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National Association of Federally-Insured Credit Unions

September 29, 2021

The Honorable Sherrod Brown
Chairman
Committee on Banking, Housing,
& Urban Affairs
U.S. Senate
Washington, DC 20510

The Honorable Pat Toomey
Ranking Member
Committee on Banking, Housing,
& Urban Affairs
U.S. Senate
Washington, DC 20510

Re: Tomorrow's Nomination hearing for Todd Harper, Member Designate of the National Credit Union Administration

Dear Chairman Brown and Ranking Member Toomey:

On behalf of the National Association of Federally-Insured Credit Unions (NAFCU), I am writing to share NAFCU's perspective on several issues related to the National Credit Union Administration (NCUA) as you prepare for the nomination hearing of NCUA Chairman Todd Harper to serve another term on the NCUA Board. 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. NAFCU appreciates the Committee's continued focus on issues of importance to credit unions.

The National Credit Union Share Insurance Fund (SIF)

While NAFCU applauds Chairman Harper, the NCUA Board, and the agency's leadership for their prudent oversight of the SIF during the pandemic, we continue to believe that changes to the structure of the SIF or a premium charge on credit unions are not warranted at this time. The fact that the SIF has fared so well during the past 18 months provides ample evidence that the fund is strong and that credit unions were well-capitalized and had strong balance sheets entering the crisis and continue to remain safe and sound today. The current language of the *Federal Credit Union Act* (FCU Act) creates this strong insurance fund for credit unions, which provided the necessary scope to extend assistance to their members during the pandemic.

The FCU Act creates a SIF that is structured fundamentally differently than the Deposit Insurance Fund (DIF) run by the Federal Deposit Insurance Corporation (FDIC). NAFCU is opposed to any efforts that call for legislative changes to the FCU Act to give NCUA the powers to manage the SIF similar to the DIF, such as allowing new premium assessments when they are not needed, removing upper limits on the normal operating level, or making changes that threaten the mutual nature of the fund. The FCU Act recognizes the importance of not hitting credit unions and their members with an unnecessary premium through very specific language that gives the NCUA an eight-year (or longer) window to restore the SIF equity ratio to 1.2 percent should it fall below that level. We caution against any calls for statutory changes to the SIF that go against the spirit of this provision in the FCU Act—a provision that is designed not only to keep credit unions healthy, but also to keep funds available to credit union members.

However, NAFCU has called for additional investment authorities to bolster credit unions' ability to manage their money and shares on deposit, as well as to protect the equity ratio of the SIF. Should the NCUA Board determine that it does not have the authority under the FCU Act to permit additional investment activities for certain debt instruments, we urge you to amend the FCU Act to explicitly provide for such authority. For example, some state-chartered credit unions can currently invest in corporate bonds and corporate credit unions are permitted to invest in asset-backed securities, but federal credit unions do not have the explicit power to do either. Such authorities would not only provide parity with state-chartered credit unions so the value of the federal charter is not diminished, but federal credit unions would be given more flexibility to make reasonable, safe investments to preserve their net worth ratios and the equity ratio of the SIF, and to help provide more products and services to their communities. Unlike for-profit banks that prioritize their shareholders above consumers, credit unions always put their members first. Yields from such investments would be returned to credit union members in the form of higher dividends and lower rates, helping communities across America.

NAFCU Opposes Granting NCUA Oversight Authority Over Third-Party Vendors

NAFCU and our member credit unions believe that cybersecurity, including the security of vendors that credit unions do business with, is an important issue. However, we are opposed to granting additional authority to the NCUA to examine third parties at this time because credit unions already conduct comprehensive due diligence and ongoing monitoring all of their third-party vendors. NAFCU believes in a strong NCUA, but we also believe that the NCUA should stay focused on where their expertise lies—regulating credit unions. Credit unions fund the NCUA budget. Implementing such new authority for NCUA to oversee third parties would require significant expenditures by the agency. The history of the NCUA's budget growth has shown that these costs would ultimately be borne by credit unions and their members.

There are also other tools already in place for the agency to get access to information about vendors. We believe the agency's time and resources are better focused on reducing regulatory burden by coordinating efforts among the financial regulators. The NCUA sits on the Federal Financial Institutions Examination Council (FFIEC) with the FDIC, the Office of the Comptroller of the Currency (OCC), and the Federal Reserve. The FFIEC was created to coordinate examination findings and approach in the name of consistency and to avoid duplication. This means that as a member of the FFIEC the NCUA should be able to request the results of an examination of a core processor from the other regulators and not have to send another exam team from the NCUA into their business for a separate examination. This would seem to be an unnecessary burden on these small businesses. Additionally, if the NCUA did its own examination, the likelihood of finding anything the other regulators did not would seem to be close to nil.

Instead of granting the NCUA vendor examination authority, Congress should encourage the agency to use the FFIEC to gain access to the information on exam findings on companies that have already been examined by other regulators. This would address the NCUA's concerns without creating additional costs to credit unions and increasing regulatory burdens on credit unions and small businesses. The NCUA could then continue to focus on other priorities that help credit unions to grow, innovate, and provide the best products and services to their communities.

NAFCU Supports Allowing Credit Unions to Do More to Help Underserved Populations

NAFCU supports expanding the ability of credit unions to add underserved areas to their field of membership (FOM), such has been proposed in draft legislation by the House Financial Services Committee. In 1998, as part of the *Credit Union Membership Access Act*, Congress provided federal credit unions with the ability to add underserved areas to their FOM. However, subsequent legal challenges by the banking industry over the reading of the statute led the NCUA to limit this authority to only multiple common bond credit unions in 2006.

As Congress grapples with ways to ensure that underserved and unbanked populations have access to affordable financial services, credit unions want to be able to help. Unfortunately, many credit unions are limited by the restriction on adding underserved areas to their FOM. One area where this legislation would be extremely helpful is in rural areas. According to a recent report by the Federal Reserve, between 2012–2019 credit unions grew their branch presence in rural areas by 2 percent, while community banks decreased rural branches by 5 percent and large banks decreased rural branches by 19 percent. Credit unions are proud to be at the forefront of efforts to expand financial services access to rural areas, many of which are underserved, and want to do more. However, not all credit unions can add underserved areas to their field of membership, making it challenging for some to expand in rural areas. We urge the Committee to support legislation that would allow all types of credit unions to add underserved areas to their FOM.

NAFCU Supports Governance Modernization for Credit Unions

NAFCU supports S. 1767, the *Credit Union Employee and Member Safety Act*, introduced by Senators Tina Smith (D-MN) and Ben Sasse (R-NE), which would help protect credit unions and their members from abusive, fraudulent, or criminal activity. Currently, federal credit unions can only expel a member of their community by a two-thirds vote of all members at a special meeting and only if the behavior they are engaged in is illegal. With notice requirements, the time it takes to hold a special meeting is significant. This legislation would allow credit unions to adopt an expulsion policy to expel members who engage in abusive or illegal behavior, while allowing for an appeal process that would provide due process for the accused member. It would also provide parity with several state-chartered credit unions' model or standard bylaws, which often have a "for cause" provision or board-adopted policy for expulsion. Credit unions have an obligation to ensure their cooperatives act in the best interests of their members and local communities. This common-sense legislation would put safety first, while still protecting the rights of credit union members.

NAFCU Supports Efforts to Promote De Novo Credit Union Formation

NAFCU supports efforts to promote new credit unions, which has also been a focus for NCUA Vice Chairman Kyle Hauptman. We urge the Committee to consider legislation to improve the chartering process for new credit unions as well as to consider ways to reduce the regulatory burden that discourages new credit union formation.

Thank you for the opportunity to share our thoughts on the range of issues before the Committee and the NCUA. Should you have any questions or require additional information, please do not hesitate to contact me or Janelle Relfe, NAFCU's Associate Director of Legislative Affairs, at (571) 289-7550 or jrelfe@nafcu.org.

Sincerely,

Brad Thaler

Brad Thaler
Vice President of Legislative Affairs

cc: Members of the Committee on Banking, Housing, & Urban Affairs