



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

B. Dan Berger
President & Chief Executive Officer

National Association of Federally-Insured Credit Unions

January 9, 2019

The Honorable Joseph Otting
Interim Director
Federal Housing Finance Agency
400 7th St., S.W.
Washington, D.C. 20024

Re: Priorities of our Nation's Credit Unions

Dear Interim Director Otting:

On behalf of the National Association of Federally-Insured Credit Unions (NAFCU), I would like to share with you the top priorities of our nation's credit unions. NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve over 115 million consumers with personal and small business financial service products. Each year, the NAFCU Board, made up of credit union CEOs from across the nation, identifies the top issues in the upcoming year that impact credit unions.

Incorporated within these general priorities, which touch upon both legislative and regulatory concerns, is a discussion of priorities that specifically concern the Federal Housing Finance Agency (FHFA) and the government-sponsored enterprises, Fannie Mae and Freddie Mac. We hope that you will work with us to address these top legislative and regulatory issues for credit unions.

1. **Growth.** 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. Promoting growth-friendly regulation 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 It also includes the ability of credit unions to establish healthy fields of membership that are not limited by outdated laws or regulatory red tape. Revised regulations may also be necessary to address structural barriers to growth. For example, credit unions need modernized capital standards that reflect the realities of the 21st century financial marketplace, such as the ability to issue supplemental capital. Additionally, there must be a housing finance system that works for credit unions.

Items under this priority include, but are not limited to:

- Preserve the credit union tax exemption;
- Support GSE/housing finance reform that maintains unfettered access to the secondary market and ensures fair pricing for credit unions based on loan quality;
- Expand flexibility in field of membership rules to help credit unions grow;

- Achieve capital/risk-based capital reform to preserve the safety and soundness of the credit union industry; and
 - Support reforms to the *Telephone Consumer Protection Act* (TCPA) that ensure credit unions are able to contact their members.
2. **Strong NCUA.** NAFCU believes that the National Credit Union Administration (NCUA) is the sole regulator equipped with the requisite knowledge and expertise to regulate credit unions due to their unique nature. The current structure of the NCUA, including a three-person board, has a track record of success. The NCUA should be the sole regulator for credit unions and work with other regulators on joint rulemaking when appropriate. Congress should make sure that the NCUA has the tools and powers that it needs to effectively regulate the industry.

Items under this priority include, but are not limited to:

- Advocate for credit union exemption from the Bureau of Consumer Financial Protection's (Bureau) supervisory and enforcement authority; and
 - Oppose efforts to bring the NCUA under congressional appropriations and expand the NCUA Board to five members.
3. **Regulatory Relief.** Credit unions are swamped by unabated regulatory burden from the Bureau and other regulatory entities, often from rules that are targeting bad actors and not community institutions. NAFCU supports the adoption of cost-benefit analysis in the rulemaking process to ensure that 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.

Items under this priority include, but are not limited to:

- Support regulatory relief efforts to reduce compliance costs and allow credit unions to grow;
 - Advocate for additional NCUA exam modernization initiatives;
 - Oppose NCUA's third party vendor authority;
 - Support member business lending reform and relief from maturity limits;
 - Advocate for greater use of the Bureau's exemption authority;
 - Support credit unions battling frivolous ADA website litigation; and
 - Obtain clear guidance for unfair, deceptive, or abusive acts and practices (UDAAP).
4. **Fair and Innovative Market.** 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 and lenders 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. Retailers should also pay their share for costs associated with data breaches and for access to a reliable and secure national payments system.

Items under this priority include, but are not limited to:

- Urge congress to repeal the failed Durbin Amendment;
 - Help enact data/cyber security measures to hold retailers accountable;
 - Support regulation of fintech companies to create a level playing field;
 - Oppose *Community Reinvestment Act* coverage;
 - Seek expanded exemption from the Bureau's payday lending rule for payday alternative loans (PAL);
 - Support additional flexibility for loan maturity limits; and
 - Advocate for a variable interest rate.
5. **Promote Transparency.** 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 is the best form of regulatory governance structure for independent agencies, and all stakeholders should be able to provide feedback in the regulatory process.

Items under this priority include, but are not limited to:

- Support a bipartisan commission and congressional appropriations for the Bureau; and
- Obtain full refunds of stabilization assessment monies to credit unions.

FHFA-Specific Priorities

GSE/Housing Finance Reform

Although Congress has yet to produce a clear proposal for housing reform, preserving a government guarantee, maintaining unfettered access to the secondary market, and ensuring fair pricing for credit unions based on loan quality remains a top issue for NAFCU. NAFCU will continue to work with the administration and the FHFA to ensure that credit unions' access to the secondary market is not hampered by regulatory actions. The FHFA has been receptive to credit union needs in general, but NAFCU will remain focused on monitoring rulemakings relative to the Federal Home Loan Bank System and the future state of the government-sponsored enterprises (GSEs).

More specifically, NAFCU will focus on (1) ensuring credit unions understand how the new proposed capital requirements rule could affect their ability to sell loans to the GSEs; (2) what the use of new credit score models may mean for credit unions' flexibility to make loans to their members; and (3) how the FHFA's efforts to improve language access for limited English proficiency borrowers impacts their loan origination and servicing processes. As Congress and the

The Honorable Joseph Otting

January 9, 2019

Page 4 of 4

administration contemplate ways to reform the housing finance system, NAFCU will work to ensure credit unions are able to sell their loans to the GSEs on a level playing field, while retaining servicing rights to preserve member relationships, so that they have the necessary liquidity to make more loans to their members.

Conclusion

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 me.

Sincerely,



B. Dan Berger
President and CEO