

July 20, 2020

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

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

Dear Chairman Crapo and Ranking Member Brown:

On behalf of American's credit unions, I am writing to express our views ahead of the nomination hearing for the National Credit Union Administration Board. The Credit Union National Association (CUNA) represents America's credit unions and their 115 million members.

CUNA has not historically taken positions on presidential nominations, and we are not expressing a view on the merits of this nomination. Nevertheless, given the unprecedented times we find ourselves in, we believe it is critical that for the effective operation of the agency the Board must be filled by three competent, qualified members. Below are issues we feel are important for the Committee to be aware of as it proceeds with this hearing.

#### **Importance of the NCUA as an Independent Regulator and Insurer**

CUNA continues 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 is funded by 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. We appreciate the steps Congress took last year to enhance oversight of the agency's budget by requiring the NCUA to hold a hearing on its budget each year. For the last three years, even before it was statutorily required to do so, the NCUA has held such a hearing, and as a result, the agency's budget has improved. CUNA is generally supportive of NCUA's broad budget priorities. We hope the nominee will commit to prudent stewardship of the credit union member resources put in their trust.

The NCUA-administered National Credit Union Share Insurance Fund (NCUSIF) is also independent of the federal appropriations process, which insulates it from unexpected lapses in funding, including the recent partial government shutdown. Credit union share deposits remain insured and secure. In 2017, the NCUA closed the Temporary Corporate Credit Union Stabilization Fund and merged it with the NCUSIF. The result of this action increased the NCUSIF's equity ratio well past the 1.30% of insured deposits that Congress has set as a benchmark. The NCUA set the normal operating level at 1.39% and distributed excess funds to credit unions. We hope the nominee will commit to returning the normal operating level to 1.30% over a reasonable period of time.

## **Recent NCUA Actions that Have Been Positive for Credit Unions**

We are optimistic that a new Board member will ensure the NCUA will continue to take action that results in increased flexibility and decreased regulatory compliance requirements for credit unions. We appreciate recent actions taken by the NCUA that have been positive for credit unions. These include:

- Extended examination cycles: The NCUA's ongoing efforts to extend the examination cycle for certain credit unions has benefited numerous credit unions, particularly those for which a 12-month cycle was clearly unnecessary. However, we continue to believe the NCUA should extend the examination cycle for credit unions under \$3 billion in assets, as is provided for banks under the Federal Deposit Insurance Act, as amended by the Economic Growth, Regulatory Relief, and Consumer Protection Act.
- Streamlined examinations: We appreciate the NCUA's efforts to streamline examinations and make operations more efficient, and we urge the agency to continue these efforts.
- Virtual examinations: Particularly in light of the ongoing pandemic, 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. Further, we appreciate the agency's pending request for information on how it can further modernize the examination program.
- 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.
- Field of Membership litigation: We support the NCUA's litigation efforts regarding its field of membership (FOM) rulemaking. We are pleased with the recent decision of the U.S. Supreme Court denying an appeal from the American Bankers Association to void the FOM rule.
- Executive order: We appreciate that even though it is an independent agency, NCUA Chairman Hood has stated the agency will continue to respect the spirit and intent of the Presidential Executive Order to reduce regulatory burden.
- Subordinated debt: While the NCUA has yet to issue a final rulemaking on subordinated debt, it is in the process of reviewing comments received on a proposed rule. CUNA supports an NCUA rulemaking that would provide all credit unions the ability to issue a form of supplemental capital, such as subordinated debt.
- NGN program: The agency recently announced a distribution to certain credit unions associated with the NCUA Guaranteed Note program. We are hopeful the agency's Asset Management and Assistance Center will make future payouts associated with other corporate credit unions in the near future.

We hope the nominee will work to build on the positive momentum that has been created in recent years.

## **Issues 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 agency and the nominee 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.

- Troubled Debt Restructuring: First, the Troubled Debt Restructuring (TDR) exemption, created by the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), will expire at the end of 2020, or 60 days

after the end of the national emergency, whichever is earlier. While the TDR exemption lasts only until the end of 2020, most forbearances will not end until 2021 (at which time credit unions will likely need to modify the loan). We have encouraged the NCUA to support legislative efforts to extend the CARES Act's temporary TDR relief for an additional year, until the end of 2021, and to continue working with the other banking regulators to ensure the interagency guidance on TDRs remains in effect for the duration of the crisis and its aftershocks. Such action is necessary to provide credit unions enough time to meaningfully and effectively help financially distressed members.

- Capitalizing interest on mortgage loans: According to our member credit unions, it would be helpful to credit union members if the NCUA would allow interest to be capitalized on consumer mortgage loans, in connection with a loan modification made during the time of the pandemic. This approach would be consistent with the requirements of Fannie Mae and Freddie Mac. Credit unions that already provide loans sold to Fannie Mae and Freddie Mac will re-amortize the loans with capitalized interest during the modification. We have urged the NCUA to provide credit unions the flexibility to modify consumer mortgage loans in the same manner as those sold to Fannie Mae and Freddie Mac. This is especially critical as it may take many months for consumers to become financially healthy given the COVID-19 crisis.
- Risk-Based Capital: The NCUA's rulemaking on Risk-Based Capital (RBC) 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. Further, we continue to maintain that the RBC rule is a solution in search of a problem. To provide credit unions and their members more time to recover from the current crisis, we have asked the NCUA to further delay the RBC effective date to, at earliest, January 1, 2023. This delay will also allow the NCUA more time to study whether additional changes should be made from these requirements or to forego the initiative altogether, given the new COVID-19 economic environment.
- Payday Alternative Loans: The NCUA provides credit unions the ability to offer members short-term, small dollar loans under the agency's PAL I and PAL II loan programs. Economically distressed new members in need of emergency credit to make ends meet often cannot wait a month to be eligible for a small dollar loan pursuant to NCUA's PAL I loan regulation, and instead of waiting may turn to other more costly or predatory lending sources, which is not a desired policy outcome under the PALs I existing 30-day membership requirement. To ensure credit unions have the flexibility necessary to meet members' needs as banks have with their customers, we recommend the NCUA issue an interim final rule amending Part 701.21 to eliminate the requirement that a borrower "be a member of the credit union for at least one month" before receiving a PAL I loan.
- Credit losses accounting standard: While outside the NCUA's rulemaking authority, the Financial Accounting Standards Board's (FASB) recent standard on credit losses [referred to as CECL (current expected credit losses)] will have a significant financial and compliance impact on credit unions. We recognize and appreciate NCUA Chairman Hood's request for FASB to exempt credit unions from the CECL standard. Until FASB agrees to exempt credit unions, we believe a more proactive and collaborative strategy by the NCUA with industry stakeholders will better ensure credit unions are prepared for this major change as the effective date approaches. Preparation for credit unions to comply with the CECL standard should be a top priority for the NCUA, and we hope the nominee will commit to ensuring the NCUA is doing everything it can in this regard.

### **Importance of NCUA Coordinating with Other Regulators**

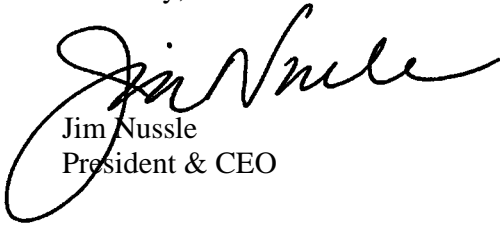
We stress the importance of the NCUA's continued coordination with other federal regulatory agencies. As the prudential regulator and federal insurer, the NCUA retains oversight over the vast majority of a credit union's

operations. However, there are other agencies that examine and/or regulate credit union operations, such as the Small Business Administration as well as the Consumer Financial Protection Bureau in regard to 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.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Nussle". The signature is fluid and cursive, with a large initial "J" and "N".

Jim Nussle  
President & CEO