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National Association of Federal Credit Unions | www.nafcu.org

Carrie R. Hunt
Senior Vice President of Government Affairs
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June 23, 2014

The Honorable Tim Johnson
Chairman
Senate Committee on Banking, Housing
and Urban Affairs
United States Senate
Washington, D.C. 20510

The Honorable Michael Crapo
Ranking Member
Senate Committee on Banking, Housing
and Urban Affairs
United States Senate
Washington, D.C. 20510

Re: The Financial Stability Oversight Council and Regulatory Coordination

Dear Chairman Johnson and Ranking Member Crapo:

On behalf of the National Association of Federal Credit Unions (NAFCU), the only trade association that exclusively represents the interests of our nation's federal credit unions, I write today as the committee prepares to receive testimony from Treasury Secretary Jack Lew in his capacity as the Chairman of the Financial Stability Oversight Council (FSOC). NAFCU member credit unions appreciate the committee's oversight with respect to this body of regulators. We are hopeful that the FSOC will continue to fulfill its duty to facilitate regulatory coordination for our nation's credit unions and their 97 million member-owners.

As members of the committee are aware, our nation's credit unions are struggling under an ever-increasing regulatory burden. A recent survey of NAFCU members found that 94% have seen their regulatory burden increase since passage of the *Dodd-Frank Act* in July of 2010. Credit unions, many of which have very small compliance departments, and in some instances a single compliance officer, must comply with the same rules and regulations as our nation's largest financial institutions that have the luxury of employing armies of lawyers. Furthermore, these compliance burdens are often compounded as new rules and regulations flow out of multiple regulators, often with little coordination on when they are released. As member-owned cooperatives, the resources spent on regulatory compliance at credit unions are undoubtedly taking away from the services and products credit unions are able to offer to consumers.

As the tide of regulation rises, there has never been a more critical time for the FSOC, led by Secretary Lew, to facilitate regulatory coordination among its member regulators. This duty includes facilitating information sharing and coordination among the member agencies of domestic financial services policy development, rulemaking, examinations, reporting requirements and enforcement actions. As outlined in the attached letter to then Treasury Secretary Timothy Geithner in 2012, under the Dodd-Frank Act the FSOC is effectively charged with ameliorating weaknesses within the regulatory structure therein providing a safe and more stable system as a whole. NAFCU appreciates the committee's focus on the activities of the

FSOC and looks forwarding to learning more about the steps that have been taken to avoid duplicative and over burdensome regulation of our nation's credit unions.

As detailed in NAFCU's five-point plan for regulatory relief delivered to Congress in February of last year, we believe regulatory relief is critical to the survival of credit unions. Accordingly, NAFCU is committed to pursuing every avenue – through the regulatory agencies and legislatively through Congress – possible to ensure credit unions are provided with real and substantial relief moving forward. Ensuring that the FSOC fulfills its duty to facilitate regulatory coordination would be a positive step in assisting our nation's credit unions as they navigate this unprecedented, and oftentimes unwarranted, amount of government regulation.

Thank you for the opportunity to comment on this important matter. If you have any questions or would like further information, please do not hesitate to contact me or NAFCU's Vice President of Legislative Affairs, Brad Thaler, at (703) 842-2204 or bthaler@nafcu.org.

Sincerely,

Carrie R. Hunt
Senior Vice President of Government Affairs/General Counsel

cc: United States Senate Committee on Banking, Housing and Urban Affairs

Enclosures: The National Association of Federal Credit Union's June 27, 2012 letter to Secretary Geithner – *"FSOC's Role to Reduce Regulatory Compliance Burden on Credit Unions"*

The National Association of Federal Credit Union's 5-point plan for credit union regulatory relief

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Fred R. Becker, Jr.
President and CEO

June 27, 2012

The Honorable Timothy F. Geithner
Secretary of the Treasury
United States Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

RE: FSOC's Role to Reduce Regulatory Compliance Burden on Credit Unions

Dear Secretary Geithner:

On behalf of the National Association of Federal Credit Unions (NAFCU), the only trade association that exclusively represents the interests of our nation's Federal credit unions (FCUs), I am writing to you in your capacity as Chairman of the Financial Stability Oversight Council (FSOC).

As you know, under the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Act), the FSOC has a duty to facilitate regulatory coordination. This duty includes facilitating information sharing and coordination among the member agencies of domestic financial services policy development, rulemaking, examinations, reporting requirements and enforcement actions. Through this role, the FSOC is effectively charged with ameliorating weaknesses within the regulatory structure, promoting a safer and a more stable system.

In regards to this goal, NAFCU would like to emphasize how important it is to credit unions for our industry's copious regulators to coordinate with each other to help mitigate regulatory burden. As highlighted in the testimony of NAFCU Board Member Ed Templeton before the House Financial Services Committee on May 9, 2012, it is not any single regulation, but the panoply of the regulatory regime of numerous regulators, each operating "within their own lanes" and with minimal, if any, interagency coordination, that not only helps create, but significantly magnifies, today's undue regulatory burden on credit unions and other small financial institutions.

In his testimony, Mr. Templeton, CEO of a small credit union that serves a large number of underserved Americans, emphasized the difficulties facing credit unions to

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plan ahead and keep pace with the rapid rate of regulatory changes under the Act. As Mr. Templeton testified, 96.4% of credit unions in a NAFCU survey last spring reported that they were devoting more staff time to regulatory compliance than they did in 2008. Consequently, credit unions have not been able to use their resources efficiently as they are devoting far too much time and money on regulatory compliance and related functions; they should be empowered, instead, to expend such time and resources to serving their members.

The array of regulations that are making operating a credit union more and more difficult are being fired simultaneously from multiple directions and by a host of agencies. For example, the Consumer Financial Protection Bureau (CFPB) has issued several rules and is soon expected to propose numerous major rules that would greatly impact credit unions' products and services, including savings, mortgage lending, and credit and debit card services. Concomitantly, the credit union's principle regulator, the National Credit Union Administration (NCUA), is issuing regulations on issues such as concentration and interest rate risk, loan participations, credit union service organizations and appraisal management. At the same time, the Department of Justice is issuing regulations on physical assess to ATMs, while the Department of Labor is issuing regulations on employee rights and the Financial Crimes Enforcement Network (FinCEN) is issuing regulations on currency transaction reports and suspicious activity reports.

As we have approached each agency regarding the ever-increasing regulatory burden, they quickly respond that the rules being issued by other agencies are outside of their purview. NAFCU believes the FSOC is well-positioned to rectify this lack of coordination. In that regard, we ask that you establish within the FSOC robust inter-agency coordination on the issuance of rules impacting financial institutions.

NAFCU also urges the FSOC to establish policy requiring member agencies to conduct and publish a thorough cost-benefit analysis prior to issuing regulations as well as a separate cost-benefit analysis a year after each regulation the agency prescribes and every other year thereafter. Also, a cost-benefit analysis should be conducted every two years on each regulation that an agency has on its books, with the agency required to justify the regulations' continued existence. These cost analyses should be reviewed by the FSOC to assess the total impact on the financial services industry. We strongly believe that conducting such exercises would better instruct regulators of the high cost of compliance, and equip them with the information necessary to assess whether a particular regulation is effective and justifiable.

America's credit unions have long been reliable sources of financial advancement for millions of people. We believe that the FSOC, with your leadership, is in a position to help credit unions and other small financial institutions continue to achieve their mission of serving their members.

NAFCU appreciates your attention to our concerns. Should you have any questions or concerns, please feel free to contact me or Carrie Hunt, NAFCU's General Counsel and Vice President of Regulatory Affairs, at 703-842-2234.

Sincerely,

Fred R. Becker, Jr.
President/CEO

cc: Members of the Senate Banking Committee
Members of the House Financial Services Committee
The Honorable Ben Bernanke, chairman of the Federal Reserve Board
Martin J. Gruenberg, acting chairman of the Federal Deposit Insurance Corporation
The Honorable Richard Cordray, director of the Consumer Financial Protection Bureau
Edward DeMarco, acting director of the Federal Housing Finance Agency
The Honorable Debbie Matz, chairman of the National Credit Union Administration
The Honorable Karen Mills, administrator of the Small Business Administration
The Honorable Hilda Solis, secretary of the Department of Labor
The Honorable Shaun Donovan, secretary the Department of Housing and Urban Development
James H. Freis, Jr., director, Financial Crimes Enforcement Network
The Honorable Julius Genachowski, chairman of the Federal Communications Commission
The Honorable Jon Leibowitz, chairman of the Federal Trade Commission

Learn How NAFCU's Five-Point Plan Will Bring Regulatory Relief to Credit Unions

In February 2013, NAFCU was the first trade association to call on this Congress to provide comprehensive broad-based regulatory relief for credit unions. As part of this effort, NAFCU sent Congress a five-point plan for regulatory relief that will significantly enhance credit unions' ability to create jobs, help the middle class, and boost our nation's struggling economy. The five-point plan is built on a solid framework of recommendations that provide regulatory relief through the following:

1. Administrative Improvements for the Powers of the NCUA

- Allow a federal credit union to petition NCUA for a waiver of a federal rule in favor of a state rule.
- Provide NCUA the authority to delay implementation of CFPB rules that affect credit unions and to tailor those rules for credit unions' unique structure.
- Require a cost/benefit analysis of all rules that includes a three-year look back and reevaluation of rules that cost 20 percent or more than their original cost estimate.
- Enact new examination fairness provisions to help ensure timeliness, clear guidance and an independent appeal process free of examiner retaliation.
- Improve the Central Liquidity Facility by removing the subscription requirement for membership and permanently removing the borrowing cap.

2. Capital Reforms for Credit Unions

- Direct NCUA and industry representatives to conduct a study on prompt corrective action and recommend changes.
- Modernize capital standards by directing the NCUA Board to design a risk-based capital regime for credit unions that takes into account material risks and allows the NCUA Board to authorize supplemental capital.
- Establish special capital requirements for newly chartered federal credit unions that recognize the unique nature and challenges of starting a new credit union.

3. Structural Improvements for Credit Unions

- Direct NCUA, with industry input, to conduct a study of outdated corporate governance provisions in the Federal Credit Union Act and make recommended changes to Congress.
- Improve the process for expanding a federal credit union's field of membership by allowing voluntary mergers among multiple common bond credit unions, easing the community charter conversion process and making it easier to include those designated as "underserved" within a credit union's field of membership.

4. Operational Improvements for Credit Unions

- Raise the arbitrary cap on member business loans to 27.5% or raise the exemption on MBL loans from $50,000 to $250,000, adjusted for inflation, and exempt loans made to non-profit religious organizations, businesses with fewer than 20 employees and businesses in "underserved areas."

- Remove requirements to mail redundant and unnecessary privacy notices on an annual basis, if the policy has not changed and new sharing has not begun since the last distribution of the notice.

- Allow credit unions greater authority and flexibility in how they invest.

- Provide NCUA the authority to establish longer maturities for certain credit union loans and greater flexibility in responding to market conditions.

- Provide federal share insurance coverage for Interest on Lawyers Trust Accounts (IOLTAs).

5. 21st Century Data Security Standards

- Establish national standards for safekeeping of all financial information.

- Establish enforcement standards for data security that prohibit merchants from retaining financial data, and require merchants to disclose their data security policies to customers.

- Hold merchants accountable for the costs of a data breach, especially when it was due to their own negligence; shift the burden of proof in data breach cases to the party that incurred a breach and require timely disclosures in the event of a breach.

For more information, visit **www.nafcu.org/regrelief.**