



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 Steven T. Mnuchin
Secretary
United States Department of the Treasury
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

RE: Priorities of our Nation's Credit Unions

Dear Secretary Mnuchin:

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. In 2017, NAFCU leadership and member credit union representatives met with you and your staff to discuss issues of significant importance to credit unions. We respectfully request another such meeting to discuss recent changes in the economy and the financial services industry.

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. Below, NAFCU outlines these general priorities, which touch upon both legislative and regulatory concerns, followed by a more detailed discussion of the priorities that specifically concern the U.S. Department of the Treasury (Treasury). 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 It also includes the ability of credit unions to establish healthy fields of membership that are not limited by outdated laws or regulatory red tape.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.

Treasury-Specific Priorities

Regulatory Relief

Even though Congress passed the first major financial services regulatory relief package in over a decade in 2018, NAFCU remains engaged with both the Senate Banking and House Financial Services Committees in an effort to continue to reduce regulatory burdens on credit unions. In addition, the Treasury has concluded a series of reports that lay the groundwork for implementing the President's deregulatory agenda, and which contain many NAFCU-supported proposals for regulatory relief. These recommendations include a moratorium on any first party debt collection proposal, TCPA reform, fewer restrictions on small dollar lending, and changes to the Bureau's remittances rule. NAFCU encourages the Treasury to continue its involvement in formulating recommendations for regulatory relief, specifically with the recognition of the unique structure and role of credit unions in the financial services industry.

GSE/Housing Finance Reform

Although Congress has yet to produce a clear proposal for housing reform, preserving a

The Honorable Steven Mnuchin
January 9, 2019
Page 4 of 4

government guarantee, maintaining unfettered access to the secondary market, and ensuring fair pricing for credit unions based on loan quality will remain a top issue for NAFCU. NAFCU will continue to work with the administration and the Federal Housing Finance Agency (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). As Congress and the administration contemplate ways to reform the housing finance system, NAFCU will 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.

Oppose Community Reinvestment Act Coverage

In April 2018, Treasury issued a list of recommendations to improve the statutory framework of the *Community Reinvestment Act* (CRA). As a result of NAFCU's vigorous efforts to inform both regulators and Congress of the strong role credit unions play in underserved communities, the Treasury recommendations did not seek to extend the scope of the CRA to credit unions. However, in September 2018, legislation introduced by Senator Elizabeth Warren (D-MA) sought to expand the CRA to include certain credit unions. NAFCU has advocated against this legislation by drawing attention to the historical reasons the CRA was enacted and by educating regulators and lawmakers about the structure and purpose of credit unions. NAFCU will continue to aggressively fight any future efforts to place credit unions within the scope of the CRA.

Cybersecurity

NAFCU greatly appreciates the Treasury's willingness to engage with industry stakeholders to better understand credit unions' cybersecurity needs. NAFCU looks forward to continuing to collaborate with the Treasury's Office of Critical Infrastructure Protection and Compliance Policy to educate credit unions about available tools and resources to help identify cybersecurity vulnerabilities and find ways to combat those risks. NAFCU supports the Treasury's recommendation that financial regulatory agencies' harmonize their cybersecurity standards, and NAFCU will work to facilitate a stronger partnership with the NCUA to create a more cost-effective and efficient cybersecurity framework for the credit union industry.

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