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National Association of Federally-Insured Credit Unions

B. Dan Berger
President & Chief Executive Officer

January 25, 2021

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

RE: Credit Union Assets

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

On behalf of the National Association of Federally-Insured Credit Unions (NAFCU), I am writing to urge you to provide more flexible parameters for meeting regulatory asset thresholds for the duration of the pandemic. NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve over 123 million consumers with personal and small business financial service products. NAFCU reiterates its previous request that the National Credit Union Administration (NCUA) take quick action to address the concerns of credit unions approaching the \$10 billion threshold for enhanced supervision by not only the NCUA but also the Bureau of Consumer Financial Protection (CFPB). Considering the unique circumstances of the past year and the large influx of deposits credit unions have seen during this time, the NCUA should (1) immediately issue an interim final rule to provide credit unions parity with recent changes made to community bank threshold standards or offer a different evaluation of credit union assets; and (2) coordinate with the CFPB to provide uniformity in the calculation of credit union assets for purposes of the \$10 billion threshold.

General Comments

For those credit unions near the \$10 billion asset threshold, the pandemic has largely frustrated their efforts to reasonably predict how quickly they will grow and can plan to meet new standards or expectations. As credit unions cross this asset threshold, they encounter new regulatory requirements, which might include heightened supervision, stress testing, and the involvement of new regulators. Furthermore, some credit unions may cross the \$10 billion threshold now, while they are experiencing share growth, but then dip back down below the \$10 billion threshold once members resume their normal spending and saving habits post-pandemic. For credit unions that are not at risk of crossing the \$10 billion threshold in the next year, the compliance burdens associated with the NCUA's 2015 final risk-based capital rule could also arrive sooner than expected.

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The NCUA should consider issuing an interim final rule to provide parity with a recent interim final rule regarding temporary asset thresholds for community banks, issued by the Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, and Office of the Comptroller of the Currency (collectively, “the other banking agencies”) in late November 2020.¹ This rule issued by the other banking agencies generally provides community banks with a transition period through 2022 to either reduce their size or to prepare for new regulatory and reporting requirements. The NCUA should issue a similar rule providing credit unions with parity in terms of a longer transition period before credit unions are examined by the Office of National Examinations and Supervision or subject to new capital planning and stress testing requirements.

Alternative Measures of Credit Union Assets

Should the NCUA decline to provide parity with the rule issued by the other banking agencies, the NCUA should consider issuing a rule to temporarily revise how it calculates total assets, as permitted under the FCU Act, as a means of alleviating regulatory stresses caused by excess share growth. Delaying recognition of excess share growth would be an appropriate measure to mitigate the regulatory consequences of pandemic-related capital dilution and grant credit unions additional flexibility.

The NCUA could accomplish such relief by adjusting its definition of total assets. In its proposed rule regarding the transition to the Current Expected Credit Losses (CECL) standard, the NCUA acknowledged that Section 216 of the FCU Act does not define the term “total assets,” which is left to the “regulatory discretion of the Board.” Consequently, it lies within the Board’s authority to tailor threshold-based regulatory standards vis-à-vis the total assets definition to better reflect the reality of capital dilution—as opposed to depletion—so long as inflated deposit balances persist as a consequence of the COVID-19 pandemic. Such a method of accommodation could operate in a similar fashion to the NCUA’s CECL phase-in; the NCUA could delay recognition of excess share growth until the disruption and stresses of the pandemic give way to a more normal economic environment.

NAFCU would also welcome the opportunity to provide comment on a proposal providing for consideration of rolling averages of a credit union’s total assets rather than a present-day snapshot of total assets for purposes of determining if a credit union has crossed the \$10 billion threshold for enhanced supervision and regulatory requirements. Although a rolling asset average would certainly be helpful in extending the timeline for review of credit union assets, this approach may not provide sufficient relief if the economic recovery is slow to materialize or unusual spending patterns persist well after the immediate public health crisis has ended. For a longer-term fix, the NCUA should consider discounting cash balances or cash equivalents currently on deposit when determining credit union assets for regulatory thresholds.

¹ 85 FR 77345 (Dec. 2, 2020).

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Enhanced Coordination with the CFPB

Absent a rule establishing parity with community banks or adopting any of the alternatives described above, the NCUA should coordinate with the CFPB to establish a uniform, longer timeline for evaluating those credit unions who quickly and, perhaps only temporarily, cross the \$10 billion asset threshold. Such coordination regarding regulatory standards is in line with the new Memorandum of Understanding the NCUA signed with the CFPB and would serve to provide credit unions with relief in terms of a consistent method of determining assets for purposes of the \$10 billion threshold. The expedited timeline at which these credit unions may cross the \$10 billion threshold poses significant burdens to those institutions as they struggle to prepare for enhanced supervision by not only the NCUA but also the CFPB. Currently, the CFPB evaluates the past four quarters of an institution's assets to determine whether it has crossed the \$10 billion threshold, while the NCUA looks at a point in time—March 31st—for determining asset size.

This March 31st figure is not only a poor measure of a credit union's recent growth and propensity for sustaining that asset level going forward but is also often an inflated number relative to the start of the April 1 quarter due to payrolls, tax returns, and year-end bonuses that get paid prior to the end of March to comply with Internal Revenue Service rules and requirements. If the NCUA declines to adopt a similar rule as the other banking agencies or pursue any of the alternatives described above, the NCUA should at least coordinate with the CFPB to provide uniformity on a longer timeline for credit unions who may be at or above the \$10 billion threshold on March 31, 2021 but could fall below that threshold shortly thereafter.

Conclusion

NAFCU would like to thank the NCUA for its focus on providing COVID-19 relief measures but more work remains to be done as credit unions are still managing the impacts of unexpected share growth. Thank you for your consideration of the above recommendations and we look forward to discussing this matter with you further. If we can answer any questions or provide you with additional information, please do not hesitate to contact me or Ann Kossachev, NAFCU's Director of Regulatory Affairs, at 703-842-2212 or akossachev@nafcu.org.

Sincerely,



B. Dan Berger
President and CEO