



3138 10th Street North
Arlington, VA 22201-2149
703.522.4770 | 800.336.4644
f: 703.524.1082
nafcu@nafcu.org | nafcu.org

National Association of Federally-Insured Credit Unions

March 8, 2021

Ms. Melane Conyers-Ausbrooks
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314

RE: RFI on Communications and Transparency

Dear Ms. Conyers-Ausbrooks:

On behalf of the National Association of Federally-Insured Credit Unions (NAFCU), I am writing in response to the National Credit Union Administration's (NCUA) Request for Input (RFI) on its communication methods and related initiatives to promote efficiency and increase transparency. NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve 123 million consumers with personal and small business financial service products. NAFCU and its member credit unions appreciate the opportunity to provide input on this RFI and support the NCUA's acknowledgement of the need to communicate efficiently and effectively with credit unions. NAFCU requests that the NCUA consolidate its supervisory guidance into fewer letterheads, improve its website to increase usability, and release timely cybersecurity risk alerts.

General Comments

To accomplish its mission to protect the safety and soundness of the credit union system, the NCUA must be able to communicate efficiently and effectively with credit unions. All NAFCU's member credit unions should be able to look to the NCUA to obtain information that will assist in making important financial and business decisions quickly and easily. An excessive amount of information creates challenges and imposes burdens on institutions because it requires them to expend resources to determine what is relevant to their day-to-day operations and what is not.

The credit union industry is highly regulated and most of those regulations come from the NCUA. Improving the communication and transparency of the NCUA will allow credit unions to easily comply with the NCUA's regulations, free up resources for compliance with rules and regulations from other agencies and allow credit unions to spend more time providing products and services to meet the needs of their communities. Noncompliance is not an option for credit unions, so the process should be made easier through the NCUA's efforts to streamline and improve communication with its stakeholders. NAFCU encourages the NCUA to engage in regular evaluations of its communication methods through RFIs like this to provide timely and consistent improvements.

Beyond RFIs, NAFCU would welcome increased transparency and a clear explanation regarding the NCUA's policy for meetings with external stakeholders during the notice and comment rulemaking process. Federal agencies have different approaches to *ex parte* communications outside of the comment period for a rulemaking but the NCUA has not articulated its own policy clearly. In recent communications with the agency, there has been some confusion as to whether staff are permitted to meet with and discuss rulemakings at all before, during, and after a rule's comment period. In the past, while the agency may not have engaged in a detailed discussion after the close of a comment period, it would participate in such conversations in a "listen only" mode. Open and candid conversation about ongoing rulemakings and disclosure of those conversations is an essential part of a transparent rulemaking process under the *Administrative Procedure Act*; therefore, NAFCU encourages the NCUA to clarify its position on *ex parte* communications with stakeholders.

Additionally, NAFCU urges the NCUA to embrace transparency in its approach to *Freedom of Information Act* (FOIA) requests. FOIA requests are a tool available to interested stakeholders and the general public to discover relevant information that is not otherwise publicly available and to promote the free flow of important records from the government to its citizens. The agency has historically relied heavily on FOIA exemptions to protect the disclosure of certain information; but to embrace transparency means to take a narrow approach to FOIA exemptions. NAFCU urges the agency to view FOIA requests through the lens of transparency to disclose as much information as possible so credit unions understand how the NCUA is making use of credit union dollars and operating to ensure the safety and soundness in the industry.

With respect to physical safety, some of NAFCU's credit unions have reported delays in notification from the NCUA of a potential threat of harm to the credit union, its staff, and its members. For example, if the NCUA receives a member "complaint" containing a threat to commit violent acts at a credit union, the agency should promptly notify the credit union the same day it receives the threat. NAFCU urges the NCUA to prioritize communicating dangerous threats to its member credit unions as soon as possible. Establishing a protocol to immediately alert credit unions when their employees may be faced with danger is imperative to public safety. A delay in communication puts all parties at a serious and unnecessary risk. While it is always important to notify the proper authorities, it is just as important for the credit union to be made aware of any threat that would place staff and members in the building in the way of harm.

The NCUA should improve its communication channels by minimizing the amount of channels and restructuring its website.

Supervisory Guidance

NAFCU's member credit unions report that the NCUA's practice of having multiple letterheads in the guidance it issues is not effective. Therefore, NAFCU requests that the agency consolidates its supervisory guidance into fewer letterheads. Currently there are nine different forms of letterheads that the NCUA uses to issue regulatory and supervisory guidance. An excessive amount of letterheads requires NAFCU's member credit unions to know and understand what each different form of letterhead contains to access the correct letterhead when searching for

information. Fewer letterheads narrows down where information may be found and allows for a more streamlined process in complying with regulations and supervisory guidance.

Although there may be some benefits to separating the content of the letters by types of credit unions, there may be greater efficiencies achieved by streamlining guidance to address particular topics regardless of the type of credit union to which it applies. Specifically, for Letters to Credit Unions, Letters to Federal Credit Unions, and Corporate Credit Union Guidance Letters, separating letters by the type of institution allows readers to only review and digest the information that is relevant to them rather than having to sift through a long letter full of irrelevant information. However, the NCUA can cut down on the variation of letterheads to just one letterhead addressed to credit unions regarding a specific topic and then create sections within that letterhead to clearly separate and delineate the information by the type of credit unions it is relevant to. This can streamline the communication process because, for example, a federal credit union is also a federally-insured credit union, but to find all letters on a particular topic, a federal credit union must sift through multiple letters for information that could have been provided in one letter. Further, when information overlaps for different categories of credit unions, duplicative letters would inevitably be the result.

Current Forms of Communication

Email communications are the most effective form of communication. Most of NAFCU's member credit unions receive alerts for new emails, such as the NCUA Express emails, so an attention-grabbing subject line makes recipients eager to open the email and read its content. Keeping emails simple and to the point makes it easier to digest the information the email is seeking to provide. To keep emails simple, but also provide all the necessary information, it is helpful to include even more external links and/or attachments that provide more information if needed. At the end of the email or press alert, the NCUA should also consider including supplemental, related links to supervisory guidance and other materials that provide additional information on the topic in question to direct readers to the correct part of the NCUA's website or external websites. The NCUA may also wish to send a wrap up email at the end of a particularly busy news week that provides links to the original press releases, providing another opportunity to alert credit unions about recent updates.

Additionally, there are downsides to disseminating information through email. It is easy for emails to get lost in someone's inbox if many emails are being received at the same time, emails can be deleted if the recipient mistakes the email for spam, or the recipient may not check their email at the time it is sent causing it to move to the bottom of the inbox. To avoid this, the NCUA can ensure that their emails come from the same email address all the time with an attention-grabbing subject line.

The least effective form of communication is social media content. While social media has become a way for everyone to quickly give and receive information, it is not always the most recent and reliable and would not be NAFCU's members number one place to go for information to assist with their compliance. Although it may be a useful supplement to emails, the NCUA should not rely on social media posts to disseminate critical, timely information to the credit union industry.

Timing and Frequency

The timing and frequency of any communication depends on the timing and frequency of changes. Communications of new regulations or changes to existing regulations should happen promptly after those regulatory changes are made so that credit unions are kept apprised of updates to the regulatory landscape and have as much time as possible to incorporate changes into their compliance programs. The NCUA should continue issuing press releases and sending email communications of changes as soon as they happen. Any delays in the issuance of communications related to new regulatory requirements have the potential to frustrate credit union compliance efforts.

NCUA's websites

In its RFI the NCUA has stated that “the agency’s primary communications channel is its website, NCUA.gov, which provides information on many agency activities.” Unfortunately, the NCUA’s website as it stands is not user friendly. NAFCU’s member credit unions have problems utilizing the search function of the website, as they have repeatedly expressed that it is easier to find the NCUA’s information through a Google search than it is searching the NCUA’s website. NCUA’s website is very difficult to navigate causing NAFCU’s member credit unions to resort to not using the website at all. NAFCU supports the NCUA’s initiative to remove outdated, duplicative, and superseded regulatory and supervisory guidance from its website, which may make the website more user friendly. NAFCU urgently requests that the NCUA undergo a website improvement project to update its search function and more clearly organize information on its website.

Cybersecurity Risk Alerts

With respect to agency communications, the NCUA should aim to release timely cybersecurity risk alerts to supervised credit unions as discussed below. The RFI defines risk alerts as detailing practices or external threats that potentially are significant risks to the safety and soundness of the credit union system.

The Federal Financial Institutions Examination Council (FFIEC¹) recommends financial institution management identify cybersecurity risks as part of risk assessment processes including through the gathering and assessment of threat intelligence.² To do so, the FFIEC calls for institution management to obtain information about cybersecurity threats from external sources such as industry information-sharing groups³, and local, state, and federal authorities.

¹ The FFIEC is comprised of the principals of the following: the Board of Governors of the Federal Reserve System, the Consumer Financial Protection Bureau, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Office of the Comptroller of the Currency, and the State Liaison Committee.

² NIST defines threat intelligence as information that has been aggregated, transformed, analyzed, interpreted, or enriched to provide the necessary context for decision-making processes.

³ 2 One information sharing organization that serves the financial sector is the Financial Services Information Sharing and Analysis Center (FS-ISAC). FS-ISAC is a private-sector nonprofit information-sharing forum established by financial services industry participants in response to the federal government’s efforts to facilitate the public and private sectors’ sharing of physical and cybersecurity threat and vulnerability information.

According to the National Institute of Standards and Technology (NIST), cyber-attacks have increased in frequency and sophistication, presenting significant challenges for organizations that must defend their data and systems from capable threat actors. These actors range from individual, autonomous attackers to well-resourced groups operating in a coordinated manner as part of a criminal enterprise or on behalf of a nation-state. Given the risks these threats present, NIST has emphasized that organizations should share cyber threat information and use it to improve their security posture. NIST characterizes cyber threat information as any information that can help an organization identify, assess, monitor, and respond to cyber threats and specifically cites security alerts as an example.⁴

NAFCU encourages the NCUA to revisit its risk alert process with a specific focus on providing timely, risk-focused and actionable alerts concerning credit union cybersecurity threats, programs and safeguards. While six cybersecurity risk alerts have been issued in the last 15 years, a comprehensive program of alerts and other risk information sharing tools would more appropriately reflect the importance of protecting sensitive member information and ensuring operational resiliency. More frequent publication of such alerts or tools would also support the NCUA's strategic priorities, which have consistently identified cybersecurity as one of the top concerns affecting the entire the credit union system.

Conclusion

NAFCU appreciates the opportunity to comment on the RFI on the NCUA's communications and transparency. NAFCU supports the NCUA's initiative to make its communications with FICUs more effective, consistent, and clear. If you have any questions or concerns, please do not hesitate to contact me at (703) 842-2268 or amoore@nafcu.org.

Sincerely,

A handwritten signature in black ink, appearing to read 'A. Moore', with a stylized flourish at the end.

Aminah M. Moore
Regulatory Affairs Counsel

⁴ See NIST Special Publication 800-150, Guide to Cyber Threat Information Sharing