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January 6, 2015

The Honorable Mitch McConnell
Majority Leader
United States Senate
Washington, D.C. 20510

The Honorable Harry Reid
Minority Leader
United States Senate
Washington, D.C. 20510

The Honorable John Boehner
Speaker
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Nancy Pelosi
Minority Leader
U.S. House of Representatives
Washington, D.C. 20515

Re: Legislative Priorities of our Nation's Credit Unions for the 114th Congress

Dear Leader McConnell, Leader Reid, Speaker Boehner, and Leader Pelosi:

On behalf of the National Association of Federal Credit Unions (NAFCU), the only trade association exclusively representing our nation's federal credit unions, I write today to share the top legislative priorities of our nation's credit unions for the 114th Congress. As member-owned, not-for-profit financial institutions, credit unions provide nearly 100 million Americans with personal and small business financial service products as the economy continues to recover from the financial crisis. As you prepare the legislative agenda for this Congress, we hope that you keep in mind and address these top issues for credit unions.

Preservation of the Credit Union Tax Exemption

As we have communicated to Congress before, the cumulative benefit credit unions provide the greater U.S. economy totals over \$17 billion a year according to an independent study released by NAFCU in February of last year. This far outpaces the cost of the credit union tax exemption and any potential revenue that would be raised by eliminating the exemption. As the study also shows, the credit union tax exemption not only benefits credit unions and their members, but also bank customers and the American economy at large. Altering the tax status of credit unions would have a devastating impact not only on credit union members across the country, but also on consumers and small businesses in general. Eliminating the credit union tax exemption would result in the loss of 150,000 jobs a year, a shrinking of the GDP, and a net *loss* of revenue to the federal government.

Regulatory Relief

During the consideration of financial reform, NAFCU was concerned about the possibility of overregulation of good actors such as credit unions, and this was why NAFCU was the only credit union trade association to oppose the Consumer Financial Protection Bureau having

rulemaking authority over credit unions. Unfortunately, many of our concerns about the increased regulatory burdens that credit unions would face under the CFPB have proven true. The impact of this growing compliance burden is evident as the number of credit unions continues to decline, dropping by 21% (more than 1,600) institutions since 2007. A main reason for the decline is the increasing cost and complexity of complying with the ever-increasing onslaught of regulations. In February of 2013, NAFCU released a five-point plan for credit union regulatory relief and we have testified on regulatory burden before Congress on numerous occasions. One key element of this plan is enhancing the federal credit union charter, such as modernizing field of membership restrictions in the *Federal Credit Union Act*. Another key element is the elimination of outdated federal regulations, such as Regulation D's limits on account transfers. We appreciate the ongoing focus on finding ways to cut back on regulatory burden for small lenders that did not contribute to the financial crisis and urge that this remain a priority in the 114th Congress.

Capital Reform/Risk Based Capital

National Credit Union Administration (NCUA) Board Chairman Debbie Matz recently announced that she will ask the Board to consider a new revised proposed risk-based capital rule at the January Board meeting. NAFCU strongly supports a risk-based capital system for credit unions that would reflect lower capital requirements for lower-risk credit unions and higher capital requirements for higher-risk credit unions. The first proposal, however, failed to achieve this, and it remains unclear whether the agency will make the necessary modifications in the second proposal in order to create a true "risk-based" capital system for credit unions. Ultimately, NAFCU believes that Congressional action is needed on legislative proposals to bring about capital changes for credit unions such as allowing credit unions to have access to supplemental capital sources, and making the statutory changes necessary to design a true risk-based capital system for credit unions.

Data /Cyber Security

Data breaches in both the private and public sectors have the ability to cause irreparable harm to consumers everywhere. Credit unions are on the front lines assisting their members in the wake of ongoing data breaches and have a unique understanding of how detrimental such data breaches can be to all involved. Under the *Gramm-Leach-Bliley Act*, credit unions and other financial institutions are required to meet certain criteria for safekeeping consumers' personal information. Unfortunately, there is no comprehensive regulatory structure akin to Gramm-Leach-Bliley that covers retailers, merchants and others who collect and hold sensitive information. NAFCU strongly supports the passage of legislation requiring any entity responsible for the storage of consumer data to meet standards similar to those imposed on financial institutions under the *Gramm-Leach-Bliley Act*. NAFCU also strongly believes that the negligent entity should be held responsible for monetary damages stemming from the breach.

Housing Finance Reform

As not-for-profit cooperatives, NAFCU's primary concerns are that credit unions continue to have unfettered access to the secondary mortgage market and that any Fannie Mae and Freddie Mac reform efforts place a heavy emphasis on fair pricing that reflects loan quality. The liquidity the current system provides is absolutely critical in enabling credit unions to serve the mortgage

needs of their member-owners. Along with access to a healthy and viable secondary mortgage market, fair pricing is equally as critical in ensuring community-based financial service providers are not discriminated against based on type of institution, an institution's asset size or any other geopolitical issues. NAFCU also recognizes the need for a system that will protect taxpayers from future bailouts and will continue to be an active participant in housing finance reform discussions.

Member Business Lending

As you are aware, credit unions have a 12.25% asset cap on their business lending, with loans of only \$50,000 or less exempt from this cap. Passed in 1998, these arbitrary thresholds are severely outdated and have not increased to account for inflation and economic fluctuations. NAFCU asks that Congress increase the *de minimis* exclusion to exempt additional loans and consider exemptions for veterans applying for small business loans. We also believe it is imperative that Congress increase the arbitrary 12.25% cap to help ensure that small business owners have as many resources as possible to access credit.

Patent Reform

A growing number of credit unions are reporting receipt of demand letters from law firms representing patent assertion entities, claiming patent infringement, with the option to settle or face litigation. These deceptive letters are confusing and misleading as they often allege that the use of everyday technology violates the patent holders' rights. Further, these letters typically assert vague or hypothetical theories of infringement, and often overstate or misinterpret the patent in question. Because the cost of litigation is often more expensive than paying a settlement amount, these "patent trolls" use the threat of litigation as leverage to extract payment from the recipient business who settles in lieu of running the risk of a complex and lengthy legal battle. Legislative reforms are needed to fix the patent system and end these abusive practices.

Thank you for your consideration and attention to these important issues. If we can answer any questions or provide you with further information on this matter, please do not hesitate to contact myself or NAFCU's Vice President of Legislative Affairs, Brad Thaler, at 703-842-2204.

Sincerely,



B. Dan Berger
President and CEO

cc: Members of the United States Senate
Members of the United States House of Representatives