated.

To ensure a safe, sound and equitable dual chartering system, the Title II insurance and Title I supervision functions of the NCUA should be separated within the agency.

**5) Policy: Consolidation of Rules**

Enacted: March 1999  
Amended & Re-enacted: August 23, 2005  
Re-enacted: May 2009  
Re-enacted: June 2012  
Re-enacted: June 2015  
Amended & Re-enacted: March 2018

Scheduled to Sunset: August 2021

NCUA should consolidate all federal share insurance rules in a single section of its Rules and Regulations. The current practice, incorporation by reference, creates an unnecessary burden on state credit unions and both state and federal examiners. Complete incorporation would eliminate any doubts as to which rules apply to federally insured credit unions in whole or in part.

**6) Policy: Federal Examination Fees for State Chartered Institutions**

Enacted: March 20, 2000  
Amended & Re-enacted: August 23, 2005  
Re-enacted: May 29, 2009  
Re-enacted: June 2012  
Re-enacted: June 2015  
Re-enacted: March 2018

Scheduled to Sunset: August 2021

NASCUS opposes federal examination fees for federally insured state-chartered credit unions.

**7) Policy: Net Worth Definition**

Enacted: March 24, 2002  
Amended & Re-enacted: August 23, 2005  
Amended & Re-enacted: May, 2007  
Amended & Re-enacted: June 2010  
Re-enacted: June 2013

Re-enacted: April 20, 2016

Scheduled to Sunset: August 2019

NASCUS supports broadening the definition of “net worth” in the Federal Credit Union Act to permit state-chartered credit unions to include other forms of capital in any capital calculations. NASCUS will:

1. Support modernizing the definition of net worth in the Federal Credit Union Act to permit supplemental capital to be counted as regulatory capital to improve the safety and soundness of the credit union system and add additional protection for the NCUSIF.
2. Support the addition of risk -based capital to the net worth calculation for the current NCUA federal PCA/net worth requirement.

**8) Policy: NASCUS Policy on Specific State Issues**

Enacted: March 8, 2003

Amended & Re-enacted: March 3, 2008

Re-enacted: June 24, 2011

Amended & Re-enacted: June 18, 2014

Re-enacted: March 2, 2017

Scheduled to sunset: August 2020

NASCUS may become involved in specific state issues when requested by a NASCUS *state supervisory authority member*, or when requested by a credit union member or a Dual Chartering Benefactor if there is no objection by the state supervisory authority.

**9) Policy: Protecting State Credit Union Powers & Options**

Enacted: March 8, 2003

Re-enacted: August 23, 2005

Amended and Re-enacted: May 9, 2008

Re-enacted: June 24, 2011

Re-enacted: June 18, 2014

Re-enacted: March 2, 2017

Scheduled to sunset: August 2020

The dual chartering system is predicated upon the ability of states to authorize varying powers for their state credit unions. NASCUS will actively oppose efforts to preempt and infringe upon state authority to empower their credit unions under state specific rules to engage in activities deemed appropriate in that state. NASCUS should take an active role in advocating for the state system’s rights to define credit union powers.

**10) Policy: NASCUS Policy on Endorsements and Sponsorships**

Enacted: September 6, 2003  
Re-enacted: August 23, 2005  
Re-enacted: May 29, 2009  
Amended and Re-enacted: June 2012  
Re-enacted: June, 2015  
Amended and Re-enacted: March 2018

Scheduled to Sunset: August 2021

NASCUS will not endorse products or services provided by third-party vendors. A third-party endorsement is defined as support for a product or service which would imply an exclusive arrangement, or “seal of approval” by NASCUS. NASCUS may solicit or accept sponsorships or other support, provided that such acceptance does not result in a third-party endorsement. This prohibition does not extend to partnerships through which NASCUS may facilitate the access of examiners and credit unions to high quality training and educational opportunities.

**11) Policy: Converting a State-Chartered Credit Union to Another Financial Institution**

Enacted: March 6, 2004  
Re-enacted: August 23, 2005  
Re-enacted: May 29, 2009  
Re-enacted: June 2012  
Re-enacted: June 2015  
Re-enacted: March 2018

Scheduled to Sunset: August 2021

The process for converting a state-chartered credit union to another financial institution charter is a matter that should be determined by state law and regulation.



**12) Policy: Compliance with Federal Regulations**

Enacted: August 23, 2005  
Re-enacted: May 29, 2009  
Re-enacted: June 2012  
Re-enacted: June, 2015  
Re-enacted: September 2018

Scheduled to Sunset: August 2021

NASCUS encourages state regulatory agencies to examine state-chartered credit unions for compliance with applicable federal laws and regulations. State examination for compliance in these areas strengthens the state credit union system, bolsters state autonomy, and reduces regulatory burdens on state-chartered credit unions by reducing the need for independent federal examination for compliance.

**13) Policy: Enhancing the Value of the Credit Union Charter**

Enacted: June 10, 2005  
Amended and Re-enacted: May 9, 2008  
Re-enacted: June 24, 2011  
Re-enacted: June 18, 2014  
Re-enacted: March 2, 2017

Scheduled to sunset: August 2020

NASCUS generally supports Congressional efforts to improve the value of the credit union charter that do not preempt the authority of state regulations or compromise safety and soundness and the dual chartering system.

**14) Policy: Partnerships to Enhance Education and Training**

Enacted: September, 2012  
Re-enacted: June, 2015  
Re-enacted: March 2018

Scheduled to Sunset: September, 2021

To support a strong state credit union system, excellence in state credit union supervision, and safe and sound credit union operations, NASCUS provides high quality training and educational opportunities for its members. In order to maintain a vibrant, timely and effective training program NASCUS shall continuously develop its educational curriculum, faculty and delivery platforms.

As appropriate, NASCUS may partner, promote, or otherwise affiliate with entities in furtherance of providing or expanding access to high quality training for NASCUS members and the state system.

As necessary, the Board shall review such relationships to ensure the relationships remain consistent with NASCUS' mission, purpose and identity.

**15) Policy: NCUA Third Party Authority**

Enacted: July, 2015

Scheduled to Sunset: August 2019

NASCUS supports NCUA obtaining examination authority over technology service providers (TSPs) that provide services to federally insured credit unions, provided that any such authority requires NCUA to rely on state examinations of such service providers where such authority exists at the state level.

NASCUS further supports efforts to strengthen state regulatory examination and supervision of third parties providing services to state chartered credit institutions.

**16) Policy: Cannabis Banking Legislation**

Enacted: July, 2015

Amended & Re-enacted: April 20, 2016

Re-enacted: March 2, 2017

Re-enacted: March 2018

Amended & Re-enacted: June 2019

Scheduled to sunset: August 2020

NASCUS supports federal legislation making it permissible for financial institutions to provide financial services to state authorized cannabis businesses and to third-party businesses that serve the cannabis businesses.

(Note: Other NASCUS policies are reviewed every 3 years. Due to the rapidly evolving nature of cannabis state legislation and federal responses, this policy is reviewed annually.)

### **17) Policy: Statutory Changes to the NCUSIF**

Enacted: August, 2016

Scheduled to Sunset: August 2019

Any changes to the statutory structure of the National Credit Union Share Insurance Fund (NCUSIF) should be evaluated and developed in conjunction with state regulators and credit union stakeholders. In particular, state regulators have experience and expertise with statutory and operational construct of the bank deposit insurance fund that would help inform possible changes to the NCUSIF. Furthermore, any changes to the NCUSIF that introduce greater discretion in its administration of equity ratios and premiums must be accompanied by concurrent changes in its oversight that ensure the incorporation of the perspective of state regulatory experience.

### **18) Policy: NCUA's Establishment of the Overhead Transfer Rate**

Enacted: August, 2016

Amended and Re-enacted: March 2018

Scheduled to Sunset: August 2021

The OTR methodology should be guided by principles of equity and transparency. Continued stakeholder input by way of formal notice and comment, and an acknowledgement of NCUA's dual role as insurer and chartering authority are essential and should remain fundamental criteria of a fair methodology.

### **19) Policy: Creation of an NCUA Federally Insured Credit Union Advisory Council**

Enacted: April 2017

Scheduled to Sunset: August 2020

Properly balanced regulation and supervision considers not just the risk to be mitigated. It should take into account the burden of compliance and the need for business flexibility and innovation. To help achieve that proper balance, there should be robust dialogue between the regulator and the regulated.

As administrator of the National Credit Union Share Insurance Fund, NCUA should form an advisory council of federally insured credit unions to provide NCUA with advice and guidance on issues related to share insurance regulation and supervision. Such an advisory

council should consist of equal numbers of state chartered and federally chartered credit unions and should convene at least twice annually with the NCUA board in public meetings.

**20) Policy: Federal Cybersecurity Legislation & Breach Notification**

Enacted: June 2019

Scheduled to Sunset: August 2022

Federal legislation addressing cybersecurity and breach notification must:

- 1) apply cybersecurity and requirements and disclosure obligations to merchants that handle consumers personally identifiable information and personal financial information.
- 2) preserve the authority of states to regulate and supervise cybersecurity and privacy protections for the benefit of their citizens by setting federal standards only as a floor, not a ceiling, for state specific protections.