



The National Voice of the State Credit Union System

March 9, 2021

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

Re: NASCUS Comments on Request for Information on NCUA Communications and Transparency

Dear Secretary Conyers-Ausbrooks:

The National Association of State Credit Union Supervisors (NASCUS)¹ submits this letter in response to the National Credit Union Administration's (NCUA's) Request for Information (RFI) on the agency's Communications and Transparency.² NCUA seeks comments on how the agency may improve its communications to improve efficiency, transparency, and regulatory compliance. NASCUS commends NCUA on the comprehensive nature of its communications strategy and delivery. Overall, we find NCUA's website and publications to be tremendously useful for stakeholders. There some modifications NCUA undertake to further enhance its already robust communications, and we discuss several of those in our comments that follow.

NCUA Communications as a Compliance Resource

One of the primary pillars of NCUA communications is as a resource for compliance. Stakeholders from all parts of the broader credit union system, and the public at-large, access NCUA's website and monitor additional NCUA communications channels to identify compliance obligations, answer compliance questions, or evaluate guidance. NCUA makes available a commendable amount of compliance related information in a relatively well-organized fashion.

The single most important step NCUA could take to achieve the agency's stated goal to "minimize unnecessary regulatory and operation burdens as much as possible and promote compliance with all applicable laws and regulations" would be to more clearly communicate to federally insured state credit unions (FISCU) not only which regulations apply and do not

¹ NASCUS is the professional association of the nation's 45 state credit union regulatory agencies that charter and supervise over 2,000 state credit unions. NASCUS membership includes state regulatory agencies, state chartered and federally chartered credit unions, and other important stakeholders in the state system. State chartered credit unions hold nearly half the \$1.76 trillion assets in the credit union system and are proud to represent nearly half of the 123 million credit union members.

² "Request for Information on NCUA Communications and Transparency" 86 Fed. Reg. 1532 (January 8, 2021).

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apply to state charters but also the clear chain of regulatory citation applicable to any given issue being communicated.³

In some circumstances, NCUA's communications distinguish between FISCO and federal credit union issues.⁴ But often, NCUA communications fall short in clearly communicating to FISCUs *what applies* and *how*.⁵ For example, NCUA's annual Regulatory Review identifies provisions of NCUA Rules and Regulation under review without identifying to FISCUs which of those provisions apply. In May 2020, NCUA issued Letters to Credit Unions 20-CU-16 Low-Income Designations: Qualifications of Military Personnel. That communication from NCUA cites NCUA's Low-Income Designation rule, 12 C.F.R 701.34, but fails to provide FISCUs the corresponding citation applying that provision to state credit unions: 12 C.F.R 741.204. In 2018, NCUA issued Legal Opinion 18-0133 regarding loan participations. The opinion letter dutifully cited NCUA's loan participation rules in § 701.22 in providing useful guidance on NCUA expectations for loan participations. However, the letter leaves FISCUs unsure of the information's applicability to them. Of course, further complicating the matter for FISCUs is the fact that the reference to § 701.22 applying aspects of NCUA's loan participation rule to state charters is not found with FISCO loan policy requirements in Part 741.203 but rather in Part 741.225. There is simply no reasonable justification for preserving an organizational framework for compliance guidance that requires FISCUs to spend time searching thru the regulations to determine if the information being evaluated applies to them and how it applies to them.

To clearly communicate compliance obligations, NCUA should implement the following changes to agency communications:

- 1) Reorganize the agency's Rules and Regulations to consolidate all rules applicable to FISCUs. Consolidating FISCO share insurance rules will much more clearly communicate compliance obligations and reduce the regulatory burden of FISCUs constantly having to search thru dozens of NCUA rules to identify references to rules that apply to them.
- 2) As a matter of practice, all NCUA communications applicable to FISCUs should contain **all** relevant regulatory and statutory citations, including the reference to Part 741 of NCUA's rules that applies the subject matter of the NCUA communication to FISCUs. Going forward there should never be an NCUA compliance communication applicable to FISCUs that does not contain a reference to Part 741.

Another shortcoming of NCUA's communications of supervisory information is the presentation of "Joint Statements" and other "Interagency" initiatives, statements, and

³ Ibid.

⁴ For example NCUA Letter to Credit Unions and NCUA Letter to Federal Credit Unions.

⁵ See Letters to Credit Unions and Letters to Federal Credit Unions. However, even within this distinction there is occasional confusion. In 2020, NCUA issued Letters to Credit Unions 20-CU-21 Field of Membership – Rural Districts as a letter for all federally insured credit unions even though field of membership is a FCU specific issue.

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guidance NCUA issues in conjunction with its peer federal and state regulatory agencies. Currently, these interagency statements are communicated via NCUA press releases and occasionally included in a “Letters to Credit Unions” issuance. For the most part however, such guidance is presented on NCUA.gov among lists of press releases. These communications would be better listed among the NCUA’s other forms of guidance under the “Regulation and Supervision” landing page.

- 3) NASCUS recommends NCUA maintain a list of interagency statements and guidance on the NCUA.gov website where other regulatory and supervisory guidance is presented.

NCUA Communications as a Data Resource

NCUA’s presentation of data is generally very good. One area where NCUA could improve the presentation of data is the presentation of information related to mergers and charter conversions.

In June 2018, NCUA changed the way the agency reported merger and conversion information. While the current excel zip file format provides detailed information on individual mergers, the pre-2018 format was far more reader friendly for communicating overall trends in charter mergers and charter conversions.⁶

- 1) NASCUS recommends NCUA reincorporate the pre-2018 format for reporting of aggregate charter conversion data into the current excel format to provide both an individual transaction data set as well as systemic data. The aggregate systemic data is valuable to stakeholders thinking strategically about the effect and implications of trends in consolidation and charter conversion on the system as a whole.

NCUA Communications for Agency Initiatives and Services

In most cases, navigating NCUA.gov to access information on NCUA as an agency, or to locate information on services provided by NCUA are intuitive and straightforward. One subject in dire need of improved presentation is information on applying for share insurance coverage for individuals exploring a de novo credit union charter. Currently, NCUA’s website conflates the application for a federal charter with information sought by those contemplating a state charter and solely in need of information regarding the share insurance process.

One of the challenges facing the credit union system as a whole is the relative dearth of de novo charters. In addition to the hurdles of raising capital, the chartering process itself can be lengthy. Even a modest de-cluttering of the application process could mark a significant improvement in the chartering environment. By providing clear instructions and applications for share insurance, NCUA can enhance the efficiency of chartering state credit unions.

⁶ See <https://www.ncua.gov/analysis/chartering-mergers/merger-activity-insurance-report>.

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- 1) NASCUS recommends NCUA create a dedicated page on NCUA.gov to provide information for de novo state credit unions seeking to apply for federal share insurance. We further recommend NCUA consult FDIC.gov for an example of a share insurance application page.⁷ The dedicated share insurance page should include a share insurance application designed for non FCU applicants.

NCUA's website also contains information for banks exploring conversion to a credit union charter.⁸ We applaud NCUA for including a notation for interested parties that in addition to possible conversion from non-credit union charter to FCU charter there are in many states the option of converting to a state charter. NCUA directs parties interested in conversion to a state charter to "contact the state regulator" but does not provide any further direction.

Communicating information on conversion to a credit union charter would be more effective if NCUA provided a link for individuals interested in converting to a state charter. NASCUS can provide additional information and contact for state regulators were NCUA to provide a link to NASCUS. Providing a link to NASCUS for additional information would be similar to NCUA's webpage dedicated to Financial Literacy and Education which provides helpful links to various non-profits dedicated to financial literacy.⁹

- 2) NASCUS recommends NCUA provide a link to NASCUS for parties seeking information on conversion to a credit union charter.

In additional to our general recommendations above, NASCUS submits the following responses to the eight question for which NCUA sought specific comment in the *Federal Register* notice:¹⁰

- 1) The NCUA issues, or has issued, regulatory and supervisory guidance under a variety of different letterheads, including Letters to Credit Unions, Letters to Federal Credit Unions, Corporate Credit Union Guidance Letters, Accounting Bulletins, Risk Alerts, Regulatory Alerts, Consumer Financial Protection Updates, and Supervisory Letters. Is this practice effective? Should the agency consider consolidating its supervisory guidance into fewer letterheads?**

Generally, NASCUS has found NCUA's guidance to be of great value and believe the distinctions between types of guidance is helpful from an organizational perspective. As previously noted, NCUA's distinction between "Letters to Federal Credit Unions" and "Letters to Credit Unions" is extremely important in helping FISCUs focus only on guidance relevant

⁷ See <https://www.fdic.gov/regulations/applications/depositinsurance/>.

⁸ See <https://www.ncua.gov/support-services/credit-union-resources-expansion/chartering/bank-credit-union-conversions>.

⁹ See <https://www.ncua.gov/consumers/financial-literacy-resources>.

¹⁰ 86 Fed. Reg. 1533 (January 8, 2021).

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to them. We strongly support NCUA maintaining the distinction between guidance relevant only to FCUs and guidance relevant to all FICUs. As noted throughout our comments, the comingling of issues related to NCUA's chartering authority and NCUA's share insurance administration presents the greatest burden to FISCUs. Distinguishing between "Letters to Credit Unions" and "Letters to Federal Credit Unions" mitigates the potential for confusion.

NASCUS also supports NCUA's current practice of distinguishing between Accounting Bulletins, Regulatory Alerts, and Letters to Credit Unions. However, NASCUS is less certain about the continued efficacy of NCUA's maintain "Risk Alerts" and "Consumer Financial Protection Updates."

NCUA characterizes "Risk Alerts" as detailing "practices or external threats that potentially are a significant risk to the safety and soundness of the credit union system." Since August 2019, NCUA has only issued three Risk Alerts. Between 2013 and 2009 NCUA issued none. In the past 16 years NCUA has issued only nine.¹¹ NASCUS understands the value in providing the information communicated in the Risk Alerts to credit unions and have historically found the Risk Alerts issued to be extremely well produced and informative. However, given the infrequency with which they are published, it might be more effective, and credit unions may be more likely to note their publication if these alerts were consolidated within one of the other existing guidance publications.¹²

NCUA began publishing "Consumer Financial Protection Updates" in 2018 and has published twenty-two in since they began. However, much of what is covered in a "Consumer Financial Protection Update" could also be covered in a "Regulatory Alert." NASCUS notes that NCUA appears to have already begun migrating content from these publications to the "Regulatory Alerts." This year, NCUA's four published "Regulatory Alerts" cover content that in prior years was published in Consumer Financial Protection Updates.¹³

NASCUS believes consolidating "Consumer Financial Protection Updates" into "Regulatory Alerts" would enhance NCUA communication and simplify stakeholder monitoring of developments in covered areas.

2) How effective are the NCUA's current forms of communication, such as press releases, social media content, and email distributions? Which of

¹¹ See https://www.ncua.gov/regulation-supervision/letters-credit-unions-other-guidance?npp=12&exttype=risk_alert&year=all#results.

¹² While "Accounting Bulletins" are also rarely published (NCUA's website indicates there has not been a Bulletin published since 2014) NASCUS believes the subject matter is so specific as to warrant its own publication. See https://www.ncua.gov/regulation-supervision/letters-credit-unions-other-guidance?npp=12&exttype=accounting_bulletin&year=all#results.

¹³ See NCUA's 2021 Regulatory Alerts https://www.ncua.gov/regulation-supervision/letters-credit-unions-other-guidance?npp=12&exttype=regulatory_alerts&year=2021#results and previous Consumer Financial Protection Updates https://www.ncua.gov/regulation-supervision/letters-credit-unions-other-guidance?page=0&sort=date&dir=desc&exttype=consumer_protection_update&year=all&npp=12&sq=.

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these are the most or the least effective? Are there other methods of communication the NCUA should consider?

NASCUS finds NCUA's current forms of communication effective. While NASCUS staff and members utilize different communication channels to different extents, press releases and email notification are generally predominant for monitoring NCUA communications.

With respect to NCUA Express, NASCUS has experienced an intermittent inconsistency in receipt of email communications from that otherwise excellent service resulting in our resubmitting credentials from time to time. In addition to the interruption in receipt of notices, NCUA Express does not always appear consistent in communicating all guidance documents issued and published on NCUA.gov. For example, NCUA Legal Opinions are not communicated by way of this platform.

NASCUS recommends NCUA clarify what publications/guidance can be expected to be communicated by way of NCUA Express.

3) Which communications vehicles are best suited for informing federally insured credit unions about new policy initiatives, laws and regulations, guidance, background or educational materials, news and other updates?

Likely, credit union users of NCUA communications have varied preferences of communication channels. For that reason, it is important to maintain multiple channels of communication. However, at this point, NASCUS believes email communications remain one of the most effective ways to reach a wide audience. NASCUS also notes that in some cases, business practices may impede stakeholders' access to communications being sent by way of commonly popular social media platforms during the business day. Furthermore, even the most predominate social media platforms have usage rates in the United States far below estimated email usage rates.¹⁴

4) How appropriate is the timing and frequency of the NCUA's communication?

In general, the timing and frequency of NCUA communications has been appropriate.

¹⁴ Chen, Jenn, "Social Media Demographics to Inform Your Brand's Strategy in 2020" *Sprout*, August 4, 2020. Available at <https://sproutsocial.com/insights/new-social-media-demographics/>.

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5) Is it clear to federally insured credit unions which of the agency's communication is supervisory in nature and which is purely informational?

Yes, it is relatively clear which NCUA communications are supervisory and which are informational.

6) How can the NCUA improve the NCUA.gov and MyCreditUnion.gov websites? Does the website search function provide helpful and relevant results? What aspects of the NCUA.gov and MyCreditUnion.gov websites are the most helpful?

The website search function and sub-section search functions are very useful and provide relevant results. NASCUS uses the compliance resources and consolidation of information on Board activities to be the most useful. We also make a good deal of use of the data provided by NCUA. Inclusion of dashboards to communicate would be useful for viewing aggregate data.

7) How often do you access the financial performance, chartering and merger data available on NCUA.gov? Is the current format useful to you? How can NCUA improve the presentation of data online?

NASCUS accesses NCUA financial performance and merger data on a weekly basis at least to support various initiatives and inform the evaluation and analysis of challenges confronting the credit union system. As noted above, we find the information invaluable, but believe its presentation could be improved. NCUA should consider the following:

- Reincorporating the pre-2018 aggregate quarterly reporting of charter mergers and conversions
- More clearly delineating between the FISCO and FCU data

8) What other financial, business, or economic data websites do you use? What do you like about how they present their financial or economic data? What features should the NCUA consider when improving its presentation of financial performance and other data to stakeholders online?

NASCUS regularly uses a wide variety of websites (both public and subscription) to monitor trends, identify emerging issues, and conduct resource in support of initiatives, comments letters, and other analysis.¹⁵

For sheer diversity of data and academic thought, we regularly access the websites for the Board of Governors of the Federal Reserve System (federalreserve.gov) and the Federal

¹⁵ We will limit our comments to publicly available data sources.

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Deposit Insurance Corporation (fdic.gov). The Conference of State Bank Supervisors (csbs.org) has an excellent presentation of state bank data in chart and map form that is very easy to use and understand.¹⁶

One feature that might help stakeholders viewing NCUA data is to provide tile images of the data presentation on the landing page to help infrequent users identify and navigate to the data source they are in search of. Often, new users to NCUA.gov may not be certain of the name/letterhead of the industry data they are trying to access. For example the “Financial Trends in Federally Insured Credit Unions” and the “Quarterly Data Summary Reports” and the “Quarterly US Map Review” all contain extremely useful data in different formats. However, a stakeholder searching for data might be unfamiliar with the nuances of the different reports or searching for a specific report they had used previously but are uncertain which of the three they had accessed. Providing tiles might help the user identify the specific report for which they are searching.

In addition, while NASCUS appreciates, and utilizes, the excel file format in which much of the data is presented, providing data (such as the list of active federally insured credit unions) in other formats in addition to excel may benefit some users.

We commend NCUA for undertaking a comprehensive review of agency communications. We wholeheartedly agree that clear, conspicuous, and precise communications are essential to informing stakeholders of the state of the credit union system and conveying regulatory obligations and supervisory expectations to federally insured credit unions. NCUA provides stakeholders essential information through multiple channels and platforms. Implementing the enclosed recommended enhancements to those communications would compliment the already robust and effective communications and further reduce regulatory burden. We are happy to discuss our recommendations further at your convenience.

Sincerely,

- signature redacted for electronic publication -

Brian Knight
Executive Vice President & General Counsel

¹⁶ See <https://www.csbs.org/data-tools/charts-interactive-maps>.