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Credit Union National Association

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The Honorable Jeb Hensarling
Chairman
Committee on Financial Services
United States House of Representatives
Washington, DC 20515

The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
United States House of Representatives
Washington, DC 20515

Dear Chairman Hensarling and Ranking Member Waters:

On behalf of the Credit Union National Association (CUNA), I am writing to thank you for scheduling the hearing next Tuesday entitled, "Who's In Your Wallet: Examining How Washington Red Tape Impairs Economic Freedom." CUNA is the largest credit union advocacy organization in the United States, representing America's state and federally chartered credit unions and their 99 million members. We appreciate the opportunity to submit this letter for the record of the hearing.

As you know, credit unions' statutory mission is to promote thrift and provide access to credit for provident purposes. By all accounts, credit unions are achieving this mission. However, the ever-increasing regulatory burden that credit unions face makes this more difficult. This crisis of creeping complexity has contributed to consolidation in the financial services industry and a reduction in the availability of services to consumers and small businesses. Credit unions have not been immune from this unfortunate phenomenon. New and frequently changing regulations drive costs up for credit unions and their members, making matters worse.

It is hard to see how credit union members are well served by regulations like the Consumer Financial Protection Bureau's (CFPB) remittances rule, which caused some credit unions to exit the business, or the CFPB's various mortgage rules, which have increased the time it takes and the cost of providing mortgage credit or why Congress did not more explicitly direct the CFPB to impose such rules only on abusers. Therefore, it is understandable that credit unions are anxious about the next round of consumer regulation because of its potential impact on their ability to offer affordable financial services to their members.

CFPB rules should target the bad actors in the financial services market, not force out the good actors. That is why we have consistently urged the CFPB to exempt credit unions from their rulemakings, unless there is a record of abusive practices by credit unions on the issue being addressed. The Dodd-Frank Act and other provisions allow the CFPB to take such action. Moreover, credit unions should be exempt from these rules because their structure militates against predatory and abusive practices, and their history of member service bears that out. Credit unions have always treated their members well because the members are also the owners of the credit union; a credit union cannot exist without its members. While we appreciate the efforts that the CFPB undertakes to listen to the concerns of credit unions during the development of its rules, we continue to be disappointed that the CFPB has not used its exemption authority more extensively. We hope the Committee will direct the CFPB to exercise this authority.

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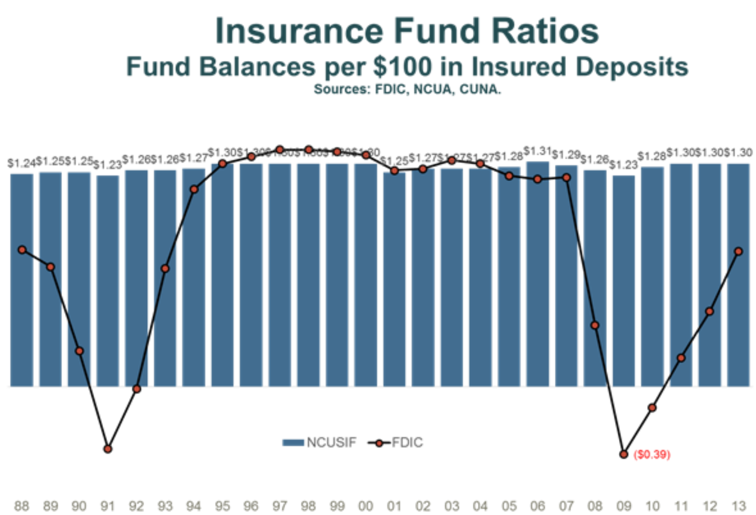
As we look at the current environment with respect to potential regulatory burden, credit unions are most concerned with the National Credit Union Administration's (NCUA) recently proposed risk-based capital rule because it is fundamentally flawed and if implemented as proposed, would significantly reduce credit unions' ability to lend and provide other important services to their members. The comment period for this proposed rule remains open, and CUNA will be submitting its comments in the near future. However, we believe it is critically important for the Committee to thoroughly examine this proposal and its potential implications on credit unions' ability to serve their members. NCUA Chairman Matz and the other members of the NCUA Board have indicated a willingness to consider changes to the proposal; we appreciate their willingness to accept feedback and believe this enhances the importance of this Committee's scrutiny of the proposal.

The proposed rule ignores the historically solid performance of existing capital standards. It would create an artificial shortfall of as much as $7.3 billion in capital at covered credit unions through the imposition of asset risk-weightings that are poorly calibrated and in some cases more stringent than the Basel III risk-weights to which small banks are subject. Further, we believe the proposed rule exceeds NCUA's authority under the Federal Credit Union Act and its 18-month implementation period is unreasonable when compared to the very generous amount of time banking regulators afforded small banks to comply with similar, but less stringent standards. It is, very simply, a solution in search of a problem.

The purpose of capital standards and a system of prompt corrective action (PCA) is to minimize losses to the deposit insurance fund. As the chart below describes, while the FDIC fund became technically insolvent during each of the last two financial crises, the National Credit Union Share Insurance Fund (NCUSIF) has performed very well, under current PCA rules.



This suggests that the PCA system protecting the share insurance fund does not need to be strengthened, and raises the question of why NCUA is pursuing this rule at this time. It is an important question for Congress to ask given the fact that the proposed rule would require credit unions to raise billions in superfluous capital in order to maintain the same proportion of capital buffers they currently have. Because most credit unions do not have access to supplemental forms of capital, raising this amount of capital through retained earnings alone would be challenging.

To comply with the proposed rule and maintain their capital buffers, credit unions would be forced to realign their books, reducing assets deemed 'risky' by the rule, and reduce credit availability, particularly mortgages and business loans which are assigned inappropriately high risk-weights. Because the proposed rule includes poorly designed risk-weights – some of which are more stringent than comparable risk-weights under the Basel regime for small banks – the proposed rule would have a significant adverse impact on credit unions' ability to serve their members.

With the exception of consumer loans, the proposed rule's risk-weights are the same as or higher than risk weights applied to community banks under Basel III. In two important cases – residential mortgage loans and member business loans – the risk-weights in some situations would be double the comparable Basel weights, despite the fact that for these two categories of loans, credit union losses trend at about half the loss rates of small banks. This would deter the provision of mortgage and business loans to credit union members.

Comparing Small Bank Basel and the NCUA Risk Based Capital Proposal

Aspect	**Small Bank Basel Risk Weights**	**NCUA RBC Proposed Rule Risk Weights**
Residential Mortgage Loans	50% (regardless of concentration)	50% (0% - 25% of assets) 75% (25% - 35% of assets) 100% (35% and above of assets)
Small Business Loans	100% (regardless of concentration)	100% (0% - 15% of assets) 150% (15% - 25% of assets) 200% (25% and above of assets)

The impact of the proposed rule would be particularly damaging to rural and low-income areas because there are several credit unions in these areas which have higher concentrations in agricultural and business lending. They are either exempt from the member business cap because of their historic concentration in business lending or because they are a low-income designated credit union. The rule increases the risk-weight of these types of loans as the credit unions' concentration in them increases.

We are also troubled because the proposed rule appears in several respects to be inconsistent with NCUA's authority and responsibility under the law. For example, the Federal Credit Union Act requires NCUA to establish a risk-based capital system to take into account any material risks for which the net worth ratio at the adequately capitalized level may not provide adequate protection. However, the law does not direct NCUA to peg the standard to the well-capitalized level, as the proposed rule would do.

Further, NCUA is required under the Federal Credit Union Act to take into consideration the unique structure of credit unions when implementing its risk-based net worth rule. We do not believe that NCUA has fulfilled this responsibility because the risk-weightings in the proposed rule are more stringent than the Basel risk-weightings for small banks. Credit union loss rates on comparable loan types are typically lower than at small banks; the structure and performance of credit unions suggests the risk weights should be less stringent.

In addition, NCUA would redefine "complex" credit unions that are subject to the rule as those with over $50 million in assets, despite the fact that the Federal Credit Union Act clearly directs NCUA to consider the portfolios of credit unions' assets and liabilities in determining which credit unions meet the definition, not asset size alone.

Finally, the implementation period in the proposed rule is unreasonably short and would unduly burden credit unions. NCUA proposes to implement the proposed rule 18 months after it has been finalized. In contrast, small banks will have had nearly nine years to implement the Basel capital standards from the time they were first developed in 2010 until the time they will finally be implemented in 2019. Eighteen months is simply not enough time for credit unions to make the changes necessary to be in compliance, especially in the absence of authority to raise supplemental forms of capital other than retained earnings.

The proposed rule represents one of the most severe threats to credit unions' ability to continue to fulfill their statutory mission because it would do little to enhance the safety and soundness of credit unions, but it would significantly constrain credit unions' ability to meet the financial services needs of their members. Noting the concern that many members of the Committee demonstrated during the consideration of similar, and in many ways less stringent, capital rules for small banks, we encourage the Committee to thoroughly examine this proposed rule and direct NCUA to make significant changes to address the serious deficiencies addressed in this statement.

On behalf of America's credit unions and their 99 million members, thank you very much for holding this hearing and considering our views.

Best regards,

Bill Cheney
President & CEO