



November 27, 2024

Melane Conyers-Ausbrooks
Secretary of the Board
National Credit Union Administration
1775 Duke St.
Alexandria, Virginia 22314

RE: The NCUA Staff Draft 2025-2026 Budget Justification, NCUA-2024-0135

Dear Ms. Conyers-Ausbrooks:

The Consumer Federation of America (CFA) respectfully submits this comment to the National Credit Union Administration for consideration during its annual budgeting process.

CFA supports the mission of credit unions. Since our founding in 1968, representatives of credit unions have served on our Board and engaged as members of our coalition. Credit unions epitomize an economy led by consumers. Today, more than 100 million people are members of a credit union. Their popularity reflects the value they deliver to their shareholders. Separately but also of great importance, many credit unions are explicitly chartered to support low-income households. Credit unions continue to fulfill their mission.

Credit unions should be different than banks.

Nonetheless, we have concerns whenever a credit union develops policies contradicting these critical goals. In general, credit union leaders should seek to achieve goals that differ from those of for-profit banks. Their strategies should reflect this distinction.

All federal credit unions have a field of membership (FOM) by design. The “common bond” basis for qualifying varies widely, but this characteristic impacts marketing and customer acquisition. Banks are not under the same restriction. Instead, any consumer may qualify for their accounts. Recently, some credit unions have sought to increase their size by marketing to audiences whose populations have no connection to their FOMs. For example, several credit unions have purchased naming rights to sports arenas. There is no rational linkage between attending a sporting event and meeting the FOM qualifications. Inevitably, this tactic will involve expenditures of shareholder funds that do not serve shareholder interests. Any resulting gains would boost profitability to the extent there is an impact. Profitability is important to maintain financial sustainability, but it should not go against the FOM restriction.

Credit unions should not rely on overdraft and non-sufficient funds fees for a disproportionately large share of their revenues.

While most credit unions have policies to prevent consumers from incurring penalty fees, a small subset of credit unions depend on these charges for their financial sustainability. When the state of California released data on overdraft revenues at the credit unions it supervises, it revealed a set of outlier institutions where overdraft fees were significant sources of income. At twelve credit unions, overdraft fees were equal to or greater than 14 percent of net income. At five institutions, the share exceeded forty percent; at one, the total was larger than net income.¹ These outcomes are not accidental. Credit unions can design their settlement policies to increase or decrease the number of overdrafts.

The NCUA should consider policies to prevent credit unions from using "high-to-low" posting of batched payments. Additionally, to ensure accountability, the NCUA should follow the lead of the state of California and require credit unions to report data on penalty fees. The NCUA should also consider steps to discourage credit unions from charging "returned deposit item" fees, as consumers cannot prevent a deposit from being returned, nor do they receive a benefit in exchange for the fee.

The NCUA deserves more resources to fulfill its mission.

Policymakers have raised concerns about how the NCUA will implement its essential mission. In that context, we should acknowledge that funding should reflect the dynamic nature of the broader economy. As the world changes, so should its financial regulators.

The NCUA should create a new position for a green climate officer. This position can direct the organization to identify opportunities to ensure a transition to the new green economy and ensure that communities are not left behind by the impact of climate change or the unforeseen consequences of policies to address it.

The NCUA should also employ new staff to enforce consumer financial law violations. Recently, the CFPB announced an enforcement action against a large credit union in response to the harms of its failed adoption of a new online banking platform.² To accomplish this result, the CFPB worked in partnership with the NCUA. We applaud the staff at both organizations for their work in achieving this outcome. Nonetheless, a lack of staffing may prevent the NCUA from identifying other harmful practices. To this end, the NCUA should hire two new enforcement lawyers.

Lastly, the NCUA should consider complementing its existing supervisory staff with new professionals with narrow subject-matter expertise. Currently, the NCUA uses generalists acting from its eight regional offices. These officers are exceptionally committed to their work. Even with this, a person can only accomplish so much, and it would be unfortunate if a lack of resources

¹ Klein, Aaron. "Credit Unions Are Making Money Off People Living Paycheck to Paycheck." *POLITICO* (blog), October 5, 2023. <https://www.politico.com/news/magazine/2023/10/05/credit-unions-overdraft-fees-00119904>.

² Consumer Financial Protection Bureau. "CFPB Orders VyStar Credit Union to Pay \$1.5 Million for Illegally Stranding Consumers from Accessing Their Money and Accounts." Consumer Financial Protection Bureau, October 31, 2024. <https://www.consumerfinance.gov/about-us/newsroom/cfpb-orders-vystar-credit-union-to-pay-1-5-million-for-illegally-stranding-consumers-from-accessing-their-money-and-accounts/>.


meant that a concerning policy or practice was missed. For example, the NCUA could hire staff focused on compliance with the Electronic Funds Transfer Act or with anti-discrimination laws.

Conclusion

CFA appreciates the opportunity to provide our input on these critical strategic decisions. Credit unions serve to expand financial inclusion and consistently provide products that meet or exceed the services available elsewhere. We are concerned that a small group of outlier credit unions may adopt practices that contradict the excellent record of the broader credit union industry. To that end, we support efforts to ensure that all credit unions continue to serve their shareholders well.

Please get in touch with me if I can provide any additional information or offer clarifications.

Sincerely,

A handwritten signature in black ink that reads "Adam M. Rust". The signature is written in a cursive style with a clear, legible font.

Adam Rust
Director of Financial Services
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