November 13, 2023

The Honorable Sherrod Brown
Chairman
Committee on Banking, Housing, and
Urban Affairs
United States Senate
Washington, DC 20510

The Honorable Tim Scott
Ranking Member
Committee on Banking, Housing, and
Urban Affairs
United States Senate
Washington, DC 20510

Re: Tomorrow's Hearing: "Oversight of Financial Regulators: Protecting Main Street Not Wall Street"

Dear Chairman Brown and Ranking Member Scott:

On behalf of America's credit unions, we are writing regarding tomorrow's hearing entitled "Oversight of Financial Regulators: Protecting Main Street Not Wall Street" to share our thoughts on issues before both the Federal Reserve and the National Credit Union Administration (NCUA) as they pertain to credit unions. The Credit Union National Association (CUNA) and National Association of Federally-Insured Credit Unions (NAFCU) represent America's credit unions and their 138 million members.

The credit union industry remains a strong, well capitalized, and safe place for consumers. As not-for-profit, member-owned cooperatives, credit unions' focus is on service to their members, not chasing profits. Unlike the banking system where roughly 50 percent of deposits were uninsured by the Federal Deposit Insurance Corporation (FDIC) before the failures earlier this year, 90 percent of credit union deposits are insured by the NCUA and its National Credit Union Share Insurance Fund (NCUSIF). That number is even higher when private and supplemental insurance offerings are taken into account. Even though the federal insurer is different, the coverage levels from the NCUSIF are the same as for the banks and the FDIC—an essential element to ensure consumer confidence in the system.

The Federal Credit Union Act and the NCUA

Importance of the NCUA as an Independent Regulator and Insurer

We continue to strongly support the NCUA's current status as an independent regulator and insurer. Maintaining a separate, independent federal credit union regulator and insurer is critically important to the credit union system. The structural and mission-driven differences between credit unions and banks necessitate such a regulatory scheme: credit unions' not-for-profit structure and their mission to promote thrift and provide access to credit for provident purposes are fundamentally different than other financial services providers.

The NCUA-administered NCUSIF is also independent of the federal appropriations process, which insulates it from unexpected lapses in funding. Credit union share deposits remain insured and secure. In addition, since the NCUSIF is capitalized by federally insured credit unions, it is critical that the Fund's investment strategy, as determined by the NCUA's Investment Committee, reflect the current economic environment to ensure it is performing properly.

We are optimistic that the NCUA will continue to pursue opportunities to increase flexibility for and decrease compliance burdens on credit unions. We hope the NCUA Board will work to build on the positive momentum that has been created in recent years. While we appreciate the NCUA's recent actions, there are nevertheless issues and rulemakings that cause concern for the credit union industry. We urge the NCUA Board to maintain an open dialogue with the industry, including the state credit union leagues and associations and individual credit unions, to ensure the agency is aware of areas in need of improvement.

NCUA's Budget

The NCUA is funded by regulated credit unions and their members, not by taxpayers. Credit unions and their members remain willing to pay for their own regulator provided there is sufficient transparency, including with regard to the agency's budget. For the last several years, even before it was statutorily required to do so, the NCUA has held an annual hearing on its budget, and as a result, the agency's budget transparency has improved.

Unfortunately, the NCUA's budget continues to increase despite industry consolidation, and the 2024-2025 draft budget once again overlooks opportunities to incorporate more efficient processes with potential cost-savings. In fact, the proposed 2024 Operating Budget would increase by 11 percent and the proposed 2025 Operating Budget would increase by nearly 10 percent, similar to the increases seen in last year's 2023-2024 final budget. In contrast, the average annual budget growth in the eight years prior to 2020 was a much more restrained 3.8 percent. Continuing this trajectory of substantially increased budgets is unsustainable and will have serious consequences for the credit unions that fund the NCUA and their ability to serve their members. We urge the NCUA to restrain its spending going forward and look for cost savings wherever possible. If the agency does not, Congress must use its oversight authority to demand further justification for such increases.

We have recommended to the NCUA that it continue to focus on implementing lessons learned from the pandemic and not ignore the achievements that have been made towards cost-savings. We recommend that the NCUA embrace the importance of cost-efficiency and prudent financial management by cutting unnecessary budget items like the proposed addition of dozens of new examination staff that have been included in the proposed 2024 budget with little justification or explanation.

More specifically, we offer the following recommendations to enhance the efficiency of the NCUA's 2024-2025 budget:

1. Preserve the strength of the NCUSIF without overburdening credit unions with exorbitant Operating Fees and return surplus cash from the Operating Fund to credit unions;

2. Continue to prioritize offsite examination activities, revise the threshold for extended examination cycles to achieve further efficiencies, and provide greater transparency for expenses related to the Modern Examination and Risk Identification Tool;
3. Eliminate the proposed addition of dozens of new specialized examiners that are not justified by a measurable industry need; and
4. Adopt a more transparent and accountable methodology for tracking and evaluating the efficacy of cybersecurity and IT-related expenses.

While our organizations support the modernization of the NCUA examination workforce, we are opposed to the proposed addition of 27 specialized and supervisory positions in the 2024 budget. The addition of these new Bank Secrecy Act (BSA) and consumer compliance specialists and supervisory positions, coupled with five extra supervisory roles for credit unions between $10 billion and $15 billion in assets, is being undertaken too quickly and could lead to a less experienced workforce and inefficiencies, while placing increased financial burden on the credit unions that fund the NCUA.

NCUSIF Reform

The high-profile failures in the banking sector earlier this year sparked discussion of the issue of deposit insurance reform. As was the case in the 2008 Financial Crisis, credit unions did not engage in behavior that led to the crisis but were impacted from the downstream effects of institutional and market disruptions.

Our primary concern regarding any deposit insurance reform legislation passed by Congress is to ensure that credit unions receive parity, fair treatment, and equal protection with banks. America's credit unions are well-capitalized with a 10.9 percent net worth-to-asset ratio and an 8.8 percent equity capital ratio. The loan-to-savings ratio stands at 85.2 percent. The liquidity ratio (the ratio of surplus funds maturing in less than one year to borrowings plus other liabilities) was 12 percent in June of 2023, up from 11.1 percent in January. These statistics indicate that credit unions are healthy and stable.

Credit unions are not-for-profit financial cooperatives that exist to serve their members. Unlike banks, they do not issue stock or pay dividends to stockholders. Credit union profits are returned to their members in the form of lower fees and better loan and deposit rates since credit unions are owned by their members.

With more than 90 percent of credit union deposits insured, credit unions remain stable, safe, and secure during this time of uncertainty in the banking sector. The remaining nine percentage points represent deposits that exceed the federal maximum deposit insurance amount. The credit union difference makes us stronger by helping improve the financial well-being of Americans nationwide.

Similar to banks insured by the FDIC's Deposit Insurance Fund (DIF), credit union deposits of up to $250,000 per member are federally insured by the NCUSIF, a fund that is backed by the full faith and credit of the U.S. government. Higher insurance levels are available to certain types of accounts like joint accounts and trusts. This federal insurance is mandatory for federal credit unions and the vast majority of state-chartered institutions are also insured by the NCUSIF. A relatively small number of credit unions opt for private deposit insurance, which is regulated by state financial regulators. The

NCUA, as well as state financial regulators, provides thorough oversight, examination, and supervision of America's 4,912 credit unions.

Historically, bank and credit union deposit insurance levels have been on par with each other. In line with this tradition, the Dodd-Frank Wall Street Reform and Consumer Protection Act raised the maximum deposit insurance amount for both credit unions and banks from $100,000 to $250,000. It is imperative that if Congress amends the law to increase that coverage, credit union members continue to receive parity with account holders at banks.

In addition, Congress is reportedly considering proposals to provide deposit insurance coverage for business transactional accounts at financial institutions. These accounts have daily balances that fluctuate frequently based on receipts, payments, payroll, and the many other transactions that occur in the normal cycle of business activity. The traditional model of fixed deposit insurance may not be the best way to insure such accounts. Should Congress direct the banks' DIF to provide higher or unlimited coverage to such accounts, the Committee should provide reciprocal instructions pertaining to the NCUSIF. Credit unions have many members with accounts for their small and medium sized businesses. These member businesses enjoy the service and stability of doing business with credit unions. It stands to reason that their transactional business accounts should receive the same coverage as those insured by the FDIC.

Federal Credit Union Act Changes Related to NCUSIF

The equity ratio of the NCUSIF stands at 1.27 percent as of June 30. While this is below the Normal Operating Level (NOL) of 1.33 percent, it is above the 1.20 percent threshold that would require the NCUA Board to institute a formal Fund restoration plan. The NCUA staff expects the ratio to remain at 1.27 percent when it is next officially updated at the end of this year.

We urge the NCUA Board to refrain from pursuing any premium assessments to address this temporary decline in the equity ratio. The Board is authorized to assess a premium if the equity ratio is below 1.30 percent; however, the premium may only be enough to return the ratio to 1.30 percent.

Some on the NCUA Board have called on Congress to change the Federal Credit Union (FCU) Act to:

- Remove the 1.50 percent statutory ceiling on the Fund's capitalization;
- Permit premium assessments when the Fund's equity ratio exceeds 1.30 percent; and
- Institute a risk-based premium system.

We strongly disagree with each of these suggested amendments, as we believe such drastic changes are unnecessary given the reliability and strength of the NCUSIF over the years. They have argued that such changes would bring the management of the NCUSIF more in line with that of the DIF. While this technically may be accurate, considering the vast differences between federally insured credit unions and banks, we believe such a comparison to be inappropriate.

Chartering and Field of Membership

Credit unions need the tools and mechanisms to reach new consumers who are not currently being served. The NCUA has identified modernization of the chartering process and field of membership (FOM) requirements as an important piece of its own Advancing Communities through Credit, Education, Stability and Support (ACCESS) Initiative for good reason—the current field of membership process is burdensome, difficult to navigate, and unnecessarily strict. Field of membership is an important part of what makes credit unions unique, but it should not be used as a stricture against healthy credit union growth and improving access to credit unions for underserved communities.

Without regulatory and legislative relief, we are concerned that credit unions will be unnecessarily and unjustifiably obstructed in their ability to invest in appropriate technology and perform in the consumer finance sector, which is increasingly competitive and innovative. The federal charter must keep pace with changes in state laws, technology, and the services and practices of a digital financial services industry. To that end, the NCUA must take every regulatory opportunity to streamline and simplify FOM requirements to ensure the long-term health and survival of America's credit unions, including through meaningfully incentivizing and facilitating credit union investment in mobile and online technologies.

The FCU Act states that when adding a select group to a multiple common bond credit union's FOM, the credit union must be "within reasonable proximity to the location of the group whenever practicable and consistent with reasonable standards for the safe and sound operation of the credit union." In the past, the NCUA has interpreted this language to refer to close geographic proximity meaning that the group is within the service area, a 25-mile radius, of one of the credit union's service facilities. However, the development of technology has altered the relationship between geography and proximity significantly, so the NCUA should reconsider its interpretation. We have long maintained that the NCUA needs to either eliminate the service area requirement or alternatively revise the definition of service area to include "facilities that are accessible to groups within the FOM through online services." The NCUA should revise the definition of "service facility" to include an online internet channel or mobile application that otherwise meets the definition of a service facility, meaning it is capable of accepting shares and loan applications, or disbursing loan proceeds.

Serving underserved populations is inherently aligned with the credit union mission and all credit unions that wish to add underserved areas to their FOM should be permitted to do so. Too many Americans are unbanked, underbanked, or underserved by financial institutions and do not have the access that they need to financial services. Credit unions stand ready to help with financial literacy education and access to loans and other financial products but are unnecessarily limited in their ability to add underserved areas to their FOM. We strongly support legislation that would allow all credit unions, regardless of charter type, to add underserved areas to their FOM and continue to ask for your support. We appreciate the NCUA Board's vocal, bipartisan support of this legislation in the past and look forward to working with the NCUA and Congress to make this extremely necessary amendment to the FCU Act a reality.

FCU Act Modernization

As the Committee examines the current regulatory environment for credit unions, we would like to flag a few areas where the FCU Act needs modernization. We were pleased to see quick action in the House on H.R. 582, the Credit Union Board Modernization Act, earlier this year. We believe it is time for the Senate to act on this legislation or its Senate counterpart, S. 610. Another area of the FCU Act in need of modernization is investment authorities. Federal credit unions are more limited than other types of institutions and even state-chartered credit unions in where they can invest their funds to earn a return. An increase in deposits on hand during the pandemic, combined with a limited ability to earn a return, presents a series of challenges for FCUs, especially in the liquidity area. The NCUA has indicated that it is limited in what it can do to offer more investment options for credit unions under the FCU Act. One such option has been presented in S. 544, which makes needed improvements to the NCUA's Central Liquidity Facility (CLF). We encourage you to consider legislative action on these issues and to allow the NCUA to provide a broader set of investment options for FCUs.

An important aspect of modernizing the regulatory environment for credit unions is modernizing lending provisions in the FCU Act. Credit unions proved their importance as a source of credit to small businesses during the pandemic. In many cases credit unions were the only source of Paycheck Protection Program loans for small businesses after they had been turned away by banks. Credit unions would like to continue to provide credit to businesses in their communities, however, they are constrained by the member business lending (MBL) cap in the FCU Act. This provision caps the total amount a credit union can lend to businesses at 12.25 percent of deposits, with loans under a de minimis threshold of $50,000 not counting towards that cap. With the current inflationary environment, this de minimis threshold is out of date and should be increased to allow credit unions to continue to aid businesses in their communities. S. 539 is bipartisan legislation which would exempt loans made to our nation's veterans from the MBL cap.

In addition to providing relief from the MBL cap, we urge the Committee to consider legislation expanding the loan maturity limit in the FCU Act. Currently, credit unions are constrained to commercial loans with a maturity limit of 15 years. We would support legislation that would increase this limit.

Consumer Compliance Examinations

For several years, the NCUA Board has been contemplating a dedicated consumer compliance examination program for large credit unions not yet examined by the Consumer Financial Protection Bureau (CFPB). Specifically, the NCUA has created additional consumer compliance specialist positions within its Office of Examination and Insurance and is looking to build out an enhanced consumer compliance examination program.

We have significant concern around expanding the agency's consumer protection examination activity without sufficient reason to do so. This seems to be a solution in search of a problem. Altering the agency's risk-focused examination process and substantially increasing consumer examination-related expenditures is simply not warranted.

The agency should not pursue such exams for several key reasons:

- As its mission statement makes clear, the NCUA exists chiefly to ensure the safety and soundness of the credit union system. Its examination program should remain focused on that primary objective.

- The NCUA uncovers and cites occasional individual instances of credit union behaviors and member interactions it deems concerning. This suggests the agency already has—through the risk-focused examination process and consumer complaint hotline—the requisite resources and tools in place to investigate, uncover, and evaluate any deficiencies in an individual credit union's consumer compliance program.

- Credit unions are the original consumer financial protectors. The unique credit union member-ownership structure and not-for-profit status establishes powerful incentives that discourage anti-consumer behavior. These underlying characteristics set credit unions apart and encourage strong pro-social and pro-consumer behaviors. They provide a clear and powerful deterrent to anti-consumer behaviors.

Third-Party Vendor/Credit Union Service Organization Authority

Over the past several years, the NCUA Board has continued to push for Congressional amendments to the FCU Act to provide the agency with direct supervisory authority over third-party vendors (TPV) and credit union service organizations (CUSO).

We strongly disagree with the need for an unlimited grant of such authority. The NCUA has effectively managed risks associated with TPVs/CUSOs within the agency's current regulatory authority. Credit unions are required to perform due diligence on their TPV/CUSO relationships, and this due diligence is already subject to supervision by the NCUA. Further, we are concerned that a significant increase in the agency's budget will certainly be required to obtain and train qualified, experienced examiners.

We understand there may be limited instances where the NCUA's involvement is warranted for supervising critical TPVs/CUSOs that present material risks to the credit union system. Specifically, while it may be appropriate in limited circumstances for the NCUA to have authority over BSA-related service providers and cybersecurity service providers, we oppose the NCUA having unlimited authority to supervise all TPVs/CUSOs. As such, we oppose legislative changes aimed at establishing NCUA authority in this area.

Federal Credit Union Loan Interest Rate Cap

At its January 2023 meeting, the NCUA Board decided to maintain the FCU loan interest rate ceiling at 18 percent, where it has been since 1987. Absent Board action, the rate would have reverted to 15 percent. The rate will remain at 18 percent through September 10, 2024, unless the Board acts prior to then. The Board made clear that it has the authority to revisit the 18 precent cap prior to its expiration in 2024, particularly if economic conditions warrant doing so.

Further, in response to advocacy from the credit union industry, the NCUA Board has broached the subject of moving to a floating cap. At the April 2023 NCUA Board meeting, the NCUA's Office of General Counsel (OGC) stated that it is "reasonable to interpret the FCU Act to permit a floating

interest rate ceiling." While the Board has raised concerns with a floating cap, the OGC's assessment is the first major hurdle. We will continue to ask the Board to consider a floating cap, for example equal to a 15 percent or greater spread above the Prime Rate, which could allow credit unions to better navigate the current interest rate environment and more fully serve their communities.

We continue to urge the NCUA Board to remain vigilant with regard to the interest rate ceiling. Congress should ensure the NCUA is monitoring the broader interest rate environment to determine whether the fixed cap should be increased beyond 18 percent to 21 percent prior to September 2024. The NCUA Board has a fiduciary responsibility to protect and support the credit union system's safety and soundness by remaining responsive to current economic conditions. Raising the permissible interest rate ceiling can ensure that credit unions are able to continue to step in and provide affordable and safe lending to those who may not otherwise qualify for certain loans in a rising rate environment.

Extended Examination Cycle

Efforts to extend the examination cycle for certain credit unions have been positive, particularly for credit unions for which a 12-month cycle was clearly unnecessary. Since banks are provided an extended examination cycle, credit unions are now at a comparative disadvantage. Section 210 of the Economic Growth, Regulatory Relief, and Consumer Protection Act made qualifying banks with up to $3 billion in assets eligible for an 18-month onsite exam cycle. The NCUA already had authority in this area, and thus was not included in this section. However, the agency has failed to fully act on its existing authority. As a consequence, banks now have greater exam flexibility despite credit unions generally having less complex balance sheets.

The NCUA should reconsider its own exam cycle eligibility policy to align with the changes adopted by the other banking agencies. To better achieve the NCUA's goal of reducing burdens on credit unions during the exam process, future exams should be deployed on an 18-month or longer extended cycle for all low-risk, well-run credit unions under $3 billion in assets, in line with the flexibility currently in place for banks.

Central Liquidity Facility

Statutory Enhancements

We support enhancing the NCUA's CLF by, among other things, allowing corporate credit unions to act as agents for smaller (under $250 million in assets), non-CLF member credit unions. This important provision was temporarily enacted under the Coronavirus Aid, Relief and Economic Security (CARES) Act and made it easier for smaller credit unions to access emergency liquidity during the pandemic. Amending the FCU Act to implement this change would be an invaluable and necessary lifeline for smaller credit unions, most of which are not CLF members. As some banks face liquidity problems in these turbulent times, Congress should act now on this provision in the event that a wider crisis develops that might impact the liquidity of America's credit unions.

Operational Issues

The CLF is intended to improve general financial stability by meeting the liquidity needs of credit unions. Per the FCU Act, and the NCUA's regulations, "liquidity needs" covers a range of needs,

including short-term credit, seasonal credit, and protracted credit needed for unusual or emergency circumstances. While we understand the CLF is intended to be a backup source of liquidity, we believe it could be utilized by more credit unions with greater frequency if the process to access liquidity (*i.e.*, membership application and request of an advance) were more streamlined and responses to requests were more timely. Understanding there are statutory provisions that limit the agency's ability to modify certain aspects of the CLF (*e.g.*, capital stock subscription requirement), we ask the NCUA to review Part 725 of its regulations to assess where it can streamline and improve the process overall.

Credit unions often point to the Federal Reserve's Discount Window as an easier/quicker way to access liquidity. Again, the FCU Act includes certain constraints related to the extension of credit not applicable to the Discount Window, such as that there must be a valid liquidity need and the credit union must be creditworthy. However, the NCUA can improve certain aspects of the process of receiving funds from the CLF, such as the timing involved. When a credit union experiences an unexpected need for liquidity, time is of the essence. The FCU Act requires the NCUA to approve or deny an application within five working days. Five, or even up to eight days depending on weekends and holidays, can be a prohibitively long period to learn whether a funding request has been approved. This delay can force credit unions to instead pursue other liquidity sources, particularly when sources such as the Discount Window can provide a credit union with same-day liquidity. As such, we ask the NCUA to consider—consistent with the FCU Act—shortening the five-day window provided in Part 725 to two days.

Climate-Related Financial Risk

A priority of the current NCUA Board is related to climate issues. In 2021, the Biden Administration directed the financial regulators to consider climate-related risk. Subsequently, the Financial Stability Oversight Council (FSOC) released a report on climate-related financial risk, which offered extensive latitude in how member agencies may choose to examine the topic. While several other federal financial regulators have begun to explore the topic of climate-related financial risk, their draft guidelines apply to only the largest covered institutions.

Earlier this year, the NCUA issued a request for information on climate-related financial risk, focusing on current and future climate and natural disaster risks to credit unions, related entities, their members, and the NCUSIF. While we agree that climate risk is an area of risk for the agency to monitor, we wholeheartedly oppose any subsequent regulatory activity that would establish mandatory reporting procedures for credit unions or to otherwise prevent credit unions—directly or indirectly—from continuing to make independent business decisions as they deem most appropriate in order to serve their members. The NCUA is not and should not be a climate regulator. The NCUA should continue to work with the other FSOC members to monitor climate risk; however, in short, we believe that the NCUA and other regulators should not take action without Congress acting first in this area.

Digital Assets and Emerging Technologies

The NCUA should issue guidance allowing credit unions to offer digital asset custodial services or wallets to credit union members. This authority for credit unions to offer cryptocurrency services

directly to their members is necessary to maintain parity and remain competitive with other financial institutions and fintechs.

Further, the NCUA should add digital asset related services to the list of preapproved permissible activities of CUSOs to allow them to provide cryptocurrency related services, such as facilitating a member's buying, holding, selling, transferring, and exchanging of digital assets.

Additionally, we encourage the NCUA to adopt a form-agnostic approach to assessing credit unions' adoption of digital assets and related technologies and to develop a digital asset adoption sandbox or pilot program in which credit unions and the NCUA may prudently explore more novel digital asset use cases without significant compliance risks. The NCUA's new Office of Financial Technology and Access should quickly establish a transparent program to offer solutions to credit unions seeking to experiment with the implementation of new technologies to streamline and improve their processes and procedures. These sandboxes and tech sprints should be available not only in the adoption of digital assets but also more broadly to other emerging technologies.

The NCUA, as a member of the FSOC, needs to engage with FSOC members, the President's Working Group, and other interagency working groups on digital assets to ensure the interests of credit unions are strongly represented. It is imperative that the NCUA, and the credit unions it supervises, have a seat at the table when it comes to developing a regulatory framework for the use of digital assets and other emerging technologies.

Minority Depository Institutions

Minority depository institutions (MDI) preservation is critical to ensuring continued access to fair and affordable financial services in communities of color. Although the market size for the credit union industry in the United States has grown 5.2 percent per year on average between 2017 and 2022, until recently, the share of MDI credit unions had been steadily declining. From 2012-2021, the number of MDI credit unions dropped by 38 percent, a result of decades of underinvestment combined with a more difficult process for new charters. Recently, the number of MDIs has stabilized at about 500 institutions, and the NCUA's ongoing commitment to MDI preservation and creation will help ensure MDI credit unions have the resources and support needed to continue to serve their communities effectively.

Because MDIs focus on serving the communities whose residents have been systematically denied opportunities to build generational wealth, MDI credit unions are under-resourced when compared to similarly situated non-MDI credit unions and face many of the same structural and institutional barriers their members face. The size of the average MDI credit union clearly illustrates this disparity. The average MDI credit union had $128 million in assets in 2022, compared to the average low-income designated credit union's more than $410 million in assets. The typical MDI's small size and role serving an under-resourced community presents numerous operational challenges. In addition, many MDI credit unions are subject to restrictive state or local policies that, for example, prohibit credit unions from accepting state or municipal deposits, eliminating a key source of non-member deposits for MDI credit unions that banks regularly take advantage of. Although state and local policy is outside of the NCUA's purview, it is important that NCUA staff and leadership are aware of the pervasive structural barriers MDI credit unions face.

Despite these challenges, MDI credit unions achieve deep impact in their communities by opening accounts for people who have been excluded from the mainstream financial system, offering innovative, personalized products and services to meet their members' needs, and maintaining deep ties with their communities. They are often the only source of safe and affordable credit for their membership and excel at helping their members refinance high-cost predatory debt. MDI credit unions regularly lend to members with credit scores far below prime (often less than 540) and "credit invisibles," those without credit scores or thin files. MDIs help their members build credit and access a broad range of financial products and services.

Given the crucial role MDI credit unions play in their communities, we are encouraged by the NCUA's increased and vocal commitment to supporting and preserving MDI credit unions. As the NCUA builds on its efforts to date, the agency should increase its support for MDI credit unions by deepening its engagement with MDI credit unions and the organizations that support them, improving the accessibility and usefulness of its key MDI programming efforts, and continuing to improve the examination process and compliance support for MDIs. In addition, the NCUA should play an active role in promoting MDI credit unions and ensuring they have the opportunity to participate fully in both federal and private initiatives designed to support MDIs.

Coordination with Other Regulators

We emphasize the importance of the NCUA's continued coordination with other federal regulatory agencies. As the prudential regulator and federal insurer, the NCUA retains oversight over the vast majority of a credit union's operations. However, there are other agencies that examine and/or regulate credit union operations, such as the CFPB in regard to certain consumer financial protection laws and regulations and the Community Development Financial Institutions (CDFI) Fund at Treasury with respect to credit union CDFIs. It is critical that the NCUA work closely with these and all agencies affecting credit union operations.

The Federal Reserve and Regulation II

Finally, we want to express that NAFCU and CUNA strongly oppose the Federal Reserve Board's recent proposed rule to drastically reduce the Regulation II debit interchange fee cap. NAFCU, CUNA, and other financial trade associations wrote to the Board of Governors in advance of its October 25 meeting to request additional documentation be made available to the public ahead of the meeting, noting concern that the Board has not collected and published comprehensive and current data about the costs of Regulation II on regulated entities. Additionally, the impact of the Board's recent Regulation II rulemaking to require issuers to offer two unaffiliated card networks for card not present transactions is undetermined at this time and must be thoroughly evaluated before proceeding with this rulemaking. It is insufficient to review the Board's biennial survey of large debit card issuers to assess the impact of the new routing requirements because that data, from 2021, was collected well before the rule was finalized in 2022, let alone became effective in July of 2023.

We echo Governor Bowman's concerns raised at the Board's October 25 meeting regarding the unfair nature of this proposal and the Board's reluctance to consider the impacts that such a drastic reduction could have on smaller issuers, including community-based financial institutions like credit unions. The biggest impact is likely to be on low- and moderate-income (LMI) individuals and families, as this reduced interchange fee cap could lead to higher borrowing costs and limited availability or

complete discontinuation of certain products and services that are designed to help these LMI borrowers and their families. The adoption of Regulation II in 2011 significantly decreased the availability of free checking and increased other fees and costs by financial institutions to make up for lost revenue. The proposed cut to the cap will once again force financial institutions to make up for this lost revenue in other areas. This impact is acute for credit unions as not-for-profit cooperatives that do not have the same opportunities to raise capital as banks.

The Board asserts that consumers will likely benefit from cost savings passed through by merchants as a result of lower prices. The Federal Reserve's own research shows that only about one percent of merchants passed their savings onto consumers through reduced prices following the adoption of the Durbin Amendment, and in fact, over 20 percent of merchants increased their prices. This behavior will not change with further cuts. Most importantly, it is not just covered issuers that would feel the impacts of this proposal, but rather all financial institutions would face pricing pressures and be forced to make difficult decisions that could negatively impact the communities they serve.

Conclusion

On behalf of America's credit unions and their 138 million members, thank you for holding this important hearing. It is critical that the Committee understand the immense pressure credit unions—large and small—are under in terms of compliance and operational challenges. This is evident by the ongoing consolidation within the industry which will only be accelerated should the recent proposal on Regulation II at the Federal Reserve be enacted. Similarly, the NCUA Board must appreciate the risks to the industry and take appropriate action to ensure its ongoing viability.

Unlike other sectors of the financial services industry, credit unions embody the collaborative *people helping people* philosophy. As such, we urge this Committee and regulators to work with the credit union industry to pursue an approach, both legislatively and regulatorily, aimed at ensuring credit unions can continue to serve their millions of members across the country.

Sincerely,

Jim Nussle	Dan Berger
President and CEO	President and CEO
Credit Union National Association	National Association of Federally-Insured Credit Unions

cc: Members of the Senate Banking Committee