Credit Union National Association
CUNA

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

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

Dear Chairwoman Waters and Ranking Member McHenry:

On behalf of America's credit unions, I am writing regarding the Committee's hearing entitled, "Oversight of Prudential Regulators: Ensuring the Safety, Soundness, Diversity, and Accountability of Depository Institutions." The Credit Union National Association (CUNA) represents America's credit unions and their 115 million members.

This April, during his first NCUA Board meeting as chair, Chairman Hood highlighted several priorities, including enhancing the credit union charter, enhancing cybersecurity efforts, and reducing regulatory burden. Below we identify several issues within and outside the Chairman's priorities where we have seen positive steps by the agency, as well as issues within and outside his priorities where improvements can be made.

Recent NCUA Actions that Have Been Positive for Credit Unions

Under Chairman Hood's leadership, we are optimistic that NCUA will continue to take actions that result in increased flexibility and decreased compliance requirements for credit unions. We appreciate the following recent actions taken by NCUA that have been positive for credit unions.

Cybersecurity:
Concern over cyber and data security is likely the single biggest issue currently facing most industries, including financial services. We appreciate NCUA's recognition of the importance of this issue and its commitment to make it a focus area. We are supportive of Chairman Hood's recent efforts to bolster the agency's involvement in cybersecurity, including through elevating the agency's relationship with other government agencies working in this area. At a recent NCUA Board meeting, Chairman Hood's new Cybersecurity Advisor Johnny Davis provided the Board with a comprehensive look at cyber issues of concern and NCUA's plan to address such issues. We look forward to continued updates as well as additional resources from the agency on cyber and data security.

Regulatory Burden:
We also appreciate the agency's commitment to address unnecessary regulatory burden. We support NCUA's decision—even though it is an independent agency—to respect the spirit and intent of the Presidential Executive Order to reduce regulatory burden. We encourage it to continue to do so. Further, we appreciate recent regulatory relief that has been achieved as a result of the work of the agency's Regulatory Reform Task Force.

Budget Transparency:
We commend the agency for continuing to provide comprehensive budget information as well as rationalization of the budget and agency expenditures in the context of a well-communicated strategic plan. Providing budget items in advance, holding an open briefing where stakeholders are invited to comment, and

soliciting written comment is good public policy and reflects the agency's commitment to government transparency.

Extended Examination Cycles:
The NCUA's recent effort to extend the examination cycle for certain credit unions has benefited numerous well-managed, low risk federal credit unions, particularly those for which a 12-month cycle was clearly unnecessary.

Examination Improvements:
We appreciate the NCUA's efforts to streamline examinations and make operations more efficient, and we urge the agency to continue these efforts. Further, we support the NCUA's move toward virtual examinations, provided credit unions have the ability for in-person interaction to allow them to engage with examiners.

Modernization of the Call Report:
We support the NCUA's work to modernize the call report. On a going-forward basis, we request the agency continually monitor the call report to determine how it can be further improved.

Areas Where the NCUA Can Improve

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 CUNA, the state credit union leagues and associations, and credit unions to ensure it is aware of areas where improvements can be achieved.

Risk-Based Capital (RBC):
The NCUA's rulemaking on risk-based capital is a prime example of where we believe the NCUA can make improvements. During the rulemaking process, credit unions across the country expressed significant concerns with the new standards, particularly regarding whether the NCUA has legal authority to impose the requirements. Credit unions have concerns with the new risk-based capital standards for determining whether a credit union is well-capitalized, as the Federal Credit Union Act permits the NCUA to impose a risk-based standard for the purpose of determining capital adequacy only.

In addition, credit unions question whether the cost of the additional regulatory burdens imposed by these standards is justified. CUNA's analysis shows that it would have done very little to reduce costs to the National Credit Union Share Insurance Fund (NCUSIF) had it been in effect during the most recent financial crisis. Upon reflection, the current Prompt Corrective Action (PCA) system served very well during the crisis, with relatively few credit union failures. If the goal of a PCA scheme is for covered institutions to hold sufficient capital to withstand a severe financial crisis without imperiling the deposit insurance fund, credit unions' performance during the recent financial crisis stands as compelling evidence that a major overhaul of current credit union capital requirements toward a Basel-style system is simply not required. While we appreciate the Board's pending proposal to further delay the effective date of the RBC rule, we continue to believe the rule is a solution in search of a problem.

Current Expected Credit Loss Standard (CECL):
While outside the NCUA's rulemaking authority, the Financial Accounting Standards Board's (FASB) CECL accounting standard will have a significant financial and compliance impact on credit unions.

We appreciate Chairman Hood's recent announcement that the agency will be pursuing a rulemaking to provide a multi-year phase-in of CECL for regulatory capital purposes. We have encouraged the agency to pursue such a rulemaking since early this year, particularly since the banking regulators recently adopted a similar rule.

However, we encourage the NCUA to employ a more proactive and collaborative strategy with industry stakeholders to better ensure credit unions are prepared for this major change as the effective date—though recently delayed by FASB—is not far off. Preparation for credit unions to comply with the CECL standard should be a top priority for the NCUA, and we hope Chairman Hood will ensure the NCUA is doing everything it can in this regard.

<u>Regulatory Burden:</u>
As noted above, we appreciate the agency's efforts to address unnecessary regulatory burden, including, in part, through the work of the agency's Regulatory Reform Task Force. However, it is our understanding that with the release of its second report the work of the Task Force is finished. While regulatory relief is an identified priority of the Chairman, we are concerned that the absence of a concrete, public plan to achieve such relief may hinder the agency's continued success in this area. Therefore, we ask the agency to provide a clear roadmap of where it intends to go and how it plans to get there.

<u>Extended Examination Cycle:</u>
As noted above, we appreciate the NCUA's recent effort to extend the examination cycle for certain credit unions has benefited numerous well-managed, low risk federal credit unions. The federal banking agencies recently issued a final rule implementing a provision of the Economic Growth, Regulatory Relief, and Consumer Protection Act to give banks holding under $3 billion in assets an examination only once every 18 months, leaving credit unions on an uneven playing field. Credit unions, however, remain eligible for an 18-month examination cycle only if their asset level is below $1 billion. This regulatory disparity now serves as a comparative advantage for community banks.

Congress has already delegated authority to NCUA to set the frequency of examinations for credit unions. Credit unions deserve the privilege of providing customer service subject to comparable regulatory supervisory thresholds as applied to banking organizations—and this issue continues to be a concern among industry leadership. We urge the NCUA to extend the credit union asset threshold for the 18-month examination cycle from $1 billion to $3 billion.

<u>NCUSIF Normal Operating Level (NOL)</u>:
In December 2018, the NCUA Board approved a reduction of the NOL from 1.39% to 1.38% for 2019. We thank NCUA for acting to lower the NOL and encourage NCUA to issue additional NCUSIF distributions whenever possible with the expectation that the initial increase in the NOL was temporary. We look forward to a phase-down of the NOL to 1.30% by 2021.

In the interest of transparency, we encourage the agency to more regularly share its views on the possible return of capital from conserved corporate credit unions. Credit unions deserve more information and discussion on the mechanics and considerations surrounding the decisions to sell or manage securities of the various estates after the NCUA Guaranteed Notes are retired.

<u>Proposed Expansion of Office of Consumer Protection:</u>
NCUA Board Member Harper, as a supplement to the agency's budgetary process, has proposed the expansion of the agency's Office of Consumer Financial Protection with the goal of creating a dedicated consumer compliance examination program for "large, complex credit unions." While this proposal may be well-intentioned, we believe altering the agency's risk-focused examination process and substantially increasing examination-related expenditures is not warranted. There has been no supplementary evidence introduced or observed to suggest credit unions' consumer compliance management has become a risk area warranting an increased expenditure of agency resources. Absent evidence demonstrating an emerging need or establishing a clear benefit to all credit unions, our members view the proposal as a solution in search of a problem. While this proposal has been put forth by Board Member Harper, we encourage Chairman Hood to offer the voice of reason when and if the Board pursues a rulemaking on this issue.

Importance of NCUA 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 significant oversight over a credit union's operations. However, there are other agencies that examine and/or regulate credit union operations, such as the Consumer Financial Protection Bureau regarding certain consumer financial protection laws and regulations, and the Federal Communications Commission in regard to certain consumer protections including the Telephone Consumer Protection Act. It is critical that the NCUA work closely with these and all agencies affecting credit union operations.

Conclusion

On behalf of America's credit unions and their 115 million members, thank you for holding this important hearing and considering our views.

Sincerely,

Jim Nussle
President & CEO