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National Association of Federally-Insured Credit Unions

April 7, 2021

Ann E. Misback
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551

RE: Temporary Asset Thresholds (RIN: 7100-AG01)

Dear Ms. Misback:

On behalf of the National Association of Federally-Insured Credit Unions (NAFCU), I am writing in response to the interim final rule (IFR) published by the Board of Governors of the Federal Reserve System (Board) which concerns temporary asset threshold relief for community financial institutions. NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve over 124 million consumers with personal and small business financial service products. NAFCU and its member credit unions support the Board's efforts to ease the transition to new regulatory standards for community institutions by adopting more flexible standards for measuring asset growth. To ensure that such relief reasonably reflects the magnitude of direct economic stimulus paid to individuals under the *American Rescue Plan Act of 2021* (ARPA) and conforms to similar relief measures adopted by other banking regulators, we ask that the Board specify that for the purpose of Regulation II, asset growth in 2020 or 2021 will not trigger new regulatory requirements until July 1, 2023 at the earliest.

A flight to safe assets caused by the COVID-19 pandemic, along with multiple rounds of stimulus payments authorized by Congress, have caused significant asset growth within the credit union industry. Consequently, some credit unions are poised to cross regulatory asset thresholds sooner than expected, which will create additional operational and financial strain. For credit unions that are nearing $10 billion in total assets, the loss of "small issuer" status under Regulation II could limit the availability of resources that might otherwise be used to support forbearances and other types of accommodations aimed at addressing pandemic-related hardship.

Currently, the extent of Regulation II relief under the IFR is not entirely clear. One the one hand, the preamble provides the example of how an issuer that crossed the $10 billion threshold at the end of 2020 could expect the temporary relief to last through the first six months of 2022.[1] On the other, the preamble states elsewhere that "through December 31, 2021, a banking organization will be permitted to determine the applicability of asset-based reporting thresholds set at $10 billion or less using asset data as of December 31, 2019, if the organization's assets as of that date were less than its assets on the date as of which the applicability of a given threshold would normally be determined." Amended 12 CFR § 235.5 does not clearly adopt the latter framework, although it is

[1] *See* Temporary Asset Thresholds, 85 Fed. Reg. 77345, 77349 (Dec. 2, 2020).

used for nearly every other regulatory asset-threshold in the IFR. As a consequence, the duration of Regulation II relief is arbitrarily truncated relative to other domains of financial regulation, such as capital requirements and extended examinations. If this disparity is left unaddressed, credit unions could lose their small issuer status prematurely, and would be left with fewer resources to assist members in need.

The entire credit union industry has been working tirelessly to fuel the engine of economic recovery to help members who have lost jobs or experienced financial strains due to the pandemic. The intensity of this member-focused activity coincides with an accelerated timeframe for adjusting to new, asset-based regulatory requirements. Recognizing the difficulty of these circumstances, the National Credit Union Administration (NCUA) recently issued an interim final rule that addresses credit union specific asset threshold relief. Notably, the NCUA's rule allows a credit union to use asset data from March 2020 for the purpose of determining the applicability of regulatory thresholds during calendar years 2021 and 2022. The NCUA's comparatively longer period for asset threshold relief (relative to the IFR's provisions concerning Regulation II applicability) recognizes the impact of additional stimulus money authorized by the ARPA.

When the Board jointly issued the IFR with other federal banking agencies in November 2020, the extent of future stimulus was unknown. Accordingly, the Board should clarify and extend the scope of Regulation II relief under the IFR to account for new stimulus payments, which "has put upward pressure on credit union balance sheets."[2] Specifically, NAFCU urges the Board to clarify that the Regulation II relief in the IFR extends until at least July 1, 2023. In doing so, the Board should state that credit unions may use asset data on either December 31, 2019 or December 31, 2020, whichever is lower, for purposes of determining the applicability of Regulation II's requirements through December 31, 2021. Such relief would be of significant value to credit unions' member owners, especially at a time when 11 million families are at risk of losing housing.[3]

NAFCU supports the Board's attention to regulatory reporting issues and the recognition of community financial institution efforts to address members' financial hardship during the pandemic. If you have any questions or concerns, please do not hesitate to contact me at (703) 842-2266 or amorris@nafcu.org.

Sincerely,

Andrew Morris

Andrew Morris
Senior Counsel for Research and Policy

[2] Asset Thresholds, 86 Fed. Reg. 15397 (March 23, 2021).
[3] *See* Consumer Financial Protection Bureau, Housing Insecurity and the COVID-19 Pandemic, available at https://files.consumerfinance.gov/f/documents/cfpb_Housing_insecurity_and_the_COVID-19_pandemic.pdf (March 1, 2021).