



**National Association of Federal Credit Unions**  
3138 10<sup>th</sup> Street North • Arlington, VA 22201-2149  
(703) 522-4775 • (800) 336-4644 • (703) 524-1082  
[www.nafcu.org](http://www.nafcu.org) • [nafcu.nafcu.org](http://nafcu.nafcu.org)

February 28, 2011

Mary Rupp  
Secretary of the Board  
National Credit Union Administration  
1775 Duke Street  
Alexandria, VA 22314

RE: Proposed Rule on Advertising and Notice of Insured Status

Dear Ms. Rupp:

On behalf of the National Association of Federal Credit Unions (NAFCU), the only trade association that exclusively represents federal credit unions (FCUs), I am writing to you regarding the National Credit Union Administration's (NCUA) proposed rule on advertising and notice of insured status. *See* 75 FR 82323 (December 30, 2010).

NCUA regulations require federally-insured credit unions (FICUs) to include NCUA's official advertising statement or NCUA's official sign in all advertisements. Currently, NCUA's regulations on advertisements provide a number of exceptions to the requirement that a FICU include NCUA's official advertisement statement in all of the FICU's advertisements. Three of the exemptions are for: radio advertisements that do not exceed 30 seconds in time; television advertisements that do not exceed 30 seconds; and annual reports and other statements of condition required to be published by law. The proposed rule would eliminate these three exemptions.

NAFCU understands the goal of the proposed rule is to improve the public education and awareness of the fact that funds at FICUs are federally insured. We believe this is a worthy goal. Nevertheless, we strongly oppose the proposed rule because: (1) the costs associated with compliance with the elimination of the radio and advertisement exemptions would greatly outweigh the benefits; and (2) annual reports and other statements of condition are simply not forms of advertisement.

To fulfill their mission of providing low-cost financial services to their members and to attract nonmembers to join, credit unions must market themselves and advertise the products and services they offer. While marketing and advertising are important regardless of the macro-economic outlook, it is especially important during challenging

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economic times. Unfortunately, the proposed rule would make it more difficult and costly for credit unions to effectively market themselves. In particular, it would reduce the effectiveness of many credit union radio and television advertisements because credit unions would have to dedicate, and pay for, a portion of the time to insurance coverage.

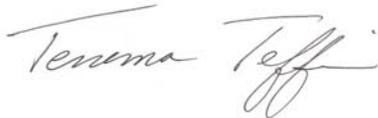
With respect to the proposed elimination of the current exemption for annual reports and other statements of condition, NCUA simply states, without explaining, that the agency believes that such documents are “a form of advertisement and must include the official advertising statement.” *See* 75 FR 82323, at 82324. NAFCU finds troubling the lack of explanation. Further, we do not agree that any reasonable interpretation of what constitutes an “advertisement” could include annual reports or other statements of condition required by law.

NCUA advertising rule does not provide a definition of “advertisement.” However, we find NCUA’s Truth in Savings regulations to be instructive. Under those regulations, an “advertisement” is “a commercial message, appearing in any medium, that promotes directly or indirectly ...” *See* 12 CFR § 707.2(b). It is clear that an annual report or other statements of condition do not seek to promote anything; rather, they are, as their name implies, reports and statements.

In the event that NCUA moves forward with the proposed rule to eliminate the exemptions for radio and television advertisements that are less than 30 seconds in length, NCUA should, at the very least, make the proposed changes prospective. Specifically, advertisements that have already been made should be grandfathered. Consequently, credit unions would not have to bear the cost of producing replacement advertisements.

NAFCU appreciates the opportunity to comment on the proposed rule. Should you have any questions, please contact me by telephone at (703) 842-2268 or by e-mail at [ttefferi@nafcu.org](mailto:ttefferi@nafcu.org).

Sincerely,



Tessema Tefferi  
Associate Director of Regulatory Affairs