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National Association of Federally-Insured Credit Unions

October 30, 2020

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

RE: Overhead Transfer Rate Methodology and Operating Fee Schedule Methodology

Dear Mr. Poliquin:

On behalf of the National Association of Federally-Insured Credit Unions (NAFCU), I am writing to share our comments regarding the National Credit Union Administration's (NCUA) proposal regarding the Overhead Transfer Rate (OTR) methodology and operating fee schedule applicable to federal credit unions (FCUs). NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve over 122 million consumers with personal and small business financial service products. NAFCU appreciates this opportunity to provide comments on the OTR methodology as well as the methodology used to determine the operating fees charged to federal credit unions (FCUs) to cover non-insurance related activities.

NAFCU supports a transparent, fair and efficient mechanism for funding agency operations. An appropriately tailored OTR helps allocate supervisory costs within our industry's dual charter system, but prudent management of the NCUA budget remains the best avenue to reduce costs to credit unions. NAFCU continues to urge prioritization of an accurate and equitable OTR methodology, but we also recommend that the agency continue to explore opportunities to reduce expenses.

General Comments

The OTR is the mechanism used to determine how the agency's "insurance related" costs, under Title II of the *Federal Credit Union Act* (the Act or FCUA), and other operating expenses (i.e., non-insurance related) costs, under Title I, are allocated between the National Credit Union Share Insurance Fund (NCUSIF) and operating fees charged to FCUs. In 2017, the NCUA finalized and adopted revisions to its OTR methodology, which focuses on assigning a percentage share of the NCUA's work to insurance costs in four categories of activities.

In 2017, the adoption of the current principles-based methodology marked a departure from the well-established Examination Time Survey (ETS), which was a metrics-based approach designed to capture examiner time spent on insurance related matters versus non-insurance related through the assessment of individual regulations and other measures. The ETS approach was, by necessity, more complex than the current principles-based allocation methodology; however, it also made fewer assumptions about the allocation of the NCUA's insurer and examiner resources. In 2017, NAFCU expressed concern that by eliminating a data-oriented assessment of insurance-related activities under the ETS, it would be harder to track how much time examiners actually spend on insurance-related activities. Not surprisingly, in the absence of ETS data, it is now harder to evaluate the effectiveness of the current methodology.

While the NCUA is not currently proposing to modify the current OTR methodology, NAFCU recognizes that there will always be a diverse range of stakeholder perspectives on how the formula should be tailored. It is understandable why some credit union might prefer the current OTR methodology given that it is now driven primarily by the variables that affect the OTR (e.g., fluctuations in workload budget, changes in CAMEL ratings, and longer term risk trends within the industry) and not the calculation itself. On the other hand, what is lost in terms of precision may be perceived as inequitable to others, particularly when the historical results of the ETS suggested that a greater proportion of examiner time was spent on insurance-related activities.

There is also an administrative benefit in adopting a simpler methodology, but the NCUA has not sought to quantify its statement that adoption of the principles-based OTR has "reduced the resources needed to gather the cost center time allocation used in the [OTR] calculation." There has also been no attempt to compare the noted savings with those predicted by the agency when it first proposed the principles-based methodology. NAFCU believes that when the agency says there are cost savings associated with a particular rule or policy change, it should endeavor to supply estimates and retrospective data for the industry to consider. This view should be consistent with the NCUA's general philosophy of operating transparently, particularly in matters related to the budget.

At the same time, NAFCU appreciates the NCUA's commitment to providing additional explanatory information surrounding changes to the OTR in connection with its 2020-2021 Budget Justification. We also support the inclusion of worksheets that show the specific steps used to determine the operating fee and the scale for rates charged to different sized credit unions.

As NAFCU has indicated in prior comments, debate and exchange of ideas around the OTR is difficult to facilitate via a staid notice and comment process. As a way to better explore data and perspectives that can be difficult to summarize in a typical notice, NAFCU proposes that the NCUA establish a Credit Union Advisory Council and take up the OTR methodology as one topic for consideration.

Operating Fee Schedule and Methodology

Section 105 of the FCU Act provides the Board with the authority to assess an operating fee on FCUs to finance expenses incurred in carrying out the agency's responsibilities under the FCU Act. The FCU operating fee is charged to cover non-insurance related expenses in the annual budget, which includes an operating budget and a capital projects budget. The current fee schedule for natural person FCUs uses three asset tiers. A different assessment rate is applied to each tier, and the threshold for each tier is adjusted annually to reflect inflationary growth of the credit union system. FCUs with $1 million or less in assets pay no operating fee.

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.[1] Given the far-reaching effects of the pandemic and persistent economic uncertainty, we recommend that the agency carefully evaluate how it plans to utilize its remaining resources in 2020, especially in light of already announced increases to the operating fee schedule. The NCUA should also revisit the 2021 budget draft, which proposed another 3.8 percent increase over the 2020 budget. Given the continued operational stresses created by the COVID-19 pandemic, the NCUA must consider the difficulties FCUs are facing and their ability to pay operating fees.

Current Three-Tier Operating Fee Schedule

NAFCU recommends that the NCUA approach any changes to the operating fee schedule through a fully transparent process. Given the extent of uncertainty that pervades the nation's tentative recovery, the NCUA should consider how the effects of excess share growth resulting from the pandemic might distort proposed changes in the number or calibration of individual tiers.

Asset Threshold Below Which FCUs Are Assessed No Operating Fee

Currently, FCUs with $1 million or less in assets pay no operating fee. The Board has suggested that the $1 million exemption threshold could be increased to as much as $10 million, which is the same threshold used for determining whether a credit union is "new" for prompt corrective action purposes. Credit unions below $10 million are also not required to follow Generally Accepted Accounting Principles (GAAP). NAFCU appreciates the agency's inclusion of forecasted changes in revenue associated with its various exemption proposals. NAFCU is not opposed to increasing the exemption threshold by a reasonable measure; however, the NCUA should seek to offset any corresponding burden for non-exempt FCUs associated with reallocation of revenue by also pursuing proportional reductions in the agency's budget to the maximum extent practicable.

Treatment of Capital Budget

Currently, the Board initially funds the NCUA's planned capital projects budget entirely through operating fees assessed on FCUs. The Board proposes to change this practice by reimbursing the appropriate portion of these expenditures through the OTR. In practical terms, this means the budget for capital projects will be included within the total annual budget subject to the OTR. NAFCU agrees that this approach ensures that the cost of new capital acquisitions is borne equitably between FCUs and FISCUs at the time such acquisitions are made.

Updates to Operating Fee Schedule Asset Tier Thresholds

To maintain consistency between the total assets used for billing the operating fee to an individual FCU and asset thresholds used for rate tier purposes, the Board proposes changing how it calculates total assets for the purpose of adjusting rate tier thresholds. As proposed, total assets would be calculated as the average of total assets reported on an FCU's previous four Call Reports available

[1] See NAFCU letter re: Mid-Session Budget (July 29, 2020), available at https://www.nafcu.org/system/files/files/NAFCU%20Letter%20to%20NCUA%20-%20Mid-Session%20Budget%20-%207.29.2020.pdf. See also NAFCU letter re: Fees Paid by Credit Unions (October 29, 2020).

at the time the NCUA Board approves the agency's budget for the upcoming year. As expressed in our October 29, 2020 comments regarding fees paid by credit unions, NAFCU supports a calculation of total assets based on the four most recently reported quarters. NAFCU believes that this method of calculation (as applied to adjustments to the rate tier thresholds) will likely minimize the over or under payment of annual operating fees as compared to the current calculation.

Voluntary Diversity Self-Assessment

The Board has asked whether FCUs that complete the NCUA's annual voluntary diversity self-assessment should receive a modest discount on the FCU operating fee due in the subsequent year. Credit unions are committed to diversity, equity, and inclusion (DEI). Credit unions are ten times more likely than banks to have a female CEO. Among minority depository institutions, there are over three times as many credit unions as banks. Credit unions also serve more low- and moderate-income households than banks do, with better pricing and lower fees.

There is no question that credit unions are committed to promoting DEI objectives both within their organizations and in the communities they serve. The Voluntary Diversity Self-Assessment is a voluntary tool used to capture this commitment at a more granular level. Providing monetary incentives, while well-intentioned, could potentially distort results by favoring responses from credit unions with greater staff capacity to answer a detailed survey, rather than truly measuring the extent of diversity within the industry. The agency should also be mindful that a single survey, however long, cannot tell the whole story.

NAFCU will continue to promote the survey to its members and participate in the NCUA's annual DEI summits and encourage members to participate as well. We stand ready to collaborate with the NCUA to explore opportunities to advance DEI aims through direct engagement with our credit union members.

Conclusion

NAFCU appreciates the opportunity to comment on the OTR and operating fee methodologies. Should you have any questions or require additional information, please do not hesitate to contact me at (703) 842-2266 or amorris@nafcu.org.

Sincerely,

Andrew Morris

Andrew Morris
Senior Counsel for Research and Policy