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

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

September 29, 2021

The Honorable Todd M. Harper, Chairman  
The Honorable Kyle S. Hauptman, Vice Chairman  
The Honorable Rodney E. Hood, Board Member  
National Credit Union Administration  
1775 Duke Street  
Alexandria, VA 22314

**RE: Request for Permanent Virtual Meeting Flexibility**

Dear Chairman Harper, Vice Chairman Hauptman, and Board Member Hood:

On behalf of the National Association of Federally-Insured Credit Unions (NAFCU) and the nation's credit unions, I would like to urge the National Credit Union Administration (NCUA) to provide credit unions with much needed flexibility in fulfilling their member meeting requirements. NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve over 127 million consumers with personal and small business financial service products. As the COVID-19 pandemic stretches past a year and a half, credit unions continue to grapple with the extraordinary challenges that the pandemic has created. Credit unions, with aid and flexibility provided by the NCUA, have maintained operations and met their obligations to their members. As the pandemic persists, and as disasters of every kind increase in frequency and scope, the NCUA should remove the requirement for NCUA guidance prior to invocation of the emergency exception to the in-person quorum requirement (Emergency Meeting Exception). As the NCUA considers this recommendation, it should move quickly to issue a Letter to Credit Unions extending the emergency exception for the entirety of calendar year 2022. We hope that you will work with us to recognize the evolving nature of disasters in our society and the ability of ubiquitous technology to mitigate the impacts of these disasters.

**Background**

On March 12, 2020, in recognition of the dangers associated with in-person contact during the COVID-19 pandemic, and to allow credit unions to safely provide financial services during an uncertain and dangerous time, I wrote to the NCUA Board (Board) requesting flexibility for our members to determine how best to comply with member meeting requirements. On March 20, 2020, the NCUA issued a Letter to Credit Unions (20-FCU-02) titled *NCUA Actions Related to COVID-19 – Annual Meeting Flexibility*. In the letter, the NCUA stated that federal credit unions had the option to adopt a bylaw amendment to hold annual meetings of the members, and special member meetings for authorized purposes other than member expulsion, virtually, in certain circumstances. Of note, one of the circumstances required for the emergency exception to the in-

The Honorable Todd M. Harper, Chairman  
The Honorable Kyle S. Hauptman, Vice Chairman  
The Honorable Rodney E. Hood, Board Member  
September 29, 2021  
Page 2 of 6

person quorum requirement was that “[t]he NCUA has issued general or specific guidance notifying the credit union that it is appropriate to invoke this bylaw provision.”<sup>1</sup>

On November 20, 2020, as it became clear that the COVID-19 pandemic would stretch into 2021, the Board announced in a Letter to Credit Unions (20-FCU-04) titled *Federal Credit Union Meeting Flexibility During the COVID-19 Pandemic*, that it would extend flexibility for virtual annual meetings to include meetings held at any point in 2021 and expand the authority to permit credit unions to hold the required in-person regular meeting of the board of directors under Article VI virtually throughout the year. Also present in this letter was the requirement that the NCUA issue general or specific guidance indicating that it would be appropriate to invoke this bylaw provision.

NAFCU applauds the NCUA’s quick response to the COVID-19 pandemic and its provision of flexibility regarding member meeting requirements. However, the NCUA should recognize the increased frequency and severity of disasters in the United States and across the globe due to climate change and allow credit unions permanent flexibility in determining how they hold their meetings. Specifically, the NCUA should allow credit unions to adopt and invoke the Emergency Meeting Exception and hold annual meetings of the members, required in-person regular meetings of the board of directors under Article VI, and special member meetings for authorized purposes other than member expulsion virtually in instances in which all or part of a community the credit union serves or the credit union’s headquarters is located in an area where a federal, state, or local authority has declared a state of emergency or major disaster. In the short-term, the NCUA should issue a Letter to Credit Unions providing general guidance indicating that it is appropriate to invoke the Emergency Meeting Exception for the entirety of calendar year 2022.

## **Disaster Prevalence**

The COVID-19 pandemic, despite its once-in-a-generation scope and impact, has underscored the stark fact that we are living through an unprecedented era of disasters. While COVID-19 shocked the globe by presenting us with a virus so infectious and deadly that it recently claimed more American lives than the 1918 Influenza Pandemic, the vast majority of disasters impacting Americans arrive in the form of fires, floods, hurricanes, earthquakes and tornados. The past few years have also made abundantly clear the fact that these natural disasters are increasing in frequency, scope, and impact.

The United Nations Office for Disaster Risk Reduction 2020 Annual Report found that there were 7,348 major natural disaster events from 2000 to 2019, with 1.23 million lives lost and 4.2 billion people affected, resulting in approximately \$2.97 trillion in global economic losses. This is a sharp increase over the previous 20-year period (1980 - 1999) when the Emergency Events Database

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<sup>1</sup> NCUA Actions Related to COVID-19 – Annual Meeting Flexibility. (2020, March 20). National Credit Union Administration. <https://www.ncua.gov/regulation-supervision/letters-credit-unions-other-guidance/ncua-actions-related-covid-19-annual-meeting-flexibility>

The Honorable Todd M. Harper, Chairman  
The Honorable Kyle S. Hauptman, Vice Chairman  
The Honorable Rodney E. Hood, Board Member  
September 29, 2021  
Page 3 of 6

recorded 4,212 natural disasters worldwide, 1.19 million lives lost, 3.25 billion people affected, and approximately \$1.63 trillion in economic losses.<sup>2</sup>

Many of these disasters are not occurring as isolated incidents, separated by time and space from other disasters. Instead, counties, states, and whole regions of the country are being hit by multiple disasters in quick succession, thereby compounding the damage done and increasing the difficulty of rebuilding and returning to normalcy. In 2011, over the course of three days, 343 tornadoes spawned in the Southwest United States across 13 states.<sup>3</sup>

### **Risk to Members**

The impacts of these events are many and wide ranging, however one constant is the devastating toll inflicted on our aging infrastructure. Roads and bridges are frequently destroyed, and the process of rebuilding is often slow and mired in the bureaucracy and diminished capacity of our overwhelmed disaster-relief system. In rural communities, where credit unions frequently represent the sole financial services provider, these impacts are often deeply felt, as the few roads in the area may represent the only means of movement. The periods during and immediately after disasters are almost always extremely dangerous times to travel, and local safety officials rightly warn residents to stay at home. To ask credit union members to travel, sometimes long distances, to their credit union for an annual meeting during or after a natural disaster would be dangerous and short-sighted.

For older credit union members, the inclination to stay home during any dangerous disaster, and especially during a pandemic that disproportionately harms older individuals, will serve to disenfranchise them from their rights and benefits as credit union members. This problem affects nearly all organizations, but it is of heightened concern for credit unions, where the average age of members is 47, a full decade older than the average age of Americans.<sup>4</sup> Additionally, that average has been going up over the years. In 1989 it was 42.8 and in 2000 it was 44.7.<sup>5</sup> For all the reasons that older members may become disenfranchised from participation in their credit union due to travel concerns during a disaster, the same is true, if not more so, for disabled members. Conversely, those members without pre-existing risk factors may feel obligated to attend meetings in person despite the inherent danger of doing so.

Ultimately, the requirement for in-person attendance at credit union meetings only serves to place barriers in the way of those who might wish to get involved in their credit union but are unable to for any of the aforementioned reasons. This may mean that the population from which boards of

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<sup>2</sup> United Nations Office for Disaster Risk Reduction (UNDRR) 2020 Annual Report. <https://www.undrr.org/publication/undrr-annual-report-2020>

<sup>3</sup> NOAA National Centers for Environmental Information (NCEI) U.S. Billion-Dollar Weather and Climate Disasters (2021). <https://www.ncdc.noaa.gov/billions/>, DOI: 10.25921/stkw-7w73

<sup>4</sup> Aging credit union membership. (2018, June 8). CUInsight. <https://www.cuinsight.com/aging-credit-union-membership.html>

<sup>5</sup> Getting Younger Important, But So is Staying Older. (2012, October 5). CUInsight. <https://www.cuinsight.com/getting-younger-important-but-so-is-staying-older.html>

directors and engaged members are drawn is limited to those who are young enough, healthy enough, and risk-tolerant enough to venture to a board meeting during a disaster declaration. To be sure, that narrow pool of individuals will not be representative of the majority of credit union members, and the perspectives they bring and policies they enact will not be either.

### **Technology Promotes Flexibility**

Fortunately, technology, as it has for thousands of years, represents the great equalizer. Credit union members who do not feel safe traveling great distances or in dangerous conditions are now able to participate in the governance of their credit union. Once a novelty used by grandparents to see and talk to their grandchildren across the country, video conferencing is now a mainstay of nearly every organization in the country. The use of Zoom, Microsoft Teams, Webex, or any of the other video conferencing services has skyrocketed since the start of the COVID-19 pandemic. Organizations with strong in-person cultures have increasingly come to the realization that they have not lost a step with remote work. Similarly, organizations with limited technological capacity have found that these platforms are easy to use and more importantly, in many cases, free to use. COVID-19 has forced the majority of organizations in the country to adapt to these technologies or die, and the result has been a near universal success.

Virtual meeting platforms have made meeting participation easy and safe, regardless of age or disability. NAFCU recognizes that the shift to virtual has raised competing concerns about access to computers and internet. There is an undeniable need for increased equality in access to technology, especially in rural and economically disadvantaged areas that NAFCU-member credit unions serve. NAFCU is encouraged, however, by the 89 percent of American households with access to a computer and the 81 percent of American households with access to the internet, according to a 2016 report by the National Center for Education Statistics.<sup>6</sup> Additionally, the large majority of virtual meeting platforms support dial-in access through telephones, which increases access to 97 percent of American adults.<sup>7</sup> NAFCU does not view technology as a complete solution to issues of accessibility, but the COVID-19 pandemic has demonstrated the efficacy of virtual meeting systems and in disaster scenarios technology often represents the safest, best option.

While virtual meetings have provided a much-needed lifeline to credit unions during the pandemic, credit unions are inherently community-based organizations that derive their unique appeal from the rights of members to meet in-person, discuss issues, and vote on those issues. The fact that credit unions possess the ability, under specific circumstances, to meet virtually does not mean that credit unions would shift wholesale to virtual if given the opportunity. Rather, credit unions desire the autonomy to determine in a timely manner, based on disaster declarations from state, local, or federal authorities, whether it is safe and appropriate to meet in-person. If an individual credit union determines that it would be safe to do so, they can, and if a credit union determines

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<sup>6</sup> Digest of Education Statistics, 2017. (n.d.). Nces.ed.gov.  
[https://nces.ed.gov/programs/digest/d17/tables/dt17\\_702.60.asp](https://nces.ed.gov/programs/digest/d17/tables/dt17_702.60.asp)

<sup>7</sup> Demographics of Mobile Device Ownership and Adoption in the United States. Pew Research Center: Internet, Science & Tech. <https://www.pewresearch.org/internet/fact-sheet/mobile>

that it would not be safe, then they would have the option to invoke the Emergency Meeting Exception and hold meetings virtually.

### **Requirement for NCUA Guidance is Overly Burdensome**

The requirement, found in the NCUA's Letters to Credit Unions 20-FCU-02 and 20-FCU-04, which only allows credit unions to invoke the flexible meeting bylaw when "[t]he NCUA has issued general or specific guidance notifying the credit union that it is appropriate to invoke this bylaw provision," is impracticable and burdensome. The NCUA should allow individual credit unions to independently determine whether to invoke the Emergency Meeting Exception and hold meetings virtually, in-person, or in a hybrid format. Requiring credit unions to ask permission to hold meetings virtually when their local, state, or federal government has declared a disaster is an unnecessarily burdensome hurdle to overcome at a time when credit unions are already dealing with the immediate effects of a disaster. Credit unions may be recovering from physical damage to their headquarters and credit union members may be struggling with a damaged or destroyed home, a sick family member, or the daunting task of rebuilding their business.

In these situations, credit unions and their boards of directors have key insight into the situation on the ground and are well equipped to assess the unique risks to the health and safety of their members. The NCUA should recognize the fluid nature of these events and the specific knowledge that boards of directors have about minute-by-minute changes in circumstance. The NCUA provides necessary oversight and regulation for the entire credit union industry, however in instances of localized threats, the NCUA should not shy away from permitting local decision-making. The world that credit unions occupy today is not the same as it was at the formation of the NCUA in 1970. In order to ensure the safety and longevity of the credit union industry, the NCUA must be willing to evolve with the shifting landscape and permit reasonable autonomy in moments of crisis.

Furthermore, disasters increasingly occur simultaneously, and the NCUA risks becoming overburdened with evaluating and responding to multiple requests in many regions of the country at the same time. To the extent that the NCUA would devote significant time to determining whether to allow a credit union to invoke the flexible meeting bylaw, there would be a strong likelihood of a backlog at a time when credit unions need to act quickly. To the extent that the NCUA would devote little time or resources to this determination, it would be better to leave the decision to the boards of directors of credit unions.

The NCUA recognized the need for flexibility around member meeting requirements during the height of the COVID-19 pandemic, and it found the Emergency Meeting Exception to be a permissible alternative that follows the spirit of the *Federal Credit Union Act*. There is no reason, then, that the NCUA should deny this flexibility to a credit union in Louisiana ravaged by floodwaters, or require a credit union in California to ask an elderly board member to attend an in-person meeting while forest fires threaten their roads.

The Honorable Todd M. Harper, Chairman  
The Honorable Kyle S. Hauptman, Vice Chairman  
The Honorable Rodney E. Hood, Board Member  
September 29, 2021  
Page 6 of 6

## **Conclusion**

NAFCU would like to thank the NCUA for its steadfast focus on providing COVID-19 relief measures. NAFCU urges the NCUA to provide credit unions permanent flexibility in determining how they hold their members meetings. While the NCUA considers this request, NAFCU requests that it quickly provide guidance to credit unions allowing them to invoke the Emergency Meeting Exception for the entirety of calendar year 2022. Thank you for your consideration and we look forward to working with you to attain this crucial flexibility. If we can answer any questions or provide you with additional information on any of these issues, please do not hesitate to contact me or James Akin, Regulatory Affairs Counsel, at 703-615-5109 or [jakin@nafcu.org](mailto:jakin@nafcu.org).

Sincerely,

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

B. Dan Berger  
President and CEO