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August 3, 2017

The Honorable Ann Wagner
Chairman
Subcommittee on Oversight and Investigations
Committee on Financial Services
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Wagner:

On behalf of the more than 5,800 community banks represented by ICBA, I write to thank you for your scrutiny of the National Credit Union Administration's (NCUA's) payment of over \$1 billion in legal fees to two outside law firms. The payments were for the recovery of losses arising from the purchase of faulty securities by five corporate credit unions prior to and during the last economic downturn. Representing nearly a quarter of the recovery, the payments are exorbitant by any reasonable standard. The NCUA utterly failed to negotiate competitive terms for legal services and allowed itself to be bilked.

Why does this matter to ordinary Americans? First, the NCUA is a taxpayer-subsidized agency because it is funded by assessments paid by tax-exempt credit unions. What's more, at the time the NCUA incurred these legal expenses, the agency was supported by a draw from the U.S. Treasury Department. In effect, over \$1 billion in taxpayer money was channeled through the NCUA into inflated legal fees.

The second reason why ordinary Americans should be outraged is that this episode exposes the rank incompetency of the NCUA. The agency's failure to manage its legal expenses is on a par with its failure to oversee the speculative activities of corporate credit unions. A recent GAO report found that poor management was the primary reason for the corporate credit union failures. The NCUA's Office of Inspector General reported that the agency failed to take strong and timely actions to avert the failures.

The NCUA has enabled many credit unions to grow their membership and their markets well beyond their statutory mission of serving customers of modest means with a common bond among them. In just the last four years, the total assets of federally insured credit unions have grown by nearly \$70 billion and membership has grown by more than 10 million, while the total number of credit unions has declined by over 1,000. There are over 250 credit unions with assets over \$1 billion. The largest holds approximately \$82 billion in assets. Credit unions are also

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aggressively expanding into business lending. According to the NCUA, total business lending by credit unions ballooned from \$13.4 billion in 2004 to \$56 billion in September 2015, an annualized growth rate of 14 percent. The NCUA's permissive business lending rule will surely accelerate this growth. These changes exacerbate the cost of the credit unions' tax subsidy, which currently stands at over \$35 billion over 10 years, according to the Office of Management and Budget.

Frankly, we fear that the NCUA is in over its head in overseeing an increasingly complex and concentrated industry. The consequences of failed oversight are greater than ever. We are pleased that your subcommittee is exercising appropriate oversight over the NCUA's legal fees and encourage you to broaden your oversight of the agency. We believe that a comprehensive review of credit unions powers (both statutory and regulatory) and the industry's outmoded tax exemption is warranted. It would be best to confront this problem before another economic downturn stresses the credit union industry, exposes more critical gaps in NCUA oversight, and puts the American taxpayer at risk.

Thank you again for your scrutiny of the NCUA's legal expenses on behalf of the American taxpayer.

Sincerely,

/s/

Camden R. Fine
President & CEO

CC: Members of the House Committee on Financial Services

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