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National Association of Federally-Insured Credit Unions

December 21, 2022

The Honorable Todd M. Harper, Chairman
The Honorable Kyle S. Hauptman, Vice Chairman
The Honorable Rodney E. Hood, Board Member
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314

RE: Expiration of Temporary Regulatory Relief in Response to COVID-19

Dear Chairman Harper, Vice Chairman Hauptman, and Board Member Hood:

On behalf of the National Association of Federally-Insured Credit Unions (NAFCU), I am writing to urge you to extend the Temporary Regulatory Relief in Response to COVID-19¹ (temporary final rule) before its expiration on December 31, 2022, to help preserve federal credit unions' (FCUs) ability to play a larger role in the renewable energy lending market. NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve over 133 million consumers with personal and small business financial services products. The NCUA's April 2020 adoption of the temporary final rule modifying its loan participation and eligible obligations regulations was among the earliest steps the NCUA took to help ensure that federally insured credit unions (FICUs) remained well-positioned to meet the COVID-19 pandemic's liquidity and operational challenges.

As a result of the temporary final rule, excess capital did not remain uselessly sequestered in some communities while other communities experienced overwhelming borrowing demand. Credit unions worked together to increase the availability of high-quality, affordable credit and comparatively attractive dividends across the credit union system. The NCUA's recently released Financial Innovation: Loan Participations, Eligible Obligations, and Notes of Liquidating Credit Unions proposed rule² (proposed rule) is a testament to the fact that credit unions can safely manage their balance sheets beyond certain prescriptive regulatory limits that were previously held up as the outer bounds of prudent lending. This proposed rule, if finalized substantially unchanged, will likely help many of the temporary final rule's successes live on past its slated expiration at the end of this year. The proposed rule may move credit unions, many of which do not have the resources to stand up the full suite of loan products offered by large, for-profit banks, onto a more level lending playing field.

¹ Temporary Regulatory Relief in Response to COVID-19, 85 Fed. Reg. 22010 (April 21, 2020) (amending 12 C.F.R. Part 701).

² National Credit Union Administration, *Financial Innovation: Loan Participations, Eligible Obligations, and Notes of Liquidating Credit Unions*, Rulemakings and Proposals for Comment (Dec. 15, 2022), <https://www.ncua.gov/files/agenda-items/financial-innovation-proposed-rule-20221215.pdf>

However, the proposed rule would not protect all of the temporary final rule's successes equally. For example, FCUs' being empowered to help meet more members' renewable energy borrowing needs, may have been an unintended or even unforeseen outcome, but this has nonetheless improved the credit union system's strength and resiliency and should be protected.

The Consumer Renewable Energy Lending Market

The temporary final rule provides, in relevant part, that a "Federal credit union may purchase, in whole or in part, and within the limitations of the board of directors' written purchase policies, any eligible obligations [...] without regard to whether they are loans the credit union is empowered to grant or are refinancing to ensure the [eligible] obligations are [loans] the purchasing credit union is empowered to grant." The temporary final rule's allowing FCUs to purchase members' eligible obligations that have maturities beyond the general 15 year-maturity limit and relevant exceptions is key to FCUs' ability to help meet most members' renewable energy borrowing needs. Unfortunately, the NCUA's new proposed rule would not extend this soon-to-expire regulatory relief. So, while credit unions may, under the proposed rule, be enabled to lean into other types of indirect lending and indirect leasing partnerships, FCUs will again be largely shut out of the renewable energy lending market because they will be generally prohibited from purchasing members' renewable energy eligible obligations with maturities beyond 12 CFR § 701.21(f)(1)(iii)'s 20-year maturity limit.

Solar panel financing currently comprises the vast majority of the consumer renewable energy lending market. Most reputable consumer solar panel manufacturers estimate their products will have a useful life of at least 25 years and, correspondingly, provide consumers with a 25-year warranty on their products. As a result, most, if not all, lenders with which credit unions have established or could establish indirect renewable energy lending partnerships offer consumers renewable energy loans with 25-year maturities. At least one NAFCU member engaged in indirect renewable energy lending shared that roughly 80 percent of its members choose a renewable energy loan with a 25-year maturity. Not only does a 25-year maturity prudently match the warranted life of solar panels purchased from reputable manufacturers, but it also enables members to directly compare estimated total loan costs to estimated total energy savings over the same period. Renewable energy loans amortized over a shorter period may obscure a member's net potential savings over solar panels' warranted life and lead the member to make a decision that is not in the member's best financial interests.

Solar panel technology continues to improve year after year. More federal and state renewable energy programs are offering homeowners incentives to invest in solar panels and home energy storage. More solar panel and home energy storage manufacturers, retailers, and installers are bringing new and improved products and services to market. Almost every major American automaker offers at least one fully electric vehicle. General Motors, which produces the ubiquitous Chevrolet truck line, has announced it expects to offer only electric vehicles across all its brands by 2035. Taken together, it is all but certain that, in the coming years and decades, a greater number and greater variety of credit union members will benefit from and want access to affordable, high-quality renewable energy loans. If FCUs are unable to offer their members

renewable energy loans in what is by far the most preferred loan maturity, their members will be forced to go elsewhere.

Recommendations

NAFCU strongly urges the NCUA to immediately extend the expiration of the temporary final rule – at least until the NCUA can collect comments on and fully consider the impact of its expiration. Failure to do so will not only immediately place FCUs at a comparative disadvantage to banks and state-chartered credit unions not similarly subject to 12 CFR § 701.21(f)(1)(iii)'s 20-year maturity limit, but it would directly undermine the types of indirect lending relationships the proposed rule looks to encourage.

Ultimately, NAFCU urges the NCUA to amend 12 CFR § 701.21(c)(4)(ii) to adopt an additional exception to the general 15-year maturity limit on loans to members that provides an FCU may make renewable energy loans, inclusive of consumer solar panel and home energy storage loans, with maturities of up to 25 years and to make any necessary conforming amendments to other portions of Part 701. As the NCUA makes clear in the proposed rule, by codifying due diligence, risk assessment, compliance, and other management processes consistent with prudent lending practices, it is possible that the NCUA can relax or wholly remove certain existing prescriptive limitations found in its eligible obligations regulation without attracting unreasonable risks to participating credit unions or the broader credit union system. If the NCUA determines it does not have the requisite authority to adopt such an exception, NAFCU asks that the NCUA advocate for an equivalent legislative change.

If you have any questions or concerns, please do not hesitate to contact me at (703) 842-2212 or apetros@nafcu.org or Dale Baker, NAFCU's Regulatory Affairs Counsel, at (703) 842-2803 or dbaker@nafcu.org.

Sincerely,



Ann C. Petros

Vice President of Regulatory Affairs