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December 19, 2002

Becky Baker
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314-3428

Re: National Credit Union Administration; Proposed Rule; Interpretive Ruling and Policy Statement 02-4; Developing and Reviewing Government Regulations; 12 CFR Part 791; 67 Federal Register 72113, December 4, 2002

Dear Ms. Baker:

The National Credit Union Administration (“NCUA”) through a proposed rule, Interpretive Ruling and Policy Statement (“IRPS”) 02-4, is seeking to amend the Regulatory Flexibility Act provisions of NCUA’s IRPS 87-2 dealing with the definition of a small credit union. Currently, a small credit union is defined as having assets less than \$1 million. NCUA is proposing raising this asset size threshold to less than \$10 million. The American Bankers Association (“ABA”) does not object to raising the asset size threshold to less than \$10 million. However, the ABA would oppose any attempt to raise the threshold beyond this level if such an increase were advocated during the comment process.

The ABA brings together all categories of banking institutions to best represent the interests of this rapidly changing industry. Its membership – which includes community, regional and money center banks and holding companies, as well as savings associations, trust companies and savings banks – makes ABA the largest banking trade association in the country. For further information regarding the ABA, please consult the ABA on the Internet at <http://www.aba.com>.

Background

This proposed rule, IRPS 02-4, amends the Regulatory Flexibility Act. The Regulatory Flexibility Act generally requires Federal agencies to prepare analyses to describe the impact of proposed and final rules on small entities. Since 1981, the NCUA has defined small entity in this context to mean those credit unions with less than one million dollars in assets. The proposed rule redefines small entity to mean those credit unions with less than ten million dollars in assets.

ABA Position

ABA concurs with NCUA’s analysis that “[t]he proposed definition of small credit union is consistent with recent statutes and NCUA regulations providing regulatory compliance relief. For example, in 1998 Congress amended the Federal Credit

Union Act ("FUCA") to require that credit unions follow generally accepted accounting principles, but at the same time excused credit unions with less than ten million dollars in assets under a de minimus (sic) exception. 12 U.S.C. 1782(a)(6)(C)(i), (iii). Another 1998 amendment to the FCUA requires NCUA to provide 'small credit unions', defined as those under ten million dollars in assets, with special assistance in meeting prompt corrective action requirements. 12 U.S.C. 1790d(f)(2). Finally, NCUA regulations provide that federally insured credit unions with less than ten million dollars in assets may file a short form call report in the spring and fall. 12 CFR 741.6(a)."

Also, the Credit Union National Association ("CUNA") defines a small credit union as having assets under \$5 million in its *Credit Union Services Profile: Services and Operating Characteristics as of December 2000* in Appendix B. The report highlights numerous operational and service characteristic differences between small and other-sized credit unions.

For example,

- Only 24 percent of small credit unions offer share drafts, while 84 percent of medium-sized credit unions and 98 percent of large credit unions offer this product.¹
- Only 8 percent of small credit unions offer Visa/MasterCard Debit compared to 57 percent of medium-sized credit unions and 89 percent of large credit unions.
- Eleven percent of small credit unions have ATM access versus 74 percent and 97 percent for medium and large credit unions, respectively.
- Eleven percent of small credit unions offer first mortgages compared to 55 percent for medium-sized credit unions and 92 percent for large credit unions.
- Thirty-five percent of small credit unions have an exempt employee compared to 81 percent and 98 percent for medium and large credit unions, respectively.

In addition, on an inflation-adjusted basis, \$1 million in assets in 1981 would equate to approximately \$2 million in 2002. The proposed threshold of less than \$10 million is 5 times larger than inflation adjusted 1981 level. Thus, the new definition for a small credit union factors in both changes in the price level and also real growth.

Conclusion

Thus, the less than \$10 million asset threshold is a more than generous demarcation point between small credit unions and other credit unions for regulatory purposes. The definition is consistent with recent statutory and regulatory treatment. In real

¹ CUNA defines a medium-sized credit union as having between \$5 million and \$50 million in assets and a large credit union as having over \$50 million in assets.

(or inflation adjusted) terms, the size of small credit unions has increased almost five-fold.

If you have any questions about our comment letter, please contact the undersigned or Keith Leggett at 202-663-5506.

Sincerely,

A handwritten signature in cursive script that reads "John C. Rasmus".

John C. Rasmus