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TESTIMONY OF
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ON BEHALF OF
THE CREDIT UNION NATIONAL ASSOCIATION

BEFORE THE
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS AND CONSUMER CREDIT
COMMITTEE ON FINANCIAL SERVICES
UNITED STATES HOUSE OF REPRESENTATIVES

HEARING ON
H.R. 3461, THE FINANCIAL INSTITUTION EXAMINATION FAIRNESS AND REFORM ACT

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Testimony of
Ken Watts
President and Chief Executive Officer
West Virginia Credit Union League
On Behalf of
The Credit Union National Association
Before the
Subcommittee on Financial Institutions and Consumer Credit
Committee on Financial Services
United States House of Representatives
Hearing on
H.R. 3461, the Financial Institution Examination Fairness and Reform Act
February 1, 2012

Chairman Capito, Ranking Member Maloney, Members of the Subcommittee:

Thank you very much for the opportunity to testify at today's hearing in support of H.R. 3461, the Financial Institution Examination Fairness and Reform Act. My name is Ken Watts, and I am President and Chief Executive Officer of the West Virginia Credit Union League.[1] I am testifying today on behalf of the Credit Union National Association (CUNA).[2]

CUNA strongly supports H.R. 3461 and, while it is not a perfect piece of legislation, we view it as a firm step in the right direction toward ensuring the federal financial institution regulatory agencies (regulators) conduct fair exams which are consistent with the law and regulation and ensure safety and soundness.

H.R. 3461 would make available to financial institutions the information used to make decisions in their examination; codify certain examination policy guidance; establish an ombudsman at the Federal Financial Institution Examination Council (FFIEC) to which financial institutions could raise concerns with respect to their examination; and, establish an appeals process before an independent administrative law judge.

[1] The West Virginia Credit Union League represents 100 state and federally chartered credit unions headquartered in West Virginia, which serve 377,800 members.
[2] CUNA is the largest credit union advocacy organization in the United States, representing nearly 90% of America's 7,300 state and federally chartered credit unions and their 93 million members.

The Need for This Legislation

Credit unions strongly support fair and appropriate safety and soundness regulation and oversight to protect the financial resources of credit unions and their members; to minimize costs to the National Credit Union Share Insurance Fund (NCUSIF) borne by all federal insured credit unions; and to preserve credit unions as unique institutions, offering meaningful choices to consumers in the financial marketplace. On the whole, the exam process appears to work fairly well for many credit unions. However, steps must be taken to address real problems that some credit unions have with examinations.

CUNA has been working very closely with its member credit unions in an effort to provide resources for them regarding the examination process and to make them aware of the dispute resolution process when they feel the facts of their situations justify challenging examiner directives. Based on a number of concerns raised by credit unions regarding examination issues, in January 2011, CUNA published a report focusing on the duties and responsibilities of credit union officials and examiners in the examination process. As part of this report, CUNA developed a list of credit union examination rights, which has become known as the "Credit Union Bill of Rights." The list of examination rights, which we have attached to the testimony, includes many items inspired by experiences credit unions have had during their examinations.

Simply stated, an examiner's chief duties are to review a credit union's financial performance and compliance with applicable regulations, and to assess how well the credit union is managing its risks. Credit unions have the right to manage risk without being directed by examiners to eliminate it. In that regard, regulators should address the supervision and examination of credit unions in a professional manner, taking into full account legal requirements credit unions must meet as well as the need for credit unions to have reasonable flexibility to serve their members well. Likewise, credit union boards and management must meet their responsibilities, including supervisory requirements and their fiduciary duties to the credit union's members.

While the issues regarding the examination process and examiners are perennial, the number of concerns credit unions have raised regarding examinations increased appreciably with the onset of the current economic crisis. In late 2010, CUNA informally surveyed several of its members regarding examination experiences. One-in-five credit unions reported dissatisfaction with their

previous exam; 27% of respondents reported dissatisfaction with their most recent exam. One of the more common concerns among credit unions is that examiners tended to focus too much on their own view of best practices rather than on legal and regulatory requirements. Respondents who expressed concerns also frequently indicated that the examiners did not listen well and carefully consider alternative approaches; did not offer helpful advice; did not allow enough time for management to review their findings before bringing issues to the attention of the board; did not use their time well; and often failed to cite legal authority for directives, which at times seem arbitrary to the credit unions.

Credit unions have also told us that the state and federal examination dispute resolution processes are not as clear or as helpful as they should be. There is a palpable fear of retaliation among credit unions, notwithstanding "non-retaliation policies" that agencies may have. Of the credit unions that responded to our survey, only 3% actually used the appeals process during their last two exams, but over one-in-five (21%) indicated that they wanted to appeal but did not. Two-thirds of the credit unions that wanted to appeal indicated they did not appeal for fear of retaliation by examination staff. Nearly the same number indicated they did not appeal because they did not believe it would make a difference in outcome. Over one-third of credit unions who had examination concerns did not appeal because they were not aware of the process.

While this legislation will not solve all of the problems that credit unions face when dealing with their examiners, we are hopeful that the attention that Congress gives to this issue will lead the NCUA and the other regulators to take steps to ensure that examiners treat credit unions fairly and that they acknowledge credit unions should have the flexibility to manage risk, consistent with legal and supervisory requirements.

We are particularly pleased that the legislation would create an office of examination ombudsman at FFIEC and establish an independent examination appeals process before an administrative law judge. These two steps could go a long way toward improving this process and alleviating some, but not all, of the concern regarding retaliation and prospects for success in the appeals process.

Recommendations

While we are very supportive of this legislation, we recommend the Subcommittee consider the following enhancements designed to strengthen it:

- The proposed deadlines for exit interviews and examination reports should not become standard practice for regulators with a history of completing these in less time than proposed.

- Information relied upon by examiners when making material supervisory determinations should be made available to examined entities without a requirement that the financial institution request the information.

- The exam standards in section 3 of the legislation should be carefully considered to ensure that there are no unintended consequences resulting from the prescriptive nature of this language.

- The provision requiring the regulators to develop and apply identical definitions and reporting requirements for non-accrual loans should be modified to take into consideration the unique structural characteristics of credit unions.

- The examination ombudsman should be directed to design and implement a routine survey for financial institutions to complete on a voluntary basis at the conclusion of the examination process, to report to the ombudsman on their examination experience.

- The examination ombudsman should routinely follow up with financial institutions that have raised issues with respect to or appealed examination findings to ensure that there have been no retaliatory actions taken against the institution. The ombudsman should also reach out to institutions it has not heard from to ensure they are being treated fairly in the examination process.

- The language directing the examination ombudsman to review regulators' examination procedures to ensure that examination policies are being followed and adhere to the standards for consistency established by the FFIEC should be modified to take into consideration the unique structural characteristics of credit unions, as well as the level of risk represented by an institution's operations, size and other relevant factors.

- Regulators should be directed to identify the additional costs associated with implementing this legislation, and reduce expenditures elsewhere within their budgets by the same amount. Further, we encourage the committee to direct the FFIEC to divide the cost of implementing this legislation among the regulators on a pro-rata basis so that for example, the NCUA is not assessed for the costs incurred by other regulators.

Examination Reports and Exit Interviews

Section 2 would require regulators to provide a final examination report to the financial institution no later than 60 days after the exit interview for an examination or the provision of additional information relating to the examination, whichever is later. This section also would require the exit interview to be conducted within nine months of the commencement of the examination.

Credit unions report that the NCUA generally meets or exceeds these deadlines already, and by a substantial amount. We recommend adding language to ensure that the deadlines proposed by this legislation do not become the new standard for regulators which have a history of more timely completion on examination processes.

Availability of Information Relied Upon When Making Material Supervisory Determinations

Section 2 also requires regulators to include in the final examination report an appendix listing all examination or other factual information that examiners relied upon when making material supervisory determinations, upon the request of the financial institution.

Credit unions deserve to know what information was used by examiners during the course of the examination. The bill in its current form would permit credit unions to request this information, but we believe that the examiners should furnish this information as a matter of course. We recommend eliminating the requirement that financial institutions request the information.

Further, as we have noted, credit unions report that some examiners have required them to take action or have made determinations that either were not required by or went further than what is required under law or regulation. We recommend that the Subcommittee consider requiring regulators to provide information on a regular basis to the FFIEC on the extent to which examiners identify the specific legal basis under which any material supervisory determination is made.

Examination Standards

Section 3 includes several provisions related to examination standards and the treatment of certain loans; these provisions appear consistent with FFIEC guidance issued in 2009. We

support the intent of including this language in this legislation, which is to ensure that the policy guidance issued by Congress and the regulators in Washington is applied as intended by the examiners in the field. While we have concerns with the prescriptive nature of the language in this section, we recognize that if there were not so many concerns regarding the examination process, it would not be necessary for Congress to consider such language.

One provision of Section 3 with which we would request further consideration is the provision requiring the regulators to develop and apply identical definitions and reporting requirements for non-accrual loans. While it is important for there to be consistency among the regulators' examination processes, we believe the NCUA should have some flexibility in this area given the unique structural characteristics that differentiate credit unions from banks. In fact, just last week, the NCUA issued a proposal that would provide for much more accurate reporting and regulatory treatment of troubled debt restructurings (TDRs); if adopted, the NCUA would no longer require TDRs that are performing to be treated as delinquent, although they would continue to be reported at TDRs.

Office of Examination Ombudsman

Section 4 would establish an office of examination ombudsman at the FFIEC to receive and investigate complaints from financial institutions concerning examinations, practices and reports. This office would also be responsible for reviewing regulators' examination procedures to ensure that examination policies are being followed and adhere to the standards for consistency established by the FFIEC. This section also includes an annual report to Congress on several of the issues addressed by this legislation.

We strongly support the establishment of this office at the FFIEC, and would recommend the following three changes to this section.

First, the ombudsman should be directed to design and implement a routine survey for financial institutions to complete on a voluntary basis at the conclusion of the examination process, to report on their examination experience to the FFIEC. The NCUA presently conducts such a voluntary survey; other regulators may as well. We would hope that this survey would be made available to the financial institution as part of the final examination report. We believe that

credit unions would be more comfortable in completing such a survey if it were collected by an ombudsman once removed from the NCUA. Further, we would hope that the results of this survey would be aggregated and reported to Congress in the annual report required under this section.

Second, the legislation includes language designed to prohibit retaliatory action against a financial institution that complains about or appeals an examination finding. We recommend the Subcommittee takes an additional step to assuage the real concerns that financial institutions may have regarding the utilization of the complaint or appeal process by directing the ombudsman to routinely follow up with financial institutions that have raised issues with respect to or appealed examination findings to ensure that there have been no retaliatory actions taken against the institution. This type of action may reduce the concern regarding retaliation that some financial institutions may have, notwithstanding the prohibition against retaliatory action.

Third, we have concerns related to the language directing the ombudsman to review regulators' examination procedures to ensure that examination policies are being followed and adhere to the standards for consistency established by the FFIEC. As we have noted, credit unions have unique structural characteristics that differentiate them from banks. We question whether this language would sufficiently enable the NCUA to establish examination procedures that take into consideration these characteristics. Furthermore, we believe there is merit to permitting regulators to establish examination procedures that take into account the risk, size and complexity of the institution. The examination of a $7 million credit union should not necessarily follow the same procedures as the examination of a $45 billion credit union or one of the largest banks. We believe that all financial institutions of similar size and structure have every right to expect consistency of treatment, but examination practices should be tailored to the type and size of institution.

Cost of Implementation

Whenever there are changes to the regulation or compliance burden, the cost of implementation is borne by the regulated entities. History suggests that these costs for credit unions go only in one direction: up. We anticipate that several of the provisions of this legislation would result in increased costs for the NCUA, which regrettably would be passed on to credit unions, and

ultimately credit union members if Congress does not include language to guard against this result. Credit unions already pay a substantial amount to fund regulators and to comply with ever-increasing regulatory requirements.

Given the circumstances that have prompted Congress to consider legislation of this nature, few credit unions would view this legislation as a net positive if the benefits of the legislation were accompanied by increased costs to credit unions. We encourage the Subcommittee to add language directing the regulators to identify the additional costs associated with implementing this legislation, and reduce expenditures elsewhere within their budgets by the same amount. Over the last several years, the NCUA has proposed significant increases in its budget. We have confidence that the improvements sought by this legislation could be paid for through reductions in expenses at the agency.

Further, the NCUA staff has brought to our attention their concern that the cost to FFIEC of implementing this legislation would be divided equally among the members of the Council notwithstanding the fact that the number or nature of the inquiries and appeals of Council members' decisions may not be equal. We share this concern: each regulator should contribute its fair share toward to the cost of implementing this legislation. We encourage the Subcommittee to include language that divides the cost to the FFIEC of implementing this legislation among the regulators on a pro-rata basis, based on each regulator's actual costs of implementation.

Conclusion

Chairman Capito, as the economy struggles to recover from the recent financial crisis, credit unions face a crisis of creeping complexity with respect to regulatory burden which is made all the more challenging by examination practices that are, in some cases, based on policy guidance and examiners' view of best practices rather than regulation and law, and an examination dispute resolution process under the auspices of the regulator employing the examiner. H.R. 3461 would help make the exam process fairer and more consistent. We appreciate your leadership in sponsoring this legislation. We look forward to working with you as the bill moves through the legislative process. I would be happy to answer any question the Subcommittee may have.

I. CUNA's List of Credit Union Examination Rights (with Commentary)

1. Credit unions have the right to manage risk without being directed by examiners to eliminate it. Authorized by NCUA *Examiner's Guide* (NEG) page 1-3.

   Commentary: As the *Examiner's Guide* points out, examiners should not "insist that a credit union eliminate risk but, instead, should ensure that credit unions identify and manage their risks. The desired reward for taking risk is stable profitability and increased net worth. Credit unions must balance risk and reward responsibly."

2. Credit unions have the right to respectful conduct from the examiner. NEG pages 21-3 and 21-4.

   Commentary: Credit unions, as well as regulators, expect examiners to act professionally—which they do most of the time, according to credit unions. However, if a credit union feels that an examiner has stepped over the line in terms of conduct involving the credit union, the credit union should report the incident to the supervisory examiner or regional office, without fear of retaliation.

3. Credit unions have the right to be examined by well-trained, competent examiners who understand the unique characteristics of credit unions. NCUA *Strategic Plan 2011-2016*, pages 1 and 2.

   Commentary: Strong safety and soundness depends, in large measure, on capable supervision. Examiners who are well-suited for their jobs in terms of experience, expertise, and conduct help support safety and soundness and strengthen the credit union system.

4. Credit union officials have the right to meet and discuss examiner findings, conclusions, directives, and any administrative actions with the examiner, or privately among themselves without the examiner present. Credit union officials should be able to have management staff present at the officials' discretion. NEG pages 1-11, 1-15, 21-2, and 21-3.

   Commentary: According to NCUA's *Examiner's Guide*, examiners are instructed to provide time throughout the examination process for discussion with management and officials regarding developments and findings in the examination. Examiners are encouraged to provide credit union officials with a draft copy of the examination report and give officials sufficient time to review it before the joint

conference or exit interview. As the *Examiner's Guide* notes, "Nothing presented at the joint conference, exit interview, or in the examination report should surprise the [credit union's] officials." It is equally important that credit union officials not surprise examiners and that they take advantage of opportunities to meet with examiners and discuss issues throughout the examination process.

5. Credit union officials have the right to question and seek corrections to examiner findings, conclusions, and directives. NEG page 1-15.

   Commentary: Accuracy is an essential component of strong safety and soundness regulation. Examiners are human and all humans make mistakes. It is not only appropriate but very important that credit unions work with their examiner to ensure all reports are as accurate and timely as possible and that all directives are based on accurate information.

6. Credit union officials have the right to provide alternatives and/or additional data, conclusions, and solutions to address problems identified by the examiner. NEG pages 1-11, 2-3, 3-10, and 21-6.

   Commentary: According to the *Examiner's Guide*, examiners are not expected to dictate credit union policies but rather should work with credit union officials to reach a favorable outcome. The *Examiner's Guide* emphasizes cooperation and coordination between examiners and credit union officials, which should include flexibility for credit union management to provide alternative perspectives and data as well as alternative solutions to problems—as long as such alternatives are factually based and appropriate for the situation.

7. Credit union officials have the right to know the specific authority or legal basis for an examiner's directive, and this authority should be provided by the examiner in the exam report or directive. NEG page 20-7.

   Commentary: The *Examiner's Guide* makes it clear that examiners must be willing and able to provide to credit union officials the legal authority for the action they are suggesting or directing the credit union to take. In addition, examiners do not have flexibility to insist on actions or policies that are counter to or inconsistent with statutes, agency policy, or GAAP.

8. Credit union officials have the right to receive clearly written examination reports on a timely basis. Any other directives and

notices from the examiner should also be clearly communicated in writing. NEG page 20-1.

Commentary: Credit unions should not be expected to comply with directives that are not in writing. In order for the credit union's record of performance, including efforts to address problem areas, to be as accurate as possible, directives should be provided in writing to the credit union and included in the credit union's examination history.

9. Credit union officials have the right to have examination reports, findings, directives and administrative actions that are based on all relevant facts, including current data. NEG page 1-27.

Commentary: The examination report should present a current, factual picture of the credit union's financial performance and risk management. When material problems arise that the examiner expects the credit union to correct, the record must include a complete and well-documented accounting of the problems and the efforts by the credit union and the examiner to address them fully.

10. Credit union officials have the right to be evaluated on their own strengths and weaknesses and not solely on the basis of regulator concerns about trends or general problems in the credit union system or within their peer group. NEG page 3-5.

Commentary: While examiners must be mindful of problems and conditions in their regions and even across the country, it is essential for the accuracy of each credit union's examination report that the examiner's assessment of a credit union reflects an accurate depiction of the performance and operations of the credit union under review.

11. Credit union officials have the right to be evaluated for progress toward objectives that are realistic and achievable, proportionate to the risk presented and the resources of the credit union, and in the timeframe established with the credit union. NEG page 3-11.

Commentary: Goals and directives that are not realistic are counterproductive and undermine safety and soundness. Examiners should not arbitrarily set requirements that the credit union cannot meet but rather there should be coordination and cooperation between the credit union's officials and the examiner regarding goals

that are achievable within an acceptable amount of time for both the examiner and the credit union.

12. Credit unions have the right for their examination findings and directives to be risk prioritized. NEG pages 1-1 and 20-1.

    Commentary: Examiners are directed to focus their reviews and reports on applicable risks, and those activities that present the greatest risk receive the most attention. A standard procedure that the examination findings and directives must be listed in order of their importance based on the amount of risk presented is fully consistent with the risk-focused examination process.

13. Credit union officials have the right to appeal examiner findings, conclusions, or directives without fear of retaliation from their regulator.[1]

    Commentary: It is clear that under the *FCU Act*, agency policy and practice, credit unions have the right to appeal "material supervisory determinations, including decisions to require prompt corrective action" to the NCUA Board. As discussed in this Section, matters that may be appealed include, for example, cease and desist orders, removal of officials, and conservatorships. Credit unions also have the right to appeal material examination report findings, conclusions, and directives from the examiner. Documents of Resolution and LUAs are not generally "appealable" because they are technically voluntary agreements, but the credit union should be able to appeal to the regional director as part of the DoR or LUA negotiation process.

14. Instructions on how to appeal examiner findings, conclusions, or directives should be detailed on every examination report form that is provided to credit unions. NEG page 17-1.

    Commentary: NCUA's process for allowing an appeal is far from clear. NCUA and state regulators should ensure that all examination report forms which examiners provide to credit unions include sufficiently detailed information as to which issues may be appealed

[1] *See, e.g.*, 12 U.S.C. §1790d(k) (addressing PCA appeals); NCUA, Interpretive Ruling and Policy Statement (IRPS) 02-1 ("Supervisory Review Committee"), *available at* http://ncua.gov/Resources/RegulationsOpinionsLaws/IRPS/2002/IRPS02-1.html; NCUA, IRPS 95-1 ("Guidelines for the Supervisory Review Committee"), *available at* http://ncua.gov/Resources/RegulationsOpinionsLaws/IRPS/1995/IRPS95-1.html.

or challenged and the process for making such an appeal. CUNA and the Leagues are pursuing greater transparency in the appeals process.

15. Credit union officials have the right to record meetings with examiners and other agency personnel and other regulatory proceedings related to the examination (subject to confidentiality). NEG page 21-2.

    Commentary: The *Examiner's Guide* states that credit unions often use tape recorders to record their meetings at the joint conference, and that the NCUA examiners usually agree to the request, and may request a copy of the tape or transcript. A recorded meeting provides an objective transcript of the discussion between the examiner and the credit union officials.

16. Credit union officials have the right to have a representative, such as an attorney or League representative, present during meetings with the examiner and other regulatory personnel. NEG page 21-6.

    Commentary: The *Examiner's Guide* states that credit union officials have the right to invite other persons to the joint conference, and that an examiner will rarely object to the attendance of any outside individual. Proper communication about the attendees in advance will facilitate the meeting.

17. Credit unions have the right to have any published orders—at least consent orders—address only facts and not conjecture or speculation by the examiner. NEG pages 20-1, 20-6, and 30-3.

    Commentary: Any published orders must be based on the facts in an examination report that are reviewed by the credit union. The *Examiner's Guide* states that the examination report must have proper documentation to support an examiner's findings and conclusions. For the confidential section of the report, examiners should only cover pertinent matters that are based on fact, and not "statements based on gossip or hearsay."

18. Credit unions have the right to confidential, non-discoverable communication with their legal counsel regarding examination issues.

    Commentary: There are longstanding legal principles in this country regarding attorney-client privilege that also apply to a credit union's

management and officials in regard to examination and supervisory issues. [2]

19. Credit unions have the right to develop and use "high-level" policies, which should be separate and distinct from detailed procedures. NEG page 21-5.

    Commentary: Examiners should not dictate broader credit union policies, but rather should lead and persuade officials to proper action. Credit union management and officials have the right to use business judgment in developing their policies.

20. State credit unions have the right to a lead examiner that is a state regulator, consistent with the credit union's charter type. NEG page 22B-3.

    Commentary: NCUA appears to be compelled to accompany state regulators during the examination of state-chartered credit unions, particularly on federal "hot button" issues such as MBL and indirect lending. Thus, it is important that the lead examiner be comparable to the credit union's charter type. It is also important that the state regulator—not NCUA—be responsible for assigning the credit union's CAMEL rating during an examination.

21. Credit union officials have the right to know the timing of when their regulators, such as NCUA, will publish an LUA. NEG page 29-10.

    Commentary: This right does not address whether NCUA should publish an LUA, it simply addresses the need for notification of when the LUA will be published. Currently, credit unions are learning about publication by either checking NCUA's website or, more likely, via NCUA's mass emails—which can be unintentionally inflammatory. NCUA should follow the lead of a number of state regulators that inform the credit union on when publication will occur.

22. Credit union officials have the right to defer to their certified public accountant (CPA) if there is a disagreement between the officials and

[2] *See, e.g.*, *Upjohn Co. v. United States*, 449 U.S. 383, 386-99 (1981); *Clarke v. Am. Commerce Nat 'l Bank*, 974 F.2d 127, 129-30 (9th Cir. 1992); 12 C.F.R. § 747.24(c) ("Privileged documents are not discoverable. Privileges include the attorney-client privilege, work-product privilege, any government's or government agency's deliberative-process privilege, and any other privileges the Constitution, any applicable act of Congress, or the principles of common law provide.").

their regulator regarding issues related to U.S. generally accepted accounting principles.[3] NEG pages 5A-4 and 7-28.

Commentary: Credit unions over $10 million in assets are required to follow GAAP and a credit union's CPA is responsible for ensuring that the credit union's activities and financial statements are in compliance with GAAP. Therefore, rather than the regulator becoming involved in the specific accounting issues of numerous credit unions, the examiner should not seek to override the credit union's CPA when disagreement on accounting issues arise, absent clearly erroneous guidance from the CPA. Such practice will benefit not only the credit union but also the regulator by freeing up its resources.

23. Credit union officials have the right to communication (i.e., discussion of draft findings) with their examiner prior to final issuance of the examination report. NEG page 21-1.

Commentary: The NCUA *Examiner's Guide* states that examiners should set aside "time periodically to discuss with management and officials developments in the examination." NEG page 21-1. In addition, an examiner should provide "credit union officials and management sufficient time to review it before the joint conference or exit interview." NEG page 20-1.

24. Credit unions have the right for directives from examiners (including verbal and written comments) to be consistent with agency policy, such as NCUA's letters to credit unions. NEG pages 3-1, 6-15, 6-16, 6-20, 7-35, 9A-18, and 10-1 – 10-14.

Commentary: While this seems like an obvious right, this is frequently raised by credit unions across the country. NCUA examiners must follow the guidelines in the Letters to Credit Unions. For example, the *Examiner's Guide* states that credit unions must follow Letters to Credit Unions in areas such as CAMEL ratings, risk-based lending, and risk management.

[3] *See* U.S.C. 1782(a)(6).