May 3, 2019

The Honorable Kathy Kraninger
Director
Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552

Dear Director Kraninger:

Last week, you received a letter requesting special treatment from the CFPB for the credit union industry.[1] That request is the latest step in what has been a years-long campaign waged by credit unions, their trade associations, and, remarkably, their federal prudential regulator, seeking exemptions from CFPB regulation and supervision solely on the basis of their charter-type.[2] While we believe the Bureau should take every opportunity to reduce the regulatory burden for all financial institutions and eliminate duplicative supervision, we strongly disagree with the premise the consumer financial services offered by credit unions inherently differ from those offered by other financial institutions competing in the marketplace. Policymakers have reason to seriously question the appropriateness of the special treatment being sought by credit unions and their federal prudential regulatory authority, the National Credit Union Administration (NCUA).

The credit union industry is not small, special, or immune to the consumer risks the Bureau is charged by Congress to address. The credit union industry has seen exponential growth in the recent past, with the industry now claiming 115 million memberships (one out of every three Americans), and industry assets now approaching *$1.5 trillion.* The more than 300 credit unions that are each larger than $1 billion have more customer assets than 88% of the banks in this country. In addition, there are nine credit unions over $10 billion in assets, including one over $100 billion in assets, putting it in the top 1% of all depository institutions. Credit unions proudly trumpet they are no different from banks when it is convenient for them to do so; as a typical example, the $12.2 billion Golden1 advertises it "offer[s] the same products, services, and stability you'd find at a traditional bank."[3] A customer-owned structure is also not unusual; mutual banks and mutual savings associations are also owned by their customers. From a consumer lending standpoint, large credit unions are complex institutions that offer many of the same consumer products as banks. In our view, embracing the myth that credit unions are somehow "different" would be misguided and could lead to different and uneven consumer protections for 115 million Americans.

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[1] Letter from Jim Nussle, CEO, Credit Union Nat'l Assn., to Kathy Kraninger, Director, Consumer Financial Protection Bureau, April 22, 2019.

[2] Letter from J. Mark McWatters, Chairman, Nat'l Credit Union Admin., to Richard Cordray, Director, Consumer Financial Protection Bureau, May 24, 2017 ("First NCUA Letter"); Letter from J. Mark McWatters, Chairman, Nat'l Credit Union Admin., to Richard Cordray, Director, Consumer Financial Protection Bureau, July 6, 2017 ("Second NCUA Letter").

[3] *See* "All Californians Can Join," Golden1 Credit Union, *available at* https://www.golden1.com/Membership/default.

By creating the CFPB, Congress centralized consumer protection regulation and specifically directed the Bureau to supervise and enforce consumer rules over *all* depository institutions over $10 billion in total assets. This ensures a level playing field for all institutions that offer consumer financial products and services, and consistency in supervision across these institutions. Pursuant to Section 1025 of the Dodd-Frank Act, Congress was crystal clear that credit unions should be held to the same standards as that of other large depository institutions engaged in consumer banking activities. As such, exempting large credit unions from CFPB regulation and supervision clearly would go against Congress' unequivocal directive.

NCUA argues that its "proactive supervisory role as a prudential regulator"[4] makes it better equipped to oversee consumer protection issues for credit unions. As a threshold matter, there are reasons to call this assessment into question. Over the past decade, NCUA's Inspector General and the U.S. Government Accountability Office (GAO) have issued reports sharply critical of the adequacy of NCUA supervisory procedures and the competency of NCUA examiners.[5] In fact, analyzing a series of recent credit union failures in a report released just last month, NCUA's OIG "determined NCUA may have mitigated the loss to the Share Insurance Fund had they taken a more timely and aggressive supervisory approach … regarding unsafe and unsound lending practices, ineffective risk management, and repeat violations of certain NCUA member business lending regulations."[6] The Bureau should rightly question NCUA's past performance as the industry argues that NCUA is its best arbiter for consumer protection.

Credit union advocates should stop trying to unfairly benefit themselves by creating a competitive advantage through a preferential regulatory structure that would place themselves outside of consumer protection rules with which banks of all sizes must comply, and forego the supervision of the Bureau. Congress rejected that view when it created the Bureau with a jurisdiction that includes credit unions and their customers. We urge the Bureau to reject the self-serving call for credit unions to be treated differently than other lenders.

Sincerely,

American Bankers Association
Consumer Bankers Association

CC: Members of the Senate Committee on Banking, Housing, and Urban Affairs

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[4] First NCUA Letter at 1.
[5] *See, e.g.,* National Credit Union Administration, Office of Inspector General, Capping Report on Material Loss Reviews, OIG-10-20, at 20; U.S. Gov't Accountability Office, GAO-12-247, "Earlier actions are needed to better address troubled credit unions."
[6] National Credit Union Administration, Office of Inspector General, Material Loss Review of Melrose Credit Union, LOMTO Federal Credit Union, and Bay Ridge Federal Credit Union, OIG-19-06, at 11.