



WASHINGTON, D.C.

99 M Street SE  
Suite 300  
Washington, D.C. 20003-3799

Phone: 202-638-5777

Fax: 202-638-7734

January 17, 2023

The Honorable Todd Harper  
The Honorable Kyle Hauptman  
The Honorable Rodney Hood  
National Credit Union Administration  
1775 Duke Street  
Alexandria, VA 22314

Re: FCU Interest Rate Cap

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

On behalf of America's credit unions, I am writing to request the National Credit Union Administration (NCUA) Board (Board) examine the current interest rate cap for federal credit union (FCU) loans, including consideration of increasing the fixed rate cap or adopting a floating rate cap. The Credit Union National Association (CUNA) represents America's credit unions and their more than 130 million members.

### ***Increase the Fixed Rate Cap or Adopt a Floating Rate Cap***

While the FCU Act provides a default interest rate limit for FCU loans of 15%, the Act also permits the Board to increase the rate cap if certain criteria are met.<sup>1</sup> Specifically, the FCU Act provides that:

[A]fter consultation with the appropriate committees of the Congress, the Department of Treasury, and the Federal financial institution regulatory agencies, [the Board may establish] an interest rate ceiling exceeding such 15 per centum per annum rate, for periods not to exceed 18 months, if it determines that money market interest rates have risen over the preceding six-month period and that prevailing interest rate levels threaten the safety and soundness of individual credit unions as evidenced by adverse trends in liquidity, capital, earnings, and growth[.]

Utilizing this statutory authority, as implemented in the NCUA's regulations,<sup>2</sup> the Board has consistently increased the interest rate ceiling to 18% since the late 1980s. As noted above, the Board may increase the interest rate ceiling for up to 18 months. The Board

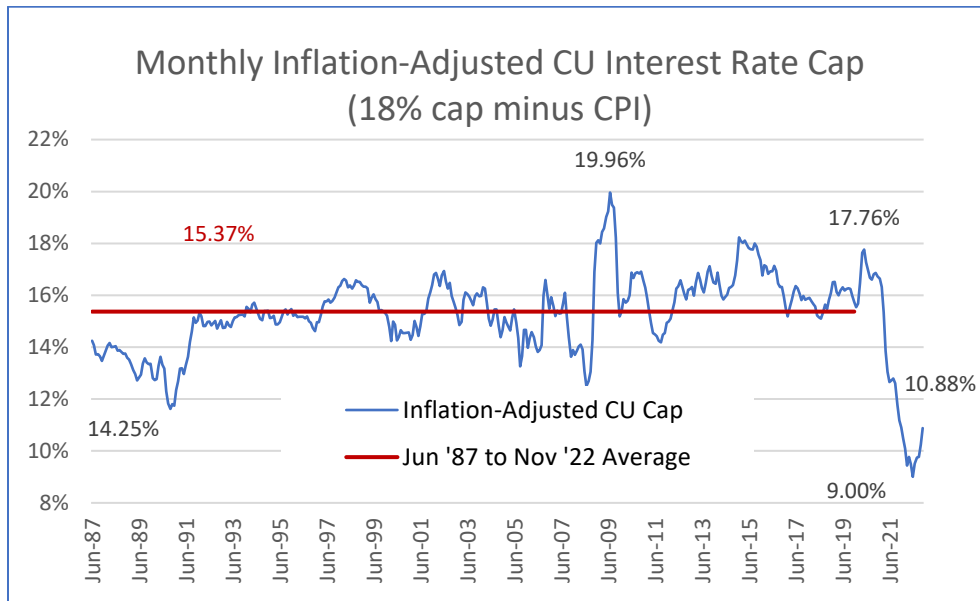
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<sup>1</sup> 12 U.S.C. § 1757(5)(A)(vi).

<sup>2</sup> 12 C.F.R. § 701.21(c)(7)(ii)(A).

last decided to extend the increased cap in June of 2021.<sup>3</sup> As such, the Board must determine whether to maintain an increased cap prior to March 10, 2023.

The loan interest rate cap has been fixed at 18% for roughly 35 years. However, on an inflation-adjusted basis the cap has fluctuated significantly over that period—ranging from a high of 19.9% to a recent low of 9%. The pre-COVID-19 crisis average rate on an inflation-adjusted basis was 15.4%. The inflation-adjusted cap has been below this long-run average for nearly two years. The NCUA should consider adjusting the cap with an eye on smoothing out these significant variations over time.



As we approach the Board’s next review of the interest rate cap, we ask the agency to be mindful of the current interest rate environment, due in large part to the severity of the Federal Reserve Board’s recent—and continuing—interest rate hikes. As you know, the Federal Reserve raised its Federal Funds interest rate target by 4.25 percentage points in 2022. One-year Treasury yields increased by a similar magnitude and two-year Treasury yields were up by roughly 3.50% in the year.

Some credit unions have experienced increased liquidity risk as they strive to continue to serve borrowers with very low credit scores because they lack the ability to raise loan rates. Maintaining relatively low loan rates in the face of market interest rate increases can lead to higher loan losses and safety and soundness concerns. The alternative, avoiding the risk by turning applicants away, means some consumers are forced to shop for credit at alternative services providers with substantially higher loan rates.

<sup>3</sup> NCUA Letter to Federal Credit Unions 21-FCU-04 (Aug. 2021).

We urge the Board to consider increasing the rate cap beyond 18%. For the reasons provided below, the Board should consider 21%, which was the rate cap from December 1980 through May 1987, at which time the current 18% cap was established.

Raising the rate cap could help many average consumers. As an example of impact, Equifax data shows that in July 2022 alone, finance companies originated over 1,000 72-month auto loans with interest rates that exceeded 25%. With a higher FCU interest rate ceiling, FCUs could help to serve these consumers. Life-of-loan savings for a consumer financing an average priced new car would be roughly \$2,000 for every percentage point lower the credit union rate was compared to these finance company rates.

CUNA’s analysis of subprime lending data shows that in the deep subprime arena the difference between finance company and credit union average rates is over eight percentage points. As provided in the example below, this suggests that a 28% finance company rate might be closer to a 20% credit union rate at origination. As shown in the table below that difference would result in life-of-loan savings of roughly \$14,500 for a consumer that finances an average-priced new car on a 72-month term.

<b>Consumers Save Big at Credit Unions*</b>		
<b>\$50,000 6-year New Car Loan</b>		
	<b>DataTrac Avg Rate 8/22/22</b>	<b>Monthly Payment</b>
US BHPH Avg	28.00%	\$1,440
US Credit Union Avg	20.00%	<u>\$1,198</u>
US CU savings over life of loan =		<b>\$14,562</b>
<i>*CU profits are returned to consumers - not stockholders.</i>		

In addition to considering increasing the fixed-rate cap, the Board should consider adopting a floating interest rate cap instead of its traditional fixed interest rate (currently set at 18%). CUNA raised this suggestion several years ago and has since addressed it during a number of meetings with the agency.<sup>4</sup> As such, the agency has had ample time to assess the specifics and appropriateness of implementing such a rate cap. For example, a floating cap could be something like the prime rate plus 15%, with a minimum of 20% and a maximum of 30%. Given the timeliness of this issue, we urge the Board to use its authority to act quickly, whether simply increasing the rate cap or adopting our suggestion of a floating cap.

<sup>4</sup> CUNA Letter to NCUA re Floating Interest Rate Cap (May 22, 2019), *available at* [https://www.cuna.org/content/dam/cuna/advocacy/letters-and-testimonials/2019/052019\\_CL%20-%20NCUA%20-%20Floating%20Interest%20Rate\\_final.pdf](https://www.cuna.org/content/dam/cuna/advocacy/letters-and-testimonials/2019/052019_CL%20-%20NCUA%20-%20Floating%20Interest%20Rate_final.pdf).

## ***Conclusion***

On behalf of America's credit unions and their more than 130 million members, thank you for considering our request to update the interest rate cap for FCU loans, whether by increasing the fixed rate cap or adopting a floating cap. If the Board is unwilling to employ either of these approaches, we urge the Board to maintain the current FCU interest rate ceiling of 18%. If you have questions about our comments, please do not hesitate to contact me at (202) 508-6743.

Sincerely,

A handwritten signature in blue ink that reads "Luke Martone". The signature is written in a cursive style with a long horizontal stroke at the end.

Luke Martone  
Senior Director of Advocacy & Counsel