August 31, 2020

Ms. Heather Phelps
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314

Re: Strategies for Future Examination and Supervision Utilizing Digital Technology

Dear Ms. Phelps:

On behalf of America’s credit unions, I am writing regarding the National Credit Union Administration’s (NCUA) request for information (RFI) on Strategies for Future Examination and Supervision Utilizing Digital Technology. The Credit Union National Association (CUNA) represents America’s credit unions and their 120 million members.

The NCUA has issued this RFI as part of a comprehensive study of alternative procedures to modernize the agency’s examination program. The agency seeks to support a predominately offsite examination and supervision model by taking advantage of new and emerging approaches and techniques to utilizing data and technology.

Through modernization, the NCUA intends to:

- Reduce burden on credit unions and increase agency efficiency by reducing onsite examination time;
- Improve offsite supervision capabilities;
- Provide more consistency and standardization for the examination and supervision process;
- Improve communication between examiners, credit unions, and state supervisory authorities; and
- Explore and evaluate technology utilization and appetite for adoption.

We appreciate the agency’s efforts over the past few years to shift certain examinations from fully in-person and onsite to a mix or predominantly offsite. We have encouraged such a shift on numerous occasions, including during discussions with Chairman Hood. Given the current disruption caused by the ongoing pandemic, it is critical now more than ever that the agency explore any and all appropriate options to ensure credit unions are able to continue to operate without undue risk to agency or credit union staff.
**NCUA Request for Information**

We are encouraged by the current RFI, as it shows the agency has elevated its focus on shifting to offsite examinations. We are excited for the agency to utilize input received in response to this RFI to develop an implementation strategy that reduces burden while maintaining the agency’s ability to determine whether federally insured credit unions (FICU) are operating safely and soundly and in compliance with applicable laws and regulations. We believe an examination model that enables examiners to review a credit union’s operational and financial condition from an alternate worksite, such as a home office, is wholly appropriate, given adequate safeguards from both the credit union and the NCUA are in place.

**Specific Questions from NCUA**

1) What capabilities can credit unions adopt to facilitate the NCUA’s transition toward more offsite exam work?

Credit unions should provide the capabilities necessary for data security and encryption so that data transfers can be made without risk of compromise by outside parties. Credit unions should take necessary steps to inform their vendors of the need to maintain and follow the security requirements and controls established for them. Some credit unions will need to develop or acquire the ability through an imaging system to scan and image normal working day-to-day operating documents (e.g., loans, memberships, and applications) for future usage, storage, and retrieval. The imaging system must have the ability to transfer these images in bulk files for use by the examiners.

2) What capabilities do you recommend the NCUA adopt to be able to conduct more examination work offsite?

The NCUA should develop secure portals that have the capability to accept large data files efficiently. The portals should utilize easy access and controls so that bulk data can be transmitted, and the examination processes can be automated using techniques that do not require a massive reorganization of credit union data to complete data requests.

The NCUA should provide predetermined report formats and record layouts for information that will be used routinely for the examination so credit unions can ensure that required data is captured through ongoing operations without the need to go through special handling.

3) How would such offsite capabilities increase the efficiency and effectiveness of the examination and supervision process from the credit union perspective?

Offsite capabilities would reduce the time required to prepare the data requested by establishing production reports that satisfy information needs. This concept would free up credit union employees for other more meaningful tasks, such as
serving their membership. Data could then be transferred with minimal effort and provide examiners more time to focus on any anomalies in the information rather than expending resources and time simply gathering such information. The credit union employees would be available to address and research questions resulting from examiners’ data review; credit union employees would also be able to concentrate on sharing credit union strategies and explaining impacts of operating conditions, successes, and failures confronting the credit union.

4) Do you think the NCUA can do significantly more offsite work without compromising its safety and soundness responsibilities?

Yes. NCUA can do significantly more work offsite without compromising its safety and soundness responsibilities. However, improved management and operations questionnaires will have to be developed and used by the examiners that focus on key business drivers and root causes for credit union shortcomings and failures as well as successes. Also, basic compliance with established regulations will need to be measured with a thorough understanding of the balance between the regulation and its application in an operational environment.

5) What credit union data can be provided to examiners to facilitate more offsite supervision and reduce time onsite during the examination?

Supporting workpapers for areas that are routinely examined during visits, such as allowance for loan and lease loss computations, delinquency analyses, investments, and asset liability management can be provided to examiners. Standardized formatted workpapers that provide examiners what they need to review would make the examination process more efficient. The Automated Integrated Regulatory Examination System (AIRES) files provide much of this data for shares and loans.

6) What credit union data is currently provided to other parties that NCUA could potentially leverage to reduce the burden on credit unions? To ease the administrative burden, should the NCUA ask third party service providers for data on credit unions directly?

Maybe. There is some data currently provided to other parties that in certain instances, depending on the credit union, NCUA might be able to leverage to reduce the burden on credit unions, such as information from a CPA firm. However, the vast majority of data should be received directly from the credit union, permitting the credit union to know what data was accessed and when. In addition, other information, such as Bank Secrecy Act (BSA) and automatic clearing house (ACH) audits, should be requested by the credit union so that management responses to any findings can be included and save time and effort for the examiners.
7) Are credit unions moving from a physical presence in member services to more reliance on digital or mobile banking platforms? How should the examination program evolve to accommodate these changes?

Yes. Many credit unions are moving from a physical presence to digital or mobile banking platforms. Examination procedures should evolve and even provide for a test membership account in the credit union being examined. Such an integrated test facility could then perform real-time on-line testing on performance, controls, cybersecurity, and authentication, etc. Review by the examiners of the SSAE 18 reports directly from the vendors handling the digital and mobile banking channels would provide additional confidence and identification in place to protect information.

8) What other methodologies or approaches should NCUA include in this exam study?

The NCUA should contact CPA firms used by credit unions during this annual financial audit cycle and solicit input from them on how their firms coped with the remote audit work performed this year. The NCUA should discuss with them how the firms have adapted from onsite to offsite fieldwork because of COVID-19.

9) Would credit unions benefit from more clarity and consistency on the timing and types of documents and data examiners need to conduct examinations?

Yes. We frequently hear from credit unions the need for greater consistency in examinations across the country. The consolidation of regions has helped increase examination consistency but more can be done. We are not suggesting that the agency ought to treat all credit unions the same, but credit unions in similar circumstances should encounter similar examination expectations regardless of region and those expectations should be set in a transparent manner.

Further, it is important that credit unions be provided sufficient time to gather information for examinations, especially since most work is being conducted remotely, which can cause delays.

The NCUA also needs to be more forthcoming on what it plans to review, what data it needs from credit unions (allowing sufficient time for the credit union to collect such data), and what efforts credit unions can take to correct any compliance issues.

10) Would it be easier or less burdensome for credit unions to provide documents and data to the NCUA on a more scheduled, flow basis throughout the year so the time spent onsite would be more efficient and the majority of the examination/supervision could primarily be conducted offsite? If this process could lead to more frequent/offsite contacts using technology and reduce the time and frequency of full-scope onsite examinations, do you think this would be an
improvement and/or less burdensome than the current examination process or cause more disruption?

No. This type of process would be more disruptive, more burdensome, as well as prolong the examination effort. This process would bring additional inconsistency and confusion with uncertain cutoff periods and an inability to measure progress or failure. The primary goal of a credit union is to serve members in a safe and timely manner; this approach could severely hamper operation with additional deadlines and dates for data that become meaningless after the end of a given quarter.

This type of data is already provided in the Call Report, and this examination process would lead to additional information requirements without justification. The historical trending of this data is necessary for day-to-day operations and shifts in operating modes but become less relevant when performing an examination attempting to assess performance during a given time period.

Therefore, we believe it is preferable to continue with the current process, which is more efficient for the credit union than instead having to submit information to NCUA multiple times throughout the year.

11) What do you see as the most significant challenges facing the NCUA’s move to an offsite examination/supervision model that utilizes technology?

One significant challenge would be the ability of the NCUA to establish personal relationships with credit union management and build trust that comes from face-to-face contact and interactions. We believe there is the potential for miscommunication and misunderstandings between parties. Additionally, we believe that disagreements on examination findings and observations could increase because of the reduction/lack of face-to-face discussions that provide context and clarity on specific issues. None of these problems will be insurmountable but will take a concerted effort by the NCUA and credit unions to overcome.

Another significant challenge relates to secure file-sharing, which is critical to having a successful and smooth examination. The amount of information transferred during an examination is voluminous and consists of both pre-exam requested items and numerous subsequent on-site requests. Some key features that would be helpful for the program are the ability to upload multiple/large files simultaneously and receive notification when new items are uploaded. This system should also be available for state examiners, in order to avoid duplication of items provided during joint examinations.

In addition, we have heard concerns, from small and large credit unions, regarding the amount of resources needed for ongoing contact, and whether such a resource constraint might cause difficulties in scheduling other internal projects, audits, etc.
As part of the NCUA’s data collection, we recognize the agency is currently collecting as much data as possible in order to assess the ever-changing risk environment during the pandemic. However, we believe the frequency and amount of additional data collection should be based on a credit union’s risk profile, in order to allow examiners to focus on credit unions that may need more attention and oversight in the current environment.

12) What difficulties do you foresee with moving to a future examination model for federal and state-chartered credit unions? How could we better coordinate with the states in this approach?

There is concern that a lack of face-to-face interaction could cause communication challenges. Increased reliance on video communications could be helpful.

In addition, NCUA and state credit union examiners need to cooperate, communicate, and collaborate so their efforts are not duplicated. We continue to hear complaints regarding a lack of coordination between NCUA and state examiners, resulting in unnecessary, additional work for state-chartered credit unions.

13) What concerns do you have, if any, about a diminished NCUA onsite presence, and can these be mitigated?

As stated previously, we are concerned that a lack of personal interaction between the parties can lead to less effective communication. However, we believe this can be mitigated by regular onsite meetings at least two or three times a year for a couple of hours per visit. The impact of changing personnel in each organization makes the need for these types of interactions even more important.

14) What impact, positive or negative, do you anticipate this future examination program strategy will have on your credit union and its operation?

While we anticipate there may be a learning curve for some credit unions, overall, we anticipate a shift to more offsite examinations will have a positive impact on the industry. Of course, it will be helpful in the current COVID-19 environment from a health perspective. In addition, going forward it will likely make the examination process more efficient, less costly, and less time consuming for both the credit union and examiners.

15) Will moving offsite create any noticeable change in credit unions’ ability to provide services to members, particularly during major disruptions, like pandemics?

No. We do not anticipate any noticeable change in credit unions’ ability to serve their members. We are hopeful that, if the examinations are more efficient, there
will be a greater amount of time for credit unions to spend on developing products and services and effectively serving their members.

16) Are there resiliency tests that can be performed by examiners offsite that could not be performed when examiners are onsite? If so, please detail them.

We do not know of any specific resiliency tests that could not be performed onsite as well as they could be performed offsite by examiners.

17) If rebuilding the examination process from scratch, how might you redesign what is currently done today in order to reduce the burden on credit unions and/or minimize time that examiners need to be onsite at credit unions?

We would make a greater effort to use the results of the credit union’s annual financial audit from the CPA firm to limit the examination scope and include the reviews by independent third parties for BSA and ACH audits. Use of these work products by examiners would reduce the need for credit unions to repeat many of the same steps required to complete data requests for tests performed by the examiners. From a system and cybersecurity perspective, we would recommend using the ongoing testing results provided by third party cyber specialists and eliminate the burden on IT staff of having to answer numerous related questionnaires from the NCUA.

18) What new or emerging technologies could enable the NCUA to examine a credit union with less time onsite?

Based on recent meetings with NCUA staff, we understand the agency is looking into the use of artificial intelligence (AI). We strongly encourage exploring AI and related technologies. Other tools, such as Microsoft Teams and related communication software, could also be useful.

19) Are video and telecommunications capabilities sufficient to maintain good lines of communication between examiners and credit union management and officials with reduced in-person meeting opportunities? What other methods of communication or communication protocols would support quality communications between the credit union and examination staff?

While video communication is an effective way to maintain communication between examiners and credit union staff, we believe it is important to include some face-to-face interaction.

Further, we heard from credit unions that interactions, such as technical system demonstrations, are best suited for in-person discussions. Again, a hybrid examination approach may be ideal. This would allow examiners to compile and review data offsite, while also having interactions and discussions during an on-site visit.
20) What types of artificial intelligence and/or machine learning techniques are you currently using or anticipate using?

According to some larger credit unions, they are using very limited forms of these techniques in fraud detection, Verafin software analysis, and debit card processing software. Some of these credit unions indicated they anticipate using AI in the future for performing customer engagement analyses, customer retention programs, and targeted marketing programs.

21) Does the NCUA have regulations/policies that are sufficiently flexible to allow you to leverage various technological advances such as artificial intelligence, machine learning, process robotics, Fintech, Regtech, and Suptech etc.? 

While we generally believe the NCUA’s regulations provide sufficient flexibility, we encourage the agency to conduct a comprehensive review of its regulations with an eye toward reducing unnecessary requirements and increasing flexibility to allow greater use of technological advances.

22) Do the current regulations/policies create unnecessary hurdles or burdens with respect to adopting technology? Are there ways we can update our regulations/policies to help facilitate a greater use of technology?

See previous answer.

23) Do you feel comfortable using the NCUA’s secure file transfer portal as a means to transfer data electronically, including personally identifiable information and confidential credit union data, to NCUA staff? If not, please provide details regarding your concerns and recommendations on ways the NCUA could mitigate these concerns.

We fully support having protocols in place to ensure credit unions adhere to appropriate security standards. Similarly, we expect the NCUA to adhere to even more rigorous security standards given the fact that the agency receives sensitive information from all FICUs.

It is critical that the agency not only adhere to such standards but also be transparent in its compliance with safeguards. We urge the agency to share information with the industry that is sufficient to allow credit unions and other relevant stakeholders to ensure the agency—including any third-party vendors it works with—follows proper protocols.

Further, we have heard from credit unions about difficulties with transferring files via the NCUA’s portal. Some credit unions have indicated an inability to use the portal due to technical challenges. Thus, the NCUA should ensure its portal is working effectively to avoid any future issues.
24) What issues are unique to smaller institutions regarding the use and implementation of innovative products, services, or processes that the NCUA should consider? Additionally, by moving to an offsite exam posture, will this negatively affect small credit unions that may not have the technology required to transmit requested documentation? Are you exploring any types of services, products or technologies to offer to your members in the future?

For smaller credit unions, there is a concern about the burdensome requests that may be an issue in producing certain information electronically. For example, one credit union explained how, due to resource constraints, it was unable to upload a year’s worth of teller balancing sheets as requested by an examiner.

In addition, it is critical that small credit unions have the ability to effectively communicate with the NCUA on a regular and as-needed basis. The NCUA should incorporate a process for such timely communication into an offsite examination model.

25) With respect to the future examination model, should the NCUA consider alternative exam approaches for smaller credit unions?

Yes. It is important that the agency develop an examination model that accounts for the vast differences in resources and operations between the largest and smallest credit unions.

26) Are there better ways for the NCUA to support your financial inclusion and financial education mission through the use of technology? Additionally, are there better ways for the NCUA to use technology to help low-income designated credit unions and minority depository institutions to better serve their members?

Yes. We think a chat window feature on NCUA.gov for both credit unions and members could be useful. Also, the agency should develop more helpful online streaming videos and interactive tools related to current topics promoting credit union services and capabilities.

In addition, the NCUA should provide resources and tools for K-12 that can be incorporated in home and school learning. This can be on NCUA’s website where credit unions can then provide the links. Younger students learning about banking should also have familiarity with how credit unions work and what services are available at a credit union, and how one becomes a member.

27) Do you feel there are circumstances that would disqualify or preclude a credit union from participating in this examination model where the majority of work is completed offsite?

Possibly. Some smaller credit unions with more limited resources, including in the area of storage capability for its records, could find this approach challenging
and expensive. Thus, we encourage the agency to consider an examination approach that provides sufficient flexibility for smaller credit unions.

28) What documentation and measures should be collected and used to assess a credit union’s financial education efforts or programs?

The NCUA could review a credit union’s website, newsletter, social media platform outreach, and community participation in various financial education programs. The NCUA should also make available resources that credit unions can communicate to members regarding financial education.

29) Are there better ways for the NCUA to receive important contextual information regarding how you serve the low-income, underserved, and unbanked communities in your field of membership?

This could be achieved by requesting credit unions to provide information regarding their outreach materials used in increasing membership in underserved segments of their field of membership.

30) What baseline data protection and privacy safeguards would enable credit unions to comply with consumer protection statutes and federal/state law when sharing data for remote examinations?

Adequate privacy and data safeguards are extremely important and should be the top priority for the NCUA. Therefore, we ask the NCUA to pursue this issue through a separate RFI limited to credit union safeguards/protocols as well as those employed by the agency, including examiners.

31) How could an offsite posture affect the oversight of consumer financial protection and BSA/anti-money laundering laws and regulations at your credit union? What changes should the NCUA make to address your concerns?

We do not anticipate a shift to an offsite posture having a significant effect on the oversight of consumer financial protection and BSA/anti-money laundering laws and regulations.

32) All technology is coupled with internal and external security risks. As credit unions remain diligent in addressing these risks, what can the NCUA do to support credit unions’ security posture?

The NCUA should provide credit unions with the most current fraud and risk alerts that are being exploited by criminals throughout the country and targeting credit unions. The NCUA should also provide guidance in a timely manner on mitigating those risks that have been identified.

In addition, it would be useful for the NCUA to provide additional resources in this area, such as best practices.
33) What cybersecurity challenges do you see with the NCUA moving to this future examination model?

Challenges could include the security of portal data transfers and the storage of data on NCUA facilities without encryption. In addition, there is always the risk of dishonesty of NCUA employees when handling secure member data and the potential for theft or loss of data from secured NCUA sites.

34) Are there digital banking activities or issues that are not covered by this RFI that the NCUA should address?

The RFI appears to be comprehensive. However, it is worth reiterating that the NCUA should pursue a subsequent RFI focused on data and cyber security (of both credit unions and the NCUA) under an offsite examination program. The RFI should specify potential issues and solutions, allowing stakeholders to provide more detailed input on security issues.

36) Are there issues the NCUA should consider in light of changes in the banking system that have occurred in response to the COVID–19 pandemic?

We continue to hear of instances of inconsistency between directives from the Board and those from examiners in the field. For example, in regard to capital, we have heard of instances where once a credit union drops below 8% examiners are extremely concerned regardless of whether such decline is the result of an increase in deposits. This is inconsistent regardless of whether such decline is the result of an increase in deposits. This is inconsistent with recent remarks from the Board. We urge the NCUA to address such a lack of consistency.

As noted above, effective communication between the NCUA and credit unions will be even more critical under an offsite examination program. The NCUA should follow the lead of several state regulators and hold periodic conference calls with credit unions to survey and collect feedback on new and ongoing issues.

**Extended Examination Cycle**

On the topic of examinations, we would like to recognize that recent efforts by the agency 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.

In December 2018, the federal banking agencies issued a final rule under the Economic Growth, Regulatory Relief, and Consumer Protection Act giving 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.

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 appreciate that the Federal Deposit Insurance Corporation’s Deposit Insurance Fund is much larger than the National Credit Union Share Insurance Fund. However, it is important to understand that since banks have outside stockholders who demand substantial dividend payouts (with expectations that those payouts increase over time), the for-profit depository sector encounters much greater risk-taking than in the credit union sector. Further, CUNA research reveals bank CEO compensation packages consist of a significantly larger percentage of performance-based compensation: approximately 24% of bank CEO compensation is “high-powered,” variable pay (bonus, stocks, and options) versus only 8% at credit unions. This is critical because academic research shows that high levels of performance-based compensation is substantially more likely to lead to excessive risk-taking and unethical behavior.

Not surprisingly from a broad historical perspective, bank failure rates consistently and greatly exceed credit union failure rates. In short, the standard, simplistic asset-size cut-off the NCUA proposes completely ignores structural credit union differences that lead to pro-consumer behaviors, substantially less risk-taking, lower risk of failure, and far fewer actual failures.

Thus, we urge the NCUA to extend the credit union asset threshold for the 18-month examination cycle from $1 billion to $3 billion.

**Conclusion**

On behalf of America’s credit unions and their 120 million members, thank you for considering our comments on the agency’s RFI regarding strategies for future examination and supervision utilizing digital technology. If you have questions about our comments, please do not hesitate to contact me at (202) 508-6743.

Sincerely,

Luke Martone
Senior Director of Advocacy & Counsel