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Via electronic submission

December 2, 2019

The Honorable Rodney Hood
Chairman
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314

Re: NCUA 2020-2021 Budget

Dear Chairman Hood:

The Independent Community Bankers of America ("ICBA")¹ is writing in response to the National Credit Union Administration's ("NCUA" or "Agency") request for comments regarding its 2020-2021 Budget. ICBA's remarks are limited to Board Member Todd Harper's proposal to allocate budget funds for the creation of a dedicated consumer compliance exam program for large, complex credit unions. ICBA supports Board Member Harper's proposal, as it would enhance the Agency's goal of devoting more resources to consumer protection and help ensure that the Agency's consumer protection efforts achieve parity with those of the other federal banking agencies.

ICBA has long argued that all providers of consumer financial services and products – regardless of charter type or business model – should be subject to meaningful supervision and examination. Gaps in regulatory coverage create conflicting standards that confuse and potentially harm consumers and create competitive disparities.

¹ The Independent Community Bankers of America® creates and promotes an environment where community banks flourish. With more than 50,000 locations nationwide, community banks constitute 99 percent of all banks, employ nearly 750,000 Americans and are the only physical banking presence in one in three U.S. counties. Holding more than \$5 trillion in assets, nearly \$4 trillion in deposits, and more than \$3.4 trillion in loans to consumers, small businesses and the agricultural community, community banks channel local deposits into the Main Streets and neighborhoods they serve, spurring job creation, fostering innovation and fueling their customers' dreams in communities throughout America. For more information, visit ICBA's website at www.icba.org.

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NCUA does not currently prioritize consumer protection examinations

As evidenced in the NCUA's Annual Reports and the most recently available Examiner Time Survey, the Agency spends a large majority of its time on safety and soundness matters related to the Share Insurance Fund. Of the approximately 457,000 hours spent examining and supervising federal credit unions, only 55,000 hours, or 12 percent, were spent on non-insurance, compliance-related matters. While protecting taxpayers from losses to the Share Insurance Fund should certainly be a priority of the NCUA, the protection of consumers should not be so severely relegated. Rather, it should be prioritized to be more on par with that of other federal banking regulators.

For example, in 2018 alone, the Federal Deposit Insurance Corporation ("FDIC") conducted 1,200 compliance and fair lending exams, while the Federal Reserve Board ("FRB") conducted approximately 250. Additionally, the banking agencies currently dedicate significant resources to prioritize consumer protection. The FDIC's program focuses on the bank's activities and products that pose the greatest potential risk of consumer harm or otherwise require increased supervisory attention. These exams are separate from the assessments of banks' compliance management systems and Community Reinvestment Act performance.

Similarly, the FRB has established the Consumer Compliance Proficiency program, a consumer compliance examiner training curriculum consisting of five courses focused on consumer protection laws, regulations, and examining concepts. Examinations are the FRB's primary method of ensuring compliance with consumer protection laws and assessing the adequacy of consumer compliance risk-management systems within regulated entities.

In stark contrast, it appears that the NCUA underprioritizes consumer protection. Credit unions added 22 million members since 2013, now totaling approximately 117 million. Given the membership growth, there has been an increase in consumer complaints, from 3,480 complaints in 2013, to 53,337 complaints in 2018. **Yet despite the substantial growth in membership and consumer complaints, the NCUA still only conducted 66 fair lending exams and supervisory contacts in 2018, a decrease from 2013.** Though an increase in membership and consumer complaints might not directly correlate to fair lending violations, it stands to reason that the NCUA's oversight of the industry should not remain static in the face of these substantial increases. The lack of change implies that the NCUA is not keeping pace with the changing dynamic of the industry that it regulates.

NCUA regulatory changes warrant increased supervision

Apart from the NCUA's stark disparity in prioritizing compliance exams, ICBA notes that an increase in oversight would be prudent in light of the Agency's proposed changes to field of

membership (“FOM”) regulations, which raise the potential of redlining and other illegal discriminatory activities. As a “safeguard” to protect against this illegal activity, the NCUA is relying on the use of fair lending exams. The proposal states, in part, “the potential for discrimination by a federal credit union is further lessened because, like other financial institutions, federal credit unions are subject to consumer protection statutes such as the Equal Credit Opportunity Act of 1974 and the Fair Housing Act of 1968.”

However, if the Agency intends for fair lending laws to serve as an effective safeguard against illegal discrimination, then it is incumbent for the Agency to actually oversee the laws’ implementation through adequate oversight and examination.

The Agency has also proposed or finalized other regulations that increase the potential for illegal discrimination, apart from the FOM rule. For example, the Agency has also finalized a commercial real estate appraisal threshold that is twice as high as other agencies and has made it easier for federal credit unions (FCUs) to expel members.

ICBA is not convinced by the argument that due to credit unions’ member-owner structure, there is not as much need for compliance oversight. There are approximately 400 banks that are taxpaying mutual institutions with the same member-owner structure as credit unions and they are subject to the same compliance oversight as other taxpaying banks.

In conclusion, it is sound public policy to eliminate disparities among regulators where possible, especially with regard to protecting consumers. ICBA appreciates this opportunity to comment on the proposed enhancements to the NCUA’s compliance oversight. As the NCUA considers these comments, please do not hesitate to contact me with any questions.

Sincerely,



Rebeca Romero Rainey
President and CEO