STATEMENT

OF

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# "CURRENT ISSUES IN DEPOSIT INSURANCE"

BEFORE THE

SENATE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

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# I. INTRODUCTION

The National Credit Union Administration (NCUA) appreciates this opportunity to provide the agency's position on "Current Issues in Deposit Insurance." Federally-insured credit unions comprise a small but important part of the financial institution community, and the NCUA's perspective on this matter will add to the overall understanding of the needs of the credit union industry and the members they serve.[1] Financial institutions play a critical role in the economy, and it is vital they remain safe and sound. The protection and security provided by federal deposit insurance to depositors is a key foundation of the confidence in and stability of America's financial institutions. Therefore, it is important and timely to consider methods to improve the framework for deposit insurance coverage and the operational authorities available to the federal deposit insurers.

The NCUA's primary mission is to ensure the safety and soundness of federally-insured credit unions. It performs this important public function by examining all federal credit unions, participating in the examination and supervision of federally-insured state chartered credit unions in coordination with state regulators, and insuring federally-insured credit union members' accounts. In its statutory role as the administrator of the National Credit Union Share Insurance Fund (NCUSIF), the NCUA insures and

[1] 12 U.S.C. §1759. Unlike other financial institutions, credit unions may only serve individuals within a restricted field of membership. Other financial institutions serve customers that generally have no membership interest.

supervises 7,806 federally-insured credit unions, representing 98 percent of all credit unions and approximately 88 million members.[2]

Overall, federally-insured, natural person credit unions maintained satisfactory financial performance in 2008. As of December 31, 2008, federally-insured credit unions maintained a strong level of capital with an aggregate net worth ratio of 10.92 percent.[3] While earnings decreased from prior levels due to the economic downturn, federally-insured credit unions were able to post a 0.30 percent return on average assets in 2008.[4] Delinquency was reported at 1.37 percent, while the net charge-off ratio was 0.84 percent.[5] Shares in federally-insured credit unions grew 7.71 percent with membership growing 2.01 percent, and loans growing 7.08 percent.[6]

The NCUA's comments will focus in particular on the following areas:

- Provisions of H.R. 1106 to permanently increase deposit insurance coverage to $250,000, increasing the NCUA's borrowing authority to $6 billion, and extending the share insurance fund's restoration period to 5 years. The NCUA supports these proposals.
- Emergency borrowing authority for the NCUA. NCUA should be provided up to $30 billion in emergency borrowing authority under the same conditions applicable to the

[2] Approximately 162 state-chartered credit unions are privately-insured. Based on December 31, 2008 Call Report (NCUA Form 5300) data.
[3] Based on December 31, 2008 Call Report (NCUA Form 5300) data.
[4] Ibid.
[5] Ibid.
[6] Ibid.

proposed emergency borrowing authority for the Federal Deposit Insurance Corporation (FDIC) in S. 541.

- Systemic risk authority for the NCUA. Providing the NCUA with authority, similar to FDIC, to address systemic risk under extreme circumstances when the authority provided by Section 208 of the Federal Credit Union Act is insufficient.

## II. DEPOSIT INSURANCE COVERAGE - PERMANENT INCREASE TO $250,000

The NCUA agrees with the provision in Section 204(a) of H.R. 1106 to make the temporary increase to $250,000 of the standard maximum share insurance amount (SMSIA) permanent. [7] Reverting the general limit for share insurance coverage to $100,000 at the end of 2009 would likely be a destabilizing event, affecting public confidence and creating burdens for institutions and consumers. Conversely, continuing the expanded coverage will allow federally-insured credit unions at all asset levels to better meet contemporary member needs.

The temporary increase in the SMSIA to $250,000 helped preserve public confidence in federally-insured credit unions. Despite the widely publicized challenges of the current economic environment, during 2008 the average share balance[8] in federally-insured credit unions increased by 5.59 percent. All share categories posted respectable gains. Since shares were increasing at a projected annual rate of 7.69 percent through

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[7] The term ''standard maximum share insurance amount'' or ''SMSIA'' means $100,000, adjusted pursuant to subparagraph (F) of section 11(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(1)(F)), notwithstanding the temporary increase to $250,000 authorized by the Emergency Economic Stabilization Act.

[8] Reflecting their status as member owned cooperatives, deposit accounts in federally-insured credit unions are called shares not deposits.

September 30, 2008, the temporary increase in the SMSIA helped prevent a deterioration of liquidity during the fourth quarter. While it is impossible to isolate this trend from other factors, such as uncertainties in equity markets, NCUA attributes the stability of insured shares during the fourth quarter of 2008 to public confidence in federally-insured credit unions.

If the SMSIA limit of $250,000 remains temporary, the NCUA envisions federally-insured credit unions experiencing operational challenges. During the fourth quarter of 2008, federally-insured credit unions bolstered efforts to educate their members about the value of federal insurance. Members, in turn, continued to support their federally-insured credit unions and helped stem a national liquidity crisis. NCUA also initiated an intensive national advertising campaign and public awareness efforts to reinforce the safety of federally-insured credit unions. Inconsistency in the SMSIA would undermine this progress. In addition, federally-insured credit unions would face increased balance sheet management challenges if large depositors display a reluctance to invest in or renew certificate accounts with maturities extending beyond 2009.[9]

Historically, increases in the SMSIA coverage level have not been methodical. When created in 1970, the NCUSIF provided $20,000 in maximum coverage. Subsequently, the ceiling increased to $40,000 during 1974 and $100,000 during 1980. Although the maximum available coverage for Individual Retirement Accounts (IRAs) increased to $250,000 during 2006, the SMSIA remained at $100,000 for all other types of share

[9] As of December 31, 2008, shares with maturities exceeding twelve months exceeded eleven percent of all shares.

accounts. Section 2103(a) of the Federal Deposit Insurance Reform Act of 2005 allowed for the adjustment of the SMSIA every five years beginning April 1, 2010 based on the Personal Consumption Expenditures Chain-type Price Index (PCEPI). However, there is no legal guarantee an increase in the SMSIA will occur.

Making the $250,000 SMSIA permanent would create parity, when adjusting for inflation, with the SMSIA limits of the 1980s. From 1980 to 2008, the PCEPI increased from 49.688 to 120.606.[10] Using the PCEPI as a basis, adjusted for inflation the $100,000 SMSIA in 1980 would equate to approximately $243,000 in 2008 dollars.[11]

Historically, some have expressed concern that increased coverage limits of federally-insured deposits creates additional moral hazard. NCUA believes improvements in the regulation of financial institutions offset this concern. In addition, NCUA remains prepared to contribute toward reducing insurance losses over the long term as a participant in the current review of the federal regulatory structure. Other traditional arguments against higher coverage limits also now have diminished relevance. In the past, many perceived higher federally-insured limits as a detriment to smaller institutions based on the belief consumers with greater resources could consolidate their business with larger financial institutions. NCUA is not aware of any evidence indicating the higher SMSIA has adversely affected smaller federally-insured credit

[10] The base year for this data is 2000, with an index value of 100. The source of this data is the archived Federal Reserve Economic data available at the Internet site http://alfred.stlouisfed.org/series?seid=PCEPI.

[11] The computation is as follows: 1) convert the 1980 SMSIA limit of $100,000 to 2000 base year dollars [$100,000 / .49688 = $201,255.84]; and 2) convert the base year equivalent of the 1980 level of coverage to 2008 dollars using the 120.606 index value for 2008 [$201,255.84 x 1.20606 = $242,726.61].

unions since the fourth quarter of 2008.[12] Federally-insured credit unions at all asset levels continue to respond proactively to the needs of their respective fields of membership. As the table below indicates, the NCUA's 2008 yearend statistics reflect how all asset classes of federally-insured credit unions reported share increases.

| Asset Group | Under $10 million | $10 million to $100 million | $100 million to $500 million | Over $500 million |
| --- | --- | --- | --- | --- |
| # of Federally-Insured Credit Unions | 3,274 | 3,249 | 954 | 329 |
| Share Growth | 4.68% | 6.61% | 8.12% | 8.32% |

If the SMSIA limit of $250,000 remains temporary, members with funds in excess of $100,000 would need to use multiple insured institutions to be fully insured. A lower SMSIA could have the effect of causing members with higher levels of funds to conduct business with an institution they would otherwise prefer not to use. Efforts to impose a limit to consumer choices would not eliminate the ultimate need for any federally-insured institution to respond to consumer needs. In addition, higher limits could also enhance the competitiveness of smaller institutions over a longer period of time with a greater ability to attract larger deposits.[13]

Another common objection to higher federal deposit insurance limits relates to concern about favoring relatively affluent segments of society. As the agency charged with

[12] Consumers have continued a broader diversification of assets beyond exclusively using federally-insured financial institutions. The Board of Governors of the Federal Reserve's 2007 Survey of Consumer Finances (http://www.federalreserve.gov/pubs/bulletin/2009/pdf/scf09.pdf) indicates just 15.1 percent of the financial assets of families was in transaction accounts or certificates of deposits (not including retirement accounts).

[13] This is especially true for federally-insured credit unions serving predominantly low-income members relying upon nonmember deposits to compensate for an inability to develop a competitive deposit base organically.

overseeing a movement with the specified mission of meeting the credit and savings needs of consumers, especially persons of modest means, the NCUA recognizes the value members with the ability to make large deposits have in providing affordable borrowing opportunities for all classes of members. While the overwhelming majority of federally-insured credit union members have deposits well below the current SMSIA, an additional option for members with high levels of assets would only help in continuing a successful model.[14] The NCUA also notes federally-insured credit unions would benefit from a higher SMSIA limit because of a lack of access to other avenues of building deposits available to other types of institutions such as unlimited coverage for business accounts and certificate of deposit registry services.

The NCUA does not anticipate encountering significant operational issues if the higher SMSIA became permanent. The agency has the infrastructure in place to effectively communicate with both federally-insured credit unions and members to announce any changes in the insured limits. In addition, the NCUA Board left the regulations discussing share insurance coverage and signage requirements flexible to accommodate additional potential changes to the SMSIA.

As in the past, if the higher SMSIA limit became permanent, the agency would complement formal communications with other resources, such as the NCUA's Internet site and periodic educational initiatives such as webinars. Although these types of initiatives would have some initial costs, ultimately the federally-insured credit union

[14] The agency notes that without maintaining the $250,000 limit in the SMSIA, only individuals able to open IRAs would have access to higher levels of coverage.

system would experience a savings through the benefits derived from greater long-term liquidity in the system.

If the SMSIA of $250,000 became permanent, federally-insured credit unions would incur negligible costs to bring the NCUSIF's equity ratio to its targeted level of 1.30 percent. With a SMSIA of $250,000, NCUA estimates insured shares would increase by $49 billion for the entire federally-insured credit union system, reducing the equity level of the NCUSIF by only 2 basis points. Since federally-insured credit unions maintain a NCUSIF capitalization deposit of one percent of insured shares, an increase to the SMSIA would equate to aggregate additional NCUSIF capitalization needs of approximately $490 million. This total represents less than one tenth of one percent of the total assets in federally-insured credit unions.

## III. EXTEND NCUSIF REPLENISHMENT AUTHORITY TO 5 YEARS

In the event the NCUSIF equity ratio falls below 1.20 percent, NCUA is required to assess a premium (and if necessary recapitalize the 1 percent deposit) to restore the equity of the NCUSIF to 1.20 percent. NCUA believes that extending the time the agency has to reach the statutory minimum equity ratio provides an important anti-cyclical tool. This would allow, to some extent, the equity level to vary with the economic cycle and reduce the impact of recapitalization at the trough of the business cycle. Not only does the current structure necessitate premium assessments against federally-insured credit unions when they can least afford it, but it also reduces the amount of funds federally-insured credit unions can put to work supporting the economy when the need is the greatest. In particular, every dollar charged in premiums translates to ten dollars not available to be loaned to credit union members.

## IV. INCREASED BORROWING AUTHORITY FOR THE NCUSIF

The NCUA strongly supports the provision in Section 204(c) of H.R. 1106 increasing the NCUA's borrowing authority. Borrowing authority is vital for a deposit insurer as the insurance fund's short-term cash needs typically far exceed expected losses. For example, with the failure of a large institution NCUA might need to promptly (generally within 2 days) payout all the insured shares, which for the largest institutions would exceed immediately available liquidity, even though the ultimate loss (expense) to be absorbed by the insurance fund after assets of the institution are liquidated may only be a small amount.

When Congress established the NCUSIF in 1970, it provided the NCUA Board the authority to borrow from the Treasury in an aggregate amount not to exceed $100,000,000.[15] With the passage of time, the size of the credit union system, the amount of insured shares, and the corresponding size of the NCUSIF and its obligations have all grown significantly. As the chart that follows demonstrates, the NCUSIF's assets and equity, as well as the assets and insured shares held by federally-insured credit unions, were much lower than they are today. By the end of 1972, borrowing

[15] "If, in the judgment of the Board, a loan to the fund is required at any time for carrying out the purposes of this title, the Secretary of the Treasury shall make the loan, but loans under this paragraph shall not exceed in the aggregate $100,000,000 outstanding at any one time. Except as otherwise provided in this subsection and in subsection (e) of this section, each loan under this paragraph shall be made on such terms as may be fixed by agreement between the Board and the Secretary of the Treasury." FCU Act, §203(d)(1) (12 U.S.C. §1783(d)(1)).

authority was six times NCUSIF assets of $16.7 million, nearly six and a half times NCUSIF equity of $15.6 million, and 0.7 percent of federally insured credit union assets. The chart includes figures for year-end 1972 since, after the law establishing the NCUSIF was enacted in 1970, NCUA extended federal insurance to state chartered credit unions over a two-year period.[16]

| Basis for Computing 2008 Equivalent Borrowing Authority | (A) 1972 Figures | (B) Ratio of Borrowing Authority to 1972 Figures | (C) 2008 Figures | (D) 2008 Equivalent Borrowing Authority (Column B x C) |
|---|---|---|---|---|
| NCUSIF Assets | $16,785,000 | 6.0 | $7,845,581,935 | $46,741,626,065 |
| NCUSIF Equity | $15,559,000 | 6.4 | $7,667,860,827 | $49,282,478,482 |
| NCUSIF Retained Earnings | $15,559,000 | 6.4 | $1,690,946,528 | $10,867,964,059 |
| Insured Shares | $13,699,458,000 | 0.007 | $598,122,224,526 | $4,366,028,382 |
| FICU Assets | $13,849,997,000 | 0.007 | $801,672,388,418 | $5,788,249,546 |

To keep pace with these changes, and to help the NCUSIF position itself for current and future challenges to the economy and the financial system, the NCUA recommends the NCUSIF's statutory borrowing authority be adjusted proportionally to the increase over time in the total assets of insured credit unions. The NCUA believes the assets of federally-insured credit unions are the best measure of potential risk exposure for the NCUSIF. This would result in an increase in NCUSIF borrowing authority to approximately $6 billion.

Finally, the NCUA recommends that Congress provide the NCUSIF with additional, temporary emergency borrowing authority. The proposal in S. 541 to amend the Federal Deposit Insurance Act (FDIA) to increase FDIC's borrowing authority from $30

[16] Equivalent borrowing authority today would be much higher if the initial, small volume of insured credit unions during the fund's first year of operation were used as the basis for the calculation.

billion to $100 billion also includes a temporary provision allowing FDIC to borrow up to $500 billion if the Treasury Secretary, in consultation with the President, approves the higher borrowing authority. Credit unions, like banks, are facing challenging times. Many of the challenges are systemic, such as the problems with the asset-backed securities held by many corporate credit unions. To address such systemic problems, and the potential for sudden liquidity needs associated with such problems, the NCUSIF may need quick access to very large, short-term borrowings.

Thus, Congress should add a similar, temporary emergency borrowing authority for the NCUSIF in an amount not to exceed $30 billion, five times the proposed base borrowing authority of $6 billion.[17] The NCUA would exercise this emergency borrowing authority on terms and conditions similar to the emergency borrowing authority for the FDIC. The NCUA's emergency authority would only be exercised with the concurrence of the Secretary of the Treasury, after consultation with the President. This emergency

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[17] The amendments to the FCU Act incorporating both the increase in the base limit to $6 billion and the new emergency limit of $30 billion might look like this:

> Section 203(d) of the Federal Credit Union Act (12 U.S.C. 1783(d)) is amended--
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> (1) in paragraph (1), by striking `$100,000,000' and inserting `$6,000,000,000'; and
>
> (2) by adding at the end the following:
>
> `(4) TEMPORARY INCREASES AUTHORIZED-
>
> `(A) RECOMMENDATIONS FOR INCREASE- During the period beginning on the date of enactment of this paragraph and ending on December 31, 2010, if, upon the written recommendation of the Board (upon a vote of not less than two-thirds of the members of the Board) and the Board of Governors of the Federal Reserve System (upon a vote of not less than two-thirds of the members of such Board), the Secretary of the Treasury (in consultation with the President) determines that additional amounts above the $6,000,000,000 amount specified in paragraph (1) are necessary, such amount shall be increased to the amount so determined to be necessary, not to exceed $30,000,000,000.
>
> `(B) REPORT REQUIRED- If the borrowing authority of the Board is increased above $6,000,000,000 pursuant to subparagraph (A), the Board shall promptly submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives describing the reasons and need for the additional borrowing authority and its intended uses.'.

authority would be temporary, expiring on December 31, 2010. Any use of this special authority by the NCUA would require the agency to submit a report to the House Financial Services and Senate Banking Committees.

The NCUA would like to emphasize that this requested borrowing authority, while large in dollar terms, does not represent any potential burden on the taxpayer. If the NCUA was forced to borrow from the Treasury, the funds would be repaid with interest either through the sale of assets or by assessments on all federally-insured credit unions.

## V. SYSTEMIC RISK AUTHORITY FOR THE NCUA

The NCUA charters, regulates, and provides share (deposit) insurance to credit unions. In its role as share insurer for credit unions, it functions very much like the FDIC as insurer of banks. The FDIA, however, provides the FDIC with a particular statutory authority related to its deposit insurance called the "systemic risk" authority (FDIA §13(c)(4)(G), 12 U.S.C. §1823(c)(4)(G)) that the NCUA does not have. Congress should consider amending the Federal Credit Union Act (FCUA) to provide the NCUA with a systemic risk authority similar to that available to the FDIC.

Section 13(c) of the FDIA empowers the FDIC to provide certain assistance to insured banks that are in danger of closing on a voluntary basis, subject to certain statutory limitations, such as that the assistance be at the least cost to the Deposit Insurance Fund (DIF) and that the actions not protect depositors for more than the insured portion of their deposits. In an appropriate situation, the FDIC may exercise its systemic risk authority to provide assistance not otherwise authorized by §13(c). This systemic risk authority requires a determination by the Secretary of the Treasury that compliance with §13(c) statutory limitations would have serious adverse economic effects on economic conditions or financial stability, and, with the concurrence of two-thirds of the members of the Board of Governors of the Federal Reserve and two-thirds of the FDIC directors, the FDIC may then take actions to assist insured banks without regard to the various limitations enumerated in §13(c).

The FDIC used its systemic risk authority last fall. As the current financial crisis was unfolding, the FDIC launched its Temporary Liquidity Guarantee (TLG) Program as an initiative to counter the current system-wide crisis in the nation's financial sector. The TLG Program provided two guarantee programs: One that guaranteed newly-issued senior unsecured debt of insured banks and most U.S. holding companies of such insured banks, and another that guaranteed certain noninterest-bearing transaction accounts at insured banks. The FDIC announced that the TLG Program was necessary to promote financial stability by preserving confidence in the banking system and encouraging liquidity in order to ease lending to creditworthy businesses and consumers. Because the two guarantee programs were beyond the general assistance authority contained in FDIA §13(c), the FDIC first obtained a determination of systemic risk from the Secretary of the Treasury (after consultation with the President), supported by the written recommendations of the FDIC Board and the Board of Governors of the Federal Reserve System.

The NCUA Board has certain tools available under §208 of the FCUA (12 U.S.C. §208) to address a threat to any given institution that is in danger of closing.[18] These tools are similar to those available to the FDIC under FDIA §13(c), including making loans to, purchasing the assets of, or establishing accounts in the institution in danger of closing. Like the FDIA §13(c), FCUA §208 is also a limited authority. For example, Section 208 assistance can only be provided to federally-insured credit unions that are in danger of closing; and each of the assistance actions contemplated under §208 is in the nature of a bilateral agreement, that is, assistance in the form of asset purchases, loans, and establishment of accounts all require that there be a voluntary agreement between the NCUA and the affected institution.

These §208 constraints limit the NCUA's ability to respond when circumstances arise that present a threat to the overall viability of the credit union system. In the current economic climate, such circumstances are plentiful. Economic recession has produced a substantial rise in unemployment; deterioration in the residential real estate market has placed a strain on housing values and mortgage lenders and a severe tightening of credit; securities markets are disrupted and the values of asset-backed securities are uncertain; and all this is leading to significant losses at depository institutions across the nation. The cumulative effect of these factors can undermine the confidence of the public in the credit union system as a whole, creating systemic risk.

[18] Section 208(a)(1) provides for assistance to federally insured credit unions in danger of closing. Section 208(a)(2) provides for assistance to credit unions to facilitate a merger or purchase and assumption. The references to §208 assistance in this testimony mean §208(a)(1) assistance.

In order to quickly and effectively respond to such circumstances, the NCUA needs authority to take action in response to systemic risk. There are two recent examples of circumstances in which the NCUA, confronted with systemic risks, was forced to take less than optimal actions in dealing with these risks.

1. *Temporary Corporate Credit Union Share Guarantee Program (TCCUSGP).*

The NCUA Board took action on January 28, 2009 to address concerns in the corporate credit union system related to declines in the value of asset backed securities and precipitated by a substantial capital impairment at a corporate credit union. The NCUA Board, on behalf of the NCUSIF:

- Infused $1 billion in capital into the corporate credit union;
- Temporarily guaranteed the entire amount of all share (deposit) accounts at each corporate credit union for about a one month period; and
- Offered to guarantee the share accounts at each corporate credit union, on a voluntary basis, through December 31, 2010.

In support of the latter two actions, collectively referred to as the TCCUSGP, the Board found that each of the corporate credit unions in the system met the requirements for assistance under §208 of the Federal Credit Union Act. To maintain confidence in all corporate shares, and prevent runs on any particular corporate, the NCUA Board would have preferred having the option of *involuntarily* guaranteeing all corporate shares through 2010. Because of the lack of authority to address systemic risks, however, the Board was forced to implement the TCCUSGP in two steps, using separate legal authorities: a short-term involuntary guarantee until such time as each corporate could consider whether it wanted a voluntary guarantee, followed by the long-term voluntary guarantee.

In support of the involuntary temporary guarantee, the Board determined that an emergency existed that required the NCUSIF provide the corporates with an immediate share guarantee during a short time period while the Board solicited a written voluntary guarantee agreement with each participating corporate. The Board cited its §203(a) power to requisition NCUSIF money "for such . . . other expenses incurred in carrying out the purposes of this title as it may determine to be proper," combined with the Board's §209(a)(7) incidental powers. 12 U.S.C. §§1783(a), 1789(a)(7). The authority for the long-term, voluntary share guarantee was found in §208, as the voluntary guarantee was tantamount to a conditional line of credit, or a loan, and specifically authorized under §208.

This two-step process for the share guarantee program was makeshift and burdensome, and was also potentially disruptive for the system because it relied on unanimous, voluntary participation for full effectiveness. The NCUA could not require every corporate to participate in the voluntary portion of the TCCUSGP, and a few ultimately did not. The final outcome of this less-than-100 percent participation remains to be seen.

*2. Transaction account guarantees.*

Also, as noted above, this past year the FDIC issued an interim rule implementing a TLG program that provided an unlimited DIF guarantee for non-interest bearing transaction accounts at insured banks. This FDIC action provided assurance to businesses that maintained large transaction accounts with balances in excess of insured limits that, despite the uncertainties in the economy and among depository institutions, they need not move or restructure their accounts to in an effort to find a safe haven. The action also helped to preserve liquidity and to encourage banks to continue lending activities. To implement this DIF guarantee, the FDIC employed its systemic risk authority, as the action included banks that were not in specific danger of closing, and the FDIC extended the guarantee to all banks on an involuntary basis. Some federally-insured credit unions, like banks, offer non-interest bearing transaction accounts, and the NCUA Board considered taking action similar to what the FDIC had done to guarantee those accounts. Lacking authority to take global action based on systemic risk, the NCUA had no authority to pursue a similar, global account guarantee at all federally-insured credit unions, and so was unable to provide a blanket guarantee to small business owners and other entities with transaction accounts at credit unions.

With regard to the corporate credit union concerns and the various guarantees discussed above, the credit union system as a whole would have been better served if it had been able to employ a systematic risk authority. Still, because the corporate credit unions are a small universe, the Board was able to cobble together other legal authorities to work around the lack of systemic risk authority. However, the next time the NCUA needs to take systemic action for problems that could occur within the universe of natural person credit unions, current legal authorities might be inadequate to address this much larger universe. Accordingly, it is important Congress consider providing NCUA with systemic risk authority that parallels the authority of the FDIC.[19]

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[19] For example, to parallel the provisions of the FDIA §13(c)(4)(G), Section 208 of the FCUA (12 USC §1788) could be amended by inserting at the end thereof a new paragraph (d) to read as follows:

*(d) Systemic risk.*

> *(1) Emergency determination by Secretary of the Treasury. Notwithstanding subparagraphs (a), (b) and (c), if, upon the written recommendation of the Board and the Board of Governors of the Federal Reserve System (upon a vote of not less than two-thirds of the members of such Board), the Secretary of the Treasury (in consultation with the President) determines that--*
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> > *(A) the Board's compliance with subparagraphs (a), (b) and (c) with respect to an insured credit union would have serious adverse effects on economic conditions or financial stability; and*
> >
> > *(B) any action or assistance under this subparagraph would avoid or mitigate such adverse effects, the Board may take other action or provide assistance under this section as necessary to avoid or mitigate such effects.*
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> *(2) Repayment of loss. The Board shall recover the loss to the National Credit Union Share Insurance Fund arising from any action taken or assistance provided with respect to an insured credit union under clause (1) expeditiously from 1 or more emergency special assessments on insured credit unions as the Board determines appropriate.*
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> *(3) Regulations. The Board shall prescribe such regulations as it deems necessary to implement this paragraph. In prescribing such regulations, defining terms, and setting the appropriate assessment rate or rates, the Board shall consider the types of credit unions that benefit from any action taken or assistance provided under this subparagraph, economic conditions, the effects on the credit union industry, and such other factors as the Board determines appropriate.*
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> *(4) Documentation required. The Secretary of the Treasury shall--*
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> > *(A) document any determination made under subparagraph (1); and*
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> > *(B) retain the documentation for review under subparagraph (5).*
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> *(5) GAO review. The Comptroller General of the United States shall review and report to the Congress on any determination under subparagraph (1), including--*
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> > *(A) the basis for the determination;*
> >
> > *(B) the purpose for which any action was taken pursuant to such subparagraph; and*
> >
> > *(C) the likely effect of the determination and such action on the incentives and conduct of insured credit unions and uninsured members.*
>
> *(6) Notice.*
>
> > *(A) In general. The Secretary of the Treasury shall provide written notice of any determination under subparagraph (1) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives.*
> >
> > *(B) Description of basis of determination. The notice under subparagraph (6)(A) shall include a description of the basis for any determination under subparagraph (1).*
>
> *(7) Rule of construction. No provision of law shall be construed as permitting the Board to take any action prohibited by paragraphs (a), (b) or (c) unless such provision expressly provides, by direct reference to this paragraph, that this paragraph shall not apply with respect to such action.*

## VI. CONCLUSION

The NCUA is committed to ensuring a safe and sound financial system and appreciates the opportunity to provide input on legislation to improve the country's federal deposit insurance system. At a minimum, Congress should act to permanently increase the deposit insurance coverage level to $250,000, to increase NCUA's base borrowing authority to $6 billion with emergency authority extending up to $30 billion, to provide the NCUA with the authority to replenish the NCUSIF over a five-year period, and consider providing the NCUA with systemic risk authority. These authorities will provide the agency with additional tools to continue to deal with the serious economic challenges facing all financial institutions.