Cooperative
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April 27, 2022

Ms. Melane Conyers-Ausbrooks
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314-3428

RE: Cooperative Credit Union Association, Inc. Comments on Proposed Rule on Asset Threshold for Determining the Appropriate Supervisory Office, RIN 3133–AF41

Dear Ms. Conyers-Ausbrooks,

On behalf of its member credit unions, the Cooperative Credit Union Association, Inc. ("Association") appreciates the opportunity to comment on the National Credit Union Administration's (NCUA) proposed regulation on the Asset Threshold for Determining the Appropriate Supervisory Office under Part 702 of NCUA Rules, which affects whether a large federally-insured credit union (FICU) is supervised by an NCUA Regional Office versus the NCUA Office of National Examinations and Supervision (ONES). The Association is the state trade association representing approximately 200 state and federally-chartered credit unions located in the states of Delaware, Massachusetts, New Hampshire, and Rhode Island, which further serve over 3.6 million consumer members. The Association has developed these comments in consultation with our members.

<u>The Association's High-Level Comments</u>

- The Association supports NCUA's proposal to allow "Tier I" FICUs to be supervised by a Regional Office, but we urge the Board also to allow "Tier II" FICUs to be supervised by the Regions. ONES should focus on directly supervising "Tier III" FICUs.
- Instead of directly supervising "Tier I" FICUs, we urge NCUA to continue to have ONES provide technical assistance to the Regional Offices to help promote supervisory consistency and efficiently deploy agency personnel, as is already often the case.
- We urge the Board to update the rule's asset-threshold definitions for inflation so that "Tier I" is $12 billion in assets (instead of $10 billion), "Tier II" is $18 billion in assets (instead of $15 billion), and "Tier III" is $24 billion in assets (instead of $20 billion).
- We urge the Board to adjust the rule's thresholds annually for inflation going forward.

The Association's Detailed Comments

The Association supports the Board's proposal to increase the asset threshold for a FICU to be supervised by ONES, however, we urge the Board to go further in the final version of this rule by: (1) allowing the Regional Offices to supervise both "Tier I" and "Tier II" FICUs; and (2) by adjusting the asset thresholds for inflation.

We also urge the Board to continue to use ONES as a provider of technical assistance to the Regional Offices, as is often already the case. While it can be challenging, the sharing of staffing resources by ONES with Regions has been successfully done for many years. We believe that having ONES continue to act as a provider of technical assistance to the Regional Offices would help the agency utilize its resources efficiently as more FICUs grow larger as well as help to promote supervisory consistency both at the institutional level and across the credit union system.

1. ***Regional Offices Should Supervise both "Tier I" and "Tier II" FICUs with Technical Assistance from ONES***

The Association strongly supports the agency's proposal for the Regional Offices to supervise "Tier I" FICUs—currently defined as FICUs with between $10 billion and $15 billion in total assets—but we urge the Board to go farther and also have the Regional Offices supervise "Tier II" FICUs too even if they were previously supervised by ONES. ONES should focus on supervising the "Tier III" FICUs because these are the institutions that present real systemic risks to the NCUSIF and should have ONES's undivided attention.

While our members, like all credit union system participants, desire to avoid insurance loss expenses to the NCUSIF in order to protect the system and limit unnecessary assessments, we do not believe that a FICU presents a systemic risk to the NCUSIF unless the FICU's total assets exceed the NCUSIF's total assets. The NCUSIF's total assets are currently approximately $20 billion dollars.

Only "Tier III" credit unions, as currently defined, represent a systemic risk to the NCUSIF at the institutional level. Insurance loss expense associated with a failure of a $20 billion asset or smaller institution would likely be equivalent to or less than the NCUSIF's equity given the low risks associated with permissible FICU loans and investments. As the Board stated in the preamble to the proposal, FICUs have only "a historical loss factor of 30 percent . . ." Most credit union assets will retain the majority of their value even in a failure.

In addition, ONES continuing to share its expertise with the Regional Offices through the provision of technical assistance to the Regions, especially regarding the supervision of "Tier I" and "Tier II" FICUs, would help further develop the agency's human capital, improve the consistency of prudential supervision at both the institutional level and across the credit union system, and help the agency utilize its resources and personnel more efficiently as more FICUs become larger.

The Association strongly urges the Board to finalize the proposal to have "Tier I" FICUs be supervised by the Regional Office, but we also urge the Board to allow "Tier II" FICUs to be supervised by the Regions as well, with ONES providing the Regions with technical assistance.

2. *The Board Should Update the "Tier I," "Tier II," and "Tier III" Asset Thresholds for Inflation*

The Association strongly urges the Board to finalize the rule with "Tier I," "Tier II," and "Tier III" asset thresholds that are updated for inflation. A "Tier I" credit union should be defined as having $12 billion in assets (instead of $10 billion), a "Tier II" should be defined as having $18 billion in assets (instead of $15 billion), and a "Tier III" credit union should be defined as having $24 billion in assets (instead of $20 billion) because significant inflation has occurred since the Board established these thresholds in 2014.

We also urge the Board to include an annual inflation adjustment in the final version of the rule so that these asset thresholds remain constant in real terms going forward.

Based on Consumer Price Index data from the U.S. Bureau of Labor and Statistics and using the Bureau's inflation calculator[1] to compare dollar values from April 2014—when NCUA finalized the Capital Planning and Stress Testing rule[2]—to March 2022 (the most recent time period for which Bureau of Labor Statistics Consumer Price Index data is available), today's real dollar figures for the asset thresholds the Board established in 2014 are:

NCUA Part 702 Rules Definition:	April 2014 U.S. Dollars	March 2022 U.S. Dollars
Tier I FICU	$10 billion	$12.13 billion
Tier II FICU	$15 billion	$18.19 billion
Tier III FICU	$20 billion	$24.25 billion

Making inflation adjustments to update these asset thresholds to 2022 dollars is common sense public policy. It would simply return NCUA's supervisory thresholds to the real dollar values that the Board originally established in 2014, which would reduce regulatory burden without compromising safety and soundness vis-à-vis the status quo ante.

The Association strongly urges the Board to finalize the rule by revising the definitions of "Tier I," "Tier II," and "Tier III" to reflect the inflation that has occurred since 2014. We also urge the Board to include automatic annual inflation adjustments in the final version of this rule.

3. *Agency Discretion Regarding ONES Supervision*

NCUA's Section 702.301 regulation currently includes a "Reservation of Authority" giving NCUA discretion to modify some or all of the requirements of Part 702, Subpart C of NCUA Rules. While we understand the desirability of flexibility in general, such a vague and open-ended reservation of authority by an administrative agency raises important questions regarding

[1] "CPI Inflation Calculator;" https://www.bls.gov/data/inflation_calculator.htm (last visited Apr. 22, 2022).
[2] Capital Planning and Stress Testing, 79 Fed. Reg. 24311 (Apr. 30, 2014).

public notice of legal requirements, the opportunity of credit unions and other members of the public to participate democratically in the formulation of public policy, and the rule of law.

If the Board decides to keep this provision, the Association believes that the final rule should clarify that require formal NCUA Board action in a manner compliant with the Government in the Sunshine Act and the Administrative Procedure Act is required for the agency to use this Reservation of Authority.

The Association appreciates the opportunity to comment on the NCUA's proposed rule on Asset Threshold for Determining the Appropriate Supervisory Office under Part 702 of NCUA Rules. If you have any questions about our comments or require further information, please do not hesitate to contact the Association at govaff-reg@ccua.org.

Sincerely,

Ronald McLean
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