News of Interest to Credit Unions Regulated by the Credit Union Department

Newsletter

No. 01-21 ★ ☆ ★ *January 20, 2021*

OTR 2021 Increase a Sign for Agency to Reconsider Expense Allocation, Ito Says

A 2021 budget of $341.4 million – with an overhead transfer rate (OTR) of 62.3% -- was approved by the NCUA Board on a split vote of 2-1 at its meeting in December, with barely two weeks to go until that budget takes effect for the new year.

The agency's budget for next year is down about 1.7% from the 2020 budget, but the OTR went up by 100 basis points. Board Chairman Rodney Hood and (now) Vice Chairman Kyle Hauptman voted for the 2021 budget; Member Todd Harper against it.

The OTR represents money that is transferred from the National Credit Union Share Insurance Fund (NCUSIF) to the operating budget of the agency to cover "insurance-related" expenses of the agency. The remainder of the operating budget is covered by the operating fee paid by federal credit unions, resulting in a split of 62.3% (from the OTR) and 37.7% (from FCU fee assessments).

NASCUS President and CEO Lucy Ito said the OTR increase for next year is a sign of the need for NCUA to reconsider how it allocates expenses.

In a press statement following December's board meeting, Ito said what appears counterintuitive to the state system in the 2021 NCUA budget is that the projected increase in workload for state exams is not matched with an at least equal if not greater increase in workload for federal credit union exams. She noted that assets between state and federal CUs are approximately equal, yet FCUs outnumber FISCUs by more than 1,000 (3,213 FCUs versus 1,920 FISCUs as of the end of the 2020 third quarter).

Further, she said, the 1-point OTR increase will essentially mean there will be $3.3 million less to cover losses by the National Credit Union Share Insurance Fund should those materialize as the result of an economic downturn due to the financial impact of the coronavirus pandemic.

Credit Union Department
914 East Anderson Lane
Austin, Texas 78752
Phone: 512-837-9236
Fax: 512-832-0278
Email: info@cud.texas.gov
Web Site: www.cud.texas.gov

The Credit Union Department (CUD) is the state agency that regulates and supervises credit unions chartered by the State of Texas. The Department is professionally accredited by the National Association of State Credit Union Supervisors (NASCUS) certifying that CUD maintains the highest standards and practices in state credit union supervision.

*Our **Mission** is to safeguard the public interest, protect the interests of credit union members and promote public confidence in credit unions.*

* * * *

Credit Union Commission

The Commission is the policy making body for CUD. The Commission is a board of private citizens appointed by and responsible to the Governor of Texas.

Next Commission Meeting

Friday, March 5, 2021 beginning at 9:00 a.m. in the offices of CUD.

* * * *

OTR 2021 Increase a Sign for Agency to Reconsider Expense Allocation, Ito Says (Continued)

"NASCUS will continue to work with NCUA to allocate expenses to the OTR in a way that safeguards balance and equity, and that ensures that the insurance fund has the resources necessary to protect the savings of credit union members," she said.

Along those lines, she added, NASCUS welcomes the formation of an OTR working group comprised of NCUA, state regulators, and NASCUS to assure transparency in and reasonableness of cost allocation assumptions to foster equity between federal and state credit unions.

LINKS:

Notice: Overhead transfer rate
Board action memorandum -- 2020-2021 budget
NCUA 2021-2022 budget justification (Dec. 18, 2020)

~~~~~~

Hauptman now NCUA Vice Chairman; Names Top Adviser

A new title has been bestowed on the newest member of the three-member board for the NCUA, who is now "vice chairman," according to a release from the agency.

Kyle S. Hauptman, who was confirmed by the Senate to a seat on agency's board Dec. 2 – and who joined his first two meetings of the board last week (on Dec. 17 and 18) – was, late in the day Friday, tapped as vice chairman of the panel. The title -- while indeed an honor -- is largely honorific: other than sitting in for the board chairman in that individual's absence, and taking a role in some appeals for Freedom of Information Act (FOIA) request decisions (under part 792.28 of agency regulations), there are few specific duties, responsibilities or benefits attached to role, other than those assigned by NCUA Board Chairman Rodney Hood.

The new vice chairman, in a press statement, said that in his role he looks forward to "working with credit unions, my fellow Board Members, and Congress on solutions that provide regulatory relief for the credit union community and expand the use of technology to reach underserved communities."

This week, Hauptman named veteran credit union service organization (CUSO) and state league executive Sarah Canepa Bang as his senior adviser. The agency, in a release Monday, said Bang has broad experience in the credit union industry that includes serving as executive vice president of industry relations and president and chief strategy officer at CO-OP Financial Services. Previously, she was (among other things) chief executive officer at Financial Service Centers Cooperative, Inc., and executive vice president of the Oregon Credit Union League and Affiliates.

LINKS:

NCUA Board Designates Hauptman as Vice Chairman
Sarah Canepa Bang Appointed Senior Advisor to Vice Chairman Hauptman

~~~~~~

Sub Debt Rule Adopted by NCUA After Years of Work by Agency, States

Well-capitalized, federally insured credit unions could count subordinated debt as capital for risk-based net worth purposes under a new rule approved by the NCUA Board at its meeting in December.

The decision has been long sought by the state system, which would bring regulation of federally insured credit unions in line with regulations of some states that already allow their credit unions to issue secondary capital, including in the form of subordinated debt.

Key provisions of the final rule (137 pages long), approved unanimously by the board, include:

- Permission for low-income-designated credit unions (LICUs), complex credit unions, and new credit unions to issue subordinated debt for purposes of regulatory capital treatment.
- A maximum maturity of 20 years to be imposed on debt issued (with a minimum maturity of 5 years), and a minimum denomination of $100,000. The agency noted the maturity limit helps to clarify that the financial instruments issued are debt – and not equity in the credit unions (which are solely owned by the members; credit unions do not issue stock).
- Prohibitions on a credit union from being both an issuer and investor unless the credit union meets certain conditions related to mergers.
- A section addressing new rules and limits for making loans to other credit unions, including investing in subordinated debt at those credit unions.

The final rule became effective Jan. 1, 2022 (which coincides with implementation of the new risk-based capital rule).

The final rule also grandfathers any secondary capital issued before the effective date of this final rule and preserves that capital's Regulatory Capital treatment for 20 years after the effective date, the agency said. The "grandfathered secondary capital" generally, according to NCUA, remains subject to requirements in the agency's current secondary capital rule.

The agency also noted a number of additions and amendments to other parts and sections of NCUA's regulations through the new rule, including:

- Cohering changes to part 741 of NCUA rules to account for the other changes proposed in the final rule that apply to federally insured, state-chartered credit unions (FISCUs);
- A new section addressing limits on loans to other credit unions;
- An expansion of the borrowing rule to clarify that federal credit unions (FCUs) can borrow from any source;
- Revisions to the final RBC Rule and the payout priorities in an involuntary liquidation rule to account for subordinated debt and grandfathered secondary capital.

Several changes in the final from the proposal have also been made, the agency said, including:

- Amendment of the definition of "accredited Investor;"
- Provision of a longer timeframe in which to issue subordinated debt after approval;
- Reduction in the required number of years of pro forma financial statements an issuing credit union must provide with its application (from five years to two years);

Sub Debt Rule Adopted by NCUA After Years of Work by Agency, States (Continued)

- Clarification of the prohibition on subordinated debt issuances outside of the United States;
- Clarification that the NCUA Board will publish a fee schedule only if it makes a determination to charge a fee.

In announcing the unanimous vote on the new rule, NCUA Board Chairman Rodney Hood said he was pleased with the balance struck with the final rule. "I support giving complex credit unions the authority to prudently use subordinated debt as an additional tool to comply with risk-based capital requirements, and newly chartered credit unions the ability to use this tool to get up and running," he said.

Last summer, in a comment letter on the proposal, NASCUS wrote that the development of the rule is an essential complement to the implementation of a risk-based capital rule. "Including Subordinated Debt in risk-based capital ratio calculations is consistent with the statutory purposes of both state and federal credit unions and is sound public policy," NASCUS wrote. "This rule will help credit unions and their members, protect the share insurance fund, and help place natural person credit unions in the United States on par with credit unions and other depository institutions worldwide."

Reaction from the banking industry to the board's action was negative, as illustrated by comments from two of the industry's largest advocacy groups. The American Bankers Association (ABA), in an op-ed published the day before the board acted, said it "firmly opposed" the final rule, claiming it will undermine the "statutory principle that credit unions should serve consumers of small means." The Independent Community Bankers of America (ICBA) said in press statement Thursday that the rule will "allow outside investors to exploit the credit union tax subsidy."

LINK:
Final rule: Subordinated debt (Parts 701, 702, 709, and 741)

~~~~~~

December 2020 Call Report

As a reminder your completed 5300 Call Report must be submitted by **Sunday, January 31, 2021**, in accordance with the filing requirements. No extensions of time for submitting Call Report data are granted. Reports received after the filing deadline are subject to a late filing fee as provided in 7 TEX. ADMIN. CODE §91.209. Please ensure that the Online Credit Union Profile is updated, which includes contact information for all officials of the institution, branch and ATM locations, latest audit details and a host of other information important for our offsite supervision.

~~~~~~

Upcoming Regular Commission Meeting

The Credit Union Commission will hold its Regular meeting on Friday, March 5, 2021, at 9:00 a.m., tentatively via teleconference. The meeting packet will be available on our website on or about February 22, 2021.

~~~~~~

Publication Deadlines

In order to meet the submission deadlines for the applicable issues of the Texas Register, it is necessary for the Department to establish the schedule shown below. Completed applications received after the deadline for the month cannot be published until the following month.

Publication Date	Application Deadline
February 2021	Friday, February 12
March 2021	Friday, March 12

~~~~~~

Applications Approved

Applications approved since **December 16, 2020** include:

Credit Union	Changes or Groups Added

Field of Membership Expansion – Approved:

GECU (El Paso)	See Newsletter No. 10-20
EECU #1 (Fort Worth)	See Newsletter No. 10-20
EECU #2 (Fort Worth)	See Newsletter No. 10-20

Applications Received

The following applications were received and will be published in the **January 29, 2021** issue of the *Texas Register.*

Field of Membership Expansion

Brazos Star Credit Union (College Station) – Persons who live, work, attend school, or worship in and businesses located in Brazos, Burleson, Madison, Leon, and Robertson Counties, Texas, to be eligible for membership in the credit union.

Upcoming Holiday Schedule for CUD

The Department's office will be closed on **February 22, 2021** in observance of Presidents' Day.

~~~~~~~

This newsletter is produced monthly as a part of the Department's continued communication outreach with the credit unions it regulates. Delivery is generally provided by electronic notification of its availability on the Department's website.

Suggestions and comments concerning the newsletter or its content are welcomed.

~~~~~~

To learn more about CUD click http://www.cud.texas.gov or contact us at 914 E. Anderson Lane, Austin, TX 78752