

March 28, 2001

The Honorable Michael G. Oxley
Chairman, Financial Services Committee
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

The Credit Union National Association appreciates the opportunity to provide our comments on the draft *Financial Services Antifraud Network Act of 2001*. We believe that the premise of the proposed bill not only makes sense, but that such legislation is overdue. The bill would establish a framework for information sharing among federal regulators to assist in the detection of fraud in the financial services industry, and in a way that would not impose new compliance burdens on financial institutions themselves.

We request that you consider two additions to the draft before it is introduced. The draft bill enumerates a number of liaisons between the proposed "Antifraud Subcommittee" and agencies. Included as a liaison would be "a representative of State bank supervisors designated by the Conference of State Bank Supervisors." CUNA requests that similar language be included for "a representative of State credit union supervisors designated by the National Association of State Credit Union Supervisors." Today, there are over 4,300 state chartered credit unions, about 40 percent of the nation's credit unions.

Our second requested addition would greatly enhance the enumerated purpose of the bill "to safeguard the public from ongoing fraud in the financial services industry." We request that the legislation direct the participating agencies to establish as part of this new antifraud network, a system to respond to inquiries from regulated entities and their bonding companies as to whether any current or prospective employee, officer, director or committee member has been the subject of a disciplinary or enforcement action by any of the regulators or found guilty in a criminal case that is recorded in the network's information base.

We appreciate Congressional concern about allowing any private entity to have direct access to the information envisioned by this new federal antifraud network. However, it is important to let

the financial institutions themselves benefit from certain information gathered by the antifraud network to carry out their legal responsibilities. The *Federal Credit Union Act* (12 USC §205(d)) prohibits “any person who has been convicted of any criminal offense involving dishonesty or breach of trust or has agreed to enter into a pre-trial diversion or similar program in connection with a prosecution for such offense” to become or continue as an “institution-affiliated party” of any federally insured credit union. Moreover, the National Credit Union Administration requires all federally insured credit unions to carry “fidelity bonds that cover fraud and dishonesty by all employees, directors, officers, supervisory committee members, and credit committee members” (12 CFR §713.3).

Credit unions are required to carry out these legal responsibilities with incomplete information. The U.S. General Accounting Office noted in its March 6 testimony that in most cases completed disciplinary or enforcement actions are public information, but not easily or conveniently available *to all regulators*. That statement is even more accurate regarding the problems of availability of the information, including criminal convictions, to the private sector.

Losses due to fraud at credit unions must be covered by fidelity bond insurance, by the credit union’s capital, or in the worst cases, by the National Credit Union Share Insurance Fund if the fraud causes the credit union to fail. Just like the Federal Deposit Insurance Corporation for banks, the NCUSIF is backed by the full faith and credit of the United States government. Unless the credit union is being chartered, is newly chartered in the last two years, or is categorized as being in “troubled condition” (12 USC §1790a(a)), the NCUA will not be reviewing the names of new directors or senior management officials. The bonding company is the entity most logically concerned about having good information available.

We hope that you will seriously consider our request to add a provision to the “Antifraud Network Act” so that credit unions and other regulated entities can protect themselves to the greatest degree possible from fraud. CUNA will be happy to work with the subcommittee staff to craft language that will direct the agency participants to provide a limited service of comparing names of current or prospective directors, committee members, and employees with the Network’s information on people who have been subject to enforcement or disciplinary actions or who have been convicted of a criminal offense.

CUNA appreciates having its views sought on this proposed bill before its introduction.

Sincerely,

Daniel A. Mica
President & CEO