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National Association of Federally-Insured Credit Unions

September 5, 2023

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

**RE: Request for Comment Regarding National Credit Union Administration
Operating Fee Schedule Methodology (Docket No. NCUA–2023–0072)**

Dear Ms. Conyers-Ausbrooks:

On behalf of the National Association of Federally-Insured Credit Unions (NAFCU), I am writing in response to the request for comment (RFC) published by the National Credit Union Administration (NCUA), regarding proposed changes the operating fee charged to federal credit unions (FCUs). NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve 137 million consumers with personal and small business financial service products. NAFCU and its member credit unions appreciate the opportunity to provide input on this RFC and support an increase to the threshold that exempts small credit unions from paying the operating fee. However, to better promote transparency, NAFCU requests that other proposed changes to the fee methodology be represented with dollar estimates for individual FCUs in different asset tiers.

General Comments

The NCUA Board (Board) has the authority to assess an operating fee on FCUs to finance non-insurance related expenses incurred in carrying out its responsibilities as a regulator. The foundation for the current operating fee methodology has remained largely consistent since 1979 and the current three-tiered fee structure has not changed since 1993. Under the FCU Act, the Board’s actions with respect to the operating fee must adhere to several requirements, three of which are relevant to the proposals included in the RFC:

- (1) The fee must be determined according to a schedule, or schedules, or other method determined by the Board.
- (2) The Board must consider the expenses of the agency in carrying out its responsibilities.
- (3) The Board must consider the ability of FCUs to pay the fee.

NAFCU has in prior comments supported the exemption level below which FCUs are not charged an operating fee. The RFC proposes to raise the exemption threshold from \$1 million to \$2 million in total assets and adjust the threshold annually in future years by the computed rate of asset growth in the credit union system. In general, NAFCU supports this approach but recommends increasing the threshold to \$5 million. NAFCU believes that this threshold strikes the appropriate balance between offering meaningful relief to very small credit unions and ensuring that a fair portion of FCUs are covered. Furthermore, the amount forgone by raising the exemption threshold to \$5 million represents a small share of total operating fees. A \$5 million exemption threshold also sits below the FCU Act's de minimus threshold governing the applicability of generally accepted accounting principles (GAAP) and the regulatory threshold the NCUA uses to designate credit unions as "new" for prompt corrective action purposes.¹

Given the minimal projected reduction in collected operating fees, NAFCU asks that the Board consider ways to offset any reduction by making proportional adjustments to the NCUA budget rather than charge the difference to non-exempt FCUs. As NAFCU has expressed in separate comments, we encourage the NCUA to operate in a fiscally prudent manner to reduce waste and ensure FCUs' operating fees are not excessive.²

With respect to other changes to the operating fee methodology, NAFCU recommends the NCUA provide additional modeling of the financial impact through a re-proposal and also offset any redistribution of fees charged to covered credit unions through reductions in the agency's budget.

FCUs will be best equipped to understand potential changes to the three-tier operating fee methodology with models that show how fees increase or decrease at different asset ranges. As the NCUA acknowledges, "changes to the methodology do not lower total operating fee collections but instead shift the fees to those FCUs required to pay it." Whether the fee should be flat, regressive, or progressive should depend foremost on the ability of credit unions to pay the fee. Furthermore, what is fair and equitable will be discerned best through a detailed accounting of the dollar impact of proposed changes.

Conclusion

NAFCU appreciates the opportunity to respond to proposed changes to the Operating Fee methodology. NAFCU supports extending broader relief to credit unions by raising the exemption threshold to \$5 million, subject thereafter to annual inflationary adjustments. Regarding changes

¹ See 12 U.S.C. §1782(a)(6)(C)(iii); 12 CFR § 702.201 (defining a new credit union as one that has been in operation for less than ten (10) years and has total assets of not more than \$10 million)

² See NAFCU letter re: Overhead Transfer Rate Methodology and Operating Fee Schedule Methodology (October 30, 2020), available at <https://www.nafcu.org/system/files/files/NAFCU%20Letter%20to%20NCUA%20on%20OTR%20and%20Operating%20Fee%20Schedule.pdf>

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to the current three-tier operating fee methodology, NAFCU requests the NCUA provide more detailed information about the cost of shifting fees to FCUs in different asset groups.

If you have any questions, please do not hesitate to contact me at 703-842-2266 or amorris@nafcu.org.

Sincerely,

A handwritten signature in black ink that reads "Andrew Morris". The signature is written in a cursive, flowing style.

Andrew Morris

Senior Counsel for Research and Policy