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National Association of Federal Credit Unions | nafcu.org

February 19, 2016

The Honorable Mitch McConnell
Majority Leader
United States Senate
Washington, D.C. 20510

The Honorable Harry Reid
Minority Leader
United States Senate
Washington, D.C. 20510

Re: Credit Union Legislative Priorities

Dear Leaders McConnell and Reid:

On behalf of the National Association of Federal Credit Unions (NAFCU), the only trade association exclusively representing the federal interests of our nation's federally-insured credit unions, I write today to share the top legislative priorities of our nation's credit unions for 2016. Member-owned not-for-profit credit unions provide over 101 million Americans with personal and small business financial service products as the economy continues to recover from the financial crisis. As you return from the President's Day district work period, we hope you will keep these priorities in mind.

Preservation of the Credit Union Tax Exemption

The cumulative benefit credit unions provide the greater U.S. economy totals over \$17 billion a year, according to an independent study released by NAFCU in February of 2014. This far exceeds the cost of the credit union tax exemption and any potential revenue that would be raised by eliminating the exemption. The credit union tax exemption not only benefits credit unions and their members, but also bank customers and the American economy at large. Altering the tax status of credit unions would have a devastating impact not only on credit union members across the country, but also on consumers and small businesses in general. Eliminating the credit union tax exemption would result in the loss of 150,000 jobs per year, a shrinking of the GDP, and a net *loss* of revenue to the federal government. We urge you to protect the credit union tax exemption in any discussion of tax reform.

Regulatory Relief

During the consideration of financial reform, NAFCU was concerned about the possibility of the overregulation of credit unions. Unfortunately, many of our concerns about the increased regulatory burdens that credit unions would face have proven true. The impact of this growing compliance burden, in particular the growth of Consumer Financial Protection Bureau (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 these credit unions were smaller institutions with assets of less than \$100 million. Currently, there are several pieces of bipartisan regulatory relief legislation before the Senate that have already been reportedly favorably out of the Senate Banking Committee as a part of Title I of S. 1484, the "Financial Regulatory Improvement Act of 2015". The bill includes provisions that would bring about reform at the CFPB, provide greater transparency at the National Credit Union

Administration (NCUA) and provide relief to community institutions from burdensome new mortgage regulations. We hope the full Senate will consider these measures this year.

Data Security

Data breaches in both the private and public sectors have the ability to cause irreparable harm to consumers everywhere. Credit unions are on the front lines assisting their members in the wake of data breaches and have a unique understanding of how detrimental such data breaches can be to all involved. Under the *Gramm-Leach-Bliley Act (GLBA)*, credit unions and other financial institutions are required to meet certain criteria for safekeeping consumers' personal information. Unfortunately, there is no comprehensive regulatory structure akin to GLBA that covers retailers, merchants, and others who collect and hold sensitive information. NAFCU strongly supports the passage of the *Data Security Act of 2015 (S. 961)*, which would recognize financial institutions' adherence to GLBA standards and require any entity responsible for the storage of consumer data to meet similar standards. NAFCU also strongly believes that the negligent entity should be held responsible for monetary damages stemming from the breach.

Housing Finance Reform

As not-for-profit cooperatives, it is vital that credit unions continue to have unfettered access to the secondary mortgage market and that any Fannie Mae and Freddie Mac reform efforts place a heavy emphasis on fair pricing that reflects loan quality rather than quantity. The liquidity the current system provides is absolutely critical in enabling credit unions to serve the mortgage needs of their member-owners. Along with access to a healthy and viable secondary mortgage market, fair pricing is equally as critical in ensuring community-based financial service providers are not discriminated against based on type of institution, an institution's asset size or any other geopolitical issues. NAFCU also recognizes the need for a system that will protect taxpayers from future bailouts and we will continue to be an active participant in housing finance reform discussions.

Field of Membership

In 2015, the NCUA Board undertook a comprehensive review of its field of membership rules and committed to streamlining procedural and regulatory hurdles that unnecessarily burden credit union growth in today's financial services landscape. On November 19, 2015, the NCUA Board proposed a rule that seeks to provide regulatory relief for all charter types. NAFCU submitted its official comments on the rule to NCUA on February 5, 2016 and continues urge Congress to support NCUA in this effort.

Capital Reform/Risk-Based Capital

On October 15, 2015, the NCUA Board voted 2-1 to approve a final risk-based capital rule which will take effect January 1, 2019. NAFCU has consistently opposed this rulemaking and urged its withdrawal. To create a true and fair risk-based capital system for credit unions, NAFCU fundamentally believes that legislative reforms are necessary. We urge Congress to support legislative efforts for credit union capital reform, including creating a true risk-based capital system for credit unions and allowing all credit unions potential access to supplemental forms for capital.

Member Business Lending

Credit unions have a 12.25% asset cap on their member business lending (MBL), with loans of only \$50,000 or less exempt from this cap. Passed in 1998, these arbitrary thresholds are severely outdated and have not increased with inflation. In order to modernize this out of date statute, NAFCU urges the Senate to pass S. 2028, the "Small Business Lending Enhancement Act of 2015", which would lift the arbitrary member business lending cap from 12.25 to 27.5% of total assets. Additionally, NAFCU supports S.1440, the "Credit Union Residential Loan Parity Act", which would exempt certain residential loans from the cap. These important bills would help ensure that our nation's small business owners have as many resources as possible to access credit.

In addition to these legislative priorities, NAFCU is working with regulators to ensure a positive environment for credit unions. We urge Congress to use its oversight authority in accordance with the below efforts.

Protect Responsible Overdraft Programs

Credit union members appreciate the responsible courtesy pay and overdraft protection programs that credit unions provide and want to see these services continue. Credit unions are known for their lower fees and working with their members to prevent abuse of these programs. For the past two years, the CFPB has listed overdraft on its rulemaking agenda. NAFCU is staying in close contact with the CFPB to monitor its timeframe for rulemaking, and will work to ensure that the substance of any rule does not curtail responsible overdraft programs credit unions provide for their members.

Ensure an Effective Payments System

NAFCU and its members continue to be engaged in the Federal Reserve's evolving payments initiative and roadmap for the U.S. payments system. In January of 2015, the Fed announced two task forces to modernize the U.S. payments systems – the Faster Payments Task Force and the Secure Payments Task Force. NAFCU joined the two newly formed task forces in May of 2015. NAFCU's goal in participating is to ensure that any new payments system can be cost-effective, operationally effective and scalable for credit unions of all sizes.

Seek Fairness Under FCC Ruling on Autodialing

In July of 2015, the Federal Communications Commission issued a declaratory ruling and order to clarify its interpretation of the *Telephone Consumer Protection Act*. NAFCU is concerned that the exemption, as written, will not allow financial institutions to engage in time-sensitive communications with consumers about identity theft or data breaches. We will continue to pursue a fair result for credit unions, and we urge Congress to monitor these efforts.

Online Lenders

NAFCU believes that the growth of online marketplace lenders underlines the need for Congress and regulators to modernize existing laws and regulations on traditional financial institutions in order to facilitate greater access to credit. NAFCU also continues to maintain that financial regulators must require online market lenders to meet basic consumer protection requirements such as the *Truth in Lending Act*, underwriting standards for loans, and applicable state usury laws.

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Thank you for your consideration and attention to these important matters. We look forward to working with you and your staff and hope you will be able to support the measures mentioned above. If we can answer any questions or provide you with additional information on any of these issues, please do not hesitate to contact myself or NAFCU's Associate Director of Legislative Affairs, Chad Adams, at 703-842-2265.

Sincerely,

A handwritten signature in black ink, appearing to read 'Brad Thaler', with a long horizontal flourish extending to the right.

Brad Thaler
Vice President of Legislative Affairs

cc: Members of the United States Senate