



September 5, 2023

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

Re: Request for Comments Regarding National Credit Union Administration Operating Fee Schedule Methodology;
Docket Number NCUA–2023–0072

Dear Ms. Conyers-Ausbrooks:

On behalf of Virginia's credit unions, we are writing to the National Credit Union Administration (NCUA) on its request for comments (the proposal) regarding the Operating Fee Schedule Methodology. The Virginia Credit Union League represents Virginia's 104 credit unions and advocates for them and their more than 18 million members. We appreciate the opportunity to provide input on the NCUA's operating fee methodology. In general, the Virginia Credit Union League opposes a regulatory regime with static carve-outs and thresholds for entities of a certain size. These types of thresholds tend to be arbitrary and can become outdated when they are not adjusted. However, we strongly support regulatory relief when appropriate and recognize that thresholds and carve-outs can create certainty for both the regulator and the regulated.

Threshold for Exemption from Paying an Operating Fee

The NCUA's proposal would raise the threshold for exemption from paying an operating fee from \$1 million to \$2 million. The \$1 million threshold has been in place since 2012 and provides essential financial relief to the smallest credit unions. The proposal also includes a mechanism for an annual adjustment to the threshold as total credit union assets increase.

We support the proposed change to adjust the threshold annually based on the growth of total credit union assets. We would suggest that in the final rule, the Board clarify what would happen to the threshold in the event of a year-over-year decrease in total credit union assets. The proposal states that "NCUA would adjust the exemption threshold by the percentage by which average quarterly assets reported for the credit union system for the most-current four quarters have **increased** compared to the previous four quarters." It then provides an example in which total credit union assets increased by 8.5% in a one-year period.

While credit union assets have historically increased over time, it is possible the credit union system could see a decrease in total system assets over a one-year period. If this occurred, would NCUA lower the threshold for an operating fee waiver? Or would they keep this threshold unchanged and forgo an adjustment that year? We believe the NCUA should take the latter approach. If NCUA opts for the former, a credit union could be the exact same asset size and be under the exemption threshold one year and over it the next year. We urge the NCUA to specify how the exemption threshold would be calculated in the event of a decrease in total credit union assets, and specifically, would support the approach of leaving the threshold unchanged rather than decreasing it.

We also support increasing the exemption threshold. While a doubling of the threshold from \$1 million to \$2 million is a positive step, we urge the NCUA to raise the threshold to \$5 million in assets. This will have a real impact on the credit unions that need it most. In Virginia, four credit unions are under the \$1 million threshold. Raising the threshold to \$2 million would provide relief to a total of eight credit unions. However, raising the threshold to \$5 million would provide relief to a total of 17 credit unions. Our smallest credit unions have deep connections with their members, and with rising compliance and operational costs, every dollar saved matters.

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Raising a threshold by a factor of five would not be without precedent. In 2013, the NCUA Board unanimously approved a final rule to provide small credit unions with regulatory relief by raising the definition of a "small entity" from credit unions with assets of less than \$10 million to credit unions with assets of less than \$50 million. At the time, the threshold had not been adjusted in 10 years. The initial proposed rule raised the threshold asset level to \$30 million, but the Board ultimately went further in the final rule and raised it to \$50 million.

	2013 Small Entity Definition	2023 Operating Fee Exemption Threshold
Effect of proposed change	Relief to small credit unions	Relief to small credit unions
Years since last adjustment	10 years	11 years
Old Threshold	\$10 million in assets	\$1 million in assets
Proposed Rule Threshold (Increase)	\$30 million in assets (3x)	\$2 million in assets (2x)
Final Rule Threshold (Increase)	\$50 million (5x)	???

Exempting credit unions under \$5 million in total assets would provide real relief to the smallest credit unions without having a significant impact on aggregate operating fees paid by FCUs. This relief can help stem the continued consolidation of credit unions. We urge the NCUA to exempt all FCUs under \$5 million in total assets from the operating fee and to adopt a final rule as soon as practicable.

Other Aspects of the Operating Fee Methodology

The NCUA's proposal highlights that the current operating fee schedule is regressive and seeks input on what changes could be made to improve the system. While the proposal notes several alternative approaches to the operating fee structure, it does not favor a specific approach. It is difficult to provide feedback on the possible positive or negative impact of adjustment to the current tiers without detail on what those adjustments might be. Similarly, we cannot take a position on a flat-fee approach without knowing how that fee might be calculated or set. For these reasons, we ask the agency to repropose this aspect of the proposal, including specific adjustments to the tiers and what those changes will mean in terms of fees paid by all FCUs.

Summary

In summary, we urge the NCUA to raise the threshold for exemption from paying an operating fee from \$1 million to \$5 million, to clarify that the threshold would not be adjusted downwards in the event of a year-over-year decline in total credit union system assets, and to repropose specific changes to other aspects of the operating fee methodology. On behalf of Virginia's credit unions, thank you for considering our comments regarding the operating fee schedule methodology. If you have questions about our comments, please do not hesitate to contact me at jblau@vacul.org.

Sincerely,



JT Blau
 Chief Advocacy Officer, Virginia Credit Union League
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