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

**National Association of Federally-Insured Credit Unions**

January 8, 2018

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

The Honorable Charles E. Schumer  
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: Legislative Tenets and Priorities of our Nation's Credit Unions**

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

On behalf of the National Association of Federally-Insured 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 tenets and priorities of our nation's credit unions as you convene the Second Session of the 115<sup>th</sup> Congress. Member-owned not-for-profit credit unions provide over 110 million Americans with personal and small business financial service products as the economy continues to recover from the financial crisis. Each year, the NAFCU Board, made up of credit union CEOs from across the nation, identifies the top issues before Congress in the upcoming year that impact credit unions. We hope that you will work with us to address these top legislative issues for credit unions.

- **NAFCU supports a regulatory environment that allows credit unions to grow.** NAFCU believes that there must be a regulatory environment that neither stifles innovation nor discourages credit unions from providing consumers and small businesses with access to credit. This includes protecting the current tax status of credit unions. It also includes the ability of credit unions to establish healthy fields of membership that are not limited by outdated laws or regulatory red tape. Credit unions need modernized capital standards that reflect the realities of the 21<sup>st</sup> century financial marketplace. Additionally, there must be a housing finance system that works for credit unions.

Action items under this priority include, but are not limited to:

***Preserving the Credit Union Tax Exemption*** – NAFCU thanks Congress and the Administration for preserving the credit union tax exemption in the recently passed tax

reform legislation. We urge you to continue to protect the credit union tax exemption as you examine additional tax issues in the upcoming year.

***GSE/Housing Finance Reform*** – Both the House Financial Services Committee and the Senate Banking Committee have housing finance reform on their agenda. While no clear proposal has yet emerged, preserving a government guarantee as well as maintaining unfettered access to the secondary market and ensuring fair pricing for credit unions based on loan quality will remain a top legislative issue for NAFCU

***Field of Membership*** – Strengthening the federal charter and pursuing regulatory relief for federal credit unions is at the core of NAFCU's advocacy efforts. NAFCU fundamentally believes the industry's dual chartering system works best when the state and federal charters keep pace with each other. Several states, however, have been much more progressive in modernizing their field of membership (FOM) rules to recognize today's dynamic and ubiquitous marketplace.

NAFCU believes that there must be legislative improvements to sections of the Federal Credit Union Act that restrict the ability of credit unions to serve their desired fields of membership, including allowing all credit unions to add underserved areas.

***Capital/Risk Based Capital Reform*** – NAFCU remains concerned with the impact the Risk-Based Capital (RBC) rulemaking will have on the credit union industry, including regulatory burden and increased costs. NAFCU will continue to advocate for NCUA to revisit and reconsider the agency's approach to RBC or for Congress to step in and stop the rule from becoming effective on January 1, 2019. NAFCU will also continue to advocate for access to supplemental capital for all credit unions.

- **NAFCU supports appropriate, tailored regulation for credit unions and relief from growing regulatory burdens.** Credit unions are swamped by an ever-increasing regulatory burden from the CFPB and other regulatory entities, often on rules that are targeting bad actors and not community institutions. NAFCU supports cost-benefit analysis in regulation, and wants to ensure that we have an effective regulatory environment where positive regulations may be easily implemented and negative ones may be quickly eliminated. NAFCU also believes that enforcement orders from regulators should not take the place of regulation or agency guidance to provide clear rules of the road. This includes seeking regulatory relief and reform that allows credit unions to better serve their members.

Action items under this priority include, but are not limited to:

***Regulatory Relief*** – Both the House Financial Services Committee and the Senate Banking Committee continue to work on the issue of regulatory relief. NCUA Chairman McWatters has also indicated his desire to provide relief. NAFCU will continue its push for credit union regulatory relief in 2018 by pressing for more Congressional action and for agencies to take action to provide relief where they already have authority to do so.

**Member Business Lending** – NAFCU has long advocated for member business lending (MBL) reform, both legislatively as well as through NCUA regulatory relief. NAFCU will also continue to work with Congress and NCUA to provide relief from the statutory cap.

**CFPB Exemption Authority** – The *Dodd-Frank Wall Street Reform and Consumer Protection Act* (Dodd-Frank Act) specifically grants the CFPB with the authority to exempt “any class of covered persons” from any provision or rule. We will seek to build on the support of over 2/3 of Congress that wrote to the CFPB to back these changes in 2016. We will continue to urge the Bureau to use its exemption authority more effectively and will seek greater legislative exemptions and relief for credit unions from burdensome CFPB rules.

**Unfair, Deceptive, or Abusive Acts and Practices (UDAAP)** – Since the enactment of the Dodd-Frank Act, NAFCU has worked to seek clear, transparent guidance from the Bureau on its expectations for credit unions under the law. NAFCU believes that a UDAAP rulemaking and/or guidance — articulating clear supervisory expectations — is necessary to ensure credit unions have the information they need to ensure their operations are safe, sound, and reflective of the spirit and letter of the laws governing them.

- **NAFCU supports a fair playing field.** NAFCU believes that credit unions should have as many opportunities as banks and non-regulated entities to provide provident credit to our nations' consumers. NAFCU wants to ensure that all similarly situated depositories follow the same rules of the road and unregulated entities, such as predatory payday lenders, do not escape oversight. We also believe that there should be a federal regulatory structure for non-bank financial services market players that do not have a prudential regulator, including emerging Fintech companies. Additionally, retailers and others who handle personal financial information should be held responsible for protecting that information, and should pay their share for costs associated with data breaches and using the payments system.

Action items under this priority include, but are not limited to:

**Interchange** - NAFCU will continue to push to repeal the failed Durbin amendment and fight against any efforts to expand interchange price caps to credit cards. NAFCU will also continue to press the Federal Reserve Board to lessen the negative burden of the Durbin price caps.

**Data/Cyber Security** –NAFCU has been working with others in the financial services sector to enact reforms that create a safer environment and hold retailers accountable, all while not creating burdensome new requirements on financial services. NAFCU will also continue to help credit unions deal with the aftermath of the Equifax breach, including support of seeking efforts to better protect data held by credit bureaus. NAFCU will continue to work with others in the financial sector on this key issue while also seeking to increase credit union awareness of cyber threats.

***Regulation of FinTech Companies*** – The growth of online marketplace lenders underline the need for Congress and regulators to modernize existing laws and regulations on traditional financial institutions to facilitate greater access to credit (including in areas such as E-SIGN). Financial regulators must require online marketplace lenders to meet basic consumer protections such as the *Truth in Lending Act*, Banking Secrecy Act (BSA)/Anti-Money Laundering (AML) requirements, underwriting standards for loans, applicable state usury laws, and others. NAFCU will continue to advocate for a level playing field.

- **NAFCU supports government transparency and accountability.** NAFCU believes regulators need to be transparent in their actions, with the opportunity for public input, and should respect possible different viewpoints. We believe a bipartisan commission structure is the best form of regulatory governance for independent agencies, and all stakeholders should be able to have input into the regulatory process.

Action items under this priority include, but are not limited to:

***CFPB Reform***– NAFCU was the only credit union trade association to demand that credit unions be exempt from the Dodd-Frank Act during the debate on financial reform. Unfortunately, our concerns have proved true, as over 20% of the industry has disappeared since the enactment of the Dodd-Frank Act, with regulatory burden being the prime reason. NAFCU will continue to support structural changes to the CFPB, such as the Bureau being run by a bipartisan commission as compared to a single director. We also support bringing more accountability to the agency by making it subject to the Congressional appropriations process. Given the recent court ruling in the PHH case that called the current structure into question, we think the time is right to bring reforms to the CFPB.

***Ending Lawsuit Abuse***- Credit unions are too often targets of demand letters that seek monetary damages for questionable patents or website "violations" of the *Americans with Disabilities Act* (ADA). These primarily come from patent trolls and non-members of the credit union who are seeking to take advantage of the institutions and gain financial settlements. Credit unions seek to comply with the law, but regulators need to be clear about requirements for compliance. Congress must also step in and seek to curb these abusive practices.

- **NAFCU supports a strong, independent NCUA as the primary regulator for credit unions.** NAFCU believes that the National Credit Union Administration is best situated with the knowledge and expertise to regulate credit unions due to their unique nature. The current structure of NCUA, including a 3-person board, has a track record of success. NCUA should be the sole regulator for credit unions and work with other regulators on joint rulemaking when appropriate. Congress should make sure that NCUA has the tools and powers that it needs to effectively regulate the industry.

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**CFPB Reform** – As mentioned above, NAFCU was the only credit union trade association to demand that credit unions be exempt from the Dodd-Frank Act during the debate on financial reform. We will continue to advocate for credit unions to be outside of the CFPB's authority.

NCUA Chairman McWatters wrote the CFPB twice in 2017 requesting that the Bureau exempt federally insured credit unions (FICUs) with assets over \$10 billion from the examination and enforcement provisions of section 1025 of the Dodd-Frank Act. As the prudential regulator of FICUs, the NCUA possesses and is able to bring to bear a broader arsenal of enforcement tools than is available to the CFPB when dealing with problem credit unions. Under the proposed exemption, all FICUs would continue to be subject to consumer financial protection laws and applicable CFPB regulations. NAFCU believes Chairman McWatters request has merit and should be examined further.

**NCUA Structure** – NAFCU will continue to oppose any efforts to bring the agency under congressional appropriations and/or expand the NCUA Board to five members.

Thank you for your consideration and attention to these important matters. We look forward to working with you to address these priorities. 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

*Thanks for your continued support!*

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