NAFCU
Report on Credit Unions

2021

NAFCU
National Association of
Federally-Insured Credit Unions

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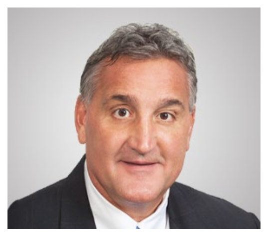

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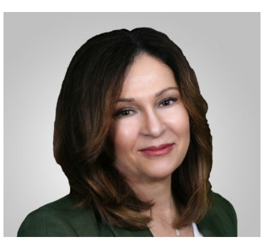

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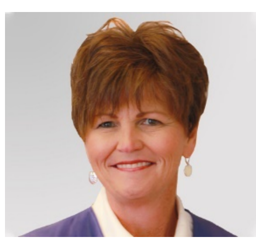

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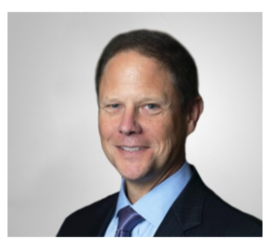

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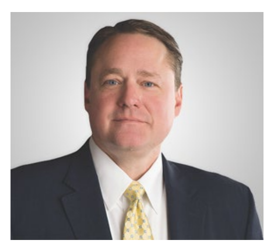

B. Dan Berger
President and CEO
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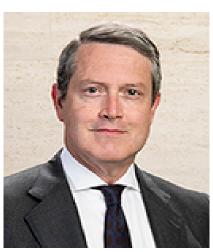
Board of Governors of the Federal Reserve System

Jerome H. Powell, Chairman of the Board of Governors. He was sworn in on February 5, 2018, for a four-year term. He also serves as Chairman of the Federal Open Market Committee. Mr. Powell has served as a member of the Board of Governors since taking office on May 25, 2012, to fill an unexpired term. He was reappointed to the Board and sworn in on June 16, 2014, for a term ending January 31, 2028. Prior to his appointment to the Board, Mr. Powell was a visiting scholar with the Bipartisan Policy Center, where he focused on federal and state fiscal issues. Mr. Powell also served as Assistant Secretary and as Undersecretary to the Treasury under President George H.W. Bush.

Richard H. Clarida, Vice Chairman of the Board of Governors. He was sworn in on September 17, 2018, for a four-year term, and took office as Board member to fill an unexpired term ending January 31, 2022. Prior to his appointment to the Board, Dr. Clarida was the C. Lowell Harriss Professor of Economics and International Affairs at Columbia University, where he also served as chairman of the Department of Economics. Dr. Clarida is a former Assistant Secretary of the Treasury for Economic Policy and served on the Council of Economic Advisers under President Reagan. Dr. Clarida is a member of the Council on Foreign Relations and a former member of the National Bureau of Economic Research.

Michelle W. Bowman, member of the Board of Governors. She took office on November 26, 2018 and was reappointed to the Board on January 23, 2020 for a term ending January 31, 2034. Prior to her appointment to the Board, Ms. Bowman served as the state bank commissioner of Kansas. She also served as vice president of Farmers & Drovers Bank in Kansas from 2010 to 2017. In addition to her experience in the banking industry, Ms. Bowman worked for Senator Bob Dole of Kansas, counsel to the U.S. House Committee on Transportation and Infrastructure, and the U.S. House Committee on Government Reform and Oversight.

Lael Brainard, member of the Board of Governors. She took office on June 16, 2014, to fill an unexpired term ending January 31, 2026. Prior to her appointment, Dr. Brainard served as Undersecretary of the U.S. Department of Treasury and Counselor to the Secretary of the Treasury. Dr. Brainard also was previously the Vice President and Founding Director of the Global Economy and Development Program and held the Bernard L. Schwartz Chair at the Brookings Institution. She also served in several staff positions in the Clinton Administration and was a professor of Applied Economics at the Massachusetts Institute of Technology (MIT).



Randal K. Quarles, member of the Board of Governors. He was sworn in as a member of the Board of Governors on October 13, 2017. He was reappointed to a term ending January 31, 2032. Mr. Quarles served as Vice Chair for Supervision from October 2017 to October 2021. Mr. Quarles is also chair of the Financial Stability Board (FSB). He took office on December 2, 2018, to fill a three-year term. Prior to his appointment to the Board, Mr. Quarles was founder and managing director of the Cynosure Group. Mr. Quarles served multiple positions in the Department of Treasury, most recently as the Under Secretary of the Treasury for Domestic Finance.

Christopher J. Waller, member of the Board of Governors. Mr. Waller took office as a member of the Board of Governors of the Federal Reserve System on December 18, 2020, to fill an unexpired term ending January 31, 2030. Prior to his appointment at the Board, Dr. Waller served as executive vice president and director of research at the Federal Reserve Bank of St. Louis since 2009. In addition to his experience in the Federal Reserve System, Dr. Waller served as a professor and the Gilbert F. Schaefer Chair of Economics at the University of Notre Dame. He was also a research fellow with Notre Dame's Kellogg Institute for International Studies.

BACKGROUND

The National Association of Federally-Insured Credit Unions (NAFCU), founded in 1967, is the only national trade association focusing exclusively on federal issues affecting the nation's federally-insured credit unions (FICUs). NAFCU provides its members with representation, information, education, and assistance to meet the constant challenges that cooperative financial institutions face in today's economic environment. Membership in NAFCU is direct; there are no state or local leagues, chapters or affiliations standing between NAFCU members and NAFCU's Arlington, Virginia headquarters.

NAFCU Membership

NAFCU's membership consists of the nation's most innovative and dynamic FICUs, having various and diverse membership bases and operations. NAFCU proudly represents many smaller credit unions with relatively limited operations, as well as some of the largest and most sophisticated credit unions in the nation. NAFCU represents 77 percent of total federal credit union (FCU) assets and 56 percent of all FICU assets. NAFCU's membership includes over 220 federally-insured state chartered credit unions (FISCUs).

The Credit Union Universe

Federally Chartered Credit Unions

Federally chartered credit unions obtain their charters from, and are regulated by, the National Credit Union Administration (NCUA). Their member shares (deposits) are insured by the National Credit Union Share Insurance Fund (NCUSIF), which is administered by the NCUA. As of June 2021, there were 3,144 FCUs, with assets of $997 billion and a membership base of 67 million.

Federally-Insured State Chartered Credit Unions

Federally-insured state chartered credit unions are chartered by their state, and their primarily regulator is the state supervisory authority. Their member shares are insured by the NCUSIF. As of June 2021, there were 1,886 FISCUs, with assets of $981 billion and a membership base of 61 million.

Federally-Insured Credit Unions

All FCUs are required to be insured by the NCUSIF. State chartered credit unions in some states are required to be federally insured, while others may elect to be insured by the NCUSIF. The term "federally-insured credit unions" refers to both federal and state chartered credit unions whose accounts are insured by the NCUSIF. Thus, FCUs and FISCUs are subsets of FICUs. As of June 2021, there were 5,030 FICUs, with assets of $2.0 trillion and a membership base of 127 million.

Corporate Credit Unions

Corporate credit unions are credit unions that serve other credit unions. Corporate credit unions provide services such as investment products, advisory services, item processing and loans to their members. As of June 2021, there were 11 corporate credit unions with assets of $35 billion.

NAFCU Research

NAFCU devotes a great deal of institutional resources to keeping its finger on the pulse of its members' operations by surveying its membership regularly. In this report, we reference several research instruments:

Economic & CU Monitor

NAFCU's *Economic & CU Monitor* is a monthly report based in part on survey responses by NAFCU member credit unions on a special topic. The report includes a review of the survey responses, along with commentary on economic and industry trends.

NAFCU Report on Credit Unions

NAFCU's Federal Reserve Meeting Survey is an annual assessment of NAFCU members covering topics we discuss in the annual NAFCU Report on Credit Unions. Survey responses for the current report were collected between the dates of August 24 and September 17, 2021.

Economic Benefits of the Credit Union Tax Exemption to Consumers, Businesses, and the U.S. Economy

NAFCU commissioned a special study to examine what would happen to the U.S. economy if the presence of credit unions was reduced significantly as a result of eliminating the credit union federal tax exemption. The 2021 study quantifies the benefits to all consumers – both credit union members and bank customers – of having a strong credit union presence in financial markets. The study shows that reducing the number of credit unions would weaken competition for consumer financial services and lead to higher interest rates on consumer loans and lower interest rates on retail deposits. The study also estimates the broader economic impact of these lost consumer benefits.

Regulatory Approaches to Financial Technology

In September 2019, NAFCU released a white paper, Regulatory Approaches to Financial Technology, outlining some of the challenges facing credit unions as they partner with, and compete against, fintech firms. NAFCU makes recommendations for achieving a coordinated and coherent regulatory framework with respect to financial technology, with a goal of fostering innovation while promoting a level playing field.

KEY FINDINGS

Industry Profile

- The median bank has more than five times as many employees and more than six times as many assets as the median credit union.
- Nearly three in four credit unions say net interest margin will be a significant challenge over the next three years.

Product Offerings and Service to Members

- Credit unions make a higher share of their mortgage loans to Black and Hispanic borrowers than banks.
- Ninety-three percent of NAFCU survey respondents operate at least one program for the benefit of their members at a loss.

NAFCU Policy Priorities

- NAFCU continues to advocate aggressively against adoption of the IRS reporting proposal covering accounts with annual transaction flows at any threshold, as it will place unnecessary and significant burdens on credit unions and raises serious financial privacy concerns for individual taxpayers.
- NAFCU has concerns with the Small Business Administration's direct lending program in light of the problems lenders experienced with the paycheck protection program and other direct emergency loans from the SBA.
- NAFCU believes that the Durbin Amendment has failed to deliver for consumers and strongly opposes any efforts to extend interchange caps to other payment channels.
- NAFCU urges regulators to address unfair regulatory arbitrage as fintechs continue to operate on the periphery of traditional supervisory domains.

Modernizing Credit Union Field of Membership

- In 2021, nearly 60 percent of credit unions said that field of membership issues were critical to their continued growth and success. However, the pace of field of membership reform has been slow in recent years.
- Credit unions are ready and able to address the credit needs of underserved areas as banks retreat from these areas. NAFCU urges Congress to make necessary legislative reform to expand the ability of credit unions to add underserved areas to their field of membership.

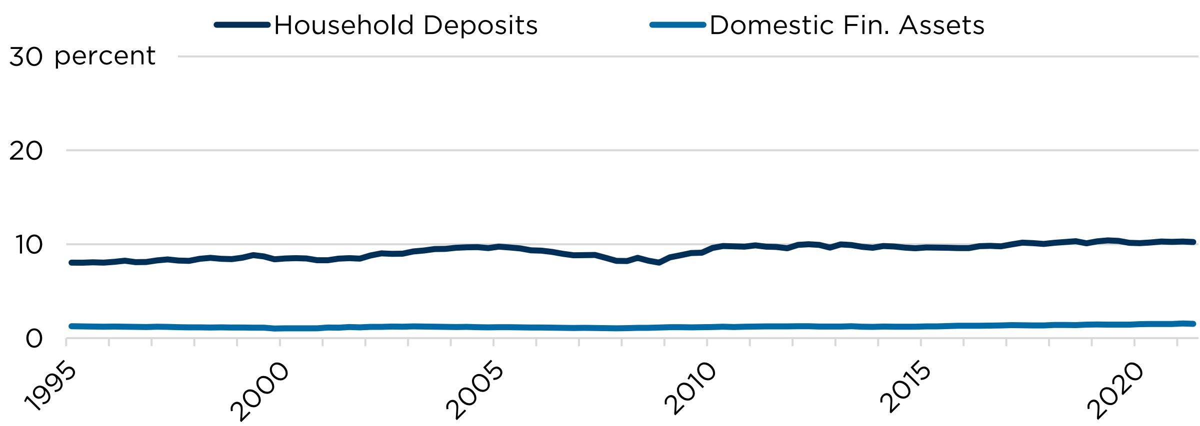
I. INDUSTRY PROFILE

The Credit Union Difference

Credit unions are member-owned, not-for-profit cooperative financial institutions. They are democratically run, led largely by volunteer directors, and exist to serve their field of membership. Strictly in terms of size, they occupy a small slice of the financial services industry, and yet they serve as a valuable partner for 127 million Americans.

The vast majority of credit unions are small institutions with limited resources, operating in the dynamic, competitive, and highly-regulated field of financial services. The median bank has more than five times as many employees and more than six times as many assets as the median credit union.1 The largest bank has 10 times as many employees and 22 times the assets of the largest credit union.2 Each of the three largest banks earns more than the entire credit union industry.[3]

Chart 1.1: Credit Union Share of U.S. Domestic Financial Assets, Household Deposits



Source: Federal Reserve *Financial Accounts of the United States*, NAFCU analysis

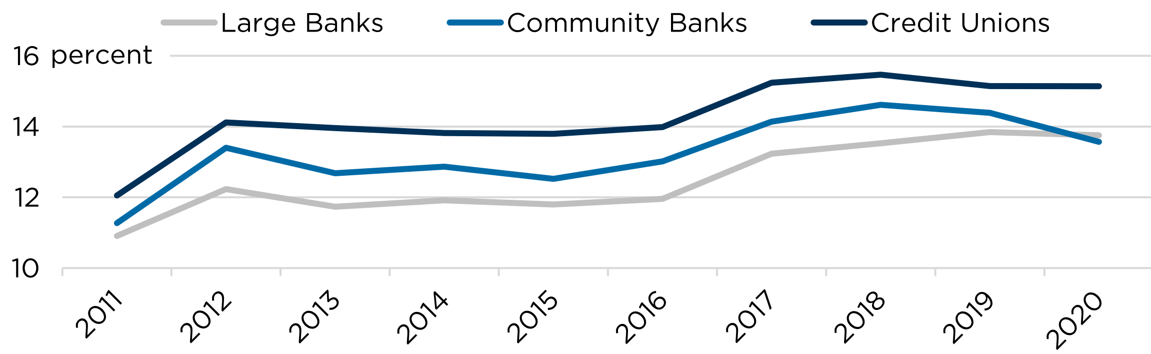
Overall, credit unions occupy a small and stable share of the marketplace. They represent 1.5 percent of total domestic financial assets and 10.2 percent of household deposits. Both of these figures are unchanged from the year prior and have remained stable for decades. Where

[1] The median federally-insured credit union has 9.5 full-time equivalent (FTE) employees and manages $47 million in assets; the median FDIC-insured domestic bank has 49 FTEs and over $300 million in assets.
[2] According to regulatory filings, the largest credit union has 19,000 FTEs and $148 billion in assets; the largest bank has 199,000 employees and $3.2 trillion in assets.
[3] From 2020q3 through 2021q2, JPMorgan Chase Bank ($37.8 billion), Bank of American ($20.9 billion), and Citibank ($18.4 billion) all earned more than the credit union industry ($17.9 billion).

many of the larger holders of financial assets are part of the unregulated shadow banking system catering to the wealthy, credit unions remain committed to serving Main Street, and act as a source of credit for consumers and small businesses.

The growth credit unions have experienced in recent years is a reflection of their commitment to responsible stewardship, inclusive leadership, and member service. More than half of credit union CEOs are female, compared to just 5 percent of publicly traded bank CEOs.[4] According to the National Credit Union Administration (NCUA) and Federal Deposit Insurance Corporation (FDIC), there were 526 credit union minority depository institutions (MDIs) compared to just 144 bank MDIs, as of June 30, 2021.

Chart 1.2: Share of Mortgage Loan Originations in Low- and Moderate-Income (LMI) Census Tracts



First-lien, owner-occupied purchase loans of 1- to 4-family site-built homes. LMI census tracts are those where the median family income is no greater than 80 percent of the median family income of the metropolitan statistical area.
Source: CFPB Home Mortgage Disclosure Act data

Credit unions serve more low- and moderate-income (LMI) households than banks do, with better pricing and lower fees. Data released under the Home Mortgage Disclosure Act (HMDA) confirms that credit unions operate in more LMI neighborhoods than banks. The median income of mortgage loan applicants was 9 percent lower for credit union applicants than bank applicants in 2020 ($82,000 vs. $90,000). Credit unions made 15.1 percent of their mortgage loan originations in LMI census tracts, which was much higher than either large banks (13.8 percent) or community banks (13.6 percent). Credit unions are also extending branching networks into rural areas, where banks are pulling back sharply. NAFCU Research demonstrated that from 2012 through 2019, while large banks and community banks reduced their number of branches in rural areas by 19 percent and 5 percent, respectively, credit unions grew their rural branch total by 2 percent.[5]

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[4] McCarthy, K. (2021, August 12). *Why credit unions have more women CEOs than banks do* American Banker. https://www.americanbanker.com/creditunions/news/why-credit-unions-have-more-women-ceos-than-banks-do
[5] NAFCU 2020 *Annual Report on Credit Unions*

While the credit union difference plays an important role in the economy in normal times, it is especially conspicuous in crisis. During the Great Recession, credit unions were making small business loans at a time when they were not available at banks. A recent study found that credit unions provided 15 percentage points more mortgage credit during the Great Recession than banks did, while banks shrunk in size to maintain profit margins.[6]

The divide between credit unions and big banks has never been greater. Prior to the pandemic, the eight largest banks spent $100 billion in one year on stock buybacks.[7] When it was announced that the Federal Reserve would lift pandemic restrictions on buybacks, large banks immediately announced intentions to spend another $142 billion.[8] Credit union membership growth is a testament to their single-minded focus on serving their member-owners. Simply by doing what they do best, credit unions are the preferred choice in financial services for over 127 million Main Street Americans.

Financial Conditions

Credit unions are conservatively run, well-capitalized institutions, which helps to explain their resiliency during economic crises. Following a drop after the Great Recession, FICUs' net worth ratio rose to above 11 percent prior to the COVID-19 pandemic. As of June 2021, the net worth ratio had declined to 10.2 percent as a result of extraordinary growth in shares and deposits during the COVID-19 pandemic. In the 12 months through June 30, 2021, shares grew by over 15 percent. That is roughly double the growth rate prior to the pandemic.

In addition to diluting net worth, strong share growth also compressed net interest margins, or the difference between credit union interest income earned on loans and investments and the interest expense paid on shares and borrowings. While housing demand has been sturdy during the pandemic, demand for consumer loans has been poor. As a result, credit unions have had little choice but to funnel this rush of deposits in low-yielding investments. On a four-quarter, rolling basis, net interest margin was just 2.6 percent as of June 2021. That represents a decline of over 50 basis points since the end of 2019, and it is below even the lowest point for industry net interest margin coming out of the Great Recession.

While credit unions responding to NAFCU's *Federal Reserve Meeting Surveys* have indicated an elevated level of concern over capital as compared to 2019, those concerns have only risen modestly. Credit unions hold high quality capital. A comparison with banks shows that a far higher share of credit union capital is in the form of retained earnings. Credit unions do not

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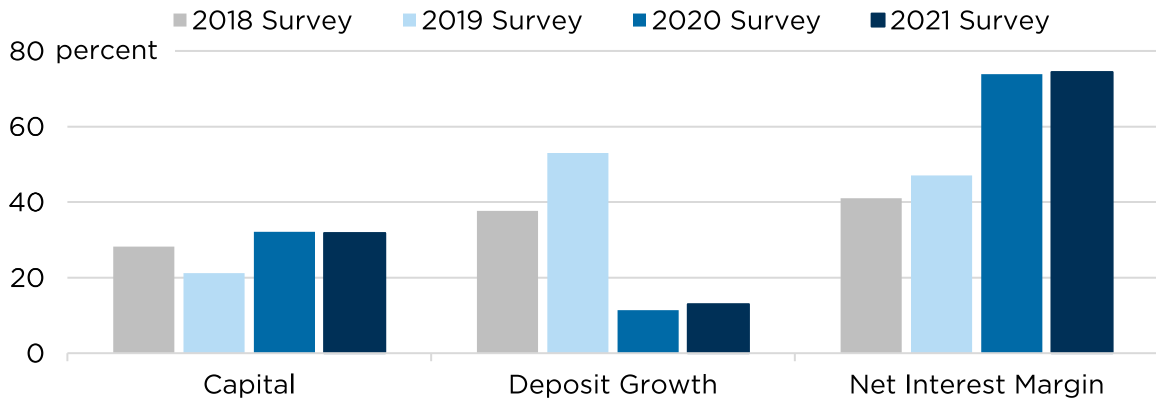
[6] Cororaton, Anna, *Banking on the Firm Objective* (October 1, 2019). https://ssrn.com/abstract=3231614.
[7] Liang, Nellie. *Banks should suspend share repurchases for longer*. Brookings Institute (April 8, 2020). https://www.brookings.edu/blog/up-front/2020/04/08/banks-should-suspend-share-repurchases-for-longer/
[8] Surane, J. (2021, June 23). *JPMorgan Leads Banks Set to Return $142 Billion to Shareholders*. https://www.bloomberg.com/news/articles/2021-06-23/jpmorgan-leads-banks-set-to-return-142-billion-to-shareholders.

issue stock, and most credit unions cannot currently offer subordinated debt. NAFCU supports granting credit unions access to other forms of capital, since many credit unions' growth options are capital constrained.

Year-over-year growth in credit union membership was 4.0 percent in June 2021, which is 60 basis points above the year-ago level. Credit unions with a low-income credit union (LICU) designation[9] experienced a larger surge in member growth over the past 12 months. LICU member growth increased by 78 basis points versus a year prior, compared to a 26-basis point increase for credit unions without a low-income designation (non-LICUs).

Chart 1.3: Share of Responding Credit Unions Viewing as a "Significant" Challenge over the Next Three Years



Source: NAFCU *Federal Reserve Meeting Surveys*

The credit union industry's return on average assets (ROA) over the four quarters ending on June 30, 2021, was 0.96 percent, which was 25 basis points higher than a year earlier. The biggest contributing factor was a 27-basis point reduction to provisions for loan and lease loss expense over that period. A 23-basis point decline in the operating expense ratio also aided earnings. Those items helped to offset a 32-basis point decline in net interest margin.

Lending

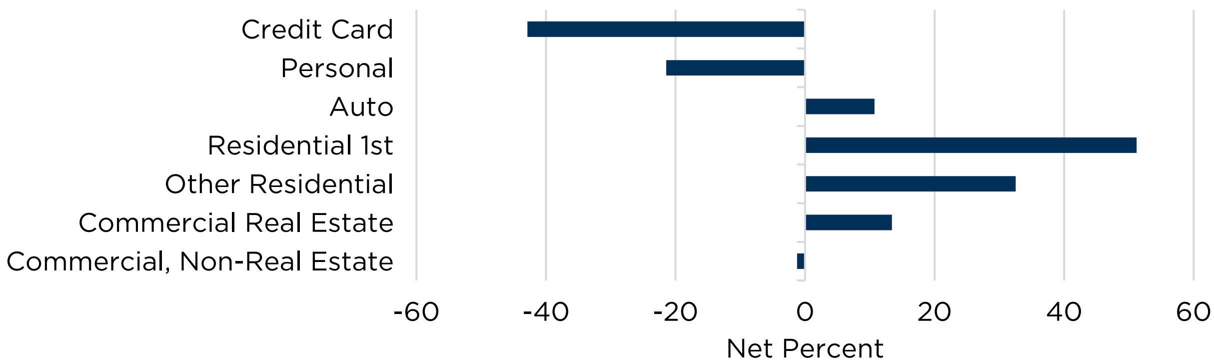
Lending has been a challenge during the COVID-19 pandemic. Year-over-year loan growth for credit unions was 5 percent as of June 30, 2021. That fell below industry loan growth as of the end of 2019 (6.2 percent), but it was still well above year-over-year loan growth for banks (-1.2 percent).

The lending that has occurred has been heavily tilted toward residential mortgage loans. First-lien residential mortgage loans represent 37 percent of the industry's loan portfolio but

[9] To qualify for a low-income designation, more than half of a credit union's members must meet certain low-income thresholds, based on data from the Census Bureau and NCUA requirements.

accounted for 52 percent of loan growth over the 12 months through June 30. Auto loans are the second largest share of the portfolio—representing 33 percent of total loans—but only accounted for 25 percent of loan growth over that period. Respondents to NAFCU's *Federal Reserve Meeting Survey* confirmed that first-lien residential mortgage loan demand remains robust. Low interest rates and pandemic conditions have stimulated significant housing demand. The Mortgage Bankers Association estimates that mortgage originations during the 12-month period ending June 30, 2021, grew substantially versus the prior year: purchase originations increased 27 percent while refinance originations increased by 75 percent.[10]

Chart 1.4: Net Percent of Responding Credit Unions Reporting Strong Loan Demand, by Loan Type



"Net percent" refers to the share of resondents reporting strong demand minus those reporting weak demand.
Source: NAFCU *Federal Reserve Meeting Surveys*

Credit unions' loan-to-share ratio rose from a cyclical low of 66 percent in 2013 to 84 percent at the end of 2019. However, extraordinary share growth since the onset of the pandemic prompted a substantial decline to just 70 percent as of June 30. Although consumer finances are in excellent condition overall, household deleveraging enabled by fiscal stimulus and weak auto sales have suppressed consumer credit to a level that is still 4 percent below its pre-COVID trend.[11]

LICUs have experienced stronger loan growth recently than non-LICUs. In the 12 months ending June 30, LICUs grew their loans by 7.4 percent, compared to 3.6 percent for non-LICUs. That disparity is noteworthy in light of the fact that the LICU loan portfolio is more heavily reliant on auto loans, which have not experienced strong growth during the pandemic. However, residential mortgage loan growth was 11.3 percent over the past year for LICUs versus 4.7 percent for non-LICUs.

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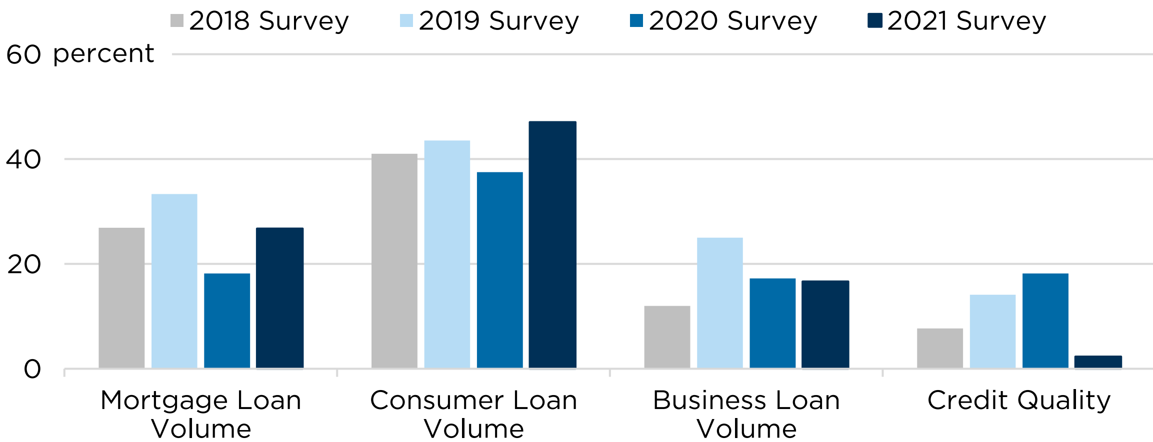
[10] Mortgage Bankers Association *Quarterly Origination Estimates* (accessed October 16, 2021), https://www.mba.org/news-research-and-resources/research-and-economics/forecasts-and-commentary.
[11] Federal Reserve Board of Governors G.19 Consumer Credit Report (October 7, 2021), https://www.federalreserve.gov/releases/g19/.

Chart 1.5: Share of Responding Credit Unions Viewing as a "Significant" Challenge over the Next Three Years



Source: NAFCU *Federal Reserve Meeting Surveys*

A positive development for lending during the pandemic has been a pronounced improvement in loan performance. As of June 30, 2021, the industry delinquency ratio was just 0.46 percent, which is down by 25 basis points from the end of 2019. Likewise, the net charge-off ratio has dropped by 24 basis points over that period. Some credit union officials worry that the expiration of mandatory mortgage forbearance periods will result in rising delinquencies for credit unions.[12] However, NAFCU surveys have consistently shown that the vast majority of member credit unions do not believe this will have a material impact on their loan performance measures. Research from the Federal Reserve Bank of New York also shows borrowers rapidly exiting forbearance programs.[13]

Credit unions' loan loss coverage ratio (loan loss reserves divided by delinquent loans) was 220 percent at the end of the second quarter. That is up from 172 percent a year earlier, and well above the five-year, pre-COVID average of 126 percent.

Liquidity

The recent surge in deposits has flooded the credit union industry with excess liquidity. As of June 30, 2021, cash and short-term investments represented 18.5 percent of industry assets. That is well-above the same quarter in 2019, when the ratio was 13.1 percent. Borrowings and non-member deposits were just 2.9 percent of total liabilities; that figure was 4.7 percent at

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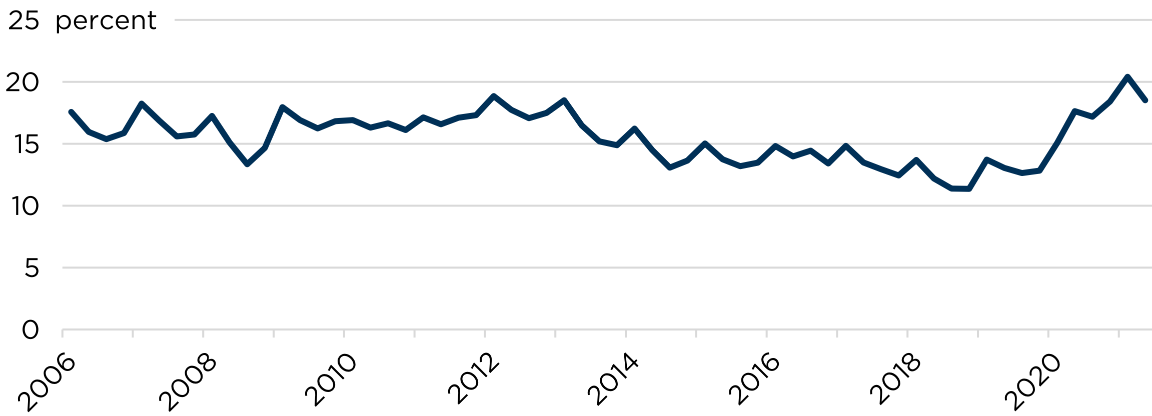
[12] NCUA Chairman Todd M. Harper Remarks at the 2021 NAFCU Congressional Caucus, Washington, D.C. (September 13, 2021), available at https://www.ncua.gov/newsroom/speech/2021/ncua-chairman-todd-m-harper-remarks-2021-nafcu-congressional-caucus-washington-dc.

[13] *See* Liberty Street Economics, Forbearance Participation Declines as Programs' End Nears (August 3, 2021), available at https://libertystreeteconomics.newyorkfed.org/2021/08/forbearance-participation-declines-as-programs-end-nears.

the end of 2019. Deposit growth was identified as a key concern in NAFCU's 2019 *Federal Reserve Meeting Survey*, with 53 percent saying it was a "significant" challenge for their credit union. In the 2021 survey, that number fell to 13 percent of respondents.

Chart 1.6: Credit Union Liquidity Ratio



Liquidity ratio is the sum of cash and investments with maturities under 1 year, divided by total assets.
Source: NCUA, NAFCU calculations

It is not just the quantity of share and deposits that has changed, but also their mix. From 2007 through 2018, the ratio of core deposits (share drafts and regular shares) to total shares and deposits increased from 37 percent to 48 percent, largely as a result of the prolonged period of low interest rates. That trend had plateaued prior to 2020 but has skyrocketed during the pandemic. As of June 30, core deposits represented 55 percent of total deposits.

Federal Home Loan Banks (FHLBs) play an important role in providing liquidity for many credit unions. As of June 30, FHLBs borrowings represented 95 percent of total industry borrowings. Thirty percent of credit unions are FHLB members. In NAFCU's 2021 *Federal Reserve Meeting Survey*, 75 percent of FHLB members said that FHLBs were a "somewhat" or "very" important source of liquidity for their credit unions.

Currently the *Federal Home Loan Bank Act* only recognizes FDIC-insured institutions up to $1.239 billion in assets as community financial institutions (CFIs). Under the Act, a CFI is exempt from the requirement that FHLB members hold 10 percent of their assets in residential mortgages and may pledge an expanded class of assets as collateral for advances. NAFCU has urged Congress to include credit unions in this definition and raise the threshold to $10 billion in order to provide greater lending capacity for credit unions. In NAFCU's 2021 *Federal Reserve Meeting Survey*, 44 percent of respondents who are not FHLB members said they would join an FHLB if the requirement to hold 10 percent of total assets in residential mortgages was lowered, or if credit unions could join as CFIs.

Corporate credit unions are another important partner for many credit unions in helping them to manage liquidity needs. Twenty-two percent of survey respondents said that they had accessed lines of credit with their corporate credit union during the past 12 months.

Secondary Mortgage Market

The secondary mortgage market is vital to many small financial institutions with mortgage loan portfolios, both as a source of liquidity and as a tool to manage interest rate and concentration risks. Over the first six months of 2021, credit unions sold 38 percent of first-lien mortgage loans originated. This is down from 2020 when 39 percent of originations were sold. Credit unions that participated in NAFCU's 2021 *Federal Reserve Meeting Survey* indicated that, on average, 61 percent of their outstanding first mortgage loans qualify to be sold on the secondary market, which is equal to the prior year's survey. As compared to the most recent 12 months, 22 percent of respondents said that they expect to sell a larger share of mortgage originations over the next 12 months, while 21 percent expect to sell a smaller share. Those results are very similar to those in the 2020 survey.

Government-sponsored enterprises (GSEs) are another important partner for the industry, allowing credit unions to manage risks while still providing mortgage loans to their members. Based on HMDA data, 67 percent of mortgage loans that credit unions sold into the secondary market in 2020 were sold to Fannie Mae and Freddie Mac. Among survey participants that sell to Fannie Mae and Freddie Mac, 83 percent indicated that ease of access was a key consideration in utilizing the GSEs, followed by pricing (71 percent). In conversations with policymakers, NAFCU has prioritized access and fair pricing for the credit union industry as critical and necessary elements of any housing finance reform efforts.

Industry Consolidation

The credit union industry is comprised of small institutions competing against institutions with vastly greater resources, and the current environment is a particularly challenging one for the smallest credit unions. Small credit unions are more reliant on net interest margin, and their earnings get squeezed when rates decline and the Treasury yield curve flattens. Small credit unions also have scant resources to deal with overbearing regulatory compliance burdens.

Respondents to NAFCU's 2021 *Federal Reserve Meeting Survey* said that 24 percent of total staff time was devoted to compliance-related activities, but that figure was higher (28 percent) for credit unions with under $250 million in assets. A larger share of small credit union respondents in NAFCU's survey indicated that meeting regulatory burdens was a "significant" challenge. And while small credit unions were just as likely to say that they expect compliance burdens to increase over the next five years, they were less likely to say that they would be hiring new staff to meet those needs.

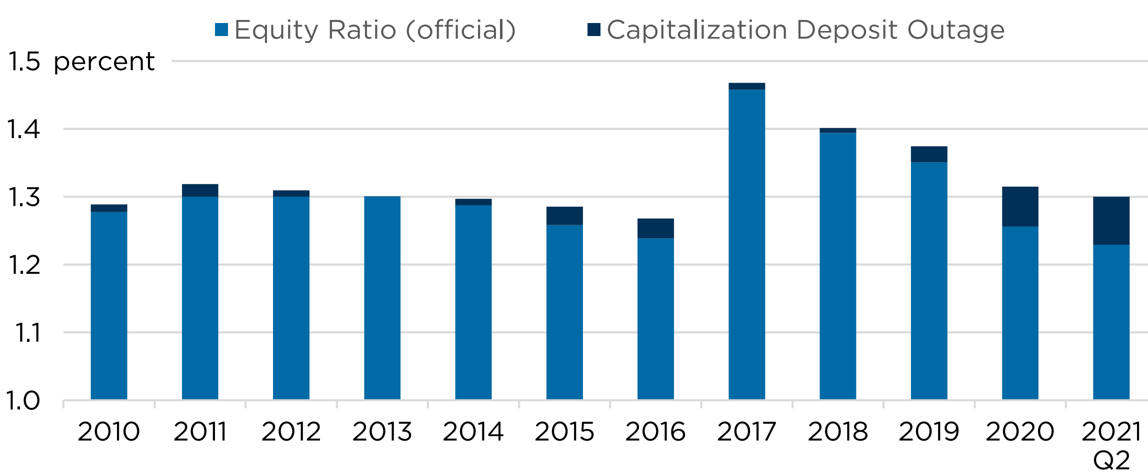
The stresses on small credit unions have led to a rise in merger activity within the industry. Since passage of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) in 2010, the number of credit unions has declined by 32 percent. In 2020, 90 percent of merging credit unions held less than $100 million in assets, and the median asset size was just $7.3 million.

Share Insurance Fund Financial Conditions

The National Credit Union Share Insurance Fund (NCUSIF or SIF) has been a model of stability over its history. Due to their prudent business model, credit union failures are relatively rare. In the decade following the Great Recession, the biggest factors affecting the SIF were low interest rates which reduced investment yield, and a one-time injection of equity resulting from merger of a separate fund created to manage losses from the corporate credit union system following the Great Recession, but which had a net position of $2.6 billion at the time of the merger.

Just as it has been for the broader industry, a key issue impacting the SIF during COVID-19 has been share growth. Credit unions maintain a deposit of 1 percent of their insured shares in the fund, but the SIF equity ratio[14] is generally much higher than that. The statutory minimum for the equity ratio is 1.2 percent; if the ratio falls below that level, the NCUA must establish a restoration plan.

Chart 1.7: NCUSIF Equity Ratio



Source: NCUA, NAFCU calculations

The unprecedented growth in insured shares placed downward pressure on the equity ratio. Not only did it dilute equity, but it also exacerbated a timing feature of the capitalization deposit

[14] Calculated as the sum of credit unions' 1 percent capitalization deposit and retained earnings, excluding net cumulative unrealized gains and losses on investments, divided by aggregate insured shares

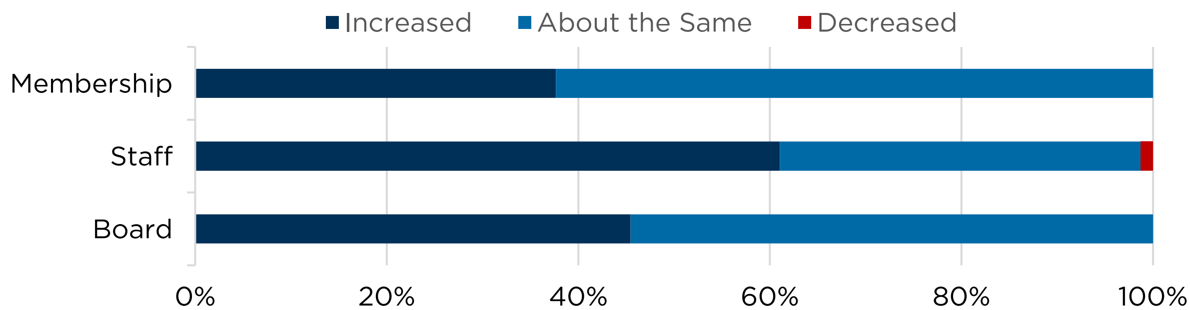
accounts whereby the true equity position of the fund is perpetually understated. The NCUA calculates the equity ratio twice per year—on June 30 and December 31—and uses estimated insured shares as of those dates in its calculations. However, the SIF does not recognize adjustments to credit unions' capitalization deposit accounts until those amounts are invoiced several months later. The effect of this mismatch is greater as share growth increases.

As of June 30, 2021, the NCUA reported a 1.23 percent equity ratio. However, this amount includes an abnormally large outage in the capitalization deposit accounts of seven basis points. Taking this into consideration, the true status of the SIF is much stronger than the reported equity ratio suggests. Share growth has already begun to slow, which should alleviate the biggest factor behind the decline in the equity ratio. The NCUA anticipates that it will improve by five basis points to 1.28 percent as of December 31.

II. PRODUCT OFFERINGS AND SERVICE TO MEMBERS

Credit unions pride themselves in providing a broad range of products and services to their members at affordable prices. They have an established track record of working in areas that other lenders ignore. In doing so, credit unions bring resiliency and cohesion to the communities they serve.

Chart 2.1: Changes in Responding CUs' Diversity Over Past Decade



For the purpose of assessing diversity, respondents were asked to consider race, color, religion/ creed, national origin/ ancestry, sex, age, physical or mental disability, and veteran status.

Source: NAFCU 2021 *Federal Reserve Meeting Survey*

A Commitment to Diversity

Credit unions have made tremendous strides in serving underserved communities. NAFCU has documented evidence showing that credit union membership is growing more diverse. Data from the Federal Reserve's *Survey of Consumer Finances* shows that Black households are more likely than any other race or ethnicity to use a credit union as a primary financial institution.[15] As compared to banks, 2020 HMDA data show that credit unions make a far greater share of mortgage loans to Black borrowers (5.6 percent to 4.1 percent) and to Hispanic borrowers (6.2 percent to 4.9 percent).[16]

This is a far cry from where things stood even ten years ago. In 2010, the roles were flipped as banks made 5.6 percent of mortgage loans to Black borrowers versus 4 percent for credit unions. Banks also made more loans to Hispanic borrowers than credit unions at that time (6.8 percent to 4.6 percent).

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[15] See *Evidence from the Survey of Consumer Finances* in NAFCU 2020 Annual Report on Credit Unions, available at https://www.nafcu.org/research/reportoncreditunions-archive.

[16] First-lien, owner occupied, 1- to 4-family loans, percentages based on number of loans originated.

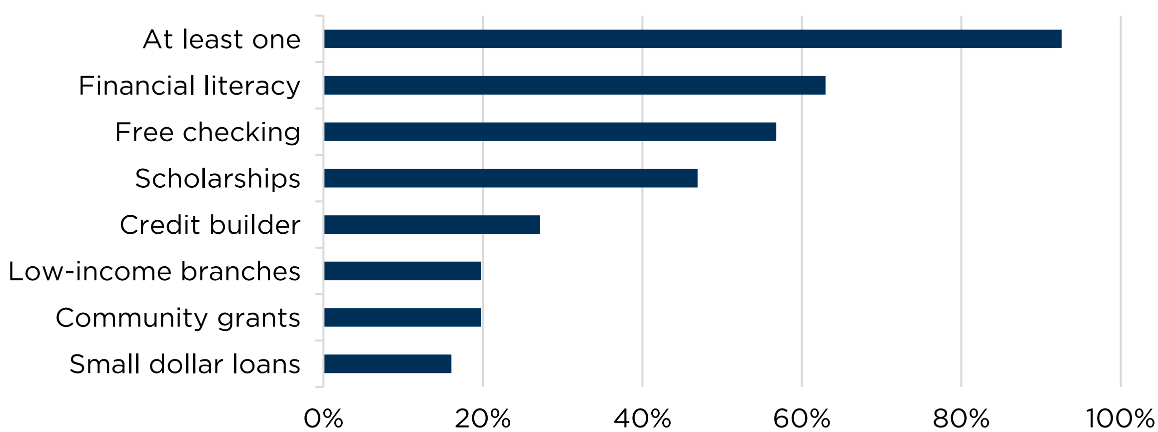
NAFCU asked 2021 *Federal Reserve Meeting Survey* respondents how their credit unions' diversity had evolved over the past decade. Thirty-eight percent said that the diversity of their membership grew over that period, 45 percent increased their board diversity, and 61 percent increased staff diversity. When asked about their outlook over the next two to three years, 38 percent of respondents anticipated an increase in their credit union diversity, with the remainder expecting it to remain about the same.

Product and Service Offerings

The credit union industry provides a robust set of affordable financial products, helping millions of Americans plot a path toward financial independence and wealth creation. Credit unions offering financial education programs cover 84 percent of total industry membership. Ninety percent of credit union members have access to a low-minimum balance share draft account, and 66 percent have access to a first-time homebuyer program.

What often goes unnoticed is that many of these programs are offered by credit unions at a loss. When asked about such programs, 93 percent of respondents to NAFCU's *Federal Reserve Meeting Survey* identified at least one program. Commonly cited examples included financial literacy programs (63 percent of respondents), free checking (57 percent), and student scholarships (47 percent). Twenty percent of respondents operated branches in low-income areas at a loss.

Chart 2.2: Share of Respondents Operating Programs at a Net Loss, by Program Type (selected responses)



Source: NAFCU 2021 *Federal Reserve Meeting Survey*

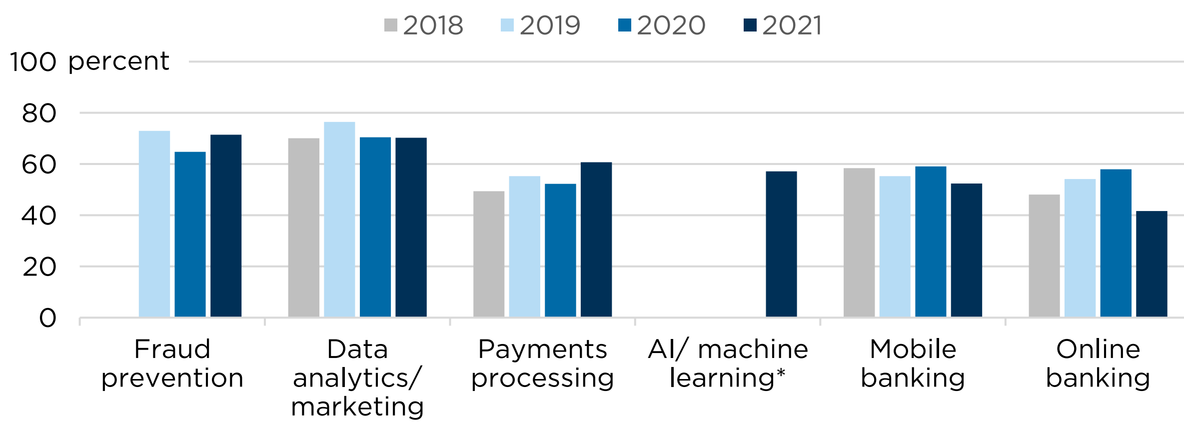
Investments in Technology

The challenge of offering a full slate of financial products grows as technology advances and consumer tastes evolve. With an expanding list of faster payment providers, credit unions are clearly prioritizing investments in that area. For the third consecutive year, more than half of respondents to NAFCU's *Federal Reserve Meeting Survey* expect to invest in payments processing over the next three years.

NAFCU has led the industry's engagement with the Federal Reserve throughout its investigation of faster payments capabilities and continues to provide input on the development of the FedNow Service that will launch in 2023. As the Federal Reserve builds out its faster payments infrastructure, pricing will be critical in achieving the goal of ubiquity across financial institutions while still allowing credit unions to continue offering robust, affordable services to their members.

The top priority for survey respondent technology investments was fraud prevention. Although fraud mitigation is always an area of focus for credit unions, the category did see an increase over the 2020 survey. This may reflect a rise in fraud attempts during the COVID-19 pandemic.

Chart 2.3: Share of Respondents Anticipating IT Investments Over the Next Three Years, by Type of Technology



Fraud prevention was added to the survey in 2019; AI/machine learning in 2021
Source: NAFCU 2021 *Federal Reserve Meeting Survey*

NAFCU will continue to impress upon policymakers the costly nature of technological investments. As larger institutions leverage their advantages in scale in these areas, it is critical that credit unions not be hampered by unnecessary cost burdens. A key strategic challenge for the industry is adapting to lower fee income, which continues to trend downward. This could prevent credit unions from making the necessary but costly investments in payments and technology that consumers will demand, and it could jeopardize credit unions' ability to provide programs they currently operate at a loss.

III. POLICY PRIORITIES

A. A Regulatory Environment that Allows Credit Unions to Grow

Credit unions have an established track record of meeting the needs of everyday Americans. After the Great Recession, they provided consumer and small business loans when other lenders would not. They established branches in places vacated by banks, preventing the spread of banking deserts. Now, as the country recovers from the COVID-19 crisis, credit unions are once again leading the way in providing support to Main Street. Simply put, a thriving credit union industry makes for thriving communities. Yet credit union growth is stifled by significant regulatory burdens and growing compliance costs. While credit unions continue to look for ways to provide state-of-the-art products and services to better serve their members, regulatory overreach often thwarts those efforts.

Preserving the Credit Union Tax Exemption

Preservation of the credit union tax exemption remains a top priority to allow credit unions to grow and provide essential financial products and services to members. The tax exemption provides credit unions with the opportunity to provide dividends to members and lowers fees and costs. The *Federal Credit Union Act* (FCU Act) grants credit unions a tax exemption because they operate on a not-for-profit basis, are cooperative organizations, and operated entirely by and for their members. These defining qualities remain just as true of credit unions today as they did when the FCU Act was first enacted in 1934. As President Biden and Congress consider changes to the tax code to finance the administration's spending priorities, NAFCU continues to fight to preserve the credit union tax exemption.

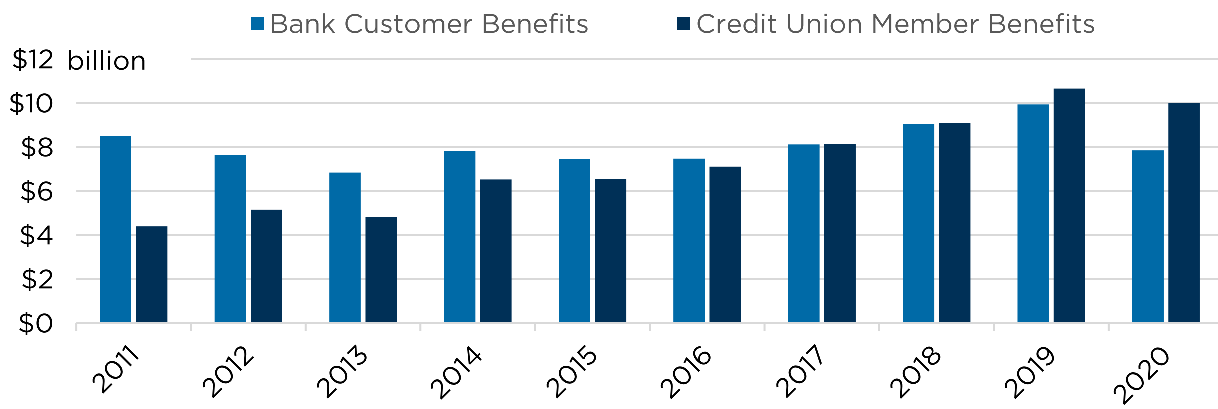
Bankers are always looking for opportunities to attack credit unions in an effort to eliminate their federal income tax exemption, and particularly so when tax reform is on the table. Like clockwork, the International Community Bankers of America (ICBA) expanded its efforts in 2021, calling on Congress to implement an exit fee on credit union acquisitions of banks, hold hearings on how the credit union tax exemption fuels bank purchases, and request a Government Accountability Office (GAO) study on the credit union industry and NCUA supervision. When these calls are made, NAFCU stands ready to educate lawmakers and defend the tax exemption.

NAFCU routinely engages with the Treasury on the matter of voluntary bank and credit union mergers. In July 2021, NAFCU wrote to Secretary Yellen reiterating that these mergers are voluntary, market-based decisions, that require a community bank's board of directors to vote in favor of selling to a credit union. Moreover, credit unions enhance competition and provide vital financial products and services to communities.

NAFCU commissioned an independent study in 2021 which estimated that the removal of the credit union tax exemption would cost the federal government $56 billion in lost tax revenue over the next ten years. Further, GDP would be reduced by $120 billion, and employment would drop by nearly 80,000 jobs per year during the 10-year period. Preservation of the credit union tax exemption provides for higher deposit rates and lower loan rates to all households, whether they are credit union members or not, due to the competitive influence of credit unions on for-profit institutions. According to the study, benefits to credit union members over the past decade totaled $72.5 billion across all deposit and loan products, while the combined benefits to member and non-members was $153 billion over that period. Given the broader benefits to the economy, preservation of the credit union tax exemption is imperative.

NAFCU continues to advocate for credit unions by informing lawmakers of the value of the tax exemption for members, communities, and the broader economy and ensure that tax reform efforts preserve credit unions' tax-exempt status.

Chart 3.1: Annual Credit Union Member & Bank Customer Benefits Arising from Credit Union Tax Exemption



Source: Feinberg, Robert M. and Douglas Meade, *Economic Benefits of the Credit Union Tax Exemption to Consumers, Businesses, and the U.S. Economy* (2021).

Housing Finance

With the COVID-19 pandemic ongoing, NAFCU has been vigilant in ensuring that the Federal Housing Finance Agency (FHFA) and the GSEs are aware of and attentive to the needs of credit unions. Most of the protections of the *Coronavirus Aid, Relief, and Economic Security* (CARES) *Act* have expired and the pandemic's economic effect on the housing market will soon be shown. NAFCU has continued to communicate with the FHFA about operational difficulties credit unions are facing due to the pandemic, including limited staff and increased requests from members. In response the FHFA has also provided flexibilities for credit unions in the origination, sale, and servicing of mortgages affected by the pandemic. NAFCU's 2021 *Federal Reserve Meeting Survey* shows that 83 percent of responding credit unions that use the GSEs find ease of access to be a key factor in that decision, so these flexibilities are important. These flexibilities allow credit unions to maintain access to the secondary market despite limited resources, which in turn provides liquidity and the ability to assist members.

A major focus of FHFA Acting Director Sandra Thompson has been on affordable and sustainable housing. In July, the FHFA announced that the GSEs would eliminate the adverse market refinance fee, which imposed a 0.5 percent fee on most mortgage refinance loans. NAFCU advocated against these fees and 34 percent of *Federal Reserve Meeting Survey* respondents expected that they would have a material impact on their credit union, so the elimination of these fees is appreciated. In September, the FHFA suspended the amendments to the Preferred Stock Purchase Agreements (PSPAs) that were added in January. The suspended provisions include limits on the GSEs' cash windows, multifamily lending, loans with higher risk characteristics, and second homes and investment properties.

The FHFA continues to move the GSEs toward an exit from conservatorship. In September, the FHFA issued a proposed rule to amend the enterprise regulatory capital framework making the credit risk transfer (CRT) easier for the GSEs; NAFCU has long supported the CRTs. It is critical that credit unions retain access to the GSEs and the secondary market at fair prices and reasonable fees. Seventy-nine percent of the respondents to NAFCU's 2021 *Federal Reserve Meeting Survey* plan to maintain or increase the amount of loans they have been selling to the GSEs over the next 12 months. NAFCU supports a sustainable secondary mortgage market that offers a level playing field for credit unions, and where pricing is based on the risk and quality of loans.

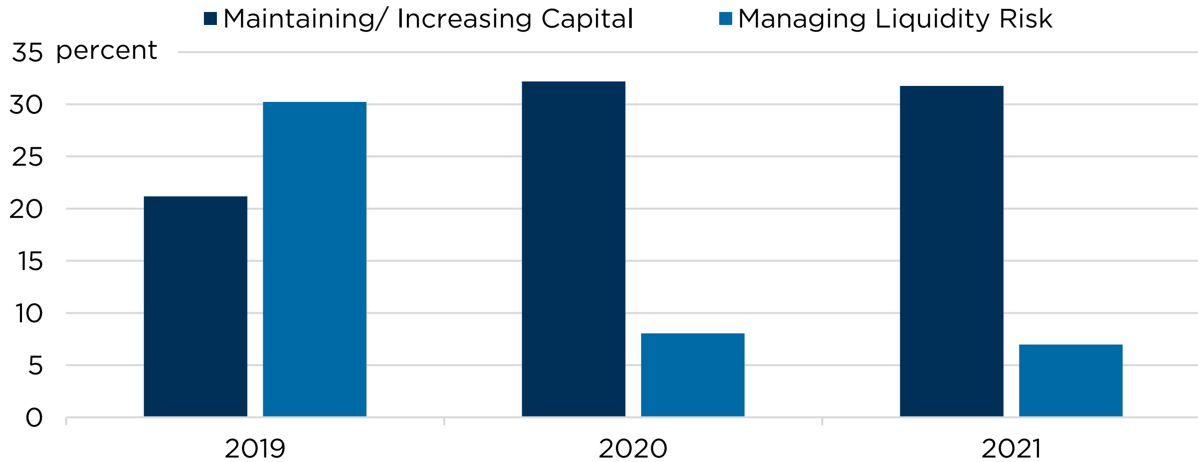
Capital Reform and Liquidity

Credit unions have maintained strong capital and liquidity levels as the nation mounts a recovery from the pandemic. However, sustained asset growth resulting from an influx of stimulus money in late 2020 and early 2021, along with elevated savings rates, has continued to put pressure on credit union net worth ratios. The share of credit unions that expressed significant concern related to maintaining or increasing capital over the next three years (32 percent) remains elevated relative to pre-pandemic periods. By contrast, just 7 percent of respondents expressed concern with liquidity risk.

NAFCU continues to emphasize to regulators that dilution of net worth ratios is not a sign of financial weakness, but rather an unusual consequence of the pandemic that warrants special flexibility. In response, the NCUA and other federal banking agencies approved several rulemakings in late 2020 and early 2021 that temporarily eased regulatory capital burdens during a period of sustained economic uncertainty.

NAFCU has also advocated strongly for reforms to the NCUA's 2015 Final Risk Based Capital Rule (RBC Rule), supported consideration of an RBC off-ramp for healthy credit unions, recommended changes to the RBC risk weights, and pressed for more flexible treatment of goodwill. Years of persistent advocacy on these issues coincided with the NCUA inviting comment on simplified approaches for RBC compliance that might be adopted before the RBC Rule takes effect in 2022.

Chart 3.2: Share of CUs Viewing as a "Significant" Challenge



Source: NAFCU *Federal Reserve Meeting Surveys*

Risk-Based Capital Simplification

On January 14, 2021, the NCUA issued an advanced notice of proposed rulemaking (ANPR) to simplify the risk based capital requirements found in the agency's 2015 RBC Rule. The ANPR proposed two different approaches for simplifying the RBC Rule. The first alternative involved a Risk-based Leverage Ratio (RBLR) that used the existing net worth ratio calculation in conjunction with new capital buffers calibrated based on risk attribute thresholds for complex credit unions. NAFCU noted that while the approach might have merit, there were few details to evaluate and operationally it could be burdensome to implement. The second alternative retained the 2015 RBC Rule and enabled eligible complex credit unions to opt in to a "complex credit union leverage ratio" (CCULR) framework to meet all regulatory capital requirements.

In July 2021, the agency issued a proposed rule favoring the CCULR approach. Complex credit unions that meet the CCULR's minimum net worth requirement (a fully phased in net worth ratio of 10 percent) will be regarded as well capitalized and avoid the administrative burden of calculating a risk-based capital ratio. NAFCU has cautioned the NCUA that complex credit unions close to the eligibility threshold might not realize much benefit from maintaining a CCULR of 10 percent. For these credit unions, analysis of which standard is least stringent would likely correspond with continued RBC modeling, even if it is not strictly required. Accordingly, in October 2021, NAFCU urged the NCUA to reconsider the proposed CCULR and lower it to a level more comparable with the community bank leverage ratio, which is set at nine percent.

In January 2021, the NCUA separately approved a final rule to make the current risk-based net worth (RBNW) requirement applicable only to a federally insured natural-person credit union with quarter-end assets that exceed $500 million and a risk-based net worth requirement that exceeds six percent. NAFCU supported the proposal which conformed the applicability of the current RBNW to the RBC Rule.

Capital Adequacy; Prompt Corrective Action (PCA)

On April 16, 2021, the NCUA approved a NAFCU-supported interim final rule (IFR) by notation vote to provide temporary regulatory capital relief to FICUs. The rule was substantially similar to a prior IFR that expired at the end of 2020 and provides temporary, pandemic-related PCA flexibility. The IFR made two changes that were responsive to unusual and sustained asset growth. First it allowed a reduction to the earnings retention requirement for FICUs classified as adequately capitalized. Second, it permitted undercapitalized FICUs to submit a streamlined net worth restoration plan if the FICU's undercapitalization was due to pandemic-related share growth. In addition to supporting the IFR, NAFCU has urged the NCUA to consider extending it further as credit unions continue to observe elevated share growth which could further dilute capital ratios.

Temporary Asset Thresholds

For credit unions nearing $10 billion in total assets, or that have already crossed this threshold much sooner than expected, the pandemic has frustrated efforts to reasonably plan for regulatory reporting standards and compliance expectations. Credit unions that are at or above $10 billion in total assets are subject to an array of specialized requirements. These include supervision by NCUA ONES, capital planning, examination by the CFPB, and, at higher asset tiers, formal stress testing. For credit unions that continue to grow quickly due to an influx of deposits and stimulus money, adapting to an array of new compliance requirements on a compressed timeframe presents a significant challenge.

In early 2021, at NAFCU's urging, the NCUA approved temporary, pandemic-related regulatory relief that delayed recognition of asset growth for regulatory reporting purposes. On March 23, 2021, the NCUA Board published an interim final rule (IFR) permitting credit unions to use asset data as of March 2020 to determine the applicability of certain regulatory provisions during calendar years 2021 and 2022, including capital planning and stress testing requirements. NAFCU had previously advocated for such flexibility to maintain parity with actions taken by the other banking regulators in response to the pandemic.

Emergency Capital Investment Program (ECIP)

The ECIP was established by the *Consolidated Appropriations Act, 2021* (CAA) and is administered by Treasury. The ECIP was created to encourage low- and moderate-income (LMI) community financial institutions to augment their efforts to support small businesses and consumers in communities that have suffered disproportionate financial stress as a result of the pandemic. The program authorizes Treasury to provide up to $9 billion in capital directly to eligible FICUs that are certified community development financial institutions (CDFIs) or minority depository institutions (MDIs) that have a plan to provide loans, grants and forbearance for small businesses, minority owned businesses and consumers in low-income and underserved communities.

On March 9, 2021, the Treasury issued an interim rule to implement statutory eligibility requirements for the ECIP while delaying the ECIP submission deadline several times throughout 2021. While this created some disruption for credit unions hoping to capitalize on the program before the end of 2021, it did afford additional time for qualified credit unions to apply. In 2021, NAFCU provided resources and webinars to credit unions interested in ECIP funding, and emphasized to low-income credit union (LICU) members that large, subordinated debt investments made by Treasury could also qualify as secondary capital. As of September 24, 2021, Treasury reported that 90 credit unions had submitted applications for ECIP investments totaling $3.1 billion.

Following the close of the ECIP application process in September 2021, the NCUA published a notice of proposed rulemaking amending the agency's Subordinated Debt rule to ensure that delays in ECIP funding would not complicate the secondary capital approval process for low-income designated credit unions (LICUs). In practical terms, the proposal would ensure that LICUs submitting secondary capital applications in conjunction with ECIP approval will have their applications reviewed under the current rule secondary capital rule rather than the agency's Subordinated Debt rule, which takes effect on January 1, 2022. On October 28, 2021, NAFCU submitted comments supporting the proposal along with separate NCUA guidance which recognized thirty-year ECIP investments as regulatory capital.

Prior to the publication of the proposed rule, NAFCU had expressed concern that absent a grandfathering option and flexibility around maturity limits, ECIP applicants would have to revise their secondary capital applications to conform with the more complex Subordinated Debt rule, which takes effect in 2022. NAFCU continues to advocate for flexible treatment of secondary capital issued by LICUs and reconsideration of complex, procedural requirements embedded in the NCUA's Subordinated Debt rule.

Central Liquidity Facility

The credit union industry currently enjoys ample liquidity and usage of contingent liquidity sources has remained low despite the financial uncertainty created by the pandemic. According to NAFCU's 2021 *Federal Reserve Meeting Survey*, the share of credit unions that accessed a line of credit through either the discount window or the FHLBs in the past 12 months increased by less than one percent. The share of credit unions that reported accessing liquidity through the NCUA's Central Liquidity Facility (CLF) during the same period increased from 2.4 percent in 2020 to 3.4 percent in 2021. Call report data confirms that end-of-quarter borrowings remained low in 2021 due to ample system liquidity.

Although demand for liquidity remains low, NAFCU continues to advocate for enhanced credit union access to the CLF. The CARES Act adopted several temporary changes relating to CLF access; however, significant provisions augmenting the facility's borrowing capacity and easing the capital stock subscription requirement for members accessing the CLF through a corporate credit union are set to expire at the end of 2021. NAFCU has since encouraged Congress to make these enhancements permanent.

The NCUA has also advocated for a making the CARES Act enhancements to the CLF permanent.[17] In May 2021, Chairman Todd Harper noted that new memberships in the facility have added $1.6 billion in additional total subscribed capital stock, boosting the CLF's borrowing authority to $36.1 billion, an increase of $25.6 billion since April 2020.[18] As a result of statutory enhancements, 4,110 credit unions, or 81 percent of all federally insured credit unions, now have access to the CLF, either as a regular member or through their corporate credit union.

In 2021, NAFCU supported the NCUA's decision to extend regulatory enhancements to the CLF rules, which are not subject to a statutory sunset provision. These include eliminating the six-month waiting period for a new member to receive a loan from the CLF and easing collateral requirements on assets pledged to the CLF. NAFCU has continued to advocate for the *Central Liquidity Facility Enhancement Act* which would help ensure that the NCUA has a critical tool to help credit unions the next time financial uncertainty arises.[19]

Credit Unions Respond to the Pandemic

Credit unions continue to succeed in hybrid in-office and work-from-home postures, as evidenced by the addition of nearly five million new credit union members over the past 12 months.

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[17] NCUA Chairman Todd M. Harper's Written Testimony before the U.S. Senate Committee on Banking, Housing, and Urban Affairs (August 3, 2021), available at https://www.ncua.gov/newsroom/testimony/2021/ncua-chairman-todd-m-harpers-written-testimony-us-senate-committee-banking-housing-and-urban-affairs.

[18] NCUA Chairman Todd M. Harper's Written Testimony before the U.S. House of Representatives Committee on Financial Services (May 19, 2021), available at https://www.ncua.gov/newsroom/testimony/2021/ncua-chairman-todd-m-harpers-written-testimony-us-house-representatives-committee-financial-services.

[19] See H.R. 3958, the "Central Liquidity Facility Enhancement Act." https://www.congress.gov/bill/117th-congress/house-bill/3958?s=1&r=1.

Assistance to Members

Despite significant regulatory uncertainty, credit unions continue to meet their members' financial concerns head on. Throughout 2020 and 2021, credit unions worked tirelessly to provide members with temporary and permanent loan modification options for a broad range of consumer products, from mortgages to student loans. In NAFCU's April 2021 *Economic & CU Monitor Survey*, 89 percent of respondents reported offering payment accommodations, such as skipped or deferred payments, during the prior six months. Sixty-eight percent of respondents committed to offering such accommodations at least until a federal declaration that the pandemic emergency has ended.

In that same survey, 75 percent of respondents reported warning members about virus-related fraud schemes. Forty-three percent said they had increased call center staffing in order to address member call volume.

Paycheck Protection Program

As a result of decades-old legislative restrictions, commercial loans have historically been a niche product for credit unions (see *Member Business Lending*). The investments needed to build out a lending program result in a long payback period for most credit unions when outstanding business loans are limited to just 12.25 percent of assets. However, when the Small Business Administration (SBA) unveiled the Paycheck Protection Program (PPP) to deliver emergency funding to the nation's small businesses, credit unions answered the call. Over 900 credit unions took part in the program, originating nearly 400,000 loans.

Not only did credit unions originate a high volume of PPP loans, but they also specialized in small-dollar loans. NAFCU analysis of SBA data shows that the average credit union PPP loan was $41,000, compared to $73,000 for other lenders. Credit unions were therefore critical components to the program's success, helping to extend loans to the smallest companies, many of whom likely did not have existing banking relationships prior to the pandemic.

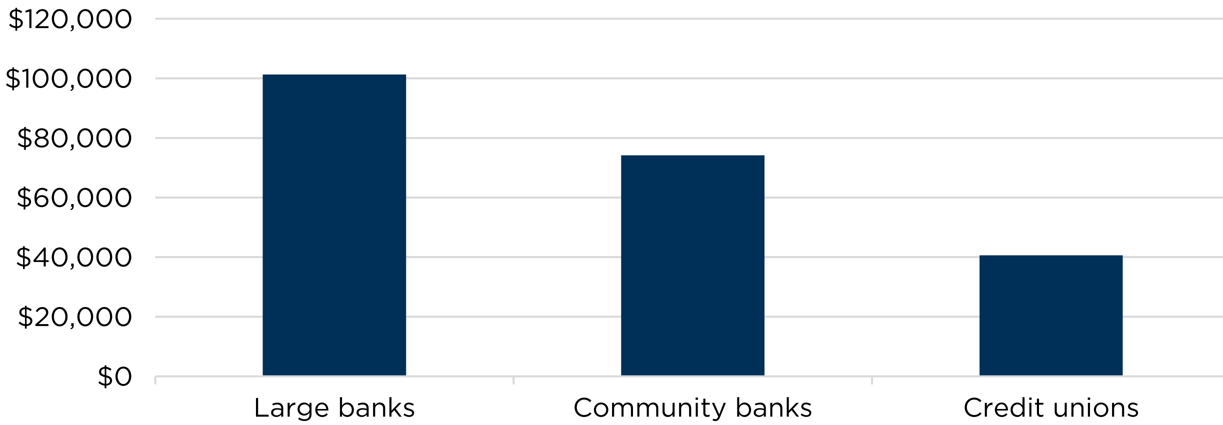
As credit unions were working tirelessly to provide PPP loans to local small businesses, NAFCU advocated for program enhancements. The Phase 4 coronavirus relief and fiscal year 2021 funding omnibus package passed by Congress in December 2020 contained numerous NAFCU-sought provisions designed to reopen and strengthen the PPP. The legislation suspended credit unions' responsibility to classify certain loan modifications as troubled debt restructurings, enhanced credit unions' access to the CLF, and further extended the optional, temporary relief from the current expected credit loss (CECL) standard.

The legislation dedicated an additional $284.5 billion to the PPP, with $15 billion set aside specifically for small, community-based lenders, including credit unions with less than $10 billion in assets. The legislation repealed the troublesome CARES Act provision that required

PPP borrowers to deduct economic injury disaster loan advances from their forgivable amount and included NAFCU-sought language to protect lenders and simplify the loan forgiveness process.

In December 2020, the NCUA issued a NAFCU-sought final rule permitting federal credit unions to exclude all PPP loans from their total assets for purposes of calculating annual operating fees.

Chart 3.3: Average PPP Loan Size, by Lender Type



Figures reflect loans made over all phases of PPP, through June 30, 2021
Source: SBA data, NAFCU analysis

Other Operational Changes

NAFCU has continuously advocated for the expansion of credit unions' authority to hold virtual annual and board meetings to help protect the health and safety of credit union employees and volunteers. The NCUA announced in November 2020 that the agency was extending the emergency bylaws provision for virtual annual and board meetings to include meetings held at any point in 2021. NAFCU recently engaged the NCUA's Office of General Counsel on the emergency bylaws provision's looming expiration at year's end and will continue to keep credit unions updated on the agency's decisions regarding virtual annual and board meetings in 2022 and beyond.

Share Insurance Fund

Since its creation in 1970, the National Credit Union Share Insurance Fund (SIF) has protected both credit union members and taxpayers, while allowing credit unions to remain competitive with other insured depositories. As a testament to the safety and soundness of credit unions, the SIF has experienced far lower losses than the Federal Deposit Insurance Corporation (FDIC) Deposit Insurance Fund (DIF) over its history. The latest financial data on the fund demonstrate its resiliency throughout the pandemic, in spite of extraordinarily high share growth which diluted fund equity (see *Share Insurance Fund Financial Conditions*).

NCUA Chairman Harper has advocated for legislative changes to the FCU Act which would afford the agency greater authorities to manage the SIF.[20] In doing so, he has frequently invoked the FDIC's authorities as a target. In several areas, the FDIC has greater scope than does the NCUA to charge assessments and grow the size of its insurance fund, largely as a result of legislation enacted after the Great Recession. In particular, the size of the SIF is limited to the 1.5 percent upper bound on the normal operating level (NOL), since the NCUA must return any equity in excess of the NOL to credit unions. Where the size of the DIF had been similarly limited due to statutory requirement to issue dividends when the reserve ratio exceeded 1.5 percent, the Dodd-Frank Act eliminated this requirement, leaving dividend decisions to the discretion of the FDIC Board. The Dodd-Frank Act also raised the minimum designated reserve ratio of the DIF from 1.15 percent to 1.35 percent. The analogous statutory minimum for the SIF is 1.2 percent.

NAFCU is opposed to granting the NCUA additional authorities to increase the size of the SIF. These authorities are not warranted given the historical performance of the SIF in relation to the DIF. Chart 3.5 shows losses of retail institutions (i.e., not including bankers' banks and corporate credit unions) since 2008 and demonstrates that there is no comparison between the two insurance funds. DIF losses resulting from bank failures are eight times higher than SIF losses over that period. While it is true that corporate credit unions represented a disproportionately large share of losses to the SIF as compared to DIF losses stemming from failures of bankers' banks, the exposure of the SIF to corporate credit unions today is 70 percent less than it was in 2008. Furthermore, today's corporate credit unions are far better capitalized and more tightly regulated than prior to the Great Recession.

B. Appropriate, Tailored Regulation for Credit Unions and Relief from Growing Regulatory Burdens

Regulatory burdens are expanding at a breakneck pace. The result is added costs, increased consolidation, reduced growth, and, ultimately, reduced member benefits. Respondents to NAFCU's *Federal Reserve Meeting Survey* said that, on average, 24 percent of their staff's time was devoted to regulatory compliance. Seventy-three percent of respondents expect to add staff in the next three years to better manage current and anticipated compliance burdens.

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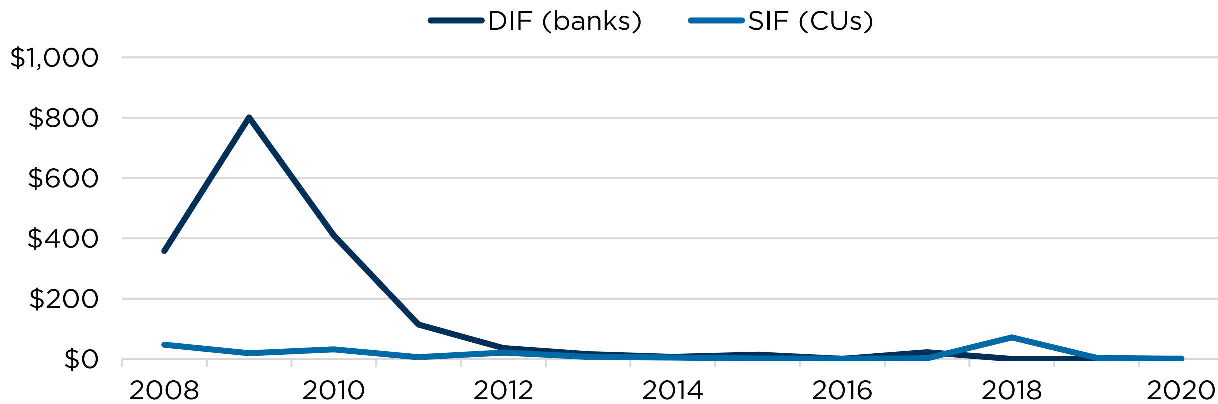
[20] NCUA Chairman Todd M. Harper's Statement on Share Insurance Fund's 2021 Normal Operating Level (December 17, 2020), available at https://www.ncua.gov/newsroom/speech/2020/ncua-board-member-todd-m-harper-statement-share-insurance-funds-2021-normal-operating-level.

IRS Reporting

A controversial element of the Administration's Fiscal Year 2022 Budget Resolution is a new tax reporting proposal which would require disclosure to the IRS of aggregate transaction flows exceeding $600 in financial accounts. The reporting requirement was initially floated as a possible pay-for during Senate negotiations on the bipartisan infrastructure package but was quickly rejected due to opposition and uncertainty. However, the proposal remains a factor in the ongoing budget reconciliation process and as a part of the Build Back Better Act.

Chart 3.4: Annual Insurance Fund Loss Rate, per $100k of insured shares/deposits



Note: Losses resulting from corporate CUs or bankers' banks not included
Sources: FDIC, NCUA, NAFCU analysis

Proponents of the IRS reporting framework allege that it will help prevent tax evasion which will in turn reduce the overall cost of other spending legislation favored by the Administration; yet the low de minimis threshold for account-level reporting appears at odds with the Administration's public emphasis on detecting higher-income tax evaders.[21]

While details regarding technical aspects of the proposal are scarce in the absence of official bill language, NAFCU has vigorously opposed the reporting framework which would capture the gross transaction activity of virtually all accounts at credit unions. From its inception, the IRS reporting framework has drawn heavy criticism spanning different sectors of the economy. In September 2021, NAFCU President & CEO Dan Berger wrote in an Op-Ed that the proposal "places an unnecessary burden on credit unions" and emphasized the need "for policymakers to focus on better solutions for taxpayer compliance—such as increased funding and support

[21] https://home.treasury.gov/news/featured-stories/the-case-for-a-robust-attack-on-the-tax-gap

for the IRS."[22] At NAFCU's 2021 Congressional Caucus, member credit unions were briefed on the issue and invited to urge lawmakers to reject any legislative effort to place new IRS reporting requirements on credit unions.

NAFCU has drawn attention to the tax reporting proposal's significant erosion of financial privacy, which will likely result in member confusion and a corresponding burden on credit unions to clarify IRS intentions. Treasury has withheld essential details about the proposal that would bear upon the ultimate cost of monitoring gross transaction flows, such as vendor readiness and future compliance expectations for financial institutions. Subsequent attempts by the Administration to develop a more palatable framework, such as raising the reporting threshold to a higher amount or not counting certain transactions like direct deposits of paychecks, have failed to address the underlying problems with the proposal.

On October 5, 2021, NAFCU wrote to the House Committee on Ways and Means and Senate Committee on Finance to explain that financial institutions charged with implementing the proposal, including credit unions, already face a wide range of reporting obligations (Forms 1099 and 1098, Suspicious Activity Reports, Currency Transaction Reports, etc.) and have limited capacity to shoulder additional burdens. NAFCU also noted that Treasury had presented little evidence to justify its assumptions about the efficacy of the reporting in terms of collecting additional tax revenue and had failed to properly consider the privacy concerns of millions of affected credit union members. NAFCU observed that the IRS is already challenged by the problems associated with identity theft and leaks of some taxpayer information.[23] The collection of additional information in the current environment could erode trust in credit unions' ability to protect their members' financial privacy.

On October 14, 2021, NAFCU joined a group of more than 100 trade associations in a letter addressed to House leadership opposing the IRS reporting proposal. The letter again emphasized serious financial privacy concerns for individual taxpayers, increased tax preparation costs, and significant operational challenges for financial institutions. Responding to a subsequent proposal to scale back the IRS reporting requirement, NAFCU wrote to members of the Senate Committees on Banking and Finance that "at any threshold, requiring credit unions to report on gross inflows and outflows of accounts poses regulatory costs and challenges while threatening to reduce participation in financial services."[24]

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[22] https://www.cuinsight.com/nafcu-advocacy-working-to-stop-new-irs-reporting-requirements.html
[23] https://www.finance.senate.gov/ranking-members-news/finance-committee-republicans-demand-investigation-into-massive-illegal-irs-data-leak
[24] https://www.nafcu.org/system/files/files/10-20-2021%20Letter%20on%20Scott%20IRS%20Reporting%20Bill.pdf

Although NAFCU supports efforts to increase taxpayer compliance, the association will continue to advocate aggressively against adoption of the IRS reporting proposal which will place unnecessary and significant burdens on credit unions.

Exam Modernization

In January, then-NCUA Chairman Rodney Hood announced the piloting of an Exam Planning Questionnaire designed to collect product and service, insider activity, significant event, and fraud awareness information from credit unions in advance of a scheduled exam. The NCUA set the expectation that examiners will use credit union responses to refine a scheduled exam's scope and drive offsite-monitoring capabilities and efficiencies.

In March 2020, NAFCU led the call for the NCUA to provide additional examination flexibility as the true scope of the pandemic's economic shocks came into focus. NAFCU continues to stress the need for the NCUA's virtual examination program to prioritize reductions in exam burden and duration. NAFCU also continues to advocate for extended examination cycles for low risk, well-run credit unions.

The NCUA reported in August 2021 that its Virtual Examination Program remains in the research and discovery stage but expressed confidence that procedures and guidance developed as part of the agency's Flexible Examination Pilot will contribute to more accurate and precise examiner decisions, provide credit unions much needed supervisory clarity, and reduce historical exam coordination challenges.

Chart 3.5: Net Satisfaction Scores by Small Business Lender

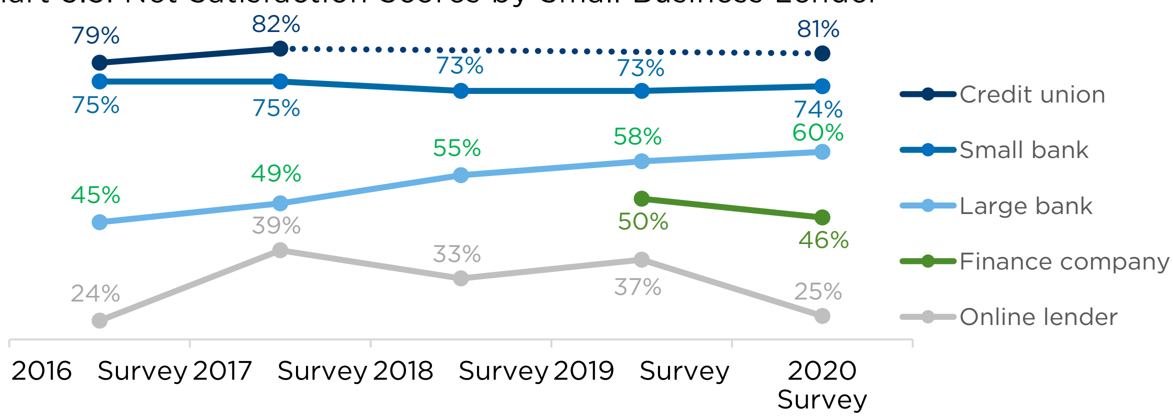


Chart reproduced from Federal Reserve *Small Business Credit Survey: 2021 Report on Employer Firms.* "Net satisfaction" is share of satisfied firms minus share of unsatisfied firms. Credit union scores not available in 2018 & 2019 due to small sample size.

In September 2021, the NCUA hosted its first in a series of webinars designed to expand on NCUA Chairman Todd Harper's August 2021 Letter to Federally Insured Credit Unions regarding the agency's exam technology modernization efforts. At the center of the agency's efforts is NCUA Connect, a user interface through which credit unions may access recently released and forthcoming examination, data collection, field of membership, and reporting applications. The Modern Examination & Risk Identification Tool (MERIT) is replacing the NCUA's legacy examination platform, the Automated Integrated Regulatory Examination System (AIRES), and is intended to enable credit unions to "transfer files within the context of an examination, provide status updates and request due date changes on examination findings and action items, and retrieve completed examination reports." Finally, the NCUA's new data ingest tool, the Data Exchange Application (DEXA), will enable a credit union to securely import loan and share account data, upload a mapping schema for the credit union's loan and share account type codes, validate imported and mapped data prior to submission, and view the status of submitted files.

These developments are encouraging first steps which should enhance the NCUA's ability to conduct faster, better targeted exams and to better coordinate with state examiners. NAFCU will continue to work closely with the agency and its members to ensure that these tools are deployed in ways that result in less burdensome examinations.

Member Business Lending

NAFCU continues to seek permanent solutions to the unnecessary member business loan (MBL) restrictions imposed on credit unions by the *Credit Union Membership Access Act* (CUMAA) and the FCU Act. As research from the Federal Reserve has shown, credit unions routinely receive higher marks for borrower satisfaction than other small business lenders. However, CUMAA's MBL net worth and total assets cap and the FCU Act's 15-year general loan maturity limit constrain credit unions' ability to increase access to affordable, high-quality commercial credit.

As policymakers considered the *American Rescue Plan Act of 2021* in February 2021, NAFCU urged lawmakers to recognize the significant support credit unions provide their communities and to consider legislative amendments that would, among other things, exclude business loans made in response to COVID-19 relief from the MBL cap and permanently raise the FCU Act's 15-year general loan maturity limit.

In September 2021, U.S. Reps. Vicente Gonzalez, D-Texas, and Brian Fitzpatrick, R-Pa., introduced the *Member Business Loan Expansion Act*. The NAFCU-sought, bipartisan legislation would ensure the NCUA has the flexibility to provide credit unions relief from the FCU Act's 15-year general loan maturity limit and would double the *de minimis* MBL threshold from $50,000 to $100,000. The bill would also amend the definition of "community financial institution" under the *Federal Home Loan Bank Act* to include credit unions, permitting more credit unions to offer affordable, high-quality mortgage loans to more consumers, including the underserved and unserved.

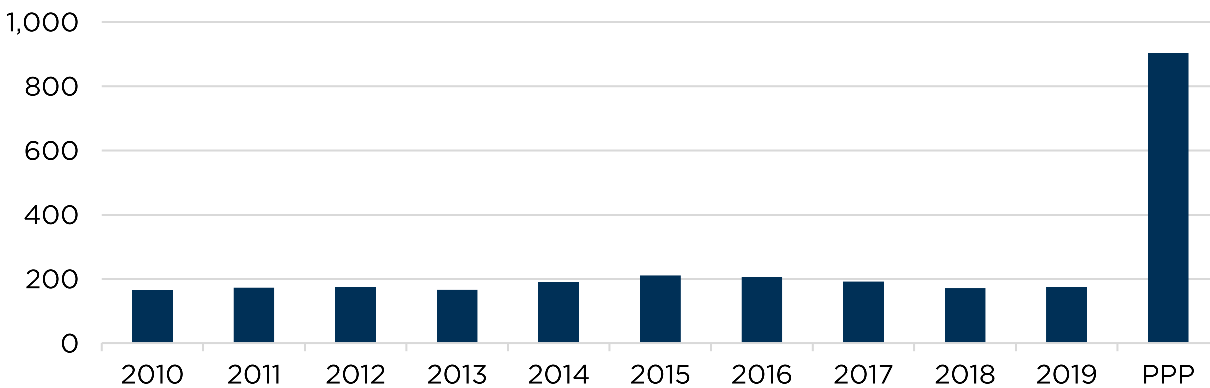
SBA Direct Lending

Despite the efforts credit unions made to provide small-dollar PPP loans to businesses that were turned away from other financial institutions, the SBA is attempting to re-instate their authority to provide loans directly to borrowers. The Small Business Act provides the SBA with the authority to make direct loans, but the agency has not exercised this power since 1998.

In September 2021, legislation passed the House Small Business Committee that would provide funding to the SBA to initiate a Direct Loan program through the existing 7(a) program for loans under $150,000. Loans can be originated and disbursed directly by the SBA or through partnerships with lenders (i.e., the existing 7(a) lending framework). Third parties, including credit unions, may still participate in the origination, disbursement, or servicing of Direct Loans, and may be entitled to receive referral fees in instances where borrowers are referred to the SBA for a Direct Loan. Direct Loans will have similar terms and conditions as current 7(a) loans. NAFCU members participate in the SBA's traditional 7(a) and 504 loans and have focused on providing smaller dollar loans.

The Direct Loan program would target the same class of borrowers that credit unions specialize in serving. Over the past five years, 57 percent of 7(a) loans made by credit union loans were less than $150,000, compared to 46 percent of 7(a) loans by other lenders. According to NAFCU's 2021 Federal Reserve Meeting Survey, 60 percent of respondents expect to sustain the same elevated level of small business lending over the next two to three years that they experienced during the past 12 months. Given that credit unions expect to sustain increased small business lending, it is important that lending opportunities remain available.

Chart 3.6: Number of CUs Participating in SBA Lending Programs



Data through 2019 show participation in SBA 7(a) program
Source: SBA data, NAFCU analysis

While the Direct Loan program is well-intentioned and NAFCU supports a robust market for small-dollar business loans, the problems lenders experienced with the PPP and other direct emergency loans from the SBA raise concerns about the future of such a program. The SBA must ensure that any final Direct Loan program is supported by sufficient staff and technology that enables the SBA to provide loans in an efficient and prudent manner. There are also concerns of a lack of consumer protections, as the Direct Loan program allows third parties, such as non-regulated fintech lenders, to operate in the Direct Loan program.

On October 18, 2021, NAFCU wrote to the CFPB's newly confirmed director, the Honorable Rohit Chopra, to express concern regarding the potential interaction of the Direct Loan program and proposed regulations implementing small business data collection requirements under the Dodd-Frank Act. NAFCU noted that the combined effects of a direct lending program and new small business lending regulations would likely drive consolidation among 7(a) lenders to the detriment of small businesses and could potentially push credit unions out of the small business lending market.

NAFCU will continue to work with the SBA to ensure that credit unions can maintain lending relationships with the SBA and provide vital capital to small businesses.

Section 1071

In September 2021, the Bureau released its much-anticipated proposed rule to amend Regulation B to implement changes made by section 1071 of the Dodd-Frank Act. The Bureau proposes to require that credit unions and credit union service organizations that originated at least 25 covered small business credit transactions in each of the two preceding calendar years collect and report certain small business credit application data, including data related to the ethnicity, race, and sex of business applicants' principal owners. NAFCU has consistently advocated for credit unions' exemption from any small business lending data collection and reporting rulemaking, noting the related technical and budgetary constraints credit unions face and credit unions' long-recognized, robust support for small businesses, despite CUMAA's and the FCU Act's unnecessarily restrictive MBL caps.

Unfair, Deceptive, or Abusive Acts and Practices (UDAAP)

Although most banking laws are accompanied with detailed regulations, UDAAP has no implementing regulations. Former CFPB Director Richard Cordray, nominated by President Obama, defined and expanded the Bureau's UDAAP authority through enforcement actions, consent orders and occasional supervisory guidance. Keeping UDAAP over-broad, flexible, and vague makes compliance a challenge for depository institutions.

When Director Kraninger was confirmed in 2018, she chose to focus CFPB's attention on preventative measures to discourage UDAAP among depository and nonbank institutions. In January 2020, former Director Kraninger announced that the Bureau would clarify the murky "abusiveness" standard in UDAAP with the release of a Policy Statement. The 2020 Policy Statement set forth a three-part set of principles stating that the Bureau would:

- Focus on citing or challenging conduct as abusive in supervision and enforcement matters only when the harm to consumers outweighs the benefit;
- Generally avoid "dual pleading" of abusiveness and unfairness or deceptive violations arising from all or nearly all the same facts; and alleging "stand alone" abusiveness violations that demonstrate clearly the nexus between cited facts and the Bureau's legal analysis; and
- Seek monetary relief for abusiveness only when there has been a lack of a good-faith effort to comply with the law, except that the Bureau will continue to seek restitution for injured consumers regardless of a good-faith consideration.

In March 2021, under Acting Director Uejio, the Bureau rescinded this Policy Statement, claiming it was "inconsistent with the Bureau's duty to enforce Congress's standard" and that its rescission will "better serve the CFPB's objective to protect consumers from abusive practices." Now, credit unions are concerned by the apparent return to the "regulation by enforcement" approach seen under former Director Richard Cordray. NAFCU has consistently highlighted UDAAP as an area where the CFPB could further clarify its expectations for credit unions and the specific factual basis for violations.

Compliance with UDAAP continues to be a concern for credit unions as significant resources are necessary to monitor and track the Bureau's supervision and enforcement actions to determine how best to design or modify internal practices and procedures to remain compliant with an evolving standard. NAFCU has long sought transparent guidance from the Bureau regarding the "abusive" prong of UDAAP and continues to seek additional clarification on the factual basis for an abusiveness violation.

Qualified Mortgages

The Bureau's ability-to-repay (ATR)/qualified mortgage (QM) rule requires credit unions to make a reasonable and good faith determination, based on verified and documented information that a borrower can repay a mortgage before extending the loan. The rule defined a General QM and created a second category, termed the Temporary Government-Sponsored Entity (GSE) loan or the "GSE Patch." This GSE Patch provides credit unions with continued and robust participation in the secondary mortgage market and allows lending to members in underserved markets who may not meet the requirements for a General QM loan.

Originally, the GSE Patch was set to expire on January 10, 2021, or upon the GSEs exiting conservatorship, whichever occurred first. In light of the GSE Patch expiring, the Bureau released a series of proposed rules to amend the ATR/QM rule. The Bureau finalized the General QM in December 2020 and the new Seasoned QM definition in January 2021, and ultimately delayed the expiration of the GSE Patch until October 2022. A delay of the GSE Patch expiration was granted to ensure borrowers had the ability to obtain mortgages and minimize market disruption during the COVID-19 pandemic. Treasury and the FHFA announced changes to the PSPAs that would limit the GSEs' ability to purchase loans that do not meet the new General QM definition. This amendment effectively limited the purchase of GSE Patch loans after July 1, 2021. NAFCU has urged both Treasury and the FHFA to further amend the PSPAs and allow for purchase of GSE Patch loans until the expiration date in October 2022.

The General QM definition removes the previous 43 percent debt-to-income (DTI) cap and replaces it with an alternative pricing threshold. A loan will receive QM status if the annual percentage rate (APR) is no more than 225 basis points above the average prime offer rate (APOR). A rebuttable presumption status remains intact. Different thresholds were adopted for first-lien, subordinate, and smaller loan transactions, including a separate threshold for loans secured by manufactured homes. NAFCU has historically advocated against an APOR approach and urged the Bureau to revise the General QM definition to a DTI threshold of up to 50 percent with the allowance of compensating factors, as the pricing threshold does not address default risks and may lead to the mispricing of loans. Alternatively, NAFCU advocated for higher APOR thresholds and a separate threshold for loans secured by manufactured homes, should the Bureau ultimately adopt a price-based model, which the Bureau did adjust in the final rule. NAFCU's May 2021 *Economic & CU Monitor Survey* revealed that over 64 percent of respondents supported reconsideration of the General QM definition.

The Bureau finalized the new Seasoned QM category that allows non-QMs to gain QM status if the loan includes restrictions on product features and points and fees, and if it meets certain underwriting and performance requirements after a 36-month seasoning period. The final rule limits delinquencies during the seasoning period to no more than two 30-day delinquencies and no delinquencies over 60 days. NAFCU supports alternative pathways to QM safe harbor status; however, the Seasoned QM definition does not afford credit unions the same legal protections and benefits as the GSE Patch. NAFCU will continue to advocate for alternative mechanisms to the GSE Patch that afford similar legal status and allow credit unions to innovate and provide non-QM loans.

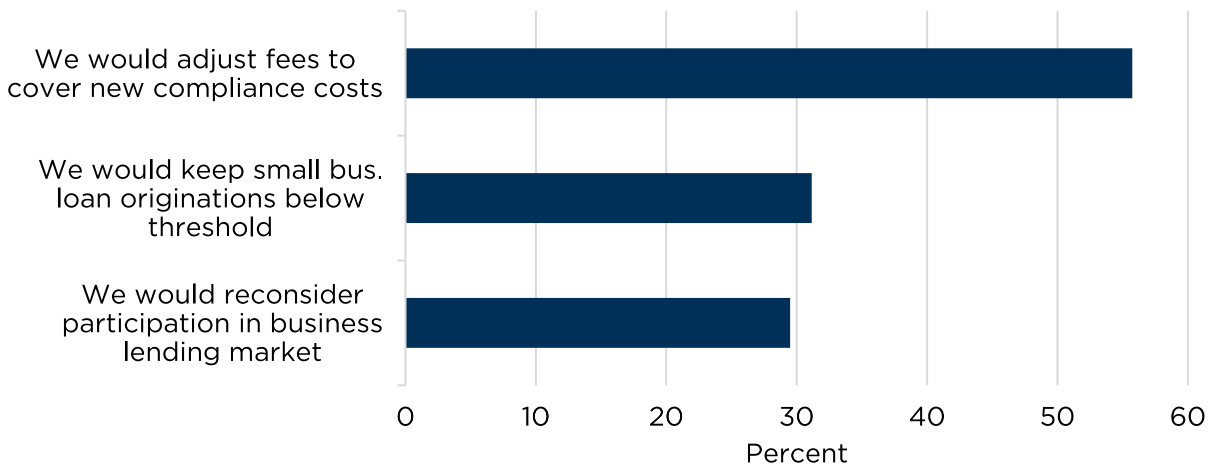
Home Mortgage Disclosure Act

Credit unions support fair lending and legal mechanisms to detect and prevent discrimination. The *Home Mortgage Disclosure Act* (HMDA) provides financial regulators with an important tool for enforcing fair lending laws; however, NAFCU remains concerned that certain reporting burdens exceed their useful contribution to HMDA's stated purpose. According to NAFCU's 2021 *Federal Reserve Meeting Survey*, over 52 percent of respondents noted an increase in regulatory burdens associated with HMDA in the last five years. Over 64 percent of respondents expect HMDA-related burdens to increase in the next three years, and 18 percent expect to increase staff devoted to HMDA compliance.

To better balance the burdens with the benefits of HMDA data, the Bureau released an ANPR with the intent to publish a proposal in early 2021. In March 2021, NAFCU met with the Bureau to discuss amendments that would achieve HMDA's fair lending purpose while reducing data collection burdens. The anticipated HDMA rulemaking was noticeably absent from the Bureau's Spring 2021 Semiannual Regulatory Agenda, and the agency has since announced that it will cease all pending rulemaking efforts related to HMDA and instead complete a review of section 1022 of the Dodd-Frank Act.[25] A separate pending rulemaking regarding public disclosure of HMDA data was also abandoned with the Bureau's prioritization of the section 1022 review.

Section 1022 requires a review of all significant rulemakings at least five years from their effective date. Upon that review, the Bureau will determine if further changes to HMDA are necessary. NAFCU continues to advocate for the elimination of data points adopted pursuant to the Bureau's discretionary authority, and only require the data points mandated by the Dodd-Frank Act.

Chart 3.7: Impact of Sec. 1071 Implementation on Small Business Lending



Source: NAFCU 2021 *Federal Reserve Meeting Survey*

Overdraft

Overdraft programs continue to be popular with credit union members. Respondents to NAFCU's 2021 *Federal Reserve Meeting Survey* indicated that overdraft use has steadily increased, and now a majority of credit union members (50.2 precent) have opted into these programs. While consumer usage of, and satisfaction with overdraft programs seem to have

[25] CFPB, Spring Rulemaking Agenda, https://www.consumerfinance.gov/about-us/blog/spring-2021-rulemaking-agenda/.

increased, the litigation risk associated with overdraft persists. Despite the pandemic, new class actions alleging financial institution violations of Regulation E, contractual agreements, and state law continue to be filed. In addition to complaints regarding the definition of "available funds," plaintiffs attorneys' are now focusing their attention on the resubmission of ACH transactions rejected due to insufficient funds. While some financial institutions have publicly announced that they are ending overdraft programs, perhaps due to the perceived threat of litigation, data from credit unions suggests that members continue to derive value from the product, which is often used as a form of short-term credit.

Payments

Payments innovation continues to support the industry's efforts to deliver faster and more secure payments for credit union members. In 2021, NAFCU vigorously rebutted merchant attacks on interchange, advocated for clarity on Regulation E's assignment of error resolution responsibilities, and supported technical changes to ACH network operating rules to improve the security of the payments ecosystem. NAFCU's goal is to ensure that existing and future payment systems are cost-effective, operationally effective, and scalable for credit unions of all sizes.

FedNow Service

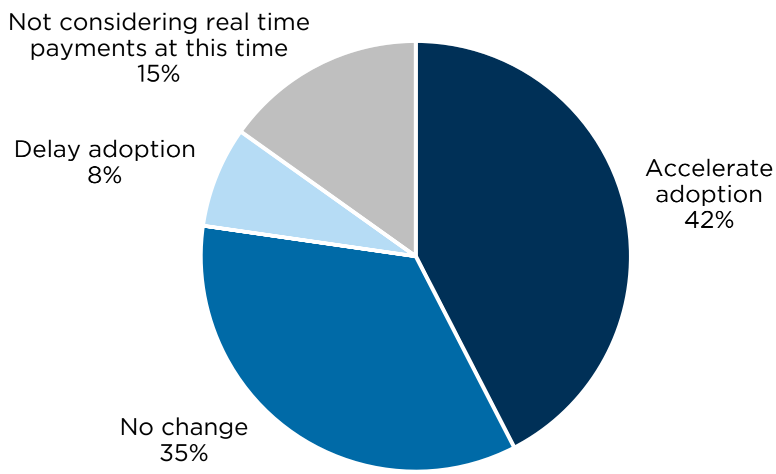
NAFCU supports development of the FedNow Service, the Federal Reserve's 24x7x365 real time gross settlement system, which is expected to debut sometime in 2023. In early 2021, the Federal Reserve announced that over 120 participants from the FedNow Community would be participating in the FedNow pilot program. Several NAFCU member credit unions were selected as participants.

NAFCU's engagement with the Federal Reserve on FedNow's development has emphasized the importance of delivering priority features at launch, supporting interoperability with other real time payment networks, and ensuring equitable access for credit unions, regardless of payment volume. NAFCU has asked the Federal Reserve to prioritize certain day-one features, such ascore clearing and settlement functionality, a request-for-payment capability, along with tools to manage liquidity and minimize fraud. In early 2021, NAFCU's Cybersecurity and Payments Committee was briefed on the development of FedNow's message specification, which was released in March 2021 and conforms closely to the ISO 20022 standard.

NAFCU has been active in gathering industry input on new payment solutions that are poised to benefit credit union members across a variety of use-cases, such as instant bill pay, account-to-account transfers, and peer-to-peer (P2P) payments. NAFCU's recommendations related to FedNow reflect an expectation held by over 40 percent of surveyed credit unions that the new service will accelerate their adoption of faster payments. It also reflects a more general expectation among 60 percent of respondents that payments processing will be the target of future investment in the next three years.

To support adoption of faster payment systems, NAFCU supports development of appropriate controls to address persistent levels of fraud which cost the economy billions in losses each year. Specifically, NAFCU has urged Congress to adopt strong data security standards to mitigate a growing tally of costly breaches of payment-related information among retailers. NAFCU's work reflects the view shared among 50 percent of surveyed credit unions that managing fraud risk will be a "significant concern" over the next three years.

Chart 3.8: Impact of FedNOW on Adoption of Faster Payments



Source: NAFCU 2021 *Federal Reserve Meeting Survey*

NAFCU has also offered comments on proposals that would update the rules governing Reserve Bank payment system operations to recognize the realities of real time account reconciliation through FedNow. In comments to the Federal Reserve regarding amendments to Regulation J, NAFCU sought clarity on the interplay between Uniform Commercial Code Article 4A and Regulation E in FedNow transactions. Noting the risk of fraud for institutions that originate instant and irrevocable payments, NAFCU asked the Federal Reserve to provide examples of instances in which a transaction would fall under the provisions of Regulation E and the actions or processes that would trigger Regulation E applicability.

Stimulus Payments

In early 2021, NAFCU advocated for process improvements to streamline distribution of stimulus money (officially, Economic Impact Payments or "EIPs") and for Congress to adopt consistent protections for these payments to alleviate confusion around issues such as garnishment. As the IRS sent additional batches of stimulus payments to millions of Americans in need of economic assistance, NAFCU worked with Treasury and the IRS to clarify the timing, volume, and identification of what amounted to an unprecedented volume of ACH payments. NAFCU also asked Treasury's Bureau of the Fiscal Service to maximize use of electronic payment channels to deliver EIPs. Doing so helped ensure that subsequent rounds of stimulus payments would not overburden credit unions with physical check processing.

The lessons learned from disbursement of EIP funds appear to have produced positive results. In an annual letter to Chief Financial Officers written by the Treasury Department's Bureau of Fiscal Service, Commissioner Tim Gribben wrote that the bureau plans to "deliver 99% of eligible Treasury-disbursed payments electronically by 2030."

Payment System Access

On July 12, 2021, NAFCU submitted comments to the Federal Reserve regarding proposed guidelines for evaluating requests to access accounts and service at Reserve Banks. In general, the proposed guidelines are intended to help ensure that riskier fintech applicants are held to appropriate standards when seeking master account and payment system access. The guidelines would also enforce greater consistency in terms of how Reserve Banks evaluate requests for accounts and limit the ability of fintechs to forum shop for Reserve Bank access. Responding to the proposal, NAFCU emphasized that the guidelines should not translate into additional compliance or reporting burdens for credit unions, whether they are new applicants or incumbent users of Federal Reserve services. However, to ensure that credit unions and fintechs operate on a level playing field, NAFCU agreed with the Federal Reserve's assessment that additional due diligence and scrutiny should be applied when evaluating applications from nontraditional entities that are not federally insured.

Payments Fraud

NAFCU advocates for a fair allocation of error resolution responsibilities within the payments ecosystem, particularly for entities that are not subject to the same rigorous oversight and supervision as credit unions and other federally examined institutions. In the context of resolving payment errors, these disparities have sometimes placed credit unions in the position of being the preferred channel for resolving unauthorized transaction claims due to their high touch service, even when a transaction involves an entirely separate P2P service.

In August 2021, the CFPB drew attention to Regulation E compliance issues through published FAQs and the agency's Summer 2021 Supervisory Highlights. These documents focused generally on the handling of unauthorized transaction claims, which likely grew alongside pandemic-related fraud during late 2020 and early 2021. While the Bureau's attention to the handling of error resolution responsibilities (e.g., the required investigation of unauthorized transactions) is hardly a new trend, member use of nonbank peer-to-peer (P2P) payment services has added an additional layer of complexity to Regulation E compliance and fraud management.

In NAFCU's August 2021 *Economic & CU Monitor Survey*, credit union respondents described different approaches for classifying unauthorized transaction claims made by a consumer, such as by flagging instances where the transaction involved a third-party P2P service. A majority of respondents used some method to classify transaction errors by type or characteristic, but some relied on manual processes to do so.

In the context of resolving errors, a significant share of respondents (88 percent) also indicated that when investigating certain unauthorized transactions, access to information possessed by a third party would be beneficial. However, respondents also indicated that the availability of such information was not always guaranteed. Among respondents that requested information from a third party (i.e., a P2P service) to support their Regulation E error resolution obligations, a majority reported that the third party was "rarely responsive." To address this disparity, NAFCU has asked the CFPB to consider exploring a more hierarchical framework for error resolution that clarifies when a depository institution owns a dispute.

NAFCU's August 2021 *Economic & CU Monitor Survey* responses also revealed that investigation of transaction errors placed a significant strain on credit union resources, with some respondents noting that current workloads were unsustainable at existing staff levels. Not surprisingly, these compliance burdens appear to have prompted new investments to improve operations and reduce risk exposure. Three-quarters of respondents indicated that their credit union had made significant or moderate investments in either technology or staff for the purpose of detecting or preventing unauthorized transactions.

In a priorities letter shared with the CFPB, NAFCU noted that error resolution investigations continue to place strains on credit union resources, and that in certain instances the credit union may not be the best party to investigate a dispute. In addition, NAFCU asked the CFPB to provide a clearer definition of an "access device" as it relates to a mobile app, such that the mobile app is considered a service provider under Regulation E. A clear interpretation of the rule would assist credit unions with Regulation E compliance.

On October 21, 2021, the CFPB issued a series of orders to collect information on the business practices of large technology companies operating domestic payment services. In a statement accompanying these orders, Director Chopra posed a series of questions related to the use of nonbank payment services, consumer privacy, and the commitment of large technology companies to effectively resolve consumer disputes and errors.[26] In response, NAFCU CEO and President Dan Berger issued a statement welcoming the Bureau's assessment of fintech consumer compliance and urged the agency to use its 'larger

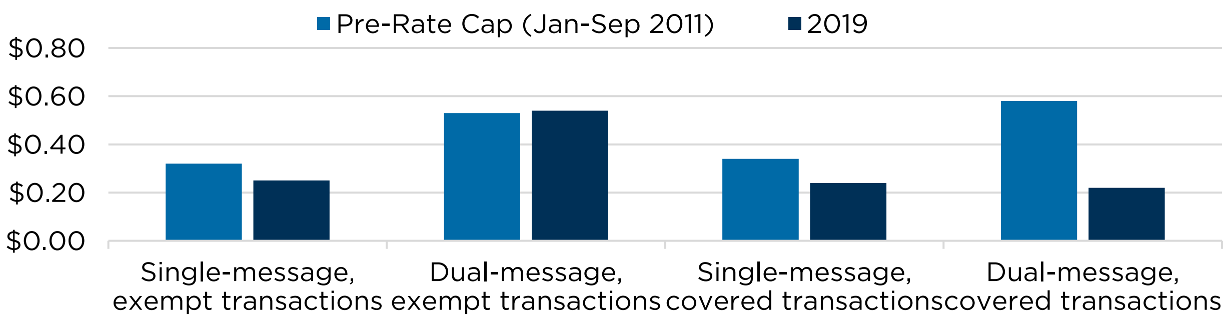
[26] CFPB, Statement of the Director Regarding the CFPB's Inquiry into Big Tech Payment Platforms (October 21, 2021).

participant' authority to bring much needed supervisory oversight to technology companies providing financial services

Interchange

Section 1075 of the Dodd-Frank Act, commonly referred to as the "Durbin Amendment," directed the Federal Reserve to regulate debit interchange fees by setting a limit that "shall be reasonable and proportional to the cost incurred by the issuer with respect to the transaction." The Durbin Amendment and implementing Regulation II have been the definitive example of regulatory overreach, advantaging one industry over another to disastrous result. NAFCU continues to advocate for repeal of the Durbin Amendment which has rewarded merchants, failed to pass savings to consumers, and harmed credit unions' ability to reinvest in valuable member services.

Chart 3.9: Average Per-Transaction Interchange Rates



Notes: The interchange fee cap went into effect October 1, 2011. Single-message networks generally process PIN-authorized transactions, whereas dual-message networks process signature-authorized transactions. Issuers with less than $10 billion in assets as of December 31 of the prior year are exempt.

Source: Federal Reserve

As part of a package of pandemic-related relief, the Federal Reserve provided temporary interchange relief in December 2020 to institutions that lost their small issuer status under Regulation II due to accelerated asset growth. On December 2, 2020, the Federal Reserve published an interim final rule to permit issuers under $10 billion in total assets as of December 31, 2019 (community banking organizations) to use asset data as of December 31, 2019, in order to determine the applicability of debit interchange caps. NAFCU has advocated for further relief for community institutions that are transitioning to new regulatory standards by specifying that for the purpose of Regulation II, asset growth in 2020 or 2021 will not trigger new regulatory requirements until July 1, 2023, at the earliest.

Merchant attempts to extract more favorable treatment under Regulation II have also drawn new attention to debit interchange controls. In 2021, North Dakota-based associations representing retailers filed a lawsuit against the Federal Reserve, arguing that the Federal Reserve should lower the cap on interchange fees for debit card transactions. Shortly thereafter, the Federal Reserve, concurrent with merchant lobbying on the Durbin

Amendment, issued a proposal to extend the routing and exclusivity provisions, which require issuers to enable, and allow merchants to choose from, at least two unaffiliated networks, to card-not-present (CNP) transactions.

In practice, the proposed rule would likely require issuers to enable one single-message network and one dual-message network for CNP transactions. It would also likely require issuers to reissue debit cards. According to NAFCU's 2021 *Federal Reserve Meeting Survey*, credit union respondents reported that the cost of reissuing debit cards would be $7.90 per card, on average. Reissuance of debit cards would be just one of many devastating costs to credit unions associated with the proposal. The proposal would also force credit unions that prefer to use established dual-message networks for CNP transactions to use PINless, single-message networks that have not proven their resiliency at scale. Through this proposal, the Federal Reserve would further extend the catastrophic impacts of the Durbin amendment to online retail transactions at a time when consumers increasingly utilize this form of payment.

Recently, Senator Durbin and various merchant groups have proposed extending the Durbin amendment's debit network routing requirements to credit cards. While legislation has not yet been introduced in this area, the merchant lobby continues to make it a priority. It is important that policymakers recognize that such a proposal would essentially be a backdoor price control that benefits retailers at the expense of credit unions and other community financial institutions. The last decade has shown that consumers receive no savings from lower routing costs for merchants and are indeed harmed by reduced network quality and security and diminished consumer protections and benefits.

NAFCU believes that the Durbin Amendment has failed to deliver for consumers and should ultimately be repealed. The association also strongly opposes any effort to extend new controls to card-not-present transactions or apply the Durbin Amendment to credit cards and has urged lawmaker to reject this latest ploy by the merchant lobby.

Regulation CC

Although the volume of electronic payments continues to grow, checks continue to represent a significant share of total payments volume. The Federal Reserve reports that the annual volume of commercial checks collected through Reserve Banks stood at 930 million items in Q2 of 2021. However, that figure stands in stark contrast with the 4 billion commercial checks collected a decade ago.[27] As long as checks remain in usage, credit unions must comply with the funds availability rules in Regulation CC that apply to different check items, as well as the unique fraud risks inherent to check handling.

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[27] See Federal Reserve, Commercial Checks Collected through the Federal Reserve--Quarterly Data, available at https://www.federalreserve.gov/paymentsystems/check_commcheckcolqtr.htm.

In early 2021, an influx of EIPs authorized both by the CARES Act and the CAA demonstrated how physical checks can magnify fraud risks for credit unions. In February 2021, a FinCEN Advisory warned financial institutions to guard against an array of EIP related fraud, including fraudulent checks, altered checks, and counterfeit checks.[28] NAFCU's January 2021 *Economic & CU Monitor Survey* revealed that nearly a quarter of credit unions were concerned about potential check fraud involving EIPs, and 70 percent of respondents to NAFCU's 2021 *Federal Reserve Meeting Survey* indicated that they had seen an increase in check fraud attempts.

Recognizing vulnerabilities inherent to distribution of stimulus checks, NAFCU wrote to Treasury in early 2021 to recommend enhancements to the payment distribution process. NAFCU called for Treasury to upgrade its stimulus payment portal to allow Americans to update their bank account information to encourage greater use of direct deposit. NAFCU also asked Treasury to leverage electronic payment channels to the maximum extent possible for future EIP and child tax credit payments.

While stimulus payments provided a temporary boost to check volume in 2020 and early 2021, there is no dispute that check volume is on a downward trend. Recognizing the diminishing role of checks in the broader payments landscape, NAFCU continues to encourage the Federal Reserve to modernize the language of Regulation CC to improve its accessibility and relevance in an environment where digital payments predominate.

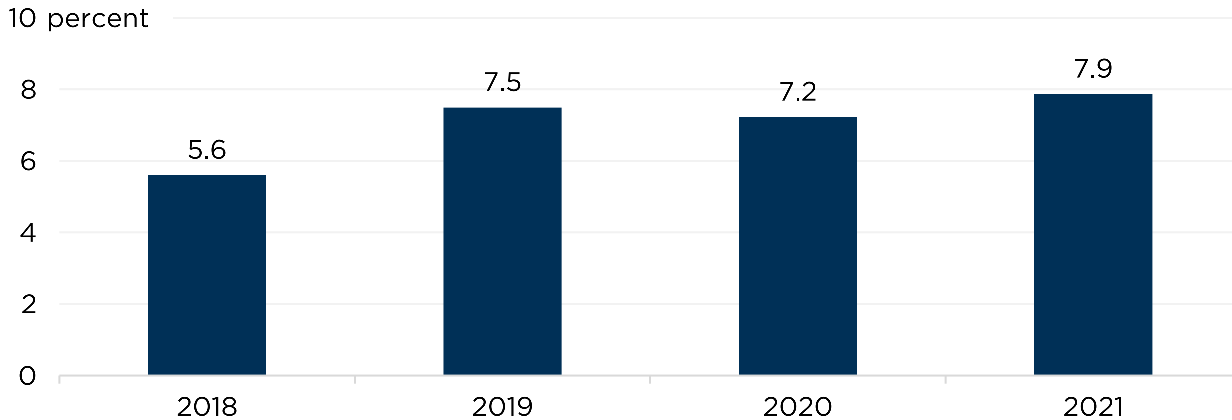
NAFCU has recommended that Treasury consider more reasonable standards for check holds, which would better address elevated levels of check fraud. For the past two years, credit unions have said that either the frequency or dollar amount of check fraud has increased in recent years. To address this persistent concern, NAFCU has suggested narrow amendments to Regulation CC's exception hold provisions that would give credit unions more time to investigate whether a check is counterfeit or fraudulently presented. Existing provisions regarding check holds create undue risk for both credit unions and potentially their members because Regulation CC does not always afford sufficient time to conduct such an investigation or determine if there are insufficient funds. NAFCU will continue to work with the Federal Reserve to identify reforms which will ensure that members continue to enjoy timely access to funds without creating undue fraud risk.

[28] FinCEN, Advisory on Financial Crimes Targeting COVID-19 Economic Impact Payments, FIN-2021-A002 (February 24, 2021).

Cyber & Data Security

Credit unions continue to invest heavily in cybersecurity to safeguard their members' financial data and personal information from increasingly sophisticated threat actors. On average, cybersecurity programs represented 7.9 percent of credit union operating budgets in 2021. That figure is a record-high level and a sharp increase from just four years prior, when the average respondent devoted 5.6 percent of the operating budget toward cybersecurity.

Chart 3.10: Share of Operating Budget Devoted to Cybersecurity



Source: NAFCU *Federal Reserve Meeting Surveys*

Not surprisingly, these increases coincide with a prevailing sentiment that managing cybersecurity risk is both a top priority and challenge. Looking ahead to the next three years, 80 percent of credit unions reported that IT and cybersecurity risk would be a significant concern. Furthermore, 59 percent of credit unions characterized maintaining a secure electronic environment as a "significant challenge," a sentiment that has grown substantially since 2020.

A strong majority of credit unions anticipate that emphasis on cybersecurity preparedness will influence staff hiring in the future. With 93 percent of credit unions reporting that the burden of IT compliance has increased over the past five years, it is no surprise that 77 percent also indicated that they were most likely to increase staffing to support this function over the next three years.

At the NCUA's 2021 mid-session budget briefing, the agency followed a similar tack, allocating budgetary surplus towards cybersecurity projects and indicating that roughly half of proposed new staff positions would have a cybersecurity role.

Increasing attention to cybersecurity is not a new trend, yet sustained growth in credit union cyber budgets over the last several years likely reflects more than just ongoing digitization of banking services. Digital transformation and outsourcing of IT infrastructure introduces unique supply chain risks which the FFIEC has taken care to address in 2021 by publishing a new Architecture, Infrastructure and Operations IT Booklet and issuing new guidance on authentication mechanisms. Additionally, in early 2021, a sweeping supply chain attack put the industry on guard as federal agencies grappled with the fallout from the SolarWinds/SUNBURST compromise. Later, the breach of Microsoft Exchange Servers, Colonial Pipeline ransomware attack, and revelation that the data of 553 million Facebook users had been stolen underscored the perilous state of data security outside the financial sector. While these incidents did not directly impact the credit union industry, their severity and disruption to other sectors demonstrated that the capabilities and sophistication of criminal actors should not be underestimated.

Credit unions have also had to contend with pandemic-related social engineering attacks. In April 2021, the NCUA hosted a cybersecurity briefing which noted significant pandemic-related fraud activity, including schemes targeting recipients of economic impact payments. During the same month, three quarters of credit union respondents in NAFCU's April 2021 *Economic & CU Monitor Survey* said that they had warned their members about COVID-19 related fraud schemes. Social engineering attacks can also bet targeted at businesses. In 2020, the Federal Bureau of Investigation's (FBI) Internet Crime Complaint Center (IC3) received 19,369 Business Email Compromise complaints across all business sectors with adjusted losses of over $1.8 billion

While most credit unions offer general cyber hygiene tips for members to protect against various types of phishing attacks, the cumulative toll of data breaches affecting merchants, credit bureaus, and social media companies has yielded an enormous volume of personal information for cyber criminals to craft into convincing scam emails. Uncertainty regarding the safety of data outside the financial sector could be one reason why credit unions are augmenting their cybersecurity budgets and why financial regulators are beginning to promote more sophisticated authentication mechanisms. As NAFCU has advocated for many years, the best way to address this problem is for Congress to pass a national data security standard that holds merchants and other non-financial companies accountable for data breaches.

Data Security Legislation

While depository institutions have had a national standard on data security since the passage of the *Gramm-Leach-Bliley Act* (GLBA) over two decades ago, other entities who handle consumer financial data may not be held to the same standards. As a result, credit unions continue to express serious concern with merchant data security practices which directly impact the prevalence of payments fraud and the overall security of member data. When asked what issue was critical to continued growth and success, credit unions' most frequently selected response was a "financial marketplace with appropriate safeguards against fraud/ data breaches."

In 2021, NAFCU continued its push for a national data security standard for merchants and other entities handling consumers' personal information. NAFCU's vision for such a law includes six critical components:

- a mechanism to ensure that retailers pay their share for costs associated with data breaches;
- safeguards comparable to the GLBA;
- merchant disclosure of data security practices to consumers;
- breach notification and reporting requirements;
- penalties for prohibited data retention; and
- a burden of proof in data breach cases that rests with the negligent entity that incurred the breach.

In July 2021, NAFCU wrote to the House Committee on Small Business emphasizing the need for Congress to enact a uniform data security standard to help credit unions protect their members from cyber criminals.

While credit unions observed less attempted fraud in 2021 than a year ago, the breadth and volume of data breaches in 2021 suggests that retail sectors of the economy would benefit from the application of more rigorous data safeguards, comparable to those that apply to financial institutions. Furthermore, the rise of ransomware attacks shows that proprietary business information, not just the personal financial information of individual consumers, is a prime target for criminal actors, and this could erode the cyber resiliency of increasingly interconnected data ecosystems. In an August 2021 report, DHS CISA noted that from January to July 31, 2021, the IC3 received 2,084 ransomware complaints with over $16.8M in losses, a 62 percent increase in reporting and 20 percent increase in reported losses compared to the same time frame in 2020.

NAFCU has also advised regulators that adoption of consistent cybersecurity and data security safeguards for all entities handling consumer financial data must be a prerequisite for any proposal implementing Section 1033 of the Dodd-Frank Act. The supervisory treatment of fintech data aggregators, for example, leaves much to be desired in the way of formal supervision. A company that permits consumers to consolidate control over multiple accounts on a single platform can elevate the risk of fraud for any number of financial institutions and may not be subject to regular cybersecurity examination in the same way that credit unions are under the GLBA. NAFCU has noted that such supervisory gaps are one reason the CFPB should proceed with caution before implementing section 1033 of the Dodd-Frank Act, which could grant third parties unprecedented access to consumer financial information. Fortunately, the CFPB appears to acknowledge these concerns and the agency's recent focus on large technology companies operating payment services has highlighted how additional scrutiny of fintech practices will inform the scope of a potential rulemaking under section 1033.[29]

Data Privacy

NAFCU reported last year that 60 percent of those responding to NAFCU's 2020 *Federal Reserve Meeting Survey* expressed concern about compliance with the *California Consumer Privacy Act* (CCPA), California's first-in-the-nation state personal data privacy law passed in 2018 and implemented in 2020.

During the 2020 General Election, California voters approved the *California Privacy Rights Act of 2020* (CPRA) ballot initiative and, thereby, substantially amended the CCPA. When CPRA amendments take full effect on January 1, 2023, expanded consumer protections will retroactively apply to Californians' covered personal information collected on and after January 1, 2022. While the CPRA raises the CCPA's population-based threshold from 50,000 to 100,000 and excludes devices from such thresholds, the CPRA extends the concept of personal data sharing found in the European Union's *General Data Protection Regulation* to both the CCPA's population- and revenue-based thresholds.

The CPRA's establishment of the California Privacy Protection Agency may, too, be a harbinger of more frequent, robust use of state investigative, enforcement and rulemaking powers previously exercised by the California Office of the Attorney General. Neither the CCPA in its original form nor the CPRA provides credit unions or any other financial institution a complete, institution-level exemption based on their compliance with the GLBA. Rather, the CCPA frames its information-level exemption available to credit unions as the CCPA's requirements not applying to "personal information collected, processed, sold, or disclosed pursuant to the [GLBA]." This distinction is important because it is possible that a state regulator could determine that the GLBA does not sufficiently address all the myriad forms and types of data that exist and may exist in the future. In such a scenario, credit unions in that jurisdiction would find themselves subject to likely burdensome state oversight.

In 2021, governors in Virginia and Colorado signed into law the nation's second and third state personal data privacy laws. Both Virginia's *Consumer Data Protection Act* and the Col*orado Privacy Act* provide credit unions a complete, institution-level exemption based on their compliance with the GLBA. However, the rapid proliferation of state data privacy laws and the observable, material differences among such laws are motivating growing data privacy compliance concerns among credit unions.

[29] https://files.consumerfinance.gov/f/documents/cfpb_section-1022_directors-statement_2021-10.pdf

At its July 2021 annual meeting, the Uniform Law Commission (ULC) approved the *Uniform Personal Data Protection Act* (UPDPA). While the model state personal data privacy legislation, if broadly adopted, may help provide credit unions operating in multiple states some regulatory clarity, its deficiencies underscore the need for a comprehensive federal personal data privacy standard. For example, the UPDPA does not provide credit unions or any other financial institution a complete, institution-level exemption based on their compliance with the GLBA. Rather, the UPDPA, similar to the CCPA, provides credit unions a partial, information-level exemption with respect to "processing that is subject to" the GLBA.

NAFCU continues to share its principles for a comprehensive federal, personal data privacy standard and monitors movement of proposed personal data privacy legislation at both the state and federal levels.

Current Expected Credit Loss (CECL) Standard

In 2016 the Financial Accounting Standards Board (FASB) finalized an accounting standard update with the goal of improving recognition and measurement of credit losses on loans and debt securities. The result was the CECL model, which has been called by many the most significant accounting change in the banking industry in decades.

FASB believes that CECL will provide a forward-looking estimate of credit losses which allows for more timely adjustments to loss reserves and which therefore more closely aligns loss estimates with current and expected future economic conditions. However, because losses will be estimated over the entire life of a loan, this will likely result in higher loan loss reserves and a commensurate reduction to capital for many institutions. From the outset, NAFCU has opposed the decision to subject credit unions to FASB's standard. One of the stated purposes of CECL was to provide investors with greater transparency about a lenders' credit loss exposures. However, credit unions do not issue publicly traded stock. Furthermore, credit union loan performance is better and less volatile than that of other lenders. Perhaps most importantly, the potential benefits of CECL, when weighed against the risk of it reinforcing tightened lending conditions, are not fully understood. By contrast, the projected costs of future adoption, particularly in terms of capital, are well documented.

In July, the NCUA published a final rule establishing a three-year phase-in of the day-one adverse impacts of the CECL accounting standard on a FICU's net worth ratio. The phase-in will only be applied to those FICUs that adopt the CECL standard for fiscal years beginning on or after December 15, 2022. Early adopters are not eligible. In general, the phase-in will operate by supplementing nominal retained earnings and total assets with a "transitional amount," measured as the difference between pre-CECL and post-CECL retained earnings.

NAFCU has repeatedly called for increased cooperation between FASB and the NCUA regarding reconsideration of the CECL standard but has not seen a concerted effort at collaboration from FASB. In April 2020, then-NCUA Chairman Rodney E. Hood wrote to FASB asking that credit unions be exempt from the CECL standard or subject to a Private Company Council alternative that retains the current incurred loss methodology. Former Chairman Hood recognized that credit unions should not have been included in the CECL standard, especially because credit unions have a unique, statutorily-defined capital framework and face certain regulatory constraints.

In October 2021, following FASB's decision to invite comment on a proposal to eliminate troubled debt restructuring (TDR) accounting for CECL adopters, NAFCU once again called for broader reconsideration of CECL's applicability to credit unions. In a letter to FASB's Chairman, the association requested that FASB forego application of the CECL standard to non-public filers; but in the alternative, should commit to providing more resources and assistance to credit unions, including offering forums to discuss preparation and implementation challenges.

Telephone Consumer Protection Act

In its 2015 *Telephone Consumer Protection Act* (TCPA) Omnibus Declaratory Ruling and Order (2015 TCPA Order), the Federal Communications Commission (FCC) stated the TCPA's use of "capacity" evidenced Congress' intention to adopt a broad definition of the term "automatic telephone dialing system" (autodialer or ATDS). Therefore, the FCC concluded, equipment that may lack the "present ability" to dial phone numbers randomly or sequentially but can be modified to perform such tasks is an autodialer subject to the TCPA. The United States Court of Appeals for the District of Columbia Circuit rejected the FCC's broad interpretation of "autodialer" in *ACA International v. FCC*, requiring subsequent courts to apply the TCPA's statutory definition. Federal Circuit Courts of Appeal subsequently split on the term's interpretation and set the stage for the Supreme Court's taking up the United States Court of Appeals for the Ninth Circuit's *Facebook, Inc. v. Duguid*.

At issue in *Facebook* was whether Facebook violated the TCPA when it used equipment connected to a database of stored phone numbers to send automated login activity alert text messages to the plaintiff despite the plaintiff's never creating any account on Facebook or, correspondingly, agreeing to the receipt of any calls or texts from Facebook. In a unanimous decision handed down April 1, 2021, the Supreme Court reversed the Ninth Circuit when it narrowly interpreted the TCPA's "capacity" requirement, as encouraged by NAFCU and other trade associations in an *amicus brief*. The majority opinion, written by Justice Sotomayor and joined by all justices save Justice Alito, who wrote a concurring opinion, held that only devices presently capable of storing or producing a phone number using a random or sequential number generator are autodialers subject to the TCPA.

NAFCU engages the FCC on a wide range of issues impacting credit unions. NAFCU continues to encourage the FCC to provide credit unions expanded, affordable access to reliable reassigned phone number data. NAFCU also continues to make clear the potential negative impacts of the *Telephone Robocall Abuse Criminal Enforcement and Deterrence* (TRACED) Act on credit unions' abilities to reliably communicate with their members.

Bank Secrecy Act

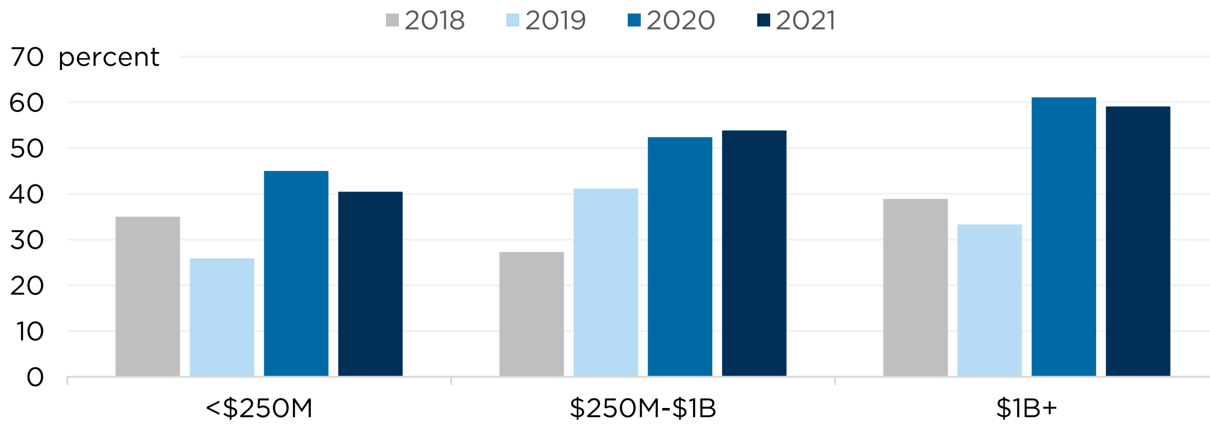
On January 1, 2021, the Anti-Money Laundering Act of 2020, which included the Corporate Transparency Act (CTA), was signed into law as part of the National Defense Authorization Act (NDAA). The legislation provides for robust Bank Secrecy Act (BSA)/anti-money laundering (AML) reform that will be implemented over the next few years. This legislation is the first reform package to the BSA/AML regime in a long time. The Financial Crimes Enforcement Network (FinCEN) has initiated rulemaking efforts to implement various provisions, one of which includes a proposal regarding changes to beneficial ownership. FinCEN is required to create a database whereby legal entities must submit their beneficial ownership information and lodge any updates.

Presently, financial institutions will only be able to access the database with the consent of the reporting party. NAFCU supported the creation of the database but has urged that to maximize utility, FinCEN should allow for a pre-authorization mechanism either from credit unions or from the agency. In addition, FinCEN should allow credit unions that obtain consent to receive updated beneficial ownership information provided by reporting companies. Most importantly, FinCEN must clarify examination and supervisory expectations for credit unions that rely on beneficial ownership information for customer due diligence compliance.

BSA/AML compliance continues to be burdensome for credit unions. According to NAFCU's 2021 Federal Reserve Meeting Survey, over 79 percent of respondents expect regulatory burdens to increase over the next five years. This increase may be due, in part, to the implementation of the NDAA's provisions. Historically, credit unions have increased staff in times when additional compliance is expected, and a majority of credit unions with over $250 million in assets expect to increase FTEs related to BSA/AML compliance in the coming years.

The implementation of national AML/CTF priorities, which are set by Treasury and FinCEN every four years, also brings significant change to the traditional BSA/AML landscape. In June 2021, FinCEN and the federal banking regulators preliminarily introduced these priorities; however, a rulemaking is expected soon regarding how credit unions must incorporate these priorities into their risk assessments. Until such a rulemaking is final, the NCUA will not examine credit unions for their compliance with incorporating the priorities into their risk assessments.

Chart 3.11: Share of Respondents Anticipating Increases in BSA Compliance Personnel over next Three Years, by Asset Class



Source: NAFCU *Federal Reserve Meeting Surveys*

NCUA examiners continue to focus on BSA/AML compliance as a supervisory priority, but credit unions have reported inconsistent examination over the years. NAFCU has historically advocated for the NCUA to ensure exam consistency, and the inclusion of the national priorities may assist in overall consistency. According to NAFCU's 2021 *Federal Reserve Meeting Survey*, fewer than half of responding credit unions (47 percent) reported that BSA/AML compliance is examined very consistently. Respondents highlighted that examiners have begun to question emerging issues such as BSA/AML compliance related to cryptocurrencies and digital assets; however, NAFCU's October 2021 *Economic & CU Monitor* suggests that scrutiny of cryptocurrency transactions is far from excessive. NAFCU will continue to advocate for clear examination guidance, including emerging trends such as cryptocurrency and digital assets.

NAFCU has long sought reform of the current reporting thresholds for currency transaction reports (CTRs) and suspicious activity reports (SARs), and the NDAA requires a study of the thresholds to be completed every five to 10 years. This regular reporting will provide more opportunities for the thresholds to change. NAFCU will continue to advocate for BSA/AML reform that fulfills the goal in providing valuable information to law enforcement while not being overly burdensome.

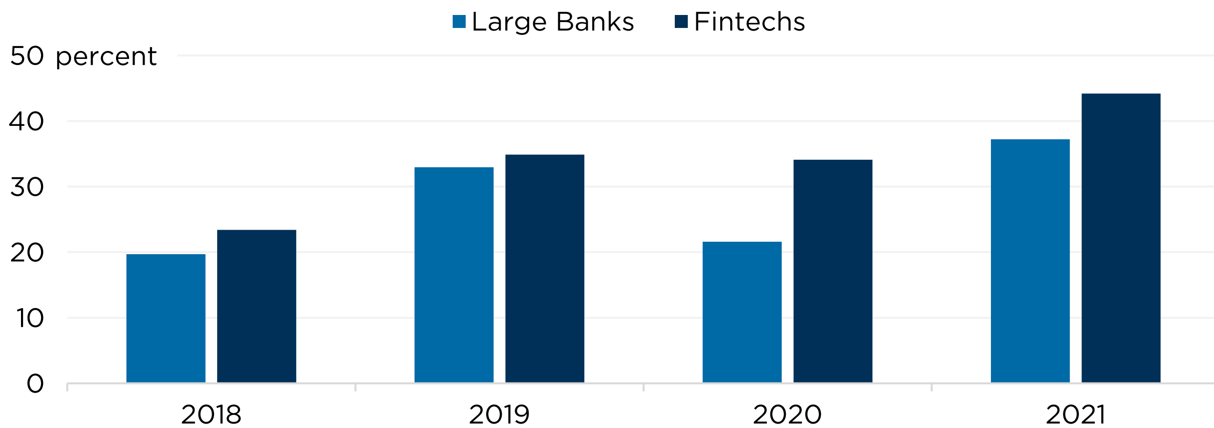
C. A Level Playing Field

NAFCU believes that credit unions should have as many opportunities as other institutions and non-regulated entities to provide financial services to their members. All similarly situated depositories and lenders should follow the same rules of the road and should be subject to regulatory oversight.

Financial Technology

For many years, credit unions have partnered with fintech companies to improve operations, deliver new products and services, and enhance member experiences. Technologies that are commonplace today, such as credit cards and e-sign, would have likely qualified as "fintech" when they were first introduced. Consumers have also come to expect frictionless digital products from financial institution and these demands require credit unions to remain nimble in developing relationships with fintech companies, which simultaneously compete in domains that have historically been the territory of traditional depository institutions, such as payments and deposits.

Chart 3.12: Share of Credit Unions Perceiving Large Banks/Fintechs as "Significant" Source of Competitive Pressure



Source: NAFCU *Federal Reserve Meeting Surveys*

Credit unions' perception of their primary competition has continued to evolve in the past several years. In 2018, only 23 percent of credit unions regarded the competitive pressure of fintech firms as "significant." In 2021, that share has increased to 44 percent. Furthermore, the competitive pressure of large banks was generally regarded as more significant than that of other financial institutions, a reversal from last year, and perhaps reflecting the ongoing transformation of the largest banks into what are essentially technology companies. Given these sentiments, it is not altogether surprising that nearly 90 percent of credit unions cited investments in information technology as driving spending increases over the next three years. Notably, many of these investments anticipated the involvement of vendors, and over 80 percent of survey respondents contemplating future technology investments indicated that fintech partners would likely be involved, particularly for projects targeting artificial intelligence and distributed ledger applications.

As credit unions embrace innovative technology to improve relationships with their members, NAFCU has urged the NCUA to adopt an accommodating regulatory framework. While functional regulators such as the FDIC and the Office of the Comptroller of the Currency

(OCC) have been aggressive in promoting innovative projects and new chartering options in the fintech space, the NCUA has so far taken a more conservative approach in terms of clarifying the permissibility of new activities under existing authorities. The NCUA's more deliberate approach is perhaps best exemplified in its consideration of digital assets.

While NAFCU hopes to foster a regulatory environment that promotes competition and responsible innovation, the risk of arbitrage remains a concern as financial companies continue to operate on the periphery of traditional supervisory domains. The end of the Trump Administration coincided with a spike in activity for fintech companies applying for, and in some cases receiving, special purpose bank charters. This trend has been spurred, in part, by states offering their own special purpose charters which may afford recipients the opportunity to convert into national banks. For these companies, the grant of a national banking license comes with the important benefits of federal preemption and interest rate exportation—privileges that traditionally correspond with an expectation of close prudential supervision for the bank and its holding company. In 2021, NAFCU pushed back against the sudden expansion in novel chartering activity to preserve a level playing field and because many of the critical policy decisions related to fintech chartering had been the product of opaque deliberations within the OCC. A recent report suggest that a similar, close-door approach was used by the OCC to permit cryptocurrency trading by banks.[30]

Fintech and Non-Traditional Bank Chartering

NAFCU has opposed efforts by the OCC to promulgate a new variant of its fintech charter that former Acting Comptroller Brian Brooks described as the agency's "payments charter." While the OCC characterized this latest iteration of novel chartering as simply a variation of its traditional, national bank license, it nevertheless upended traditional supervisory frameworks by allowing a fintech applicant to become a national bank without offering deposit accounts. In subsequent letters to the OCC and in testimony before Congress, NAFCU observed that such an arrangement allowed the resulting charter recipient to avoid compliance with the *Bank Holding Company Act*. Ultimately, this could mean the parent company of such a bank would not be subject to consolidated federal supervision by the Federal Reserve.

Concerned with lack of appropriate fintech supervision and the OCC's decision to entertain novel chartering ideas without a formal notice and comment rulemaking process, NAFCU testified in April 2021 before the House Financial Services Subcommittee on Consumer Protection and Financial Institutions at a hearing entitled, "Banking Innovation or Regulation Evasion [...] Exploring Modern Trends in Financial Institution Charters." Carlos Pacheco, CEO of Premier Members Credit Union (Boulder, Colo.), speaking on behalf of NAFCU, noted that

[30] https://www.politico.com/news/2021/10/22/trump-regulator-crypto-banks-516826

that when technology firms and fintech companies compete with regulated financial institutions, they must do so on a level playing field where smart regulations, oversight and consumer protections apply to all actors in that space.

NAFCU also wrote to former Acting Comptroller of the Currency Blake Paulson regarding the extent of the OCC's novel chartering activities. NAFCU observed that competitive fairness between fintech companies and traditional institutions depends upon transparency and the OCC's commitment to present new chartering options through full notice and comment rulemaking procedures. In this regard, the OCC's payments charter, introduced through press releases and interviews, represented the opposite approach—and one that could introduce novel stability risks across the broader financial sector. NAFCU has since encouraged the OCC to work with other FFIEC member agencies to ensure that plans for special purpose institutions do not impair overall financial stability or give fintech companies an unfair advantage.

In the context of payment systems access, the OCC's charter activity has also attracted the interest of the Federal Reserve. In late 2020, NAFCU called upon the Federal Reserve to delay granting payments charter recipients access the nation's payment system until, after notice and comment, the agency has an opportunity to develop a uniform policy that addresses the kinds of unique risks that special purpose entities can inject into the banking system. In May 2021, responding to these concerns, the Federal Reserve issued a request for comment regarding proposed guidelines for evaluating requests for accounts and services at Federal Reserve Banks (Reserve Banks) with special attention paid to requests made by nontraditional institutions.

In July 2021, NAFCU submitted comments recommending that the Federal Reserve exercise heightened due diligence when evaluating requests from non-depository institutions engaged in novel financial activities. For nontraditional applicants and fintech companies seeking access to the Federal Reserve payment system, it is critical that these institutions meet the same safety and soundness standards applicable to insured institutions.

Digital Assets

Consumer interest in cryptocurrencies, such as bitcoin, has prompted financial institutions to consider deeper engagement with digital assets. In early 2016, the most prominent cryptocurrency price aggregators estimated the total cryptocurrency market to have a value of roughly $7 billion. As of mid-September 2021, that estimate has risen to more than $2 trillion. Average daily exchange trading volume in Bitcoin alone is measured in the hundreds of millions of dollars, and the consensus estimate of Bitcoin ATMs in service around the world is above 20,000. In recent years, FICUs have seen the number and value of ACH, debit card, and wire transfers from member share accounts to cryptocurrency exchange platforms increase at a dramatic rate, particularly among younger members.

Given the uncertain application of securities law to many digital assets, banks have had a comparatively easier time offering their customers the ability to buy and sell cryptocurrencies than credit unions, which are prohibited from engaging directly in any activity that would require registration as a broker-dealer. The OCC's enthusiasm for expanding traditional banking activities to promote cryptocurrency services has also paved the way for banks to hold digital assets in a custodial capacity,[31] issue stablecoins,[32] and operate as crypto-centric trust banks.[33]

In July 2021, the NCUA followed the direction of other banking regulators by issuing a request for information on "Digital Assts and Related Technologies." In September 2021, NAFCU submitted comments asking the NCUA to issue a Letter to Credit Unions confirming that a credit union may directly, or in partnership with a credit union service organization (CUSO) or other third-party vendor, host a digital wallet into which a member could deposit digital assets that are not securities and from which the same member could transfer such digital assets to another digital wallet hosted by the credit union or another legal or natural person.

NAFCU's letter provided other detailed recommendations to help credit unions engage with digital assets to maintain competitive relevance with both bank and less traditional competitors, such as decentralized finance platforms. NAFCU encourages the NCUA to adopt a form-agnostic approach to assessing credit unions' adoption of digital assets and related technologies and has advocated for the use of a pilot program or regulatory sandbox to facilitate responsible innovation.

Credit Union Service Organizations

Credit union innovation often depends on engagement with financial technology partners, but not every fintech is responsive to the unique needs or statutory limits of the credit union industry. CUSOs have traditionally served as useful vehicles for credit unions to overcome smaller economies of scale and the idiosyncrasies of credit union regulation. CUSOs allow credit unions to pool their resources together and pursue shared solutions. However, current CUSO rules can still create friction when a credit union wants to cultivate a more meaningful strategic relationship with a technology company or startup, particularly when the company perceives the application of CUSO rules as compromising its potential addressable market. NAFCU believes that credit unions should be allowed to invest directly in financial technology to compete effectively in a rapidly changing technology environment.

Separate from CUSO investments, NAFCU has drawn attention to the need for greater latitude for CUSOs engaging in activities that are already permitted for credit unions. On February 26,

[31] See OCC, Interpretive Letter #1170, (July 22, 2020).
[32] See OCC, Interpretive Letter #1174 (January 4, 2021)
[33] See OCC, Re: Application to charter Paxos National Trust, New York, New York (April 23, 2021).

2021, the NCUA issued a proposal to expand CUSOs' permissible lending activities to include origination of any loan a credit union can originate, and grant the NCUA Board additional flexibility to approve permissible CUSO activities and services. In April 2021, NAFCU submitted comments supporting the NCUA's proposed revision of its regulations to allow CUSOs to originate all loans that FCUs can originate, but requested that the NCUA solicit comment through the notice and rulemaking process before authorizing additional CUSO activities. In October 2021, the NCUA Board voted 2-1 to finalize the proposal without substantive change.

The NCUA has also sought comment on broadening FCU investment authority in CUSOs. NAFCU submitted comments to the NCUA on April 29, 2021, recommending that the NCUA reconsider its interpretation of the lending and investment authorities in the FCU Act to facilitate more effective partnerships with financial technology companies. CUSOs can be limited as partnership vehicles as they must primarily serve credit unions, a fact that could deter fintech companies from engaging with credit unions to the extent that they see the CUSO structure as more of a hindrance than a benefit to reaching a wide consumer audience. NAFCU requested that credit unions be allowed to invest directly in financial technology to bring strategic technology solutions to credit unions that enable them to effectively compete in a rapidly changing technology environment.

Artificial Intelligence (AI)

Prior NAFCU surveys have hinted at AI's emerging importance within the credit union industry, and this year's survey confirms that investments in AI are growing. In a 2019 NAFCU survey, 47 percent of respondents said that they were considering investments in AI over the next two years. In 2021, 57 percent of credit unions said that they anticipated making investments in AI over a similar timeframe.

NAFCU has observed credit unions partnering with third parties to successfully implement AI-driven tools to improve members' access to credit, strengthen existing risk management processes, and improve customer service. Testimony presented at the U.S. House of Representative's Task Force on Financial Technology in May 2021 highlighted the use of AI algorithms as part of the credit union loan application processes, and NAFCU members have said that certain applications of machine learning have been used to flag and reduce loan application errors.

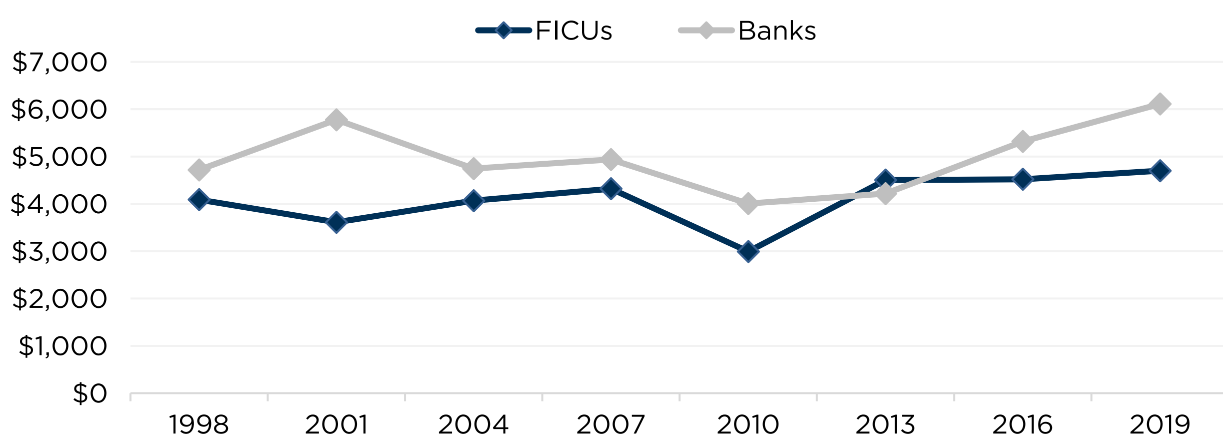
AI-powered fraud analytics have also enhanced credit union efforts to prevent financial crime by improving detection of irregular financial behaviors. Many credit unions are already using third-party technology bundled with debit and credit card products to prevent fraudulent transactions or flag suspicious transactions before they are executed. In some cases, this technology leverages AI and machine learning processes to develop predictive models for fraud mitigation purposes.

NAFCU has supported non-regulatory approaches for encouraging the use and acceptance of AI technologies. At the same time, NAFCU believes that credit unions must adopt AI innovations safely and has encouraged the NCUA and CFPB to approach fair lending risks through the framework of existing law and regulation. Responding to an NCUA request for information on credit union usage of AI technology, NAFCU observed that current industry practice has shown that credit unions are using AI to develop more customizable, price-competitive lending products and more effective compliance solutions, which could help the underbanked avoid predatory financial products offered by nonbank payday lenders.

Small Dollar Lending

In February 2019, the Bureau issued a proposed rule to amend the payday, vehicle title, and certain high-cost installment loans rule (payday rule). The proposed rule maintained the safe harbor for NCUA Payday Alternative Loans (PALs) but did not account for the new iteration of PAL loan that finalized in 2019 (the PAL II loan). During the rulemaking process, NAFCU met with the Bureau on multiple occasions to ensure that the agency's final payday rule would not impair the NCUA's ability to promote access to small dollar credit through the new PAL II option and advised the Bureau to exempt all future iterations of the PAL program from the payday rule. On July 22, 2020, the Bureau published a final payday rule rescinding all mandatory underwriting requirements for making an ability-to-repay determination while retaining the original rule's payment provisions. NAFCU supported the rescission of the mandatory ability-to-repay underwriting requirements to enhance access to responsible small dollar loans.

Chart 3.13: Median Household Liquid Assets by Type of Institution Used for Primary Checking Account (in $2019)



Source: Federal Reserve *Survey of Consumer Finances*

After the final payday rule was published, litigation challenging the entirety of the Bureau's payday lending rule provisions was allowed to proceed in *Consumer Financial Services of*

America v. CFPB with the court issuing a stay of compliance date. In August 2021, the Court upheld the payment provisions in the Bureau's 2017 payday lending rule and marked the effective date as June 13, 2022. NAFCU will remain in close contact with the Bureau on this topic and continue to inform credit unions of changes that may impact their ability to offer these types of loans.

In addition to opposing regulatory burdens imposed by the CFPB, NAFCU has sought additional regulatory flexibility from the NCUA that recognizes credit unions' good conduct as small dollar lenders. NAFCU continues to advocate for expansion of the NCUA's PAL program to provide additional options for credit unions to help members in need of responsible short-term, small dollar loans.

Defense Issues

Credit unions have a strong track record of helping active-duty members of the armed forces and their families avoid the predatory lending practices which precipitated Congress's enactment of the *Military Lending Act* (MLA). NAFCU supports efforts to protect servicemembers and their families from financial exploitation and has urged the Department of Defense (DoD) to provide clear rules that do not unduly restrict access to financial products or services. NAFCU and its members have repeatedly sought rescission to the DoD's Question and Answer #2 (Question #2) of its 2016 interpretive rule which appeared to prohibit access to GAP insurance when the MLA-covered borrower tried to finance the GAP insurance with the loan used to purchase the vehicle. In February 2020, the DoD published an interpretive rule which rescinded Question #2 and reverted to a prior interpretation.

However, the interpretive rule remains silent on the issue of GAP financing, possibly suggesting that the DoD did not intend to exclude it from an exception within the regulation. NAFCU has also devoted considerable energy defending credit unions' ability to maintain nominal cost leases on military installations in recognition of the services they provide to both the base and military personnel stationed there. The DoD has authority to lease space on military bases at a nominal rate to credit unions provided they meet certain statutory and regulatory requirements for providing financial services on base. These nominal leases have been under attack lately by bankers claiming that they are required to pay rent at fair market value; however, the DoD has the authority to consider "in-kind consideration."

In June 2021, the CFPB published an interpretive rule explaining the agency's authority to conduct examinations related to the MLA at its supervised institutions. The interpretive rule does not make any substantive changes to any federal law, but it refutes the 2018 determination that the Bureau lacks the authority to conduct MLA-related examinations.

The House's version of the NDAA for fiscal year 2022 excludes language that would threaten the status of credit union leases on military bases. An amendment that would have granted banks rent-free access to military bases was not adopted in the bill. NAFCU continues to urge Congress to reject the inclusion of this language, as community banks have an existing avenue to work with the DoD on achieving a nominal lease without harming credit unions' ability to serve military bases.

Government-Sponsored Banking

The COVID-19 pandemic and distribution of stimulus checks to Americans has catalyzed discussion of novel banking approaches to address the plight of unserved and underserved communities. These ideas include refashioning the United States Postal Service (USPS) as a bank, creating retail bank accounts at the Federal Reserve ("FedAccounts"), and creating a digital dollar. In letters to the House Financial Services Committee, NAFCU sought to discourage diversion of resources to pursue these projects, which on their face presented numerous operational and technological hurdles that would likely slow efforts to expand unbanked and underbanked households' access to financial services. NAFCU has advocated for more realistic solutions, such as legislative reforms aimed at enhancing credit unions' existing capacity to reach underserved markets, which would provide faster and more tangible benefits.

Postal Banking

NAFCU has long advocated against postal banking proposals, which all share the common goal of allowing the USPS to operate as if it were a bank. While postal banking bills have emerged from time to time for many years, logistical challenges encountered by Treasury in the course of distributing stimulus payments to unbanked consumers spurred additional interest in postal banking concepts during the pandemic. Yet postal banking remains one of the least feasible approaches for improving Americans' access to financial services.

An official study conducted by the Task Force on the United States Postal System noted the USPS' narrow expertise and capabilities and advised that it should not seek to expand into new sectors.[34] NAFCU has amplified this message in Congress, noting the ongoing financial challenges of the USPS, recently illustrated by proposed price hikes and slowed delivery times, and has pushed for alternative legislation that would allow all credit unions to add underserved areas to their field of membership. In contrast to the USPS, credit unions are readily equipped to deliver affordable and responsible financial products and services to communities across America.

In October 2021, reports emerged that the USPS had quietly launched a pilot program to offer financial services at four post office locations. These offices allow customers to use payroll or

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[34] https://home.treasury.gov/system/files/136/USPS_A_Sustainable_Path_Forward_report_12-04-2018.pdf

business checks to purchase single-use gift cards of up to $500. NAFCU wrote to both the Senate Banking Committee and House Financial Services Committee, reiterating its position on postal banking and urging Congress to draft legislation that would expand credit unions' abilities to meet the needs of underserved communities.

FedAccounts

In contrast to postal banking, the concept of FedAccounts proposes a radically different merger of government and financial services. As envisioned in draft legislation introduced by House Speaker Nancy Pelosi (D-Calif) and House Financial Services Committee Chair, Maxine Waters (D-Calif) in 2020, FedAccounts would operate as free digital wallets offered by the Federal Reserve. Similar to postal banking, such accounts were promoted as an additional mechanism to deliver future stimulus payments to consumers, but behind this narrow purpose were a host of operational and competitive concerns that NAFCU has raised in letters to Congress. FedAccounts have also been touted as an alternative lever for consumer financial regulation, with some hypothesizing that the competitive pressure of zero-fee government checking accounts will catalyze reform of controversial banking products. Notwithstanding the validity of such a claim, the reaction of nearly 40 percent of surveyed credit unions suggests that the introduction of FedAccounts would entail significant disruption.

Public Banking

Another route that lawmakers have explored to expand banking services is through a public banking charter. In late 2020, Representatives Alexandria Ocasio-Cortez (D-NY) and Rashida Tlaib (D-MI) introduced the *Public Banking Act* (PBA), which would provide federal grants to state and local governments to form public banks and would ensure that such banks may become members of the Federal Reserve. The PBA would also bar those institutions from charging fees on transactional accounts and from requiring minimum account balances. Advocates argue that public banks are needed to address the local economic needs that often go ignored by Wall Street and to offer low-cost financial services to underserved communities. However, credit unions already provide these services to millions of households. The reality is that a public bank would most directly compete with credit unions and other community-based institutions, not large banks. Credit unions already offer low-cost financial products to millions of households, and their focus is on serving their local fields of membership. Providing credit unions with field of membership relief would enhance their ability to reach underserved areas and accomplish the laudatory goals behind the public banking push without introducing the risks associated with chartering a new, unproven type of institution.

Central Bank Digital Currency (CBDC)

In August 2020, Federal Reserve Governor Lael Brainard announced a partnership between the Federal Reserve Bank of Boston and researchers at the Massachusetts Institute of Technology in a multiyear effort to build and test "a hypothetical digital currency oriented to central bank uses." The first phase of the research is expected soon, in addition to a paper on CBDC from the Federal Reserve itself. Although NAFCU is supportive of innovation in the marketplace, the association has noted that the policy challenges associated with developing a digital currency are numerous and complex. The countervailing interests of protecting financial privacy and deterring financial crime offers one example. It remains unclear how a hypothetical CBDC would strike the appropriate balance between privacy and BSA/AML compliance without costly oversight mechanisms or else degradation of the bearer-note qualities of a digital dollar.

Another significant issue related to CBDC adoption concerns the mechanism through which digital dollars make their way to consumers. One method of CBDC implementation that would prove disastrous for traditional depository institutions would be for the Federal Reserve to host digital wallets (or FedAccounts) for the purpose of distributing digital currency. If this were the case, the government would be competing directly with financial institutions for consumer deposits and would pose a significant safety and soundness risk to the entire banking system. Some academics and policy experts have suggested that a better alternative would be for CBDC to be issued in a pass-through fashion such that consumers would acquire and hold digital dollars through their credit union or bank.

While the range of possible mechanisms for issuing CBDC could vary considerably, NAFCU surveyed its members to gather general impressions about three approaches. By far the least popular option was the direct-to-consumer model that competes with retail deposits. A pass-through option that made CBDC available only through financial institution accounts received the most favorable reaction. In all cases, most respondents expressed uncertainty about how a CBDC would affect their credit union, which is perhaps the most reasonable response given the lack of any official proposal or plan for implementing a digital currency.

Interest in developing a CBDC also corresponds with growth of decentralized finance platforms and stablecoin markets. Some companies have attempted to capitalize on consumer interest in digital assets and "DeFi" protocols by establishing special purpose institutions focusing on crypto-related custodial services. Some of these institutions have applied for access to Federal Reserve payment systems. As noted previously, NAFCU has been active in advocating for consistent application of standards related to Federal Reserve processing of account applications from nontraditional institutions, including those with business model that are heavily reliant on the exchange and acceptance of cryptocurrencies. Stablecoins pegged to traditional currencies are also a concern for the Federal Reserve, as stablecoins are not regulated or backed by deposit insurance like deposits at banks and credit unions. In October 2021, the Financial Stability Oversight Council (FSOC) met to discuss possible regulatory approaches for addressing the activity of stablecoin issuers, which are generally subject to a framework of money transmitter laws.[35]

D. Government Transparency and Accountability

NAFCU believes regulators need to be transparent in their actions, with the opportunity for public input, and should respect different viewpoints. In addition, a bipartisan commission structure is the best form of regulatory governance for independent agencies, and all stakeholders should be able to provide feedback as part of the regulatory process.

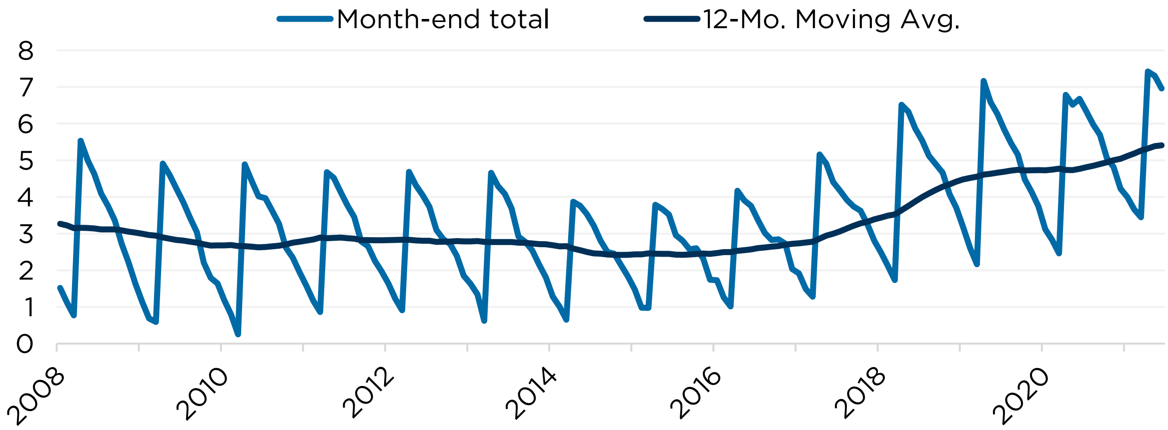
NCUA Budget

NAFCU continues to advocate for transparent actions by regulators. Section 212 of the Economic Growth, Regulatory Relief and Consumer Protection Act (S. 2155) amended section 209(b) of the FCU Act, requiring the NCUA to publish a draft of its annual budget in the Federal Register, hold a public hearing on the draft, and address comments submitted by the public. In December 2020, NAFCU provided comments during the 2021-2022 public hearing and offered recommendations to assist the NCUA in managing funds in a prudent and transparent manner including cost-benefit analysis and additional exam modernizations to cut costs.

In September 2021, NAFCU wrote to the NCUA urging increased transparency and scrutiny of the agency's Operating Fund. The NCUA Operating Fund enables the administration and service of the federal credit union system. In recent years, the cash balance of the fund has risen dramatically, both in dollar terms and as a percent of the agency's budget. Later that month, the agency reported a $29 million surplus in the Operating Budget. NAFCU will continue to urge the agency to guard its spending carefully and to return surplus funds to credit unions.

[35] https://home.treasury.gov/news/press-releases/jy0425

Chart 3.14: NCUA Operating Fund Cash Balance, in months of annual budgeted expenses



Source: NCUA

E. A Strong, Independent NCUA as the Primary Regulator for Credit Unions

NAFCU believes that the NCUA is best situated with the knowledge and expertise to regulate credit unions due to their unique nature.

Bureau Reform

Bureau reform continues be a top priority and NAFCU strongly supports legislative efforts to create a bipartisan commission versus the current single director structure. A bipartisan commission would alleviate changing objectives when administration changes occur and would mitigate any efforts to politicize the agency, so that the Bureau can focus on its intended goal of protecting consumers. Additionally, a commission with staggered terms helps ensure continuity and expertise of consumer financial protection. Staggered positions would also help support rulemaking efforts so there would not be a lag or regulatory uncertainty when political winds shift.

In July 2021, House Financial Services Committee Member Blaine Luetkemeyer re-introduced H.R. 4773, *Consumer Financial Protection Commission Act*. This NAFCU-supported legislation would re-structure the Bureau from a single director to a five-person, bipartisan commission, with staggered five-year terms. Representative Luetkemeyer previously introduced this bill in March 2020 and a similar bill was introduced in the Senate.

In the wake of the Dodd-Frank Act, NAFCU was the only credit union trade association to oppose the creation of the Bureau and has continued to advocate for Bureau reform. The Bureau has rulemaking authority over all credit unions, regardless of asset size, and examination and enforcement authority over credit unions with more than $10 billion in assets. NAFCU has called on the Bureau to broadly utilize their discretionary authority under section 1022 of the Dodd-Frank Act to exempt credit unions from certain rulemakings, taking into account the industry's unique structure, mission, and statutory constraints, such as defined fields of membership and limitations on member business lending.

IV. MODERNIZING CREDIT UNION FIELD OF MEMBERSHIP

One of NAFCU's top advocacy priorities is the promotion of credit union growth. For many years, NAFCU has pursued this goal by supporting legislation and regulation that helps credit unions expand their membership, loans and retained earnings. One area that receives special attention is the complex set of rules governing field of membership (FOM), a unique historical limit placed on the credit union industry. When the Federal Credit Union Act was enacted in 1934, field of membership limits were regarded as a credit-enhancing feature. In retrospect, as modern credit reporting tools have come into existence, some now regard these historical restrictions as less than complementary to modern notions of safety and soundness.[36] Recent analysis of credit union field of membership has likened the common bond requirement to former restrictions on interstate and branch banking, which no longer exist.[37]

NAFCU has long argued for field of membership reform that keeps pace with ongoing virtualization of banking services, changing social dynamics, and evolving consumer habits in today's digital era. Yet field of membership reform has often proven controversial; debate around modernizing the federal community common bond requirement, for example, has been ongoing for decades and provoked banker lawsuits in the years after the Credit Union Membership Access Act of 1998 (CUMAA) was enacted.[38] In the years after CUMAA restored important field of membership flexibility, the NCUA has been largely successful in justifying its implementation of various field of membership changes, achieving its most recent victory in June 2020 when the Supreme Court declined to hear an appeal brought by the American Bankers Association challenging the agency's 2016 field of membership rule for community credit unions. But the agency has also encountered setbacks, particularly in the context of expanding federal credit union eligibility to serve underserved areas.[39]

In 2021, nearly 60 percent of credit unions said that field of membership issues were critical to their continued growth and success. However, the pace of field of membership reform has been slow in recent years and the NCUA lost valuable time between 2016 and 2019 as it maintained a defensive litigation posture. While the NCUA did propose modest changes to field of membership rules in this timeframe, such as reintroducing a narrative approach for

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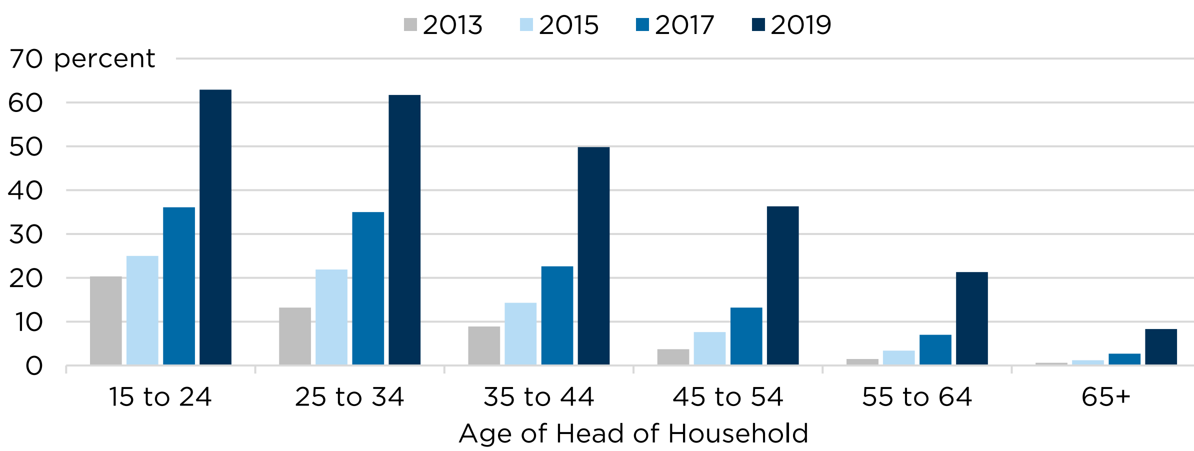
[36] *See* Darryl Getter, "The Credit Union System: Developments in Lending and Prudential Risk Management," Congressional Research Service Report R4360, 4 (May 15, 2020).
[37] *See id.*
[38] *See* H.R. 3951--the Financial Services Regulatory Relief Act of 2002: Hearings Before the Subcommittee on Financial Institutions and Consumer Credit of the Committee on Financial Services, U.S. House of Representatives, One Hundred Seventh Congress, Second Session, March 14; April 25, 2002. (2002).
[39] *See* 71 Fed. Reg. 36667 (Jun. 28, 2006).

FCUs to establish a well-defined local community, important issues raised as far back as 2015, such as whether to amend the definition of a service facility to reflect evolving usage of online banking services, were put on hold until only recently.[40]

NAFCU has urged the NCUA to modernize field of membership regulation on a more timely basis to ensure that federal credit unions are able to compete effectively and adapt to technological change. Although changes in field of membership rules may agitate the banking industry, the specter of spurious attacks motivated by bank shareholders' concern for their bottom-line should not prevent the NCUA from taking important and necessary steps to modernize field of membership requirements for federal credit unions and improve access to the credit unions system for all Americans.

Chart 4.1: Share of Banked Households whose Primary Means of Accessing Banking Services is via Mobile Devices, by Age of Head



Source: FDIC *Survey of Household Use of Banking and Financial Services*

The NCUA must also be responsive to a changing competitive landscape that now hosts nonbank fintech companies and decentralized finance platforms rushing to offer retail banking services to millions of younger consumers. Today the use of AI and machine learning, in conjunction with widespread availability of mobile devices, has the potential to project high-touch, relationship banking models much further than a network of brick-and-mortar branches or traditional service facilities. This evolution in the delivery of banking services could put credit unions at a disadvantage as challenger banks leverage new technology to improve market penetration or take advantage of regulatory changes (such as special purpose charters or implementation of section 1033 of the Dodd-Frank Act) to further disaggregate full-service banking models. Increasingly, the preferred consumer portal for all banking activity is a smartphone, a device that virtually all adult American consumers

[40] *See* NCUA, Chartering and Field of Membership Manual, 80 Fed. Reg. 76747, 76752 (December 10, 2015).

possess.[41] NAFCU believes the NCUA must revisit outdated field of membership interpretations to address a fundamentally changed financial services landscape, particularly as credit unions voice increasing concern with issues such as stagnating membership and industry consolidation.

In 2021, 31 percent of credit unions reported that small or stagnating select employee groups (SEGs) were the greatest obstacle to growth, as compared with 23 percent in 2020. An even larger share of credit unions (43 percent) cited an aging membership as a similar barrier. Additionally, 21 percent said they would likely be involved in a merger in the next three years as a merging credit union, and this figure roughly corresponds with a similar share of credit unions who anticipate their merger partner being a bank. Collectively, these indicators of FOM-related growth impairment and future industry consolidation (or decline, if assets are ultimately merged into banks) should prompt the NCUA to focus on meaningful field of membership reform.

Fortunately, the NCUA Board appears to recognize that credit union growth must be a priority. Vice Chairman Kyle Hauptman has noted that the NCUA should focus on keeping smaller or struggling credit unions alive and has often promoted the idea of making de novo chartering easier for new credit unions.[42] Board Member Hood, in his prior tenure as Chairman, brought forward a proposal that invited consideration of whether a credit union's transactional website or mobile app might meet the definition of service facility.[43]

NAFCU sees the NCUA's recent engagement on field of membership modernization as a promising sign and recognizes that there are long-term and near-term opportunities for updating the agency's Field of Membership and Chartering Manual (Chartering Manual). While certain longer-term priorities, such as eliminating the word "local" from the well-defined community requirement and expanding access to underserved communities, will require legislative change, others can be accomplished through regulatory intervention. As discussed below, field of membership reforms are necessary as technology usage evolves and to address the retreat of bank branches from rural communities. They are also important for promoting financial inclusion given that all credit unions are eager to meet the needs of underserved communities, but arbitrary restrictions prevent all FCUs from doing so.

[41] *See* Pew Research Center, Mobile Fact Sheet (April 7, 2021) ("The vast majority of Americans – 97% – now own a cellphone of some kind [...] [t]he share of Americans that own a smartphone is now 85%."), available at https://www.pewresearch.org/internet/fact-sheet/mobile/.
[42] *See* NAFCU, "NCUA Vice Chairman Hauptman, NAFCU's Berger examine budget management, CU chartering, more during fireside chat," (September 16, 2021).
[43] *See* NCUA, Chartering and Field of Membership-Shared Facility Requirements, 86 Fed. Reg. 1826 (January 11, 2021).

Service Facility Definition

Under the FCU Act, in order for a multiple common bond credit union to expand by adding a select group to its FOM, the credit union must be within "reasonable proximity" to the location of the group. The Chartering Manual interprets the term "reasonable proximity" geographically, meaning the group must be "within the service area of one of the credit union's service facilities." Additionally, the FCU Act requires that an FCU that adds an underserved area to its FOM must establish and maintain an office or facility in the local community, neighborhood, or rural district. The Chartering Manual implements this requirement by requiring that a FCU establish an "office or service facility" in the community within two years of adding the underserved area. Currently, the Chartering Manual defines "service facilities" similarly in each of these contexts as "a place where shares are accepted for members' accounts, loan applications are accepted or loans are disbursed." However, each definition contains a different list of approved and disapproved examples.

In early 2021, the NCUA proposed a long overdue field of membership change to modernize and streamline the definition of a service facility for FCUs.[44] Under the proposal, the definition of a service facility would include a shared branch, shared ATM, or shared electronic facility for an FCU that participates in a shared branching network. The revised definition would apply both in the context of adding underserved communities and adding select groups. The proposal would also remove the current requirement of an ownership interest in a shared branching network facility in order for that facility to meet the definition of service facility.

Notably, beyond definitional changes, the NCUA's proposal invited comment on a longstanding NAFCU priority: modernizing the service facility concept to include consideration of online financial services, such as computer-based and mobile phone channels meeting certain criteria for access. Citing reports of increased consumer usage of online banking in 2020, the NCUA observed in its most recent FOM proposal that the "transition to online financial services is expected to outlast the pandemic."[45]

NAFCU supported the NCUA's proposal and offered a historical explanation for why the service facility definition must evolve. Since CUMAA, the NCUA has interpreted the FCU Act's "reasonable proximity requirement" to refer to close geographic proximity. Geographic proximity has traditionally been a reflection of the time, distance, and effort necessary to access the full range of credit union products and services prior to the primacy of electronic and mobile banking. Prior mileage-based delineations of what is reasonably proximate, as well as post-CUMAA interpretations of what is meant by geographic proximity, all share a similar concern, which is that a credit union's products and services are actually accessible to the

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[44] *See id.*
[45] *See id. at 1829.*

communities within its field of membership.[46] But these interpretations originated at a time when digital alternatives were less available than they are today. Technology has indisputably altered the relationship between geography and proximity, and NAFCU has urged the NCUA to reconsider its interpretations in light of this fact.

In addition to service facility improvements, NAFCU has also asked the NCUA to consider a more flexible, narrative-based approach for documenting the anticipated relationship between a proposed select group addition and a credit union. For example, a credit union could establish the select groups' anticipated needs for financial products and services and the credit union's corresponding ability to serve them within the context of its current strategic goals, its scale and capacity, and its current technology. Alternatively, a credit union could also establish, by narrative evidence, concordant interests, mission, and values between the select group and the credit union, establishing how the select group will provide stability and richness to the existing membership.

Additions of Underserved Areas

As amended by CUMAA, the FCU Act permits multiple common bond credit unions to add, without regard to location, an "underserved area." An underserved area must meet three statutory requirements: (1) it must be a local community, neighborhood or rural district; (2) it must qualify as an "Investment Area" as defined in the Community Development Banking and Financial Institution Act of 1994 (CDFI Act); and (3), is underserved, based on data of the NCUA and federal banking agencies, by other depository institutions.[47]

Regarding the first requirement, the 'local community' comprising an underserved area is generally regarded as an "accessory to an already viable credit union whose FOM is based entirely on a pre-existing multiple group common bond."[48] This distinction is one reason why draft legislation to allow all federal credit unions, regardless of type, to add an underserved area to their field of membership should be regarded as compatible with the existing segmentation of FCU field of membership.

More importantly, credit unions are ready and able to address the credit needs of underserved areas as banks retreat from these areas. Extending research from a recent report by the Federal Reserve, between 2012-2019 community banks decreased rural branches by 5% and

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[46] *Compare* NCUA, IRPS 94-1, 59 Fed. Reg. 106 (June 3, 1994) *with* NCUA, Legal Opinion Letter, "Reasonable Proximity Analysis," (June 10, 2020), available at https://www.ncua.gov/regulation-supervision/legal-opinions/2020/reasonable-proximity-analysis. See also, Testimony of Dennis Dollar Before the U.S. House Committee on Banking and Financial Services, "Implementation of the Credit Union Membership Access Act," (February 3, 1999) ("The focus is on the minimum amount of services that must be provided at any service facility.")
[47] 12 U.S.C. 1759(c)(2)(A) (emphasis added)
[48] NCUA, IRPS 08-2, 73 Fed. Reg. 73392, 73394 (December 2, 2008), available at https://www.ncua.gov/files/publications/interpretive-rulings-policy-statements/IRPS2008-2.pdf.

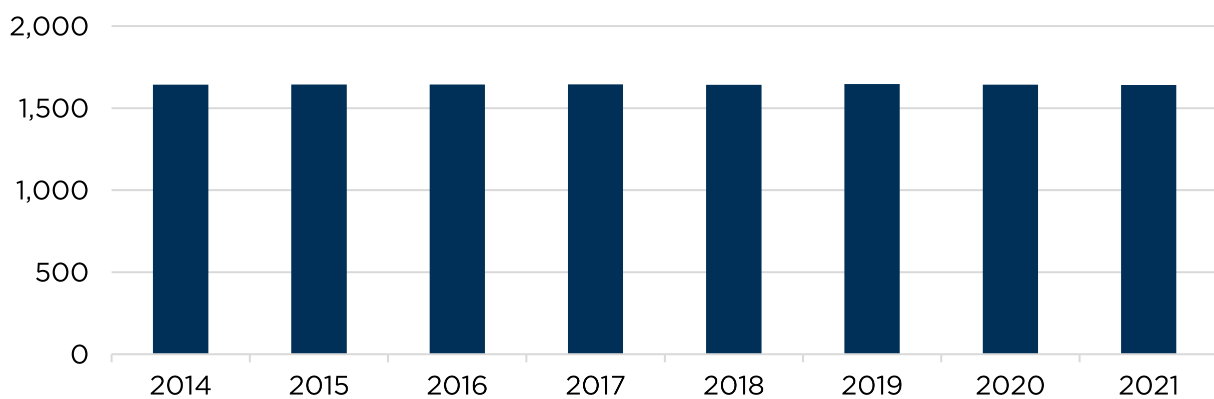
large banks decreased rural branches by 19%; credit unions grew their branch presence in rural areas by 2% over that span.[49] However, the void left by departing banks in rural and underserved communities can be mitigated if more credit unions are permitted to replace lost services through underserved area expansions.

NAFCU supports the discussion draft of the "Expanding Financial Access for Underserved Communities Act" which would expand the ability of FCUs to add underserved areas to their field of membership. In a May 2021 letter to the House Committee on Financial Services, NAFCU wrote that the draft legislation would also make it easier for credit unions to offer critical member business loans to small businesses in underserved communities that have been disproportionately affected by the pandemic.

Apart from legislative reform, the NCUA can also make process-based improvements to streamline additions of undeserved areas. As a preliminary matter, eligible FCUs must ensure that the proposed underserved area they wish to serve meets relevant statutory and regulatory criteria. One of these criteria is that an underserved area be recognized as an investment area.

The identification of an investment area can be a less than intuitive process for some credit unions, and the depth of analysis necessary to evaluate a proposed area's qualifications might discourage expansion. In general, an investment area is defined in terms of economic distress criteria developed by the CDFI Fund. An investment area may be determined by measuring the percentage of low-income families or the extent of poverty, and the NCUA's Chartering Manual provides a list of the criteria that will be considered.

Chart 4.2: The Number of Rural/Underserved Counties Remains Stubbornly High



Source: CFPB

[49] Board of Governors of the Federal Reserve, "Perspectives from Main Street: Bank Branch Access in Rural Communities," (November 2019), available at https://www.federalreserve.gov/publications/november-2019-bank-branch-access-in-rural-communities.htm.

The current Chartering Manual also includes references to Empowerment Zones and Enterprise Communities, which automatically qualify as an investment area. The Empowerment Zone designation, originally created by the Empowerment Zones and Enterprise Communities Act of 1993, has been extended several times by legislation (most recently, the Consolidated Appropriations Act of 2021). However, lack of guidance regarding where to find a current list of active Empowerment Zone nominations could frustrate attempts to use this alternative designation as a presumptive investment area qualification. The Department of Labor currently hosts on its website an "Empowerment Zone Address Locator," but it is unclear how actively this tool is maintained.[50] The NCUA could potentially remedy uncertainty regarding usage of the Empowerment Zone designation by issuing new guidance that clarifies how to identify areas with active designations.

The Chartering Manual's description of an Investment Area may also confuse potential credit union applicants because it expresses certain economic distress criteria in terms of data reported in the most recent decennial census. Reliance on decennial census data to identify investment areas can complicate identification of distressed census tracts over time as communities change between official census dates. The CDFI Fund has already addressed this issue in its own regulations and does not solely rely on decennial census data. The CDFI Fund uses the U.S. Census Bureau's American Community Survey (ACS) data to provide more current socioeconomic and demographic data, which in turn is used to update investment area designations for the purpose of determining CDFI Fund program eligibility. In practice, the NCUA appears to permit the use of ACS data to demonstrate that a proposed underserved area meets distress criteria; however, the Chartering Manual has not been updated to reflect this interpretation. To help credit unions better understand what data may be relied upon to develop an underserved area application, the NCUA should clarify that credit unions may use ACS data to determine whether a census area qualifies as an Investment Area. This clarification would also alleviate uncertainty regarding the interplay of separate references to decennial census data and ACS data for different underserved area requirements.[51]

The NCUA should also consider sharing guidance or tools to help credit unions visualize the presence of designated Investments Areas in the communities they serve. The CDFI Fund's Community Investment Mapping System (CIMS) allows users to view investment areas by census tract and the NCUA should, at the very least, link to this resource in its underserved area guidance. The use of a mapping tool greatly aids in the ability to evaluate different permutations of underserved areas in relation to other criteria, such as the service facility

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[50] Department of Labor, Empowerment Zone Address Locator, available at https://www.dol.gov/agencies/eta/wotc/resources (accessed September 1, 2021).
[51] *See* NCUA, "Expanding Service to Underserved Areas: Application Guidance," https://www.ncua.gov/support-services/credit-union-resources-expansion/field-membership-expansion/serving-underserved/expanding-service-underserved-areas-application.

requirement and concentration of facilities ratio (CFR). The NCUA should consider whether it may be feasible to extend the CIMS to support a more specialized mapping tool that incorporates data regarding an area's CFR or whether it is presumptively designated as underserved by the CFPB. Ideally, such a tool would serve as a single authoritative source of information for determining whether a proposed area qualifies as an underserved area. Not only would such a tool be beneficial to credit unions that have limited staff resources to assemble underserved area data, it could also improve the efficiency of CURE's process for reviewing related expansion requests.

Concentration of Facilities Ratio Test

The statutory definition of an underserved area requires a credit union to demonstrate that the area is underserved by other depository institutions.[52] To make this determination, the NCUA offers three approaches. The first is relatively straightforward; a credit union may consult the CFPB's list of underserved counties which presumptively meet the requirement. The second requires the credit union to determine when the concentration of depository institution facilities among the population of the proposed area's non-distressed tracts is greater than the concentration of facilities among the population of all of the proposed area's census tracts combined. This is referred to as the concentration of facilities ratio (CFR) and entails a significantly more complex level of analysis.

The NCUA appears to acknowledge that the data and calculations necessary to determine the CFR are not the most accessible. The NCUA's guidance on underserved area expansions notes that CURE can calculate the CFR for a federal credit union if it provides the necessary census tract data. While this service alleviates administrative burden for credit unions, there may be circumstances where a third approach is preferrable. According to the Chartering Manual, a credit union may determine whether an area is "underserved by other depository institutions" using a metric of its own choosing, provided that it is based on NCUA or other Federal banking agency data. In practice, this third approach operates less as a true alternative to the CFR and more as way to correct data inconsistencies or address edge cases—a distinction the NCUA should articulate in greater detail to avoid confusion and educate credit unions about the circumstances in which different metrics or data may be useful.

For example, the CFR necessarily entails a comparison of distressed and non-distressed census tracts in a proposed underserved area. If there are no non-distressed tracts in the area, the NCUA may look to tracts that are immediately contiguous to the proposed area or a larger geographic area, but this fallback method of calculating the CFR may not always work and credit unions may not know what adjoining non-distressed tract or area they should identify

[52] 12 U.S.C. 1759(c)(2)(A)(ii)

to set a benchmark concentration ratio. There are also certain edge cases that can frustrate use of the CFR as a qualifying metric. For example, nearly the entirety of Puerto Rico consists of distressed census tracts, which makes it difficult to identify a non-distressed benchmark tract. There may also be instances where the number of facilities in non-distressed tracts is zero, and while this is a rare problem, the flight of banks from rural communities could make this a more common edge case in the future.

To improve credit union understanding of the limits of the CFR, the NCUA should publish guidance that describes when it may be useful to provide alternative metrics to supplement the CFR in certain situations. The NCUA should also consider sharing pre-computed CFR ratios for census tracts so that credit unions can efficiently consider different combinations of underserved census tract combinations.

Overlap Analysis

In the broader context of field of membership expansions, the requirement to conduct an overlap analysis can be burdensome for federal credit unions that are unfamiliar with this requirement. According to the Chartering Manual, an overlap occurs when a group is eligible for membership in two or more credit unions, including state charters. In general, an overlap is permitted when an expansion's beneficial effect in meeting the convenience and needs of the members outweighs any adverse effect on the overlapped credit union.

Multiple common bond credit unions are required to investigate the possibility of an overlap with other FICUs prior to submitting an expansion request if a select group has 5,000 or more primary potential members.[53] For some credit unions, the wording of the Chartering Manual might suggest that the analysis of an overlap requires significant attention and analysis.[54] For example, the Chartering Manual invites consideration of several factors related to overlap situations, including:

- The view of the overlapped credit union(s);
- Whether the overlap is incidental in nature - the group of persons in question is so small as to have no material effect on the original credit union;
- Whether there is limited participation by members or employees of the group in the original credit union after the expiration of a reasonable period of time;
- Whether the original credit union fails to provide requested service;
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[53] *See* NCUA, 12 CFR Part 701 Appendix B, Chapter II, Section IV.E.1.
[54] *See id.* ("NCUA will approve an overlap if the expansion's beneficial effect in meeting the convenience and needs of the members of the group outweighs any adverse effect on the overlapped credit union.").

- The desires of the group(s);
- The desire of the sponsor organization; and
- The best interests of the affected group and the credit union members involved.

In practice, however, many credit unions never go beyond the first stage of the analysis (i.e., soliciting the views of the overlapped credit union) because few overlap situations are contested events. Yet for those credit unions that have never dealt with an overlap situation previously, it may be difficult to reconcile different statements in the Chartering Manual which explain on the one hand that "NCUA will approve an overlap if the expansion's beneficial effect [...] outweighs any adverse effect on the overlapped credit union," and note on the other that "[g]enerally, if the overlapped credit union does not object, and NCUA determines that there is no safety and soundness problem, the overlap will be permitted."[55] It may be helpful for the NCUA to clarify that providing documentation that is responsive to the factors described above is not necessary unless an overlapped credit union objects. It may also be useful to provide a sense of how long an expanding credit union should wait before determining that an overlapped credit union has not offered any objection.

Lastly, the NCUA might consider describing the factors in greater detail in the event that an overlap is contested, even if the event is rare. It may also be helpful for CURE to provide examples to expanding credit unions, upon request, of effective overlap analysis when additional documentation is required.

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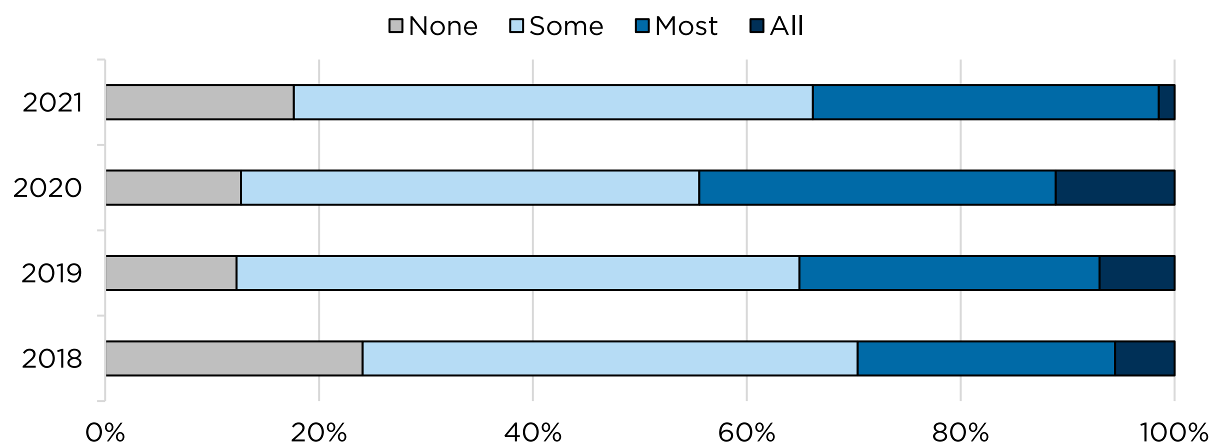
[55] *See id.* (emphasis added).

APPENDIX

NAFCU's 2021 *Federal Reserve Meeting Survey* asked about participants' use of Federal Reserve services. In terms of usage rates, respondents reported somewhat decreased reliance on the Federal Reserve for transactional service needs. Thirty-four percent of respondents used the Federal Reserve for "most" or "all" of their transaction services, which is down from 44 percent the prior year. Eighteen percent of respondents reported that they do not use the Federal Reserve for any transaction services. As was the case in prior surveys, respondents' usage of transaction service providers depended largely on their size. Sixty-four percent of credit unions with under $250 million in assets indicated that they use corporate credit unions for "most" or "all" of their service needs, while 55 percent of credit unions with over $1 billion in assets use the Federal Reserve for "most" or "all" of their services.

Chart A.1: Share of Responding Credit Unions' Transaction Services Provided by Federal Reserve



Source: NAFCU *Federal Reserve Meeting Surveys*

Survey respondents continue to rate Federal Reserve services highly. Among service users, 63 percent of respondents rated Federal Reserve services as "excellent" or "above average" (up from 61 percent in 2020). No respondents rated those services as "below average." When asked to comment on their experience using the Federal Reserve as a service provider, the vast majority of survey participants praised the Federal Reserve's service and support.

Finally, NAFCU asked its members about the pricing of Federal Reserve services. Overall, 63 percent said that services were priced competitively, compared to just 1 percent that said pricing was not competitive (down from 9 percent in 2020). The remaining 35 percent were unsure or did not utilize Federal Reserve services. Services mentioned most often by respondents as being priced competitively included ACH and cash services. The services that respondents cited most often as not being competitively priced were ACH and wire transfers.