STATEMENT

OF

THE HONORABLE DENNIS DOLLAR
CHAIRMAN
NATIONAL CREDIT UNION ADMINISTRATION

ON THE
"FINANCIAL SERVICES REGULATORY RELIEF ACT OF 2003"
H.R. 1375

BEFORE THE

SUBCOMMITTEE
ON
FINANCIAL INSTITUTIONS AND CONSUMER CREDIT
U.S. HOUSE OF REPRESENTATIVES

MARCH 27, 2003

Chairman Bachus, Ranking Member Sanders and Members of the Subcommittee, thank you for providing me the opportunity to appear on this panel today on behalf of the National Credit Union Administration and to discuss our agency's views on H.R. 1375, the "Financial Services Regulatory Relief Act of 2003."

Chairman Oxley, Representative Capito and Representative Ross, thank you for your sponsorship and ongoing support of this worthy and necessary legislation.

During the 107th Congress the National Credit Union Administration (NCUA) appreciated the opportunity you extended to work in concert with you and the Committee on Financial Services to develop legislation previously entitled the "Financial Services Regulatory Relief Act of 2002," H.R. 3951. NCUA is pleased to again this year provide recommendations "to lessen the regulatory burden on insured depository institutions and improve productivity, as well as make needed technical corrections to statutes" in response to your most recent request of January 8, 2003. The National Credit Union Administration continues to believe this legislation will positively impact our ability to provide a safe and sound regulatory environment for America's credit unions in an ever-changing and dynamic financial marketplace.

On behalf of the NCUA Board, I am pleased to present the Committee with the same recommendations NCUA provided to you in August 2001, in no order of preference, that address regulatory relief and productivity improvements for federal credit unions (FCU's). These proposals are consistent with the mission of credit unions and the principles of safety and soundness. They address statutory restrictions that now act to frustrate the delivery of financial services because of technological advances, current public policy priorities, or market conditions.

Check Cashing, Wire Transfer and Other Money Transfer Services

The Federal Credit Union Act authorizes FCUs to provide check cashing and money transfer services to members (12 USC 1757(12)). To reach the "unbanked," FCUs should be authorized to provide these services to anyone eligible to become a member. This is particularly important to the overwhelming majority of FCUs whose field of membership includes individuals of limited income or means. These individuals in many instances do not have mainstream financial services available to them and are often forced to pay excessive fees for check cashing, wire transfer and other services. Allowing FCUs to provide these limited services to anyone in their field of membership would provide a lower-fee alternative for these individuals and encourage them to trust conventional financial organizations. NCUA is pleased to see this recommendation incorporated in Section 307 of the bill.

The Twelve-Year Maturity Limit on Loans

FCUs are authorized to make loans to members, to other credit unions and to credit union organizations. The Federal Credit Union Act imposes various restrictions on these authorities, including a twelve-year maturity limit that is subject to only limited exceptions (12 USC 175(5)). This "one-size-fits-all" maturity limit should be eliminated. It is outdated and unnecessarily restricts FCU lending authority. FCUs should be able to make loans for second homes, recreational vehicles and other purposes in accordance with conventional maturities that are commonly accepted in the market today. It is our view that NCUA should retain the rulemaking authority to establish any maturity limits necessary for safety and soundness. NCUA is pleased that our recommendation has been incorporated into Section 304 of the bill.

One Percent Investment Limit in CUSOs

The Federal Credit Union Act authorizes FCUs to invest in organizations providing services to credit unions and credit union members. An individual FCU, however, may invest in aggregate no more than one percent of its shares and undivided earnings in these organizations (12 USC 1757(7)(I)). These organizations, commonly known as credit union service organizations or "CUSOs," provide important services. Examples are data processing and check clearing for credit unions, as well as services such as estate planning and financial planning for credit union members. When these services are provided through a CUSO, any financial risks are isolated from the credit union, yet the credit unions that invest in the CUSO retain control over the quality of services offered and the prices paid by the credit unions or their members. The one percent aggregate investment limit is unrealistically low and forces credit unions to either bring services in-house, thus potentially increasing risk to the credit union and the insurance Fund, or turn to outside providers and lose control. The one percent limit should be eliminated and the NCUA Board should be allowed to set a limit by regulation. NCUA is comfortable with Section 305 as drafted which increases the CUSO investment limit from 1% to 3%.

Branch and Service Facility "Reasonable Proximity" Statutory Mandate

The Credit Union Membership Access Act enacted in 1998 expressly authorized multiple common-bond credit unions. The Access Act provided, however, that an FCU may add a new group to its field of membership only if the credit union "is within reasonable proximity to the location of the group" (12 USC 1759(f)(1)(B)). This, in effect, could be interpreted to require a credit union to establish a costly physical presence that could potentially, if unchecked, present long term safety and soundness concerns and, unfortunately, in many cases serves as a financial deterrent to credit unions who otherwise have a desire to extend financial services to the group. This geographic limitation on FCU services is unnecessary in today's financial marketplace, where most services can be

provided electronically. This limitation could prevent NCUA from allowing an FCU and a group to match up when it is their wish to do so, and may even prevent NCUA from adding groups to the FCU best suited to serve them. The statutory "reasonable proximity" mandate is an unnecessary hindrance to providing credit union services and should be removed, thus allowing NCUA to define and implement reasonable "ability to serve" requirements. This suggestion is not included in H.R. 1375.

Expanded Investment Options

The Federal Credit Union Act limits the investment authority of FCUs to loans, government securities, deposits in other financial institutions and certain other very limited investments (12 USC 1757(7)). This limited investment authority restricts the ability of FCUs to remain competitive in the rapidly changing financial marketplace. The Act should be amended to provide such additional investment authority as is approved by regulation of the NCUA Board. This would enable the Board to approve additional safe and sound investments of a conservative nature which have a proven track record with state chartered credit unions or other financial institutions. Section 303, as drafted, appropriately addresses the issues NCUA has presented in our recommendation and further establishes specific percentage limitations and investment grade standards in which federal credit unions may operate by statute.

Voluntary Merger Authority

The Federal Credit Union Act, as amended by the Credit Union Membership Access Act, allows voluntary mergers of healthy FCUs, but requires that NCUA consider a spin-off of any group of over 3,000 members in the merging credit union (12 USC 1759(d)(2)(B)(i)). When two healthy FCUs wish to merge, and thus combine their financial strength and improve service to their members, they should be allowed to do so. There is no logical reason to require in connection with such mergers that groups over 3,000, or any group for that matter, be required to spin off and form a separate credit union. These groups are already included in a credit union in accordance with the statutory standards, and that status is unaffected by a merger. NCUA is pleased that Section 308, as drafted, addresses these concerns.

We truly value the even-handed assessment the Committee made regarding our recommendations and those affecting the institutions we charter, regulate, supervise and/or insure, including the needed technical corrections to the Federal Credit Union Act which are also included in Title VII of H.R. 1375.

Regulatory Relief From SEC Registration Requirements

Another item we are pleased to see included in this years' bill (Section 313) is the provision to provide regulatory relief from the requirement that credit unions

register with the Securities and Exchange Commission as broker/dealers when engaging in certain de minimus securities activities. Gramm-Leach-Bliley provided banks with registration relief for certain enumerated activities, and Section 201 of H.R. 1375 addresses this issue as it relates to thrifts and provides thrifts with registration relief for similar activities. The relief sought for credit unions would be more limited in scope and application. Credit union powers are limited by their chartering statutes, and credit unions do not have certain powers, such as general trust powers, that are available to banks and thrifts. The requested parity relief for credit unions would apply only to those activities otherwise authorized for credit unions under applicable credit union chartering statutes, currently including third-party brokerage arrangements, sweep accounts, and certain safekeeping and custody activities.

Additional Credit Union Provisions

We would also like to take this opportunity to comment on other credit union provisions incorporated into this legislation.

We have reviewed all of the additional credit union provisions included in H.R. 1375 and have no safety and soundness concerns whatsoever with these additions. Among these are provisions which address leases of land on Federal facilities for credit unions (Section 302); member business loans for non-profit religious organizations (Section 306); criteria for continued membership of certain member groups in community charter conversions (Section 309); credit union governance changes (Section 310); and revising the economic factors the NCUA Board must use when considering adjustments to the statutory 15% interest rate that can be charged by federal credit unions on loans (Section 311). Again, though we recognize these issues as statutory in nature and therefore a public policy decision only the Congress can make, we have carefully examined each and have determined that these provisions present no safety and soundness concerns for the credit unions we regulate and/or insure. Also, Section 312 of H.R. 1375 was added by the Committee on the Judiciary in 2002 and provides for an exemption from pre-merger notification requirements of the Clayton Act. We have likewise reviewed this provision, and have no objections and actually see benefit from a safety and soundness perspective.

Privately Insured Credit Unions and Federal Home Loan Bank Membership

It is important to recognize that NCUA is neither the regulator nor the insurer of state-chartered credit unions whose deposits are not insured by the National Credit Union Share Insurance Fund. We are therefore unable to provide a safety and soundness evaluation on Section 301 of H.R. 1375. NCUA took no formal position on the original provisions of that section as drafted last year and again have no official position on the public policy issue related to privately insured state-chartered credit unions being eligible to join the Federal Home Loan Bank; however, we find ourselves uncomfortable with changes to Section 301 as

amended by action of the full Committee on June 6, 2002, and again as it appears in Section 301 of HR 1375 in the 108th Congress.

Our concerns stem from language added to the original section which makes it appear that oversight responsibility for non-federally insured credit unions and certain state regulated private share insurance companies rests with NCUA. NCUA has no legal authority, regulatory or supervisory jurisdiction over these non-federally insured credit unions or commercial insurance companies (nor do we seek it). In our view, the language requiring private insurance providers to submit copies of their annual audit reports to NCUA should be removed to avoid potential consumer confusion and misunderstanding. Likewise, we believe that the consultation language which seeks to bring the federal regulatory authority into a role that appropriately rests with state credit union and insurance regulators should also be removed. In its passage of the Federal Deposit Insurance Corporation Improvement Act in 1991 (FDICIA), Congress designated the Federal Trade Commission as the agency responsible for oversight of private deposit insurance companies and the protection of consumers through appropriate disclosure provisions. As the matter remains one of consumer awareness, disclosure and notification -- and not of federal credit union regulation -- NCUA feels strongly that the Federal Trade Commission should retain this oversight responsibility. The additional language which could be interpreted to infer an NCUA role that is neither appropriate nor statutorily authorized to provide oversight to either state-chartered privately insured credit unions or a private insurance company regulated by an agency designated by state statute should be removed from Section 301.

Conclusion

It has been five years since Congress has thoroughly addressed our statute and the regulations that emanate from it. NCUA has now had the benefit of these years of experience working with the changes made to the Federal Credit Union Act by the passage of the 1998 law, as well as many additional years with other provisions we identified as in need of statutory reform or revision. The review and relief sought in this proposed legislation is both needed and timely.

As the Committee continues its work on this legislation it is our belief that, where appropriate and dictated by efficiency and overall concerns for safety and soundness, it would be advisable for the Committee to consider the option to authorize the appropriate regulatory agency to address many of these issues from a regulatory perspective rather than by addressing them specifically in the statute. Such an approach would make it possible for the regulators to adjust, where appropriate, to changing conditions in the marketplace or evolving safety and soundness considerations without the necessity of a statutory revision.

As I stated in my March 14, 2002, testimony before the Subcommittee on Financial Institutions and Consumer Credit regarding this legislation, “our goal at

NCUA as we implement any regulatory relief provisions the Congress ultimately chooses to enact will be to take any and all actions with an eye towards removing unnecessary regulatory burden while maintaining, as is proven by the historical strong performance of America's credit unions, our first and foremost priority and commitment to both safety and soundness and necessary regulation to protect the American public."

On behalf of the NCUA Board, I herein re-state this commitment and again express our appreciation for your consideration and support of NCUA's recommended provisions.

We look forward to working with the subcommittee and committee again this year to draft a regulatory relief bill which will result in stronger credit unions and more responsive credit unions to a changing and dynamic financial marketplace.