



National Credit Union Administration

June 5, 2019

XX XXXXX XXXXX, President/CEO  
XXXXX Credit Union  
XXX XXXXXXXX XX  
XXXXX,XX XXXX

**RE: XXXXX Credit Union, Supervisory Review Committee Decision (SRC-04-19)**

Dear XX. XXXXX:

On May 28, 2019, I received by first class mail XXXXX Credit Union's notice of appeal to the Supervisory Review Committee. The notice (dated May 17 and postmarked May 20) states:

XXXXX appeals the decision of its NCUA Regional Director (XXXXX Region) that denied XXXXX's Application for Secondary Capital. This decision was submitted to XXXXX in a letter dated February 25, 2019. The basis for the denial was later re-stated by the XXXXX Regional Director in its letter dated April 24, 2019, in response to XXXXX's written request for reconsideration.

I am writing to inform you that your appeal is not a matter currently ripe for review by the Supervisory Review Committee, and therefore dismissed for lack of jurisdiction.

As a federally insured state chartered credit union ("FISCU"), your primary regulator is the supervisory authority for the state of XXXXX. As you point out in your notice of appeal (pages 14-15), the NCUA's regulations place the responsibility to render a decision on a FISCU's secondary capital plan with that credit union's state supervisory authority ("SSA"). It is then the SSA's decision as to whether to approve or disapprove of a plan with the concurrence of the NCUA. See 12 C.F.R. § 741.204(c). As such, neither the Regional Director, nor by extension the Supervisory Review Committee, can approve or deny your secondary capital plan without prior state action.

The Regional Director's February 25<sup>th</sup> denial of XXXXX Credit Union's plan, and their April 24<sup>th</sup> reconsideration decision upholding the denial were therefore *ultra vires* actions. In this regard, The Regional Director recently rescinded both decisions by letter to you dated June 4, 2019 (copied to the state of XXXXX XXXXX XXXXX, and the Supervisory Review Committee). As a result of these rescissions, there currently is no "material supervisory determination" for review by Supervisory Review Committee. See 12 C.F.R. § 746.103. Accordingly, pursuant to 12 C.F.R. § 746.104(b), the Supervisory Review Committee is dismissing your appeal without prejudice.

XX. XXXXX XXXXX

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Pursuant to the NCUA's regulations, you may appeal this decision to the NCUA Board within 30 calendar days of receiving this letter. 12 C.F.R. § 746.109. Such appeals must follow the requirements established in the regulation, and must be filed in writing with the Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314. Please refer to the regulation for additional information.

Sincerely,

Gerard Poliquin  
Chairman  
Supervisory Review Committee

cc: XXXXX XXXXX, XXXXX Regional Director  
Michael McKenna, General Counsel  
XXXXX XXXXX, XXXXX XXXXX XXXXX