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The Honorable Barack H. Obama
President of the United States
The White House
1600 Pennsylvania Avenue NW
Washington, D.C. 20500

Dear Mr. President:

On behalf of the National Association of Federal Credit Unions (NAFCU), the only national trade association exclusively representing the interests of our nation's federally-insured credit unions, I write today to urge you to support national data security standards and regulatory relief for community financial institutions.

As you prepare to deliver the State of the Union address next week to outline your priorities for this year, we ask that you consider some major issues facing the credit union industry, which provides more than 101 million Americans with safe and reliable financial services. We also hope that you will recognize and mention in your address the good work that credit unions are doing to meet the financial service needs of Americans.

Data Security

Data breaches have become a constant concern of the American people. Major data breaches now occur with an unacceptable level of regularity. From breaches at Target and Home Depot that impacted over 110 million consumer records and 56 million payment cards respectively, to breaches at Anthem and Experian that exposed consumer records of 80 million and 15 million Americans respectively, the concerns of American consumers are well founded. A Gallup poll from October 7-11, 2015, found for the second consecutive year, that 69 percent of U.S. adults are frequently or occasionally concerned about having their credit card information stolen by hackers. These staggering survey results speak for themselves and should demonstrate the need for greater national attention to this issue.

We applaud you and your Administration for your leadership and actions on the cybersecurity and data security front. While these have been positive steps forward, more needs to be done and legislative action is needed. Americans' sensitive financial and personally identifiable information will only be as safe as the weakest link in the security chain. While financial institutions, including credit unions, have been subject to federal standards on data security since the passage of the *Gramm-Leach-Bliley Act* (GLBA), retailers and many other entities that handle sensitive personal financial data are not subject to these same standards. Consequently, they have become the vulnerable targets of choice for cybercriminals.

Credit unions suffer steep losses in re-establishing member safety after a data breach occurs. They are often forced to absorb fraud-related losses, many of which stem from a negligent entity's failure to protect sensitive financial and personal information in their systems. As not-for-profit cooperatives, credit union members are the ones that are ultimately impacted by these costs.

It is with this in mind that NAFCU urges you to support common sense bipartisan legislation to create national data security standards such as the *Data Security Act of 2015*. Introduced by Representatives Randy Neugebauer and John Carney as H.R. 2205 in the House, this legislation received strong bipartisan support in a House Financial Services Committee mark-up in December. Similar legislation has been introduced by Senators Roy Blunt and Tom Carper as S. 961 in the Senate. The *Data Security Act of 2015* would create flexible requirements that while protecting consumers' data in the current environment, would also allow for and encourage innovation to protect consumers from future threats we have not yet anticipated. Additionally, the national standards created would be scalable to allow for compliance by entities of all sizes. Just as the GLBA institutes requirements that are appropriate for both the smallest credit unions and the biggest banks, this legislation would allow for appropriate standards for the smallest corner store to the largest retailers.

Regulatory Relief

While it is universally accepted that community financial institutions such as credit unions did not cause the economic crisis, credit unions have still been overwhelmed by the constant wave of regulatory burden they have faced since the passage of the *Dodd-Frank Act.*

Credit unions have always served as a safe haven for consumers during times of economic difficulty. This was certainly the case during the economic crisis. While other lenders pulled back on their lending, credit unions were still extending credit to consumers, in many cases increasing their lending. However, their capacity to serve as a vital resource of financial services to those of modest means, as is their mission, is being curtailed because of regulatory burden. With every additional regulation, credit unions are forced to place more emphasis on compliance and less on providing needed financial services to their members.

The impact of the compliance burden, in particular the growth of CFPB rulemaking, is evident as the number of credit unions continues to decline, dropping by more than 17% (more than 1,280 institutions) since the second quarter of 2010; 96% of which were smaller institutions with assets of less than $100 million. One reason for the decline is the increasing cost and complexity of complying with the ever-increasing onslaught of regulations.

Unfortunately, there is no single regulation that is the source of difficulty. It is with this in mind that we urge you to support comprehensive regulatory relief for credit unions both on the legislative and regulatory fronts. In 2015, NAFCU released an updated five-point plan for credit union regulatory relief and I have attached a copy to this letter. We hope you can support us in these efforts.

On behalf of our nation's credit unions and their more than 101 million members, we thank you for your attention to this important matter. If my staff or I can be of assistance to you, or if you have any questions regarding these issues, please feel free to contact myself, or NAFCU's Vice President of Legislative Affairs, Brad Thaler, at (703) 842-2204.

Sincerely,

B. Dan Berger
President and CEO

Thanks for your continued support of credit unions!

Attachment

Learn How NAFCU's Five-Point Plan Will Bring Regulatory Relief to Credit Unions

In February 2013, NAFCU was the first trade association to call on Congress to provide comprehensive broad-based regulatory relief for credit unions. As part of this effort, NAFCU sent Congress a five-point plan for regulatory relief in order to significantly enhance credit unions' ability to create jobs, help the middle class, and boost our nation's struggling economy. Built on a solid framework of recommendations that provide regulatory relief, we revised the five-point plan in February 2015 to the following:

1. Capital Reforms for Credit Unions

Modernize capital standards for credit unions in order to reflect the realities of the 21st century financial marketplace:

- Authorize a true risk-based capital system for credit unions that more accurately reflects a credit union's risk profile.
- Give the National Credit Union Administration (NCUA) authority to allow supplemental capital accounts for credit unions that meet certain standards.
- Authorize the NCUA to further establish special capital requirements for newly chartered federal credit unions that recognize the unique nature and challenges of starting a new credit union. (Given that very few new credit unions have been chartered over the past decade, and in order to encourage the chartering of new credit unions.)

2. Field of Membership Improvements for Credit Unions

Make improvements to the *Federal Credit Union Act* to help enhance the federal credit union charter:

- Improve the field of membership (FOM) restrictions that credit unions face, including expanding the criteria for defining "urban" and "rural."
- Allow voluntary mergers involving multiple common bond credit unions.
- Allow credit unions that convert to community charters to retain their current select employee groups (SEGs).
- Allow all credit unions, regardless of charter type, to add underserved areas to their field of membership.
- Authorize the NCUA to grant parity to a federal credit union on a broader state rule, if such a shift would allow them to better serve their members and continue to protect the National Credit Union Share Insurance Fund.

3. Reduce Consumer Financial Protection Bureau (CFPB) Burdens on Credit Unions

Credit unions did not cause the financial crisis, but have been victims in the new tide of regulations aimed at those institutions who did, with over 1,000 institutions disappearing since the passage of the Dodd-Frank Act, primarily due to the new regulatory burdens.

- Exempt all credit unions from CFPB rulemaking and examination authority, since NCUA once again has been given authority to write all rules for credit unions, tailoring new proposals to meet the special nature of the credit union industry.
- Authorize the NCUA to delay the implementation of a CFPB rule that applies to credit unions, if complying with the proposed timeline would create an undue hardship.

- Authorize the NCUA to modify a CFPB rule for credit unions, provided that the objectives of the CFPB rule continue to be met.
- Require the NCUA and the CFPB to conduct a look-back cost-benefit analysis on all new rules after three years. The regulators should be required to revisit and modify any rules for which the cost of complying was underestimated by 20% or more from the original estimate at the time of issuance.

4. Operational Improvements for Credit Unions

Credit unions stand willing and ready to assist in our nation's economic recovery. Our industry's ability to do so, however, is severely inhibited by antiquated legislative restrictions.

- Modify the arbitrary and outdated credit union member business lending (MBL) cap to help create American jobs. This can be done by raising the current 12.25% limit to 27.5% for credit unions that meet certain criteria or by raising the outdated "definition" of a MBL from last century's $50,000 to a new 21st century standard of $250,000, with indexing for inflation to prevent future erosion. MBLs made to veterans, non-profit religious organizations, businesses in "underserved areas," or small businesses with fewer than 20 employees should be given special exemptions for the arbitrary cap.
- Eliminate statutory requirements to mail redundant and unnecessary privacy notices on an annual basis, provided that the credit union's policy has not changed and additional sharing of information with outside entities has not been undertaken since the distribution of the previous notice.
- Give the NCUA greater flexibility in how it handles credit union lending, such as the ability to establish longer maturities for certain loans.
- Enact new examination fairness provisions to help ensure timeliness, clear guidance and an independent appeal process free of examiner retaliation.

5. 21st Century Data Security Standards

Credit unions are being adversely impacted by ongoing cyber-attacks against the United States and continued data breaches at numerous merchants. The cost of dealing with these issues hinders the ability of credit unions to serve their members. Congress needs to enact new 21st century data security standards that include:

- Paying costs associated with a data breach by those entities that were breached.
- Establishing national standards for the safekeeping of all financial information.
- Requiring merchants to disclose their data security policies to their customers.
- Requiring the timely disclosure of entities that have suffered a data breach.
- Establishing enforcement standards for provisions prohibiting merchants from retaining financial data.
- Requiring the timely notification of the account servicer if an account has been compromised by a data breach.
- Requiring breached entities to prove a "lack-of-fault" if they have suffered from a data breach.

For more information, visit **www.nafcu.org/regrelief**.