July 17, 2024

The Honorable Todd M. Harper, Chairman
The Honorable Kyle S. Hauptman, Vice Chairman
The Honorable Tanya F. Otsuka, Board Member
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314

RE: Floating Interest Rate Ceiling

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

On behalf of America's Credit Unions, I am writing to request the National Credit Union Administration (NCUA) vote to establish a floating permissible interest rate ceiling equal to a 15 percent or greater spread above the Prime Rate. In the alternative, the NCUA should maintain the current 18 percent interest rate ceiling to account for the ongoing rising rate environment. The NCUA has previously recognized that the Federal Credit Union (FCU) Act permits the adoption of a floating interest rate ceiling, and we urge the NCUA to make this change now to enable FCUs to help more of their members, especially those in need of access to safe and affordable credit and seeking to build or repair their credit.

We support an 18 percent interest rate ceiling, but ultimately there is no reasonable fixed permissible interest rate ceiling the NCUA could establish that would permanently resolve the issues unnecessarily imposed on FCUs and their communities by the FCU Act's arbitrarily low 15 percent rate. The NCUA Board can permanently resolve these issues only by establishing a floating permissible interest rate ceiling. Rather than maintain the nearly four decades long trend of approving the 18 percent interest rate, adopting a floating interest rate ceiling would enable FCUs to more fairly and fully serve their communities in every interest rate environment throughout economic cycles.

America's Credit Unions' legacy organizations have supported a floating interest rate ceiling for FCUs for many years now and repeatedly asked the NCUA to study this issue, conduct a legal analysis to determine the permissibility of such a change, and following an opportunity for comment from the industry establish a floating interest rate ceiling. Just last April, the NCUA's Office of General Counsel determined that it is reasonable to interpret the FCU Act to permit a floating interest rate ceiling so long as the relevant agency coordination and economic conditions are met.[1] It stands to reason that if this two-pronged test is satisfied with regard to an increase to 18 percent—as the Board consistently finds it is—then it should also be satisfied with regard to a floating interest rate ceiling. The following table comparing rates between now and six months ago shows there continues to be a need for flexibility from the rate ceiling.

[1] *See* 12 U.S.C. § 1757(5)(A)(vi).

	Jan. 2024 (%)	Jul. 2024 (%)	Difference (in basis points)
90-day T-Bill Rate	4.70	5.45	+75
3-Mo. CD/Share Cert. Rate			
Banks	1.64	1.66	+2
CUs	2.51	3.25	+74
Money Market Rates			
Banks	0.59	0.60	+1
CUs	0.84	0.98	+14

Note: Figures reflect average rates during the second week of the given month. CD rates are those for accounts with $10k on deposit; money market rates are those for accounts with $2.5k on deposit.

Sources: Datatrac, Federal Reserve (H.15)

Last year's discussion also centered on the safety and soundness concerns of the interest rate ceiling reverting to the statutory 15 percent threshold. Those safety and soundness concerns are still present. For example, 74 percent of all FCUs have loans outstanding with rates greater than 15 percent. In addition, the total balance of FCU loans with rates over 15 percent is: $42.8 billion, which is up 178 percent from September 2022 when the board last reviewed the rate ceiling.

Further, credit unions, as not-for-profit, member-owned financial institutions look to help all of their members with their financial needs, but especially their most vulnerable members who may be living paycheck-to-paycheck or "hand-to-mouth."

Credit unions are more likely to serve consumers living hand-to-mouth, or those households with net liquid assets of less than two weeks' income.[2] In fact, 38.9 percent of households where a credit union is the primary financial institution can be described as living hand-to-mouth, compared to 35.5 percent of households where a bank is the primary financial institution.[3] In February 2024, the Federal Reserve Bank of Philadelphia released a report, titled "U.S. Bank Branch Closures and Banking Deserts."[4] Census tracts without a financial institution branch rose 6 percent since 2019, while bank branch closures doubled at the same time. Banks with $10

[2] *See* "U.S. Bank Branch Closures and Banking Deserts," Federal Reserve Bank of Philadelphia (Feb. 2024), https://www.philadelphiafed.org/-/media/frbp/assets/community-development/reports/banking-deserts-report-feb-2024.pdf.
[3] America's Credit Unions calculations using data from Federal Reserve 2022 Survey of Consumer Finances, https://www.federalreserve.gov/econres/scfindex.htm.
[4] U.S. Bank Branch Closures and Banking Deserts, *supra* note 2.

billion or more in assets created nearly two-thirds (62 percent) of new banking deserts through branch closures. Credit unions were able to "cure" these deserts in about 36 percent of all instances by opening a branch in a tract where one had not previously existed.[5] Credit unions also only closed branches that created a banking desert 8 percent of the time compared to 45 percent for very large banks (with $50 billion or more in assets), 17 percent for large banks (between $10 billion and $50 billion in assets), and 30 percent for community banks (under $10 billion in assets).[6]

This data highlights the impact that credit unions make in their communities – curing banking deserts, serving those living hand-to-mouth who are unable to save much money or afford large, unexpected expenses, and offering the best financial products and services for all. It is imperative that FCUs remain competitive and are equipped to offer their communities a responsible, in-community alternative to loans and lines of credit pushed by profit-hungry, often predatory lenders. Our nation's military members are often the targets of predatory lenders because despite the Military Lending Act's 36 percent cap on certain loans made to active duty servicemembers, loopholes in the law allow payday lenders to far exceed this limit, often with rates well into the hundreds of percent annual interest.

To fill the gap currently occupied by predatory payday lenders and other alternative lenders and help our servicemembers and struggling and vulnerable communities, FCUs must be able to fairly serve their communities with the full suite of financial services products and services consumers need and demand. Unfortunately, in the current rate environment, FCUs are finding it more challenging to serve those most in need of access to high-quality, fairly priced loans and lines of credit. Accordingly, it is time for the NCUA to reconsider its position on establishing a floating interest rate.

Rather than exacerbate financial stresses already borne by many people of modest means, as some have argued, a floating interest rate ceiling would allow credit unions to offer more high-quality credit products to those individuals. FCUs could better grow their portfolios, including unsecured lending, and compete with other lenders, whose products would undoubtedly still be offered to consumers at less favorable rates. Other concerns raised about the idea of a floating interest rate are outweighed by the potential benefits it could provide to the industry and, most importantly, the members served.

Should the NCUA decline to adopt a floating interest rate ceiling, we strongly urge the agency to maintain the current 18 percent interest rate ceiling to enable credit unions to better weather persistent economic challenges. As the table above demonstrates, money market interest rates continue to increase, justifying a permissible FCU interest rate ceiling higher than 15 percent. Reducing the interest rate ceiling could jeopardize the safety and soundness of the credit union industry and is not a viable option at this time.

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[5] *Id.* at 14.
[6] *Id.*

America's Credit Unions appreciates the Board's consideration of this important matter. If you have any questions, please do not hesitate to contact me at apetros@americascreditunions.org or (703) 842-2212.

Sincerely,

Ann C. Petros
Head of Regulatory Advocacy