



February 2, 2021

Melane Conyers-Ausbrooks  
Secretary of the Board  
National Credit Union Administration  
1775 Duke Street  
Alexandria, Virginia 22314-3428

*Submitted electronically  
to Regulations.gov*

RE: RIN 3133- AF30; Capitalization of Interest in Connection with Loan Workouts and Modifications.

Dear Ms. Conyers-Ausbrooks,

The Dakota Credit Union Association (DakCU), which represents state and federally chartered credit unions in the states of North Dakota and South Dakota, appreciates the opportunity to provide comment to the National Credit Union Administration (NCUA) regarding its proposed rulemaking concerning the capitalization of interest in connection with loan workouts and modifications.

Currently Appendix B to Part 12 CFR 741, provides direction on loan workouts, nonaccrual policy and regulatory reporting of troubled debt restructured loans. It mandates that in no event may the credit union authorize additional advances under loan workout to finance unpaid interest and credit union fees. The NCUA is proposing to remove this prohibition regarding capitalization of interest for loan workouts of all types of members loans, which would include commercial and business loans. Under the proposed rule, the definition for “capitalization of interest” would be added to the glossary and would mean, “constitutes the addition of accrued but unpaid interest to the principal balance of a loan.” 85 FR 78276

The proposed rule would continue to provide that a credit union may, in no event, authorize additional advances to finance credit union fees and commissions. DakCU recommends the NCUA give some level of consideration to allowing for the capitalization of unpaid credit union fees. If all unpaid credit union fees can not be capitalized, perhaps up to a certain level could be permitted.



The proposed rule would continue to allow the credit union to make advances to cover third-party fees, such as force-placed insurance or property taxes.

DakCU fully supports the NCUA's proposed rule to allow credit unions this additional tool to assist members going through financial stress, specifically, to allow credit unions to capitalize interest in connection with loan workouts and modifications. DakCU agrees with the NCUA's position that, "when used appropriately, capitalization of interest may be in the best interests of both a FICU and the borrower." *85 FR 78271*

The Chief Lending Officer of a North Dakota credit union provides additional insight, "In my opinion the best part in allowing the capitalization of the interest is the ability for us to work through a problemed loan. Right now, our hands are tied when we have a workout situation. We may come up with an agreeable plan on payments that includes a decreased interest rate or extending the term of the loan but in order for us to put this in place, we would have to have the member pay all of the accrued interest. Depending on how long the member has not made a payment, this amount for a struggling business or member is insurmountable and takes the deal off the table. These situations are not just on the business side. If a member loses their job for a short period of time and cannot make their payments for example, once they get a job and want to get their loan back in good standing, we are better off charging this loan off and taking the payments as recoveries. This ends up hurting the member's credit and also limits our ability to do anything in future lending with this member until that charge off is taken care of."

The proposed rule would include safety precautions to ensure that the capitalization of interest in loan workouts is not detrimental to the borrower. As proposed the credit union would be required to adopt a policy that requires compliance with all consumer protection laws, documents the borrower's ability to repay, documents a borrower's source of repayment, documents compliance with the credit union's valuation policies, provide clear documentation to borrower, require correct reporting of modified loans, and policies to help the borrower resume affordable and sustainable payments.

Furthermore, the credit union must consider, which would be reflected in policy, whether the loan modifications are well-designed, consistently applied, and provide a favorable outcome for borrowers and the available options for borrowers to repay any missed payments at the end of their modifications to avoid delinquencies or other adverse consequences. Finally, the credit union would need to ensure "appropriate safety and soundness safeguards" to prevent, masking deteriorations in loan portfolio quality and understating charge-off levels; delaying loss recognition resulting in an understated allowance for loan and lease losses account or inaccurate



loan valuations; and overstating net income and net worth (regulatory capital) levels; and circumventing internal controls.

DakCU believes these consumer protections are appropriate and sufficient to protect the member and ensure the credit union continues to operate in a safe and sound manner.

Credit unions have a history of working with their members to ensure they are successful in their loans. However, as this prior year has shown us more than ever, there may be events out of some members' control in which they need help meeting their financial obligations due to economic hardships. Credit unions will continue to step up to help their members with loan workouts and modifications. The current prohibition on capitalization of unpaid interest can hinder a credit union in assisting some of their members. DakCU supports the NCUA's efforts in reducing the regulatory burden on credit unions so they may better serve their members, in good times and in challenging times. Allowing for the capitalization of interest may not be the best solution for every member but allowing this as another option in the credit union's toolbox to assist a member who is undergoing financial stress may be the best option for that particular member. Furthermore, the member would have to agree to the capitalization of interest. It is still in the member's hands if they want to agree to it as part of the workout or modification.

Thank you for this opportunity to share our comments and concerns.

Respectfully,

A handwritten signature in black ink that reads "Jeffrey Olson". The signature is written in a cursive, flowing style.

Jeffrey Olson  
President/CEO

A handwritten signature in black ink that reads "Amy Kleinschmit". The signature is written in a cursive, flowing style.

Amy Kleinschmit  
Chief Compliance Officer