



November 2, 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: Written Requests for FHLB Advances to Credit Unions with Negative Tangible Equity**

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

On behalf of America's credit unions and their more than 130 million members, we are writing to the National Credit Union Administration (NCUA) to urge you to ensure that creditworthy credit unions with negative tangible equity are able to quickly and efficiently obtain necessary written requests for advances from NCUA to the Federal Home Loan Banks (FHLBanks). The Credit Union National Association (CUNA), the American Association of Credit Union Leagues (AACUL) and the state credit union leagues and associations (the leagues) represent America's credit unions and their more than 130 million members.

The Federal Housing Finance Agency's (FHFA) regulations currently require FHLBanks to consider a credit union's tangible capital in assessing its credit worthiness when considering a new advance to that credit union. The regulation currently prohibits making new advances to members with negative tangible capital unless the member's federal banking agency or insurer makes a written request that the FHLBank do so.<sup>1</sup> The regulation defines tangible capital as capital, calculated according to generally accepted accounting principles (GAAP), less "intangible assets."<sup>2</sup> This definition is out of step with the regulatory capital regimes established by NCUA and the other banking regulators.

The unique effects of the pandemic on the housing market and financial institutions' balance sheets in combination with a rising rate environment, has increased the likelihood that many financial institutions may have negative tangible capital under this definition. However, this is not truly an indicator that these financial institutions are not creditworthy. The FHLBanks already engage in a rigorous credit review process, but, unfortunately, this bright line regulatory requirement puts the onus on NCUA to verify the credit union is safe and sound before the advance can be issued. The FHFA's requirement that the primary banking regulator request in writing that the FHLBank make an advance is a significant regulatory huddle that threatens to increase liquidity pressures across

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<sup>1</sup> 12 C.F.R. § 1266.4(b)(1).

<sup>2</sup> 12 C.F.R. § 1266.1(*tangible capital*)(2).

the system. We urge NCUA to ensure that the process to obtain a written request from NCUA is transparent, efficient, and as fast as possible. Further, we ask NCUA to communicate about this process with credit unions quickly to ensure that fact-finding about how to obtain a request does not contribute to unnecessary bottlenecks. If possible, NCUA should make a preemptive written request that the FHLBanks make advances to credit unions that can demonstrate their safety and soundness through reported metrics, such as their capitalization category. This would ensure that NCUA could spend time considering issuing written requests only for those credit unions that might be actual borderline cases.

We also would encourage the NCUA to work with the FHFA to waive the regulatory requirement for the FHLBanks to treat negative tangible equity as a disqualifying metric of credit worthiness when considering new advances to members. This will reduce the burden on the FHLBanks and NCUA. It will also ensure that credit unions maintain timely and reliable access to liquidity to serve the housing needs of their members and community, as is the mission of the FHLBank System.

In the longer term, we believe the FHFA should modify its requirements to be in alignment with the capital requirements set by the NCUA and other primary banking regulators when determining a credit union's creditworthiness in connection with a new advance. The alignment of federal requirements will provide operational ease for NCUA, the FHLBanks, and credit unions. Further, it would reduce the likelihood of regulatory gaps and unintended consequences that result from different capital frameworks. We urge NCUA to support these reforms to avoid this kind of unnecessary regulatory bottleneck in the future.

Once again, on behalf of America's credit unions and their more than 130 million members, we thank you for your consideration of this request.

Sincerely,

Credit Union National Association  
American Association of Credit Union Leagues  
Alabama Credit Union Association  
Alaska Credit Union League  
Arkansas Credit Union Association – a political division of Cornerstone League  
Association of Vermont Credit Unions  
California Credit Union League  
Carolinas Credit Union League – North Carolina  
Carolinas Credit Union League – South Carolina  
Credit Union Association of New Mexico  
Credit Union League of Connecticut  
CrossState Credit Union Association  
Dakota Credit Union Association  
Delaware's Credit Unions – Cooperative Credit Union Association

Florida Credit Union Association  
Georgia Credit Union Association  
*GoWest Credit Union Association – Arizona*  
*GoWest Credit Union Association – Colorado*  
*GoWest Credit Union Association – Idaho*  
*GoWest Credit Union Association – Oregon*  
*GoWest Credit Union Association – Washington*  
*GoWest Credit Union Association - Wyoming*  
Hawaii Credit Union League  
Heartland Credit Union Association – Kansas  
Heartland Credit Union Association – Missouri  
Illinois Credit Union System  
Indiana Credit Union League  
Iowa Credit Union League  
Kentucky Credit Union League  
Louisiana Credit Union League  
Maine Credit Union League  
Maryland and DC Credit Union Association  
Massachusetts’ Credit Unions – Cooperative Credit Union Association  
Michigan Credit Union League  
Minnesota Credit Union Network  
Mississippi Credit Union Association  
Montana’s Credit Unions  
Nebraska Credit Union League and Affiliates  
Nevada Credit Union League  
New Hampshire’s Credit Unions – Cooperative Credit Union Association  
New York Credit Union Association  
Ohio Credit Union League  
Oklahoma Credit Union Association – a political division of Cornerstone League  
Rhode Island’s Credit Unions – Cooperative Credit Union Association  
Tennessee Credit Union League  
Texas Credit Union Association – a political division of Cornerstone League  
Utah’s Credit Unions  
Virginia Credit Union League  
West Virginia Credit Union League  
Wisconsin Credit Union League

cc: The Honorable Sandra L. Thompson, Director, Federal Housing Finance Agency