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National Association of Federally-Insured Credit Unions

January 9, 2018

The Honorable J. Mark McWatters, Chairman
The Honorable Rick Metsger, Board Member
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314

RE: Tenets and Priorities of our Nation's Credit Unions

Dear Chairman McWatters and Board Member Metsger:

On behalf of the National Association of Federally-Insured Credit Unions (NAFCU), the only national trade association focusing exclusively on federal issues affecting the nation's federally insured credit unions, I would like to share with you the top tenets and priorities of our nation's credit unions. Member-owned not-for-profit credit unions provide over 110 million Americans with personal and small business financial service products as the economy continues to recover from the financial crisis. Each year, the NAFCU Board, made up of credit union CEOs from across the nation, identifies the top issues in the upcoming year that impact credit unions.

In addition to these general priorities, which touch upon both legislative and regulatory concerns, the second part of this letter discusses priorities that specifically concern the National Credit Union Administration (NCUA). We hope that you will work with us to address these top legislative issues for credit unions.

- 1. NAFCU supports a regulatory environment that allows credit unions to grow.** NAFCU believes that there must be a regulatory environment that neither stifles innovation nor discourages credit unions from providing consumers and small businesses with access to credit. This includes protecting the current tax status of credit unions. It also includes the ability of credit unions to establish healthy fields of membership that are not limited by outdated laws or regulatory red tape. Credit unions need modernized capital standards that reflect the realities of the 21st century financial marketplace. Additionally, there must be a housing finance system that works for credit unions.

Action items under this priority include, but are not limited to:

Preserving the Credit Union Tax Exemption – NAFCU thanks Congress and the Administration for preserving the credit union tax exemption in the recently passed tax reform legislation.

GSE/Housing Finance Reform – Both the House Financial Services Committee and the Senate Banking Committee have housing finance reform on their agenda. Even though no clear

proposal has yet emerged, preserving a government guarantee as well as maintaining unfettered access to the secondary market and ensuring fair pricing for credit unions based on loan quality will remain a top legislative issue for NAFCU.

On the regulatory front, NAFCU will continue to work to ensure that credit unions' access to the secondary market is not hampered by regulatory actions. The Federal Housing Finance Agency (FHFA), under the helm of Director Mel Watt, has been receptive to credit union needs in general, but NAFCU will continue to monitor rulemakings relative to the Federal Home Loan Banks (FHLBs). NAFCU will work with the FHFA to ensure credit unions have the ability to sell their mortgages into the secondary market.

Field of Membership – Strengthening the federal charter and pursuing regulatory relief for federal credit unions is at the core of NAFCU's advocacy efforts. NAFCU fundamentally believes the industry's dual chartering system works best when the state and federal charters keep pace with each other. Several states, however, have been much more progressive in modernizing their field of membership (FOM) rules to recognize today's dynamic and ubiquitous marketplace.

On the regulatory front, NAFCU will continue to urge the NCUA to provide the industry with more FOM relief, including: 1) eliminating or increasing the core-based statistical area population limits; 2) establishing a formal notification process for credit unions making FOM-related applications; and 3) considering new ways to efficiently address mergers.

The banking trade groups have indicated a desire to challenge the legality of the agency's FOM rule. NAFCU will be ready to ensure the FOM rules are implemented swiftly, defend the interests of credit unions, and support the legality of the NCUA's FOM rules.

NAFCU supports legislative improvements to sections of the Federal Credit Union Act that restrict the ability of credit unions to serve their desired fields of membership, including allowing all credit unions to add underserved areas.

Capital/Risk Based Capital Reform – NAFCU remains concerned with the impact the Risk-Based Capital (RBC) rulemaking will have on the credit union industry, including regulatory burden and increased costs. NAFCU will continue to advocate for the NCUA to revisit and reconsider the agency's approach to RBC or for Congress to step in and stop the rule from becoming effective on January 1, 2019. NAFCU will also continue to advocate for access to supplemental capital for all credit unions.

2. NAFCU supports appropriate, tailored regulation for credit unions and relief from growing regulatory burdens. Credit unions are swamped by an ever-increasing regulatory burden from the Consumer Financial Protection Bureau (CFPB) and other regulatory entities, often on rules that are targeting bad actors and not community institutions. NAFCU supports cost-benefit analysis in regulation, and wants to ensure that we have an effective regulatory environment where positive regulations may be easily implemented and negative ones may be quickly eliminated. NAFCU also believes that enforcement orders from regulators should

not take the place of regulation or agency guidance to provide clear rules of the road. This includes seeking regulatory relief and reform that allows credit unions to better serve their members.

Action items under this priority include, but are not limited to:

Regulatory Relief – Both the House Financial Services Committee and the Senate Banking Committee continue to work on the issue of regulatory relief. Chairman McWatters, you have also indicated your desire to provide relief. NAFCU will continue its push for credit union regulatory relief in 2018 by pressing for more Congressional action and for agencies to take action to provide relief where they already have authority to do so.

Member Business Lending – NAFCU has long advocated for member business lending (MBL) reform, both legislatively as well as through NCUA regulatory relief. NAFCU will also continue to work with Congress and NCUA to provide relief from the statutory cap.

CFPB Exemption Authority – The *Dodd-Frank Wall Street Reform and Consumer Protection Act* (Dodd-Frank Act) specifically grants the CFPB with the authority to exempt “any class of covered persons” from any provision or rule. We will seek to build on the support of over 2/3 of Congress that wrote to the CFPB to back these changes in 2016. We will continue to urge the Bureau to use its exemption authority more effectively and will seek greater legislative exemptions and relief for credit unions from burdensome CFPB rules.

Unfair, Deceptive, or Abusive Acts and Practices (UDAAP) – Since the enactment of the Dodd-Frank Act, NAFCU has worked to seek clear, transparent guidance from the Bureau on its expectations for credit unions under the law. NAFCU believes that a UDAAP rulemaking and/or guidance — articulating clear supervisory expectations — is necessary to ensure credit unions have the information they need to ensure their operations are safe, sound, and reflective of the spirit and letter of the laws governing them.

3. NAFCU supports a fair playing field. NAFCU believes that credit unions should have as many opportunities as banks and non-regulated entities to provide provident credit to our nations' consumers. NAFCU wants to ensure that all similarly situated depositories follow the same rules of the road and unregulated entities, such as predatory payday lenders, do not escape oversight. We also believe that there should be a federal regulatory structure for non-bank financial services market players that do not have a prudential regulator, including emerging Fintech companies. Additionally, retailers and others who handle personal financial information should be held responsible for protecting that information, and should pay their share for costs associated with data breaches and using the payments system.

Action items under this priority include, but are not limited to:

Interchange - NAFCU will continue to push to repeal the failed Durbin amendment and fight against any efforts to expand interchange price caps to credit cards. NAFCU will also continue to press the Federal Reserve Board to lessen the negative burden of the Durbin price caps.

Data/Cyber Security –NAFCU has been working with others in the financial services sector to enact reforms that create a safer environment and hold retailers accountable, all while not creating burdensome new requirements on financial services. NAFCU will also continue to help credit unions deal with the aftermath of the Equifax breach, including support of seeking efforts to better protect data held by credit bureaus. NAFCU will continue to work with others in the financial sector on this key issue while also seeking to increase credit union awareness of cyber threats.

As you are aware, NCUA has increasingly aimed its supervisory priorities on the evolving risks related to cybersecurity. NAFCU will continue to engage the agency as it works to develop the tool and ensure that credit unions are not held to overly-burdensome cybersecurity standards.

Regulation of FinTech Companies – The growth of online marketplace lenders underline the need for Congress and regulators to modernize existing laws and regulations on traditional financial institutions to facilitate greater access to credit (including in areas such as E-SIGN). Financial regulators must require online marketplace lenders to meet basic consumer protections such as the *Truth in Lending Act*, Banking Secrecy Act (BSA)/Anti-Money Laundering (AML) requirements, underwriting standards for loans, applicable state usury laws, and others. NAFCU will continue to advocate for a level playing field.

4. **NAFCU supports government transparency and accountability.** NAFCU believes regulators need to be transparent in their actions, with the opportunity for public input, and should respect possible different viewpoints. We believe a bipartisan commission structure is the best form of regulatory governance for independent agencies, and all stakeholders should be able to have input into the regulatory process.

Action items under this priority include, but are not limited to:

CFPB Reform– NAFCU was the only credit union trade association to demand that credit unions be exempt from the Dodd-Frank Act during the debate on financial reform. Unfortunately, our concerns have proved true, as over 20% of the industry has disappeared since the enactment of the Dodd-Frank Act, with regulatory burden being the prime reason. NAFCU will continue to support structural changes to the CFPB, such as the Bureau being run by a bipartisan commission as compared to a single director. We also support bringing more accountability to the agency by making it subject to the Congressional appropriations process. Given the recent court ruling in the PHH case that called the current structure into question, we think the time is right to bring reforms to the CFPB.

Refunds of Stabilization Assessment Monies – NAFCU continues to question the propriety of the NCUA Board's decision to raise the normal operating level (NOL) of the National Credit Union Share Insurance Fund (NCUSIF) to 1.39 percent. While we believe the 2018 rebate proposed by NCUA is a good first step, NAFCU will continue to urge the agency to focus on ways to provide additional refunds to credit unions and return the NOL to its customary level of

1.30 percent as soon as possible. Returning additional funds to credit unions will allow credit unions to put those dollars to work helping members.

5. NAFCU supports 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. The current structure of the NCUA, including a 3-person board, has a track record of success. NCUA should be the sole regulator for credit unions and work with other regulators on joint rulemaking when appropriate. Congress should make sure that the NCUA has the tools and powers that it needs to effectively regulate the industry.

Actions items under this priority include, but are not limited to:

CFPB Reform – As mentioned above, NAFCU was the only credit union trade association to demand that credit unions be exempt from the Dodd-Frank Act during the debate on financial reform. We will continue to advocate for credit unions to be outside of the CFPB's authority.

Chairman McWatters, you wrote to the CFPB twice in 2017 requesting that the Bureau exempt federally insured credit unions (FICUs) with assets over \$10 billion from the examination and enforcement provisions of section 1025 of the Dodd-Frank Act. As the prudential regulator of FICUs, the NCUA possesses and is able to bring to bear a broader arsenal of enforcement tools than is available to the CFPB when dealing with problem credit unions. Under the proposed exemption, all FICUs would continue to be subject to consumer financial protection laws and applicable CFPB regulations. NAFCU believes this request has merit and should be examined further.

NCUA Structure – NAFCU will continue to oppose any efforts to bring the agency under congressional appropriations and/or expand the NCUA Board to five members.

NCUA-Specific Priorities

In addition to the priorities discussed above, NAFCU urges NCUA to consider and address the following recommendations:

Capital Planning and Stress Testing – As NAFCU recently wrote in response to the agency's proposal to amend its capital planning and supervisory stress testing rule, NAFCU supports the notion of prudent capital planning and believes that covered credit unions have long possessed the ability to forecast the effects of unfavorable economic conditions on capital.

When NCUA proposed the first iteration of its capital planning and stress testing rule, NAFCU recommended that covered credit unions be able to conduct their own stress tests because larger credit unions already engaged in advanced capital planning. Accordingly, we agree with NCUA that covered credit unions deserve the flexibility to conduct their own stress tests. In addition, the proposal's tiered regulatory approach represents a promising start to what NAFCU hopes will be a broader conversation about recalibration of stress testing and capital planning assumptions.

NAFCU hopes to work with NCUA over the course of 2018 to reexamine the extent to which formal capital plans and stress tests are necessary to ensure safety and soundness.

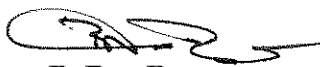
Asset Securitization – Given the impending reform of the Government Sponsored Entities (GSE), NAFCU firmly supports the agency's 2018 prioritization of expanding credit unions' authority to issue securities. NAFCU understands that the agency is currently drafting guidance that will help steer credit unions that are interested in this activity. NAFCU is optimistic that the final guidance will include the following considerations: (1) expanded eligibility of loans beyond those originated by the securitizing credit union, in particular, by permitting the use of purchased loans needed to complete a pool as well as allowing the aggregation of loans by credit union service organizations (CUSOs); (2) flexibility in the levels of residual and retained interests in securitized assets that a credit union may hold; (3) authorization for credit unions to have special purpose vehicles with the authority to enter into derivative transactions; and (4) additional clarifications on the types of securitization transactions in which credit unions may engage.

Interest Rate Cap – By statute, federal credit unions are generally limited to a 15 percent interest ceiling on loans. However, NCUA is provided with flexibility to establish a higher rate for up to 18 months if the Board determines that interest rates have risen over the preceding six month period and that the prevailing interest rate would threaten the safety and soundness of individual credit unions. Although the Board has continued to reapprove temporary interest rate ceilings of 18 percent, NAFCU urges the Board to explore its options to modify the interest rate ceiling away from a fixed rate. Specifically, NAFCU believes that NCUA should consider amending the interest rate ceiling to 15 percent over Prime.

Federal Credit Union Bylaws – In its recently published agenda, the Regulatory Task Force indicated that review and reform of federal credit union bylaws would be a Tier I priority, meaning it would receive agency action within the next 24-months. NAFCU supports this goal, and looks forward to providing comments in response to the publication of the Advanced Notice of Proposed Rulemaking. Additionally, NAFCU and our members expect to provide assistance to NCUA as it convenes a working group to study how the bylaws can be improved upon.

Thank you for your consideration and attention to these important matters. We look forward to working with you to address these priorities. If we can answer any questions or provide you with additional information on any of these issues, please do not hesitate to contact myself or NAFCU's Director of Regulatory Affairs, Alexander Monterrubio, at 703-842-2244, or amonterrubio@nafcu.org.

Sincerely,



B. Dan Berger
President and CEO

Thanks for your continued support!