March 2023

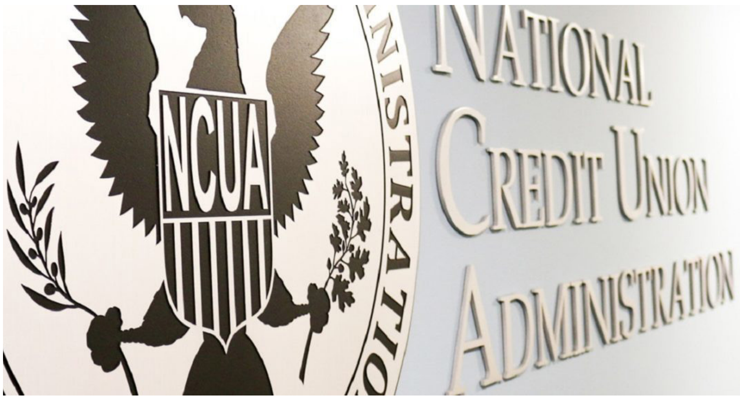
"We encourage the NCUA to examine whether additional adjustments would better serve the community of smaller credit unions."

On Thursday March 16th the NCUA Board voted to approve the final subordinated debt rule, which makes two significant changes to the current rule finalized in 2020. The rule:

- Replaces the maximum permissible maturity of subordinated debt notes with a requirement that any credit union seeking to issue subordinated debt notes with maturities longer than 20 years demonstrate how such instruments would continue to be considered debt; and
- Extends the regulatory capital treatment of grandfathered secondary capital to the later of 30 years from the date of issuance or Jan. 1, 2052.

The extension will align the treatment of grandfathered secondary capital with the 30-year maximum maturity for any grandfathered secondary capital issued by Community Development Financial Institution (CDFI) and Minority Depository Institution (MDI) credit unions under the first round of the U.S. Department of the Treasury's Emergency Capital Investment Program (ECIP).

Vice Chairman Hauptman noted, "Much of NCUA's final rule is about 'syncing up' the subordinated debt rule with Treasury's ECIP program, which brings welcomed flexibility to the maximum maturity of subordinated debt notes."



Thursday, March 16, 2023: NCUA Vice Chairman **Kyle Hauptman** and Board Member **Rodney Hood approve** the final subordinated debt rule,

On this same topic, Olden Lane hopes the NCUA will take the time to further address credit unions who receive funding in the second round of ECIP, for which applications have closed but investments have not yet been announced or made. Rather than treating the rounds as identical pieces of the same program, the two rounds will face distinct regulatory treatments, assuming no further action from the NCUA. This vote serves to narrow the difference between the two rounds but falls short of fully syncing the treatment of the two rounds.

In addition, four minor modifications were made to the current rule. The Board is proposing to amend two sections of the Current Rule to remove the "statement of cash flow" from the Pro Forma Financial Statements requirement and replace it with a requirement for "cash flow projections." Next, the Board is proposing to revise the section of the Current Rule on filing requirements and inspection of documents. This proposed change would align this section of the Current Rule with current agency procedures. Finally, the Board is proposing to remove a parenthetical reference related to GSC that no longer counts as Regulatory Capital. This change would align the rule with recent changes made to the Call Report.

oldenlane.com | *info@oldenlane.com*
100 Somerset Corporate Blvd., Bridgewater Township, NJ 08807