



July 8, 2020

Gerard S. Poliquin
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, Virginia 22314-3428

RE: RIN 3133-AF11; Comments on Proposed Rule: Joint Ownership Share Accounts

Dear Mr. Poliquin,

The Credit Union Association of the Dakotas (CUAD), which represents state and federally chartered credit unions in the states of North Dakota and South Dakota, appreciates the opportunity to provide comment to the National Credit Union Administration (NCUA) regarding its proposed rulemaking concerning subordinated debt.

CUAD fully supports the NCUAs proposed amendments to permit Low Income Credit Unions, Complex Credit Unions, and New Credit Unions to issue Subordinated Debt Notes for purposes of regulatory capital treatment. CUAD recognize the NCUA's duty to ensure the safety and soundness of credit unions and we appreciate the time and effort that NCUA has taken with regard to Subordinated Debt research and rulemaking. CUAD supports a credit union's flexibility through this proposal to enhance its capital cushions for risk-based capital purposes, provide additional funding to fuel growth, and alleviate liquidity constraints imposed by the current economic and pandemic crisis.

Contrary to what other individuals and organizations may attempt to argue, CUAD does not believe that this proposed rulemaking in anyway exceeds the Federal Credit Union Act or the NCUA's rulemaking authority. The language of the FCU Act clearly does not include any limiting language with regard to the power to enter into contracts or from whom an FCU may borrow. Specifically, section 1757 subsection 1 and 9 of the Federal Credit Union Act (FCU Act) provides that "A Federal credit union shall have succession in its corporate name during its existence and shall have power— (1) to make contracts; (9) to borrow, in accordance with such rules and regulations as may be prescribed by the Board, from any source, in an aggregate amount not exceeding, except as authorized by the Board in carrying out the provisions of subchapter III, 50



per centum of its paid-in and unimpaired capital and surplus: Provided, that any Federal credit union may discount with or sell to any Federal intermediate credit bank any eligible obligations up to the amount of its paid-in and unimpaired capital.” Clearly, through this proposed rulemaking the NCUA is operating within the limits of the Federal Credit Union Act and is exercising its discretion in accordance with what was granted to it by Congress.

While not every credit union may need or want to issue alternative forms of capital, CUAD believes that the option to do so must be made available. Despite what other commenters might argue, giving credit unions the flexibility to add leverage to their balance sheets through alternative forms of capital will not add tremendous risks nor harm credit union members. In fact, providing credit unions tools to manage unforeseen circumstances will help to safeguard the future of the credit union system and protect the members the credit unions serve.

Any Low-income designated credit union, Complex Credit Union, or New Credit Union that chooses to issue Subordinated Debt for purposes of regulatory capital treatment are and will remain not-for-profit cooperatives owned by their members – the questioning of the tax status of credit unions by certain commenters is a tired argument that has no merit.

CUAD supports the NCUA in its pursuit to make the credit union industry one that can survive unforeseen changes in the financial industry so that credit unions can continue to provide their members with access to affordable services and products. Previously during the financial crisis and currently with the COVID-19 pandemic, credit unions are providing low- and moderate-income households and supporting their communities. NCUA’s proposed rulemaking is not changing the structure of credit unions nor changing the mission of credit unions – it is protecting the credit union industry so credit unions might be able to continue their mission of serving peoples of modest means far into the future and providing tools so credit unions might weather any market storms. CUAD is unsure why other commenters would strive to put people of modest means at a disadvantage by jeopardizing their access to affordable financial products and services.

Thank you for this opportunity to share our comments.

Respectfully,

Amy Kleinschmit
Chief Compliance Officer