



**Submission for the Record
From Lucy Ito, NASCUS President and CEO
To Senate Committee on Banking, Housing, and Urban Affairs
Hearing on Regulatory Relief for Community Banks and Credit Unions
February 10, 2015**

Chairman Shelby, Ranking Member Brown, and distinguished Members of the Committee:

The National Association of State Credit Union Supervisors (NASCUS) appreciates the opportunity to provide this written statement for the record of the February 10, 2015 Senate Committee on Banking, Housing, and Urban Affairs hearing regarding regulatory relief for community banks and credit unions. As the professional association of the nation's state credit union regulatory agencies, NASCUS has been committed to enhancing state credit union supervision and advocating for a safe and sound credit union system since its inception in 1965.

NASCUS would like to take this opportunity to thank the committee for its continued attention to regulatory relief and to provide a few recommendations for legislative action moving forward.

NCUA Board Reform

Congress can have a profound, and lasting, impact on credit union regulation by enhancing the governance of the National Credit Union Share Insurance Fund (NCUSIF). Expanding the National Credit Union Administration (NCUA) Board to five members, even if only in its capacity as administrator of the NCUSIF, would enhance its deliberative process, expand its collective expertise, and increase the opportunities for stakeholders to engage with the NCUA Board to advocate for future regulatory improvements. Although increasing the number of regulators may seem antithetical to decreasing the number of unnecessary regulations, the broader range of views engaged across a five-person body can prevent superfluous or imprudent proposals from becoming binding regulation.

Given that the administration of the NCUSIF has a substantial effect on the state credit union system, we also recommend that one of the NCUA Board positions be designated for a candidate who has served as a state credit union supervisor. Codifying an NCUA board seat for a former state regulator would provide important perspective on the impact of

federal regulations on local communities and help streamline supervisory coordination between state and federal regulators to eliminate redundancies.

The aforementioned changes to the NCUA Board and the governance the NCUSIF would vastly improve the federal regulatory structure of the credit union system and can be achieved with de minimis cost to the credit union system, and at no cost to taxpayers. NASCUS encourages the committee to adopt legislation that would provide the federal regulator and insurer of the nation's credit unions with the same depth and breadth of expertise as the federal deposit insurance fund.

Supplemental Capital –Capital Reform

Credit unions need Congress to provide capital reform. The Federal Credit Union Act (FCUA) limits regulatory capital for credit unions to retained earnings for the purpose of satisfying the 7% net worth ratio requirement. This statutory construction limits credit unions' ability to build capital and manage their balance sheets, and is not necessary to preserve the cooperative not-for-profit structure that makes credit unions unique and member-focused.

If authorized by Congress, the NCUA board could approve the use of uninsured non-share accounts that would not alter the one-member-one-vote governance structure of credit unions. Such a system would bolster the capital reserves of the credit union system, providing an added layer of protection for the National Credit Union Share Insurance Fund (NCUSIF) and taxpayers. It would also enable credit unions to increase consumer and small business lending when demand for credit is high, and continue to accept deposits during times of increased savings.

During the financial crisis, healthy credit unions were forced to turn member deposits away in order to protect their regulatory capital ratio – the swell in assets combined with low demand for loans threatened to push them into Prompt Corrective Action. When healthy well-managed credit unions are facing supervisory action because they are statutorily prevented from avoiding it, it diverts regulator attention from institutions with real difficulties and deprives communities of vital financial services in times of stress. NASCUS strongly urges the committee to adopt legislation to lift this burdensome and unnecessary regulation this year.

Member Business Loan Reform

Currently, credit union member business loan portfolios are limited to the lesser of 12.25% of assets or 1.75 times net worth. Member business loans encompass any loan over \$50,000 extended for commercial, corporate, business venture, or agricultural purposes. The definition includes loans for non-owner occupied 1-4 family homes. This arbitrarily low limit makes it difficult for credit unions to cost effectively offer vital credit products and services to local businesses and farms. Congress should take action to support small

business lending by raising this cap, amending the statute to increase the \$50,000 exclusion threshold, and removing non-owner occupied 1-4 family homes from the definition. There is no prudential justification for maintaining these crippling statutory restrictions. Credit union business lending activity is closely supervised by state and federal regulators and it could be effectively managed through a more flexible system of regulatory oversight, with a much smaller overall burden on the industry.

NCUA has taken some action to alleviate the regulatory burden of member business loan restrictions by providing parity with banking regulations on risk-based capital requirements for non-owner occupied 1-4 family homes, but legislative action is needed to provide meaningful relief. NASCUS supports legislation that would make these crucial adjustments, including the Small Business Lending Enhancement Act introduced by Senator Udall and the Credit Union Residential Parity Act introduced in the House of Representatives last term.

Privacy Notifications

Congress can also make a large impact for small institutions by easing the requirement for annual privacy notice disclosures. Although the CFPB has taken some positive steps to ease disclosure burdens by allowing institutions to post annual privacy notices online under certain circumstances, legislative action is still needed. Last year, the House of Representatives passed legislation (H.R. 749) to provide an exemption to the annual privacy notice requirement for institutions that do not provide information to non-affiliated third parties, and that have not changed their policies. In the Senate, the Privacy Notice Modernization Act (S.635), sponsored by Ranking Member Brown, garnered 75 cosponsors and broad bipartisan support, but was never passed. Last week, Senator Moran introduced new legislation that would accomplish this same goal (S. 423), and Representative Luetkemeyer has re-introduced matching legislation in the House (H.R. 601). NASCUS urges the Committee to take immediate action on this issue and provide this common sense regulatory relief to credit unions and other community financial institutions as soon as possible.

In closing, we encourage the committee to remain actively engaged in regulatory oversight. Just as state legislatures work to ensure that state regulators strike the correct balance in supervising local financial institutions, Congress has a role to play in ensuring that federal regulators remain committed to right-sizing regulations. For example, the EGRPRA review process can be a valuable tool to minimize outdated, unnecessary, or unduly burdensome requirements, and NASCUS appreciates the committee's dedication to improving the productivity of that exercise. In addition, several members of the committee have been active in providing meaningful oversight to the risk-based capital deliberations, and we encourage you to remain engaged in that debate as the rule is finalized.

NASCUS appreciates the opportunity to submit written comments on this important issue. NASCUS and its state regulator members are available to answer any questions that the

committee may have regarding the safety and soundness or regulatory burden of any of these proposed reforms. We look forward to continued dialogue and progress in the effort to eliminate unnecessary regulatory burdens.