

## BOARD ACTION MEMORANDUM

**TO:** NCUA Board

**DATE:** June 28, 2011

**FROM:** Office of the Executive Director

**SUBJ:** Voluntary Prepayment of Assessments Program

**ACTION REQUESTED:** NCUA Board approve a Voluntary Prepayment of Assessments Program (Program). Under the Program, NCUA would act now to solicit and collect voluntary advances of certain Temporary Corporate Credit Union Stabilization Fund (Stabilization Fund) assessments due in 2013 and thereafter so as to level assessments in 2011 and 2012.

**DATE ACTION REQUESTED:** June 29, 2011

**OTHER OFFICES CONSULTED:** E&I, OCE, OCFO, OGC.

**VIEWS OF OTHER OFFICES CONSULTED:** Concur.

**BUDGET IMPACT, IF ANY:** Approximately \$100,000.

**SUBMITTED TO INSPECTOR GENERAL FOR REVIEW:** Yes.

**RESPONSIBLE STAFF MEMBERS:** Larry Fazio, Deputy Executive Director; Melinda Love, Director, Office of Examination and Insurance; Lisa Henderson, Staff Attorney, Office of General Counsel; and John Worth, Chief Economist.

**SUMMARY:** NCUA staff currently projects Stabilization Fund liquidity needs of about \$2.94 billion prior to 2013. Raising \$2.94 billion through assessments alone would require assessments of about 38 basis points in total for 2011 and 2012 combined. To aid in addressing the Stabilization Fund's cash management needs through 2012, stakeholders in the credit union system asked NCUA to adopt a mandatory prepayment of post-2012 assessments, similar to a previous Federal Deposit Insurance Corporation (FDIC) program for banks. NCUA, however, does not have legal authority to force credit unions to make premium prepayments.<sup>1</sup>

Accordingly, on May 19, 2011, NCUA proposed a voluntary prepayment of assessments program. Under the proposed Program, each credit union could make a voluntary advance to the Stabilization Fund of up to 36 basis points of the credit union's insured shares, representing about three years of estimated average Stabilization Fund

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<sup>1</sup> FDIC's premium-related authority, located at 12 U.S.C. §1817(b) and (c), is more extensive than NCUA's authority to assess NCUSIF or Stabilization Fund premiums. See 12 U.S.C. §1782(c)(2) (NCUSIF) and §1790e(d) (Stabilization Fund).

assessments.<sup>2</sup> There was a minimum contribution amount of \$10,000 for each participating credit union and a minimum aggregate commitment threshold of \$300 million. Maximum participation in the proposed Program could raise \$2.8 billion, which would result in both a reduction in the amount of assessments and in the amount of funds borrowed from Treasury by the Stabilization Fund in 2011 and 2012. NCUA invited public feedback to measure interest and ensure the effective operation of a voluntary prepaid assessments program. Comments were requested by June 20, 2011.

NCUA received a total of 184 comments on the Program. Most of the commenters supported the program but suggested some changes. In response to comments, staff has modified the Program as follows:

- The minimum individual credit union participation amount is the greater of \$1,000 or 0.05 percent of insured shares as of March 31, 2011.
- The maximum individual credit union participation amount is 0.48 percent of insured shares as of March 31, 2011.
- The size of the Program is \$500 million, which equates to 6.4 basis points of system-wide insured shares, and would reduce the 2011 regular assessment dollar-for-dollar from 24.9 basis points to 18.5 basis points. If less than \$500 million is committed, NCUA will not implement the program. If more than \$500 million is committed, the prepayments will be accepted on a *pro rata* basis to meet the \$500 million target. This approach preserves NCUA's flexibility in (a) managing the regular annual assessments, which are an expense to credit unions, in as counter-cyclical a manner as possible and (b) managing the cash needs and contingency funding available to the Stabilization Fund, through replenishment of the Treasury borrowing line, over the next 4 years.

Attachment one contains the Voluntary Prepayment of Assessments Program Terms and Conditions, which provides more detail about the Program. Attachment two contains the Program Agreement each participating credit union must sign and associated payment instructions.

**RECOMMENDED ACTION:** That the NCUA Board 1) approve the Voluntary Prepayment of Assessments Program described in the BAM and associated attachments, 2) delegate to the Executive Director (ED) the authority to take all necessary actions to carry out the Program, and 3) authorize the ED to redelegate this authority.

#### **ATTACHMENTS:**

1. Voluntary Prepayment of Assessments Program Terms and Conditions
2. Voluntary Prepayment of Assessments Program Agreement and Instructions

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<sup>2</sup> Section 127 of the FCU Act provides, in part, that "the Board is authorized to accept gifts of money made unconditionally by will or otherwise for the carrying out of any of the functions under this chapter. A conditional gift of money made by will or otherwise for such purposes may be accepted and used in accordance with its conditions . . . ." 12 U.S.C. §1772a. The voluntary advances under the Program are akin to interest-free loans and so are a form of gift. *See, e.g.*, 26 U.S.C. §7872. Accordingly, NCUA may accept such advances as conditional gifts under FCU Act §127.