



3138 10th Street North  
Arlington, VA 22201-2149  
703.842.2215 | 800.336.4644  
F: 703.522.2734  
dberger@nafcu.org

**B. Dan Berger**  
President & Chief Executive Officer

National Association of Federal Credit Unions | [www.nafcu.org](http://www.nafcu.org)

January 4, 2016

The Honorable Mitch McConnell  
Majority Leader  
United States Senate  
Washington, D.C. 20510

The Honorable Harry Reid  
Minority Leader  
United States Senate  
Washington, D.C. 20510

The Honorable Paul Ryan  
Speaker  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Nancy Pelosi  
Minority Leader  
U.S. House of Representatives  
Washington, D.C. 20515

**Re: 2016 Legislative Priorities of our Nation's Credit Unions**

Dear Leader McConnell, Leader Reid, Speaker Ryan, and Leader Pelosi:

On behalf of the National Association of Federal Credit Unions (NAFCU), the only trade association exclusively representing the federal interests of our nation's federally-insured credit unions, I write today to share the top legislative priorities of our nation's credit unions for 2016. Member-owned not-for-profit credit unions provide over 101 million Americans with personal and small business financial service products as the economy continues to recover from the financial crisis. As you prepare the legislative agenda for this year, we hope that you address these top issues for credit unions.

**Preservation of the Credit Union Tax Exemption**

The cumulative benefit credit unions provide the greater U.S. economy totals over \$17 billion a year, according to an independent study released by NAFCU in February of 2014. This far exceeds the cost of the credit union tax exemption and any potential revenue that would be raised by eliminating the exemption. The credit union tax exemption not only benefits credit unions and their members, but also bank customers and the American economy at large. Altering the tax status of credit unions would have a devastating impact not only on credit union members across the country, but also on consumers and small businesses in general. Eliminating the credit union tax exemption would result in the loss of 150,000 jobs per year, a shrinking of the GDP, and a net *loss* of revenue to the federal government.

**Regulatory Relief**

During the consideration of financial reform, NAFCU was concerned about the possibility of the overregulation of credit unions. Unfortunately, many of our concerns about the increased regulatory burdens that credit unions would face have proven true. The impact of this growing compliance burden, in particular the growth of CFPB rulemaking, is evident as the number of credit unions continues to decline, dropping by more than 17% (more than 1,280 institutions) since the second quarter of 2010; 96% of which were smaller institutions with assets of less than

\$100 million. A main reason for the decline is the increasing cost and complexity of complying with the ever-increasing onslaught of regulations. In 2015, NAFCU released an updated five-point plan for credit union regulatory relief and we have testified on regulatory burden before Congress on numerous occasions. We appreciate the ongoing focus on finding ways to cut back on regulatory burden for small lenders that did not contribute to the financial crisis and urge that this continue to be a priority for the remainder of the 114<sup>th</sup> Congress.

### **Data Security**

Data breaches in both the private and public sectors have the ability to cause irreparable harm to consumers everywhere. Credit unions are on the front lines assisting their members in the wake of data breaches and have a unique understanding of how detrimental such data breaches can be to all involved. Under the *Gramm-Leach-Bliley Act* (GLBA), credit unions and other financial institutions are required to meet certain criteria for safekeeping consumers' personal information. Unfortunately, there is no comprehensive regulatory structure akin to GLBA that covers retailers, merchants, and others who collect and hold sensitive information. NAFCU strongly supports the passage of the *Data Security Act of 2015* (H.R. 2205/S. 961), which would recognize financial institutions' adherence to GLBA standards and require any entity responsible for the storage of consumer data to meet similar standards. NAFCU also strongly believes that the negligent entity should be held responsible for monetary damages stemming from the breach.

### **Housing Finance Reform**

As not-for-profit cooperatives, it is vital that credit unions continue to have unfettered access to the secondary mortgage market and that any Fannie Mae and Freddie Mac reform efforts place a heavy emphasis on fair pricing that reflects loan quality rather than quantity. The liquidity the current system provides is absolutely critical in enabling credit unions to serve the mortgage needs of their member-owners. Along with access to a healthy and viable secondary mortgage market, fair pricing is equally as critical in ensuring community-based financial service providers are not discriminated against based on type of institution, an institution's asset size or any other geopolitical issues. NAFCU also recognizes the need for a system that will protect taxpayers from future bailouts and we will continue to be an active participant in housing finance reform discussions.

### **Field of Membership**

In 2015, the NCUA Board undertook a comprehensive review of its field of membership rules, and committed to streamlining procedural and regulatory hurdles that unnecessarily burden credit union growth in today's financial services landscape. On November 19, 2015, the NCUA Board proposed a rule that seeks to provide regulatory relief for all charter types. NAFCU will be submitting official comments in favor of this proposed rule and we urge Congress to support the NCUA in this effort.

### **Capital Reform/Risk-Based Capital**

On October 15, 2015, the NCUA Board voted 2-1 to approve a final risk-based capital rule which will take effect January 1, 2019. NAFCU has consistently opposed this rulemaking and urged its withdrawal. We have long warned about the impact this rulemaking will have on the credit union industry – in particular the regulatory burden and costs it will impose. Given

NCUA's insistence on moving forward with this rule, NAFCU worked steadfastly during 2014 and 2015 to make a bad rule better. As a result of our efforts, the final rule recalibrates many risk weights to better align with banks' requirements, removes interest-rate risk from the calculation of the risk-based capital ratio, and extends the implementation date.

Still, to create a true and fair risk-based capital system for credit unions, NAFCU fundamentally believes that legislative reforms are necessary. We urge Congress to support legislative efforts for credit union capital reform, including creating a true risk-based capital system for credit unions and allowing all credit unions potential access to supplemental forms for capital.

### **Member Business Lending**

Credit unions have a 12.25% asset cap on their member business lending (MBL), with loans of only \$50,000 or less exempt from this cap. Passed in 1998, these arbitrary thresholds are severely outdated and have not increased with inflation. NAFCU asks that the Congress increase the *de minimis* exclusion to exempt additional loans and consider exemptions for veterans applying for small business loans. We also believe it is imperative that Congress increase the arbitrary 12.25% cap to help ensure that small business owners have as many resources as possible to access credit.

In addition to these legislative priorities, NAFCU is working with regulators to ensure a positive environment for credit unions. We urge Congress to use its oversight authority in accordance with the below efforts.

### **Protect Responsible Overdraft Programs**

Credit union members appreciate the responsible courtesy pay and overdraft protection programs that credit unions provide and want to see these services continue. Credit unions are known for their lower fees and working with their members to prevent abuse of these programs. For the past two years, the CFPB has listed overdraft on its rulemaking agenda. NAFCU is staying in close contact with the CFPB to monitor its timeframe for rulemaking, and will work to ensure that the substance of any rule does not curtail responsible overdraft programs credit unions provide for their members.

### **Ensure an Effective Payments System**

NAFCU and its members continue to be engaged in the Federal Reserve's evolving payments initiative and roadmap for the U.S. payments system. In January 2015, the Fed announced two task forces to modernize the U.S. payments systems – the Faster Payments Task Force and the Secure Payments Task Force. NAFCU joined the two newly formed task forces in May 2015. NAFCU's goal in participating is to ensure that any new payments system can be cost-effective, operationally effective and scalable for credit unions of all sizes.

### **Seek Fairness Under FCC Ruling on Autodialing**

In July 2015, the Federal Communications Commission issued a declaratory ruling and order to clarify its interpretation of the *Telephone Consumer Protection Act*. NAFCU is concerned that the exemption, as written, will not allow financial institutions to engage in time-sensitive

The Honorable Mitch McConnell, The Honorable Harry Reid,  
The Honorable Paul Ryan, The Honorable Nancy Pelosi  
January 4, 2016  
Page 4 of 4

communications with consumers about identity theft or data breaches. We will continue to pursue a fair result for credit unions, and we urge Congress to monitor these efforts.

**Online Lenders**

NAFCU believes that the growth of online marketplace lenders underlines the need for Congress and regulators to modernize existing laws and regulations on traditional financial institutions to facilitate greater access to credit. NAFCU also continues to maintain that financial regulators must require online market lenders to meet basic consumer protection requirements such as the *Truth in Lending Act*, underwriting standards for loans, and applicable state usury laws.

Thank you for your consideration and attention to these important matters. We look forward to working with you to make this year a productive and successful one. If we can answer any questions or provide you with additional information on any of these issues, please do not hesitate to contact myself or NAFCU's Vice President of Legislative Affairs, Brad Thaler, at 703-842-2204.

Sincerely,



B. Dan Berger  
President and CEO

cc: Members of the United States Senate  
Members of the United States House of Representatives