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January 18, 2024

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

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

The Honorable Patrick McHenry
Chairman
Committee on Financial Services
United States House of Representatives
Washington, D.C. 20515

The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
United States House of Representatives
Washington, D.C. 20515

Re: Request for a hearing on Navy Federal’s discriminatory lending and related credit union industry concerns

Dear Chairman Brown, Ranking Member Scott, Chairman McHenry, and Ranking Member Waters:

On behalf of the Independent Community Bankers of America (ICBA) and the nearly 50,000 community banks we represent, I write to request that you convene a hearing at the earliest opportunity to examine credit union lending practices and the National Credit Union Administration’s (NCUA’s) oversight of the industry.

[Recent CNN reporting](#) has demonstrated that Navy Federal Credit Union’s African American mortgage applicants are more than twice as likely to be declined as white applicants. Hispanic applicants are about 85 percent more likely to be declined compared to white applicants. This report has generated outrage on social media, class action litigation, and inquiries from numerous members of Congress, including a letter from Chairman Brown signed by eight members of the Senate Banking Committee and Senate Finance Chairman Wyden, a letter from House Financial Services Ranking Member Waters, and a letter led by House Financial Services Ranking Member on Housing Emanuel Cleaver and Congressional Black Caucus Chairman Steven Horsford, which was cosigned by 40 members of the House and Senate.

The significant public and congressional interest in Navy Federal Credit Union’s lending practices warrants a hearing, which would be an excellent opportunity to examine the industry and its regulator. Below are some questions that might be explored in a hearing.

Is Navy Federal an isolated case or are discriminatory practices widespread within the credit union industry?

The CNN reporting relies on robust analysis of HMDA data, which has not been seriously disputed by Navy Federal. Navy Federal was likely selected for analysis as the largest credit union with assets of \$168 billion. No

broad scale analysis of the industry has been undertaken. Would the same analysis reveal similar lending practices at other credit unions? What is the true extent of the abuses?

Does permissive NCUA oversight enable discriminatory lending?

Many observers believe that NCUA's consumer compliance supervision has failed to keep pace with a changing industry. In 2019, NCUA Board Member, now Chairman, Todd Harper, remarked that: "As the largest credit unions continue to grow in size, the time has come for the NCUA to evolve its consumer compliance program." Harper proposed additional hiring in the agency's Office of Consumer Financial Protection to create a dedicated consumer compliance examination program for large, complex credit unions. Unfortunately, the Board rejected Harper's proposal.

In 2021, the NCUA Inspector General found that NCUA doesn't investigate whether laws were actually broken when overseeing complaints: "Based on our review of complaints, we determined that the agency's consumer complaint process focuses mostly on assisting consumers with resolving consumer complaints with their credit union as opposed to determining whether the credit union has violated a law or regulation... Because the credit union resolves the issue with the consumer without a violation determination, the credit union could continue violating the consumer protection law after it resolves the complaint."

This is clearly not how consumer compliance is handled at the banking agencies. Does the NCUA's permissiveness explain, at least in part, rampant credit discrimination at Navy Federal and possibly other credit unions?

As the National Community Reinvestment Coalition has noted, the number of consumer complaints received by the NCUA rose from 3,480 in 2013 to 53,337 in 2018, while the number of fair lending exams and supervisory contacts decreased from 70 to 66 over the same period. By contrast, every bank is examined for fair lending on a regular basis without exception on a 12-month or 18-month cycle, and every year the agencies conduct thousands of exams. If Navy Federal were examined in the way that a bank of its asset size is examined, would its discriminatory lending practices have been allowed to proliferate and harm thousands of African American and Hispanic borrowers?

Would the application of the Community Reinvestment Act (CRA) effectively curb credit union lending abuses?

Banks are subject to the Community Reinvestment Act (CRA) and thereby held accountable for their service to low- and moderate-income (LMI) consumers in the communities in which they operate. No similar regulatory mechanism applies to credit unions, though they were created and granted a generous tax exemption for the purpose of serving consumers of "modest means." The credit union exemption from CRA is steadily eroding the scope and coverage of the law as credit unions grow and acquire community banks, thereby removing CRA-covered institutions from the market and leaving more low-income communities without an accountable financial services provider. The banking agencies have now finalized the most comprehensive reform to the CRA in the last two decades, which will likely present opportunities and challenges for our members. We firmly believe it is time for Congress to revisit the outdated credit union exemption. Potential fair lending violations at Navy Federal only strengthen this case. We are encouraged by recently enacted state laws that subject state-chartered credit unions to CRA.

What is the consumer impact of the recent surge in credit union-bank acquisitions?

Credit union-bank acquisitions cut safeguards for low- and moderate-income consumers. On January 11, Global Credit Union of Alaska announced plans to acquire \$1.5 billion asset First Financial Northwest Bank in Washington. If completed, this would be the largest bank acquired by a credit union to date.

First Financial Northwest's most recent CRA rating is Outstanding. Unfortunately for the consumers and communities it serves, this community bank will be subsumed by an \$11.8 billion, out-of-state credit union with no accountability for its service to LMI communities.

Unfortunately, this latest deal is part of a strengthening trend of credit union-bank acquisitions which has steadily eroded the coverage of CRA. A decade ago, there were no more than one or two such deals in a given year. In 2022, 15 deals were announced, and another 11 were announced last year. ICBA fully expects this trend to strengthen in future years as larger, more growth-oriented credit union exploit opportunities, leveraging their tax exemption and their new authority to issue subordinated debt to outbid banks in the market for acquisitions. More and more consumers will be effectively stripped of fundamental protections.

Why has the NCUA failed to finalize its acquisitions proposal?

In January of 2020, NCUA issued a proposed rule titled: "Combination Transactions with Non-Credit Unions; Credit Union Asset Acquisitions." According to then-Chairman Rodney Hood, the purpose of the rule was to "make sure that they [credit unions] are acquiring a bank that comports with their existing field of membership and the lines of business in which they are operating." We believe the proposal would increase the transparency of these transactions, though it falls short in other respects. Unfortunately, the NCUA has yet to finalize this proposal.

We believe this trend as well as the NCUA's inaction on its proposal warrants examination by the Banking Committee.

Closing

As large credit unions such as Navy Federal have prioritized rapid growth and non-traditional financial product offerings, the NCUA has failed to keep pace with the evolving character of the industry, putting credit union members at risk of the discriminatory practices documented by CNN and other abuses.

We urge the Banking Committee to convene a hearing into Navy Federal's lending practices and the NCUA's oversight of the credit union industry a matter of significant public concern. A hearing would allow for robust consideration of the trends discussed above and their impact on American consumers.

Thank you for your consideration, and we look forward to your response.

Sincerely,

/s/

Rebeca Romero Rainey
President & CEO

CC: Members of the Senate Banking Committee
Members of the House Financial Services Committee