News of Interest to Credit Unions Regulated by the Credit Union Department

Newsletter

No. 11-20 ★ ☆ ★ *November 18, 2020*

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The Credit Union Department (CUD) is the state agency that regulates and supervises credit unions chartered by the State of Texas. The Department is professionally accredited by the National Association of State Credit Union Supervisors (NASCUS) certifying that CUD maintains the highest standards and practices in state credit union supervision.

*Our **Mission** is to safeguard the public interest, protect the interests of credit union members and promote public confidence in credit unions.*

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Credit Union Commission

The Commission is the policy making body for CUD. The Commission is a board of private citizens appointed by and responsible to the Governor of Texas.

Next Commission Meeting

Friday, March 5, 2021 beginning at 9:00 a.m. in the offices of CUD.

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State System Seeks Changes from NCUA in Proposed CECL Rule

The state credit union supervisory system offered support for mitigating the day-one effect of the current expected credit loss (CECL) accounting standard on capital levels, but also offered a number of changes to the proposal by NCUA in a comment letter sent October 19th.

In July, NCUA proposed a rule to phase in the "day-one adverse effects" that could result from credit unions' adoption of the CECL standard – set for most credit unions to begin no later than December, 2022 – that would be phased over a three-year period (or for 12 quarters).

The agency said the phase-in would only be applied to those federally insured credit unions (FICUs) that adopt the CECL methodology for fiscal years beginning on or after Dec. 15, 2022 (the deadline established by the Federal Accounting Standards Board (FASB) for CECL implementation)." In other words, those credit unions that choose to adopt CECL for fiscal years prior to the 2022 date, the agency said, will not be eligible for the proposed phase-in.

FICUs with less than $10 million in assets under the proposal would no longer be required to determine their charges for loan losses in accordance with generally accepted accounting principles (GAAP), but would instead be allowed to use any reasonable reserve methodology, "provided that it adequately covers known and probable loan losses."

NASCUS' letter outlined some changes to the provisions for the smaller credit unions, including that those which implement CECL should be given the option to phase in the day-one effect. NASCUS also argued that credit unions that reach $10 million in assets after Jan. 1, 2023 should be afforded the opportunity of a three-year phase in of the day-one effect.

State System Seeks Changes from NCUA in Proposed CECL Rule (Continued)

"As NCUA notes in the Supplemental Material, many states have state specific rules that require compliance with Generally Accepted Accounting Principles (GAAP) for FISCUs with less than $10 million in assets," NASCUS wrote. "State credit union supervisors in some of those states have statutory or regulatory authority to waive GAAP, or otherwise to pass the benefit of the proposed rule through to FISCUs with less than $10 million in assets. However, there are several states that require GAAP for all FISCUs regardless of size, with neither exception nor discretion for waiver or use of a federally prescribed alternate standard."

NASCUS wrote that the agency's final rule should make the proposed three-year phase in available to credit unions that must follow GAAP, regardless of the size of the credit union. However, for smaller credit unions whose state laws preclude them from using a non-GAAP measure "should be eligible for the three-year phase-in for their regulatory capital calculation."

As for smaller credit unions that surpass the $10 million asset threshold during the transition period, NASCUS urged the agency to amend its rule to give those credit unions a full three-year phase in.

NASCUS made two other key points:

- Larger credit unions (those with assets of $10 million or more) should have the option of recognizing the full day-one effect of CECL immediately: "NCUA's proposed rule and the federal banking authorities' (FBAs') final rules differ: the FBAs have provided covered banks the *choice* of whether to phase in the adverse day-one effect of CECL or to fully implement and recognize CECL cost on day one. NCUA's proposal would require that all covered credit unions phase in the adverse effect of CECL," NASCUS wrote. The association urged the agency to also allow credit unions "the choice of recognizing the full day-one effect of CECL immediately rather than phasing in the costs over the three-year period."

- NCUA should consider how CECL will be incorporated into stress testing requirements after implementation: "It is our understanding NCUA has begun to address some of these issues with covered credit unions required to conduct stress testing," NASCUS wrote. "We urge NCUA to continue these discussions, including with state regulators, to ensure the regulatory stress testing framework can incorporate CECL when appropriate.

"NASCUS, many state credit union regulators, and many state credit union system stakeholders remain concerned that the CECL methodology will be counter-productive when implemented for the credit union system," NASCUS stated in concluding its letter. "We agree with the sentiments expressed and specific points raised by Chairman Hood in the Chairman's April 30, 2020 letter to the FASB. We encourage NCUA to continue efforts to engage with the FASB to remediate this issue."

LINK:
NASCUS Comments on Transition to the Current Expected Credit Loss Methodology

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Top Complaint Categories for Fiscal Year 2020

As credit unions continue to serve more members and grow in asset size, complaints also tend to increase. However, for the first time in many years, the number of complaints received by the Department declined over the prior fiscal year. For fiscal year 2020 there were 350 complaints received by the Department, compared to 363 for fiscal year 2019. The top complaint categories in fiscal year 2020 were:

- Credit Report Issues – 13.1%
- Customer Service – 11.4%
- Fraud/Unauthorized – 10.9%
- Account/Loan Balances – 9.1%
- Fee Related – 7.1%

Other frequent complaints relate to collection activity, electronic funds transfers, holds on checks/accounts, accounts closed/frozen, billing disputes, and loan related issues.

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Higher OTR Limits Insurance Fund, NASCUS Writes in Comment Letter

Increases in the overhead transfer rate (OTR – the rate at which dollars transferred from the National Credit Union Share Insurance Fund (NCUSIF) to fund insurance-related costs of NCUA) lead to the "incontrovertible truth" that doing so means the insurance fund has less resources to face financial troubles for credit unions, NASCUS wrote in a comment letter late last week.

That is, unless the agency decides to charge an insurance fund premium, NASCUS indicated.

In its comment letter to the agency on its request for information about the methodologies used to determine the OTR (and the federal credit union (FCU) operating fee), NASCUS noted that the current proposal for next year's OTR reflects an increase. The association asserted that the allocation of agency expenses to the insurance fund take on a "particular importance against the backdrop of the ongoing pandemic in the United States and resulting economic dislocation."

NASCUS pointed out that every dollar the agency pulls from the insurance fund to cover the expenses of the agency is a dollar not available to cover credit union losses, such as those resulting from the financial impact of the coronavirus pandemic. It also means that's a dollar that may need to be replaced in the insurance fund through an insurance premium being charged.

And there are more issues to be considered, the state system declared through NASCUS.

"Furthermore, the allocation of NCUA's operating expenses and the corresponding effect on FCU chartering fees has the potential to imbalance the dual chartering system by disadvantaging the state system in an inequitable and inorganic manner," NASCUS wrote.
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Higher OTR Limits Insurance Fund, NASCUS Writes in Comment Letter (Continued)

The state system also noted that for more than 20 years there has been an imbalance in how the agency covers its expenses from the insurance fund through the OTR, forcing federally insured, state credit unions (FISCUs) to "shoulder an inordinate cost of supervising the safety and soundness of the credit union system." NASCUS pointed to mid-year statistics from federally insured credit unions showing FISCUS holding nearly 50% of all insured shares, but number only 37% of the federally insured credit unions. Put another way, NASCUS wrote, FISCUs pay half the NCUSIF's costs but are only 37% of the work.

"Some stakeholders are apt to assert that FCUs pay an aggregate greater amount of NCUA's overall budget when the total expense to FCUs of the operating fee and OTR are aggregated," NASCUS wrote. "But this assertion ignores the fact that the NCUSIF is NOT expending resources to conduct examinations on a majority of FISCUs because it relies on the exam work conducted by the states — exam work which is paid for entirely by FISCUs."

Illustrating its point, NASCUS noted that in 2019 nine states sent their examiners to more 6,793 hours of non-NCUSIF funded training, paid for by state credit union fees of more than $25.2 million for examination and supervision in those nine states alone. "A similar story can be told in the remaining 36 state regulatory agencies," NASCUS wrote.

Expenditure by 9 of 45 State Supervisory Authorities on SCU Examinations & State Examiner Training	
Pennsylvania Oregon Kentucky Texas Michigan Iowa Georgia Connecticut Washington	493 examinations >6,793 hours of non-NCUSIF-funded training 2019-20 Expenditure by 9 States Alone: **= $25.2 million**

Two other imbalances lie within the current system, NASCUS pointed out: the OTR is borne by state-chartered CUs in lost NCUSIF dividend opportunity or as additional insurance premium costs (as may be the case in 2021), and an "inverse benefit" for FCUs through application of the OTR.

"The larger the OTR, the more modest the FCU operating fee," NASCUS wrote. "That inequitable result is one reason why the OTR methodology is so important to the state system."

In other comments, NASCUS:

- Supported including the agency's budget for capital projects within the annual budget subject to the OTR (although it noted doing so "may not be equitable" in some cases under how it is defined in the methodology).
- Disagreed that allocating NCUA work related to CUSOs and other third-party vendors as solely related to the insurance fund is consistent with the principles of the methodology or with the practical reality of a chartering authority. "The allocation of third-party regulatory and supervisory work takes on an enhanced

Higher OTR Limits Insurance Fund, NASCUS Writes in Comment Letter (Continued)

importance given NCUA's interest in obtaining direct supervisory authority over such entities," NASCUS wrote. "Should NCUA obtain that regulatory and supervisory authority (which NASCUS supports), ensuring equitable allocation of associated expenses will be essential."

- Deferred comment on providing an incentive (through a discount in operating fees) for FCUs to complete the voluntary diversity self-assessment "So long as there was no corresponding effect on the OTR from any shortfalls in operating fee funding resulting from the proposed discounts."

LINK:
NASCUS Comment: Request for Comment, OTR and Operating Fee Schedule Methodologies

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Publication Deadlines

In order to meet the submission deadlines for the applicable issues of the Texas Register, it is necessary for the Department to establish the schedule shown below. Completed applications received after the deadline for the month cannot be published until the following month.

Publication Date	Application Deadline
December 2020	Friday, December 11
January 2021	Friday, January 15

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Applications Approved

Applications approved since **October 21, 2020** include:

Credit Union	Changes or Groups Added

Out of State Branch Office – Approved:

Eastman Credit Union (Hallsville)	See Newsletter No 09-20

Applications Received

The following applications were received and will be published in the **November 27, 2020** issue of the *Texas Register.*

Field of Membership Expansion:

Wharton County Teachers Credit Union (Wharton) – Persons who reside, work, worship or attend school within the boundaries of Wharton County, Texas, to be eligible for membership in the credit union.

Upcoming Holiday Schedule for CUD

The Department's office will be closed on **November 26-27, 2020** in observance of Thanksgiving.

This newsletter is produced monthly as a part of the Department's continued communication outreach with the credit unions it regulates. Delivery is generally provided by electronic notification of its availability on the Department's website.

Suggestions and comments concerning the newsletter or its content are welcomed.

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To learn more about CUD click http://www.cud.texas.gov or contact us at 914 E. Anderson Lane, Austin, TX 78752


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