

**REMARKS OF THE HONORABLE RUBEN HINOJOSA  
HOUSE COMMITTEE ON FINANCIAL SERVICES  
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS  
“REGULATORY RELIEF: THE REGULATORS’ PERSPECTIVE”  
JUNE 9, 2005**

Chairman Bachus and Ranking Member Sanders, I want to express my sincere appreciation for you holding an additional hearing on the need for regulatory relief for financial institutions.

This is a very important topic, and we need to ensure that whatever legislation is drafted with the help of my colleagues Congressman Dennis Moore and my fellow Texan Congressman Jeb Hensarling, with our input, provides equal treatment for all financial institutions and reduces as many of their regulatory burdens as possible while protecting consumer interests.

I want to take this opportunity to welcome a fellow Texan, Mr. Randall S. James, Commissioner of the Texas Department of Banking, who is testifying today on behalf of the Conference of State Bank Supervisors, Inc. I look forward to hearing your testimony and that of all of today’s witnesses. Commissioner James, I hope that you enjoy your stay in Washington. You are always welcome.

At this point, Chairman Bachus, I would like the attached documents to be included as part of my opening remarks: a letter from Harold E. Feeney, Commissioner of The State of Texas Credit Union Department, to Ms. Dominique M. Varner, Attorney at law; a copy of the mandatory disclosure paper the Community Credit Union (CCU) provided to members announcing the vote on whether to convert to a federal mutual savings institution charter; a copy of a letter from the American Bankers Association to me regarding the CCU conversion; and a copy of a letter from America’s Community Bankers to me regarding the same issue.

The letter from Commissioner Feeney to Dominique Varner pertains to the CCU’s failed attempt to convert to a federally chartered mutual savings institution. If the content of this letter is accurate, I find it odd that NCUA nullified the vote by CCU members to switch charters based on how a document was folded, especially since there are no rules, regulations or guidance on how to fold such document. Mr. Chairman, this action may have created a very awkward regulatory situation that may need to be addressed in the near future.

Having said that, Mr. Chairman, I yield back the remainder of my time.



## CREDIT UNION DEPARTMENT

Harold E. Feeney  
Commissioner

James R. Deese  
Deputy Commissioner

May 31, 2005

Via Email and U.S. Mail

Ms. Dominique M. Varner, Attorney at Law  
Hughes, Watters, Askanase  
Three Allen Center  
333 Clay Street, 29<sup>th</sup> Floor  
Houston, Texas 77002

**Re: Conversion of Community Credit Union (CCU) to a Federally Chartered Mutual Savings Institution**

Dear Ms. Varner:

The Department has researched and investigated the issues raised in your letter dated May 16, 2005, alleging various violations and procedural deficiencies with the election process for CCU's proposed charter conversion (Protest Letter). The Department has confirmed that four members of your client, the Coalition for Member Trust, are members of CCU and do have standing to request that the Department investigate the election process. Those members are hereinafter referred to as the Protesting Members. I will address each of the concerns of the Protesting Members in the order in which they were raised in your letter.

### **Inadequacy of Disclosure**

#### **a. All Applicable State Regulations Apply Because NCUA Does not Preempt State Regulation Where Such Regulation is More Restrictive.**

The Department fully understands that a state is not required to defer to NCUA on disclosure requirements in all instances. However, in this instance, NCUA declared that the federal regulation on conversion disclosures was stricter than the Texas rule and that its rule governed. This does not mean that we did not review the disclosures to ensure that they complied with the Texas conversion rule. We reviewed all of the disclosures, made comments on them and reviewed all revised versions of the disclosures. The disclosures that were sent to CCU members complied with all applicable State rules with the exception of 7 T.A.C. Section 91.302(c) (3), which was specifically preempted by NCUA.

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In your Protest Letter, you stated that "If you as the Texas Credit Union Commissioner feel that insufficient disclosures have been made to safeguard and protect the rights of Credit Union members within your state, you have the right to take affirmative action, and demand disclosures above and beyond those required by NCUA." This statement is not accurate. As Commissioner I only have the authority to enforce and apply the statutes adopted by the Texas Legislature and the corresponding rules promulgated by the Texas Credit Union Commission. I do not have the authority to unilaterally transform or otherwise convolute the Commission's rules. Any application received, whether it be for a conversion or any other authorized activity, is approved or denied in accordance with applicable law and the Commission rules in place at the time of its submission. If you or your clients feel the current rule on conversions should be modified or somehow expanded, you are welcome to request that the Commission consider changes to the rule. The Commission will then go through its normal prescribed rulemaking process. I would like to note that the Legislative Advisory Committee of the Commission has requested that I study the current conversion rule to see what, if any, revision is necessary. I will be holding a public hearing in coming months and would welcome your or your clients' input on the rule.

**b. The Credit Union Failed to Comply with Applicable Federal Disclosure Requirements.**

This issue should more appropriately be addressed to NCUA. However, since you have asked me to find that CCU failed to comply with all applicable disclosure requirements; I will give you my opinion. NCUA reviewed and requested revisions to the original CCU disclosure material over a period of 90 days. This Department received a copy of a letter from NCUA to CCU dated March 31, 2005, that approved the disclosure material and the procedures to be used. Therefore, I have no basis to find that the disclosure material failed to comply with federal disclosure requirements.

**c. The Credit Union Rendered its Disclosures Defective by Concealing and Contradicting Such Disclosures.**

Again, this issue should more appropriately be addressed to NCUA. The required NCUA disclosure (Boxed Disclosure) is not required under Texas law; however, I think it is worth noting that the rule requiring the Boxed Disclosure was adopted by NCUA after submission of CCU's application and under the Texas regulatory scheme would not have applied to this particular application.

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You have specifically asked me to find that CCU failed to comply with all applicable disclosure requirements due in part to your client's claim that the Boxed Disclosure was inappropriately printed on the reverse side of a two-sided sheet that included a response to the Boxed Disclosure prepared by CCU. I cannot make such a finding. This Department and NCUA reviewed and approved the content of CCU's response sheet and the placement of that document on the reverse side of the Boxed Disclosure. This Department has reviewed a sample of the disclosure packets mailed to CCU members and do not agree that the Boxed Disclosure was printed on the reverse side of the two-sided document. There is no question that the Boxed Disclosure itself met all of the statutory requirements of Part 708a.4 (e) and it was placed as the second document in the packet as approved by NCUA. Nothing in either our rules or those of the NCUA dictates how a document should be folded. Further, there were no specific folding instructions in either Agency's approval letter authorizing the use of the two sided Boxed Disclosure and CCU response sheet. Based upon the samples reviewed, it certainly appears to this office that the document containing the Boxed Disclosure was folded in the standard manner, i.e. first page facing up, folding the bottom 1/3 up and then the top 1/3 over. Following this standard convention of folding documents, the Department must conclude that the Boxed Disclosure was indeed the front sheet of the two-sided document. To date, this Department has received no questions, comments or complaints regarding the disclosure material, including the Boxed Disclosure, from any member other than the Protesting Members in your Protest Letter.

**d. The Credit Union Failed to Give a Fair and Balanced Presentation of the Arguments For and Against Conversion and Stifled Open Debate Among its Members.**

The Department's investigation did not substantiate the Protesting Members claim that CCU failed to give a fair and balanced presentation of the arguments for and against conversion or that they stifled open debate among its members. The dicta cited in the Protest Letter concerning the need for a "fair and balanced" presentation of the issues surrounding a conversion were made by NCUA officials as their justification for the adoption of the Boxed Disclosure. CCU was required to present the Boxed Disclosure to their members and therefore the fair and accurate presentation was made. As permitted by NCUA regulation, CCU specifically requested that they be allowed to submit a response to the Boxed Disclosure. NCUA and this Department reviewed, revised and ultimately approved that response and its placement on the back of the Boxed Disclosure. These two documents, combined with all of the statutory disclosure requirements contained in the disclosure materials sent to CCU members did constitute a fair and accurate presentation.

Further, NCUA requires that any and all additional information the Credit Union provides its members, beyond the Boxed Disclosure, to be "factually correct and not misleading in any way". CCU submitted all such information, including proposed responses to various questions that it anticipated receiving from the media and members about the conversion for review by this Department and NCUA to ensure that NCUA agreed that they were factually correct and not misleading. NCUA and this Department approved the use of the information and those responses. Therefore, it appears to this Department that CCU has complied with and continues to try to comply with both the letter and spirit of all applicable regulations regarding factually correct and not misleading disclosures.

In connection with the issue of stifling debate, I would like to make several observations. First, there is no federal or state requirement for a credit union to provide a mechanism for members to share their opinions on the conversion with each other and the credit union, other than the requirement to hold a special meeting on the conversion where members may vote on the proposal. Second, CCU has established a "conversion hotline" to respond to inquiries and comments received from its members about the proposed conversion. Although CCU has not kept specific statistics regarding this hotline, the individuals who staffed the hotline estimate that they have handled 300-500 calls to date. CCU has asserted to us that the majority of questions have dealt with administrative matters regarding the return envelopes for the ballot. Finally, the specific instances cited in the Protest Letter as attempts to stifle debate all occurred at CCU's annual meeting which was held to elect directors to three open positions and conduct other routine credit union business. The annual meeting was not posted as a forum for discussion of the conversion proposal. CCU had previously scheduled and notified its members in the disclosure materials and elsewhere that there will be a special meeting on June 21, 2005, to take up and consider the charter conversion. Having made that distinction, the Department understands that members wishing to speak on or about the proposed conversion were provided an opportunity to address the members attending the annual meeting.

I will now address what our investigation revealed about the three specific instances named in the Protest Letter. We are not aware of any other instances.

1. Regarding the members who were locked out. There are no regulations that specifically address whether a credit union can lock a member out of a meeting. How the annual meeting is run is governed by the credit union's bylaws and policies. Annual meetings are for members only and the public may be excluded. It is my understanding that it has been CCU's policy in recent years to verify membership prior to allowing admittance into the meeting. Their stated rationale for this is that elections are conducted by voice vote at the annual meeting and there is no other way to reasonably assure that only members are voting. Any members who arrived after the annual meeting commenced and the verification booth had closed were not admitted because their membership could not be verified. Given the presence of non-members who had

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already tried to gain admittance prior to the start of the meeting, CCU may have been a little faster on the timing of closing of the verification booth than in years past; however, that can not be legitimately construed as an attempt to stifle debate on a matter, which was not even a posted item on the meeting's agenda.

2. Regarding the member who was escorted out of the meeting. This member violated posted notices that campaign materials could not be distributed within 100 feet of the meeting. According to CCU, this has been the credit union's policy for many years and warning signs were appropriately posted. Our review of the statement from the police officer, who informed the member that she was violating the posted policy, revealed that it was the police officer's decision to remove that member from the meeting, after she began arguing with him and he felt she was attempting to cause a disturbance.

3. Regarding the motion to dismiss the conversion proposal. The matter of the proposed charter conversion was not on the official agenda for the annual meeting so the presiding officer at the meeting was correct in ruling the motion to be out of order. As noted earlier, a special meeting on the charter conversion had already been called and notice of that meeting given to all CCU members. In addition, federal and state regulations are in place which dictates the only method permitted to facilitate a vote for or against a conversion proposal and this was not the prescribed venue.

**e. Method of Conducting the Balloting.**

Although NCUA's regulation does not prohibit members from being allowed to change their vote during the process, the secret balloting system NCUA required CCU to follow functionally prohibits their ability to do so. Further, under 7 T.A.C. Section 91.302(a), the board of directors of a credit union is given the authority to establish election rules. Nothing in Rule 91.302 or elsewhere in our rules prohibits a credit union from instituting a policy of irrevocable ballots in any election. This is particularly practical in secret ballot elections such as the procedure set up for this conversion vote. Precedent exists in other elections for irrevocable votes and we do not feel the Commission has overstepped its authority in not prohibiting irrevocable votes.

Without commenting on the validity of your claim that Texas common law gives members a right to change their vote so long as the result has not been finally announced, I do not have the authority to invoke Texas common law for enforcement purposes. As stated earlier, I only have the authority to enforce and apply the statutes adopted by the Texas Legislature and the corresponding rules promulgated for Texas Credit Unions by the Credit Union Commission.

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**f. Access to the Credit Union Membership List.**

Without commenting on the validity of your arguments raised and for the same reason stated above, I do not have the authority to apply Texas common law over statutes and rules adopted by the Texas Legislature and the Credit Union Commission. I will, however, address the Commission's authority to require the release of membership lists under Texas Finance Code Section 125.402 and 7 T.A.C. Section 91.608.

Subsection 125.402 (b) and (c) should be read together:

“(b) The commission may authorize the disclosure of information relating to a Credit Union member under circumstances and conditions that the commission determines are appropriate or required in the daily operation of the Credit Union's business.”

“(c) The commission may adopt reasonable rules relating to the:

- (1) confidentiality of the accounts of credit union members; and
- (2) duties of the credit union to maintain that confidentiality.”

The Commission when it adopted Rule 91.608 under the authority granted in Subsection 125.402(c) did authorize the disclosure of member information for circumstances that it determined were *appropriate or required* in the *daily operation* of the credit union's business under Subsections 91.608 (a) (1)-(6). Membership information released to other members for voting campaign purposes is not on that list. We can only conclude that at the time of adoption, the Commission either didn't feel that the release of the membership list was “appropriate or required” or that it was not in the “daily operation” of the Credit Union's business. The Commission, through the rule making process, exercises the authority given to it by the Legislature. Subsection 125.402 (b) is a general grant of authority for the Commission to issue a general rule on the matter. It was not intended to allow any member of any credit union to petition the Commission at any time to get access to other members' information. The rule making process is a public process and if you or your clients feel that Rule 91.608 needs to be revised, either under (a) or (b), to allow for release of member information to other members who are campaigning for a vote, you are welcome to make such a request to the Commission and the Commission can decide to review that rule. If the Commission decides that your request has merit, it will have to go through the normal rulemaking process.

However, again as I stated earlier, CCU is subject to the statutes and rules that are in place on the date that they submitted this application. If CCU released the membership list to members, they would be in violation of Rule 91.608. Further, Subsection 91.608(d) specifically states that this rule "shall not be construed as altering or affecting any applicable federal statute, regulation or interpretation that affords a member greater protection than provide under the section." Therefore, if the Commission did decide to revise the rule to allow for disclosure of member lists to other members, each credit union that received such a request would have to analyze all applicable federal regulations to determine if stricter privacy standards apply. In this case, as a financial institution, that would include the Gramm-Leach-Bliley Act and the Bank Secrecy Act.

**g. The Breach of Fiduciary Aspect.**

I do not believe the directors of CCU have breached their fiduciary duties in connection with their vote to seek membership approval of the conversion proposal or with the disclosures that have been provided to the membership. Congress has clearly expressed that credit unions should have the freedom to choose the form of organization that best meets their strategic and market objectives. The board of directors of a credit union has the authority to recommend a different form of organization to the membership. It is not a breach of fiduciary duty under Texas Finance Code Sections 122.061 or 122.062 for them to make this recommendation.

While Subsection 122.061(a)(1) prohibits a director from the deliberation of or determination of a question affecting the person's pecuniary interest, Subsection 122.061(b) states that "an interest only as a member of the credit union that is shared in common with all other members is not a pecuniary interest within the meaning of Subsection (a)(1)." The decision to convert to another type of charter is determined by a vote of the membership and is a matter that is shared in common with all other members. The credit union will either convert to another type of charter or it won't but the act of conversion will affect all members in the same manner. Activities or events that might occur in the future and which are also subject to an additional membership vote do not disqualify CCU's directors from proposing the conversion to the membership.

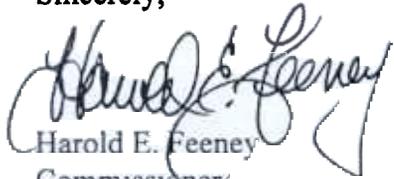
Further, this Department and NCUA reviewed and approved the disclosure material as to any possible monetary benefits the directors could enjoy as a result of this conversion. The disclosure materials clearly state that Directors of the Savings Institution will be paid the same fee for their services as Directors are currently paid as Directors of the Credit Union. Payment of the Directors fees to Credit Union Directors is authorized under Texas Finance Code Section 122.062 and 7 T.A.C. Section 91.502. If the credit union converts, it will be governed by the Office of Thrift Supervision (OTS) and any future activities of the institution will be governed by applicable law and OTS regulations.

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The disclosure material approved by this Department and NCUA sets out the possibility of future compensation for directors in the form of stock benefits and notes that these benefits could only be realized after additional votes and approvals are obtained by members and regulators. If CCU's membership approves the conversion to a mutual savings bank and the subsequent institution believes that a mutual-to-stock conversion is in its best interest, the Federal Deposit Insurance Corporation and the OTS have a regulatory scheme in place to deal with questions related to management abuse, enrichment of insiders, and fairness to depositors. Lastly, I would like to note that there is no guarantee that the directors who participated in the vote to recommend to the membership that a conversion take place will be the directors following any subsequent membership votes and regulatory approvals allowing for stock benefits for directors.

If you have any questions, please do not hesitate to call me or the Department's General Counsel, Kerri Galvin.

Sincerely,



Harold E. Feeney  
Commissioner

HEF:KTG/iv

cc: ✓ Mr. Garold R. Base, President  
Community Credit Union

Mr. Cue Boykin, Assistant Attorney General  
Office of the Attorney General

Ms. Jane Walters, Regional Director  
National Credit Union Administration

The National Credit Union Administration, the federal government agency that supervises credit unions, requires Community Credit Union to provide the following disclosures.

1. **OWNERSHIP AND CONTROL.** In a credit union, every member has an equal vote in the election of directors and other matters concerning ownership and control. In a mutual savings bank, **ACCOUNT HOLDERS WITH LARGER BALANCES USUALLY HAVE MORE VOTES AND, THUS, GREATER CONTROL.**

2. **EXPENSES AND THEIR EFFECT ON RATES AND SERVICES.** Credit unions are exempt from federal tax and most state taxes. Mutual savings banks pay taxes, including federal income tax. If Community Credit Union converts to a mutual savings bank, these **ADDITIONAL EXPENSES MAY CONTRIBUTE TO LOWER SAVINGS RATES, HIGHER LOAN RATES, OR ADDITIONAL FEES FOR SERVICES.**

3. **SUBSEQUENT CONVERSION TO STOCK INSTITUTION.** Conversion to a mutual savings bank is often the first step in a two-step process to convert to a stock-issuing bank or holding company. In a typical conversion to the stock form of ownership, the **EXECUTIVES OF THE INSTITUTION PROFIT BY OBTAINING STOCK FAR IN EXCESS OF THAT AVAILABLE TO THE INSTITUTION'S MEMBERS.**

4. **COSTS OF CONVERSION.** The costs of converting a credit union to a mutual savings bank are paid from the credit union's current and accumulated earnings. Because accumulated earnings are capital and represent members' ownership interests in a credit union, the conversion costs reduce members' ownership interests. As of February 28, 2005, Community Credit Union estimates **THE CONVERSION WILL COST APPROXIMATELY \$1,262,600 IN TOTAL.** That total amount is further broken down as follows: regulatory application processing fees - \$5,400; printing - \$230,000; postage - \$304,000; mailing assembly - \$90,000; inspector of elections - \$26,000; membership awareness campaign - \$150,000; consulting and professional fees and expenses - \$105,000; legal fees and expenses - \$200,000; staff time - \$0; special meeting location - \$3,200; signage and stationary changes - \$230,000; cash prizes - \$20,000; annual examination and operating fee benefit - (\$101,000)(the difference between annual examination and operating fees as a mutual savings bank of \$177,000 and as a credit union of \$278,000).

## YOUR CREDIT UNION WANTS YOU TO KNOW THE FACTS

The disclosures provided on the reverse side are required by the NCUA in its role as monitor of the Charter Change voting process. We wish to make the following statements in response:

### 1. OWNERSHIP AND CONTROL

After the Charter Change the maximum number of votes per member FDIC-insured account is 1,000 out of a total of more than 10,000,000 votes. **WE DO NOT BELIEVE THAT THIS CHANGE WILL GIVE ANY MEMBER OR GROUP OF MEMBERS SUBSTANTIALLY GREATER CONTROL THAN CREDIT UNION MEMBERS CURRENTLY ENJOY.**

### 2. EXPENSES AND THEIR EFFECT ON RATES AND SERVICES

Credit unions, like all financial institutions, pay rates on savings accounts and set loan rates and fees for services based on competitive market conditions, not their tax exemption. Based on our business plan filed with federal regulators, **THE EARNINGS ON THE ADDITIONAL CAPITAL TO BE RAISED AND THE EXPECTED INCREASE IN ASSETS OF THE INSTITUTION SUPPORTED BY THIS CAPITAL WILL ENABLE US, CONTRARY TO THE NCUA'S CONCERNS, TO MAINTAIN OUR COMPETITIVE RATES ON SAVINGS ACCOUNTS AND LOANS AND MODERATE SERVICE FEES, AS WE HAVE IN THE PAST.**

### 3. SUBSEQUENT CONVERSION TO STOCK INSTITUTION

Any future **CONVERSION TO A STOCK INSTITUTION, WHILE BENEFICIAL BECAUSE OF THE SUBSTANTIAL CAPITAL THAT CAN BE RAISED, REQUIRES A VOTE OF THE MEMBERS, AS DOES THE AWARDING OF STOCK BENEFITS.** Furthermore, the award of any stock-based compensation in connection with a conversion will be strictly regulated by the Office of Thrift Supervision, our new federal regulators upon completion of the Charter Change.

### 4. COSTS OF CONVERSION

Community is required by extensive federal and state regulations to go through a costly process to put the Charter Change proposal to a membership vote. Like all other investments, such as advertising our rates and services, building a branch, or adding personnel, **THE BOARD OF DIRECTORS BELIEVES THE COSTS WILL RETURN A GREATER BENEFIT TO THE MEMBERS.** The addition of new capital through a minority stock offering will allow us to add new branch offices, products and services as rapidly as demanded by our members and the community.

### 5. RETURN OF INSURANCE DEPOSIT

The NCUA, while an agency of the federal government, receives no taxpayer dollars to operate. The NCUA is entirely funded by annual operating fees paid by all federal credit unions and by fees paid to it by the National Credit Union Share Insurance Fund ("NCUSIF"), which the NCUA manages. The NCUSIF is funded entirely by federally insured credit unions, such as Community. **AS OF DECEMBER 31, 2004, COMMUNITY HAD \$9,783,000 ON DEPOSIT WITH THE NCUSIF, WHICH GENERATED APPROXIMATELY \$199,000 DURING 2004 FOR NCUSIF, OF WHICH APPROXIMATELY 60%, OR \$119,000, WAS PAID TO THE NCUA TO SUPPORT ITS OPERATIONS AND ON WHICH NOTHING WAS PAID TO COMMUNITY.** If the conversion to a mutual savings institution is completed, the NCUSIF deposit will be returned to Community and invested by us for the benefit of our members, thereby creating more earnings to pay interest on savings accounts, keep interest rates low on loans and hold down service fees.



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June 8, 2005

The Honorable Ruben Hinojosa  
House Financial Services Committee  
U.S. House of Representatives  
2463 RHOB  
Washington, D.C. 20515

Dear Representative Hinojosa:

Congress gave financial institutions the right to decide which charter – commercial, savings, or mutual savings bank, among others – best serves their customers. Choice of charter creates a healthy dynamic, resulting in a wider range of products and services available to consumers, lower regulatory costs, and more effective supervision. This makes it all the more puzzling why the National Credit Union Administration (NCUA) is making it laboriously impractical, if not impossible, for credit unions to exercise choice of charter.

Currently, two large state-chartered credit unions in Texas<sup>1</sup> are in the process of trying to convert to mutual savings bank charters. The Office of Thrift Supervision (OTS) and the Texas Credit Union Department have already approved their applications. Federally mandated disclosures were mailed to each credit union's membership.

But after the voting commenced, NCUA decided to invalidate the results, in advance, saying it objected to *how the mandatory disclosure paper had been folded* in mailings to members. NCUA's objection contradicted reviews by OTS and Texas State Credit Union Supervisor Harold Feeney, who stated, "Nothing in either our rules or those of the NCUA dictates how a document should be folded."

On the surface, NCUA's blocking action may simply appear as regulatory nit-picking. But, unfortunately, it is the latest example of NCUA discouraging credit unions from exercising their rights under the Credit Union Membership Access Act, which explicitly permits all credit unions to choose their charter. Congress also requires that NCUA "freely and fairly" permit credit unions to convert their charter to a mutual savings bank with adequate disclosures.<sup>2</sup> To the detriment of credit union members, NCUA has used this statutory language to promulgate rules that would create significant barriers to choice of charter.

NCUA's actions fly in the face of congressional intent and serve to frustrate efforts of credit union members to act to change their charter. For this reason, and to preserve the important principle of charter choice, ABA encourages Congress to

<sup>1</sup> OmniAmerican CU, Fort Worth, TX; Community CU, Plano, TX.

<sup>2</sup> House Report No. 472 (1998), p. 21.

exercise its oversight jurisdiction to scrutinize NCUA's handling of credit unions that seek to exercise their right to convert to other financial institution charters.

Sincerely,

A handwritten signature in black ink, appearing to read "Edward L. Yingling". The signature is written in a cursive, flowing style.

Edward L. Yingling  
President and CEO



June 8, 2005

The Honorable Michael Oxley  
House Financial Services Committee  
U.S. House of Representatives  
2308 Rayburn House Office Building  
Washington, D.C. 20515

Dear Chairman Oxley:

The notion of charter choice is a fundamental tenant of our financial system. That is, all institutions should be able to select the charter under which they operate. However, the National Credit Union Administration (NCUA) has gone to extremes to ensure that credit unions cannot fully exercise their right to self-determination. Therefore, we respectfully request Congress to scrutinize the NCUA's recent policy and regulations regarding the conversion of credit unions to mutual savings banks.

Although Congress has clearly granted credit unions the freedom to choose the form of organization that best meets their strategic and market objectives, the NCUA seems incapable of applying an evenhanded approach to conversion matters. For example, the agency recently invalidated the conversion attempts of Community Credit Union and Omni American Credit Union in Texas before the member votes were even tabulated. The NCUA said that the credit unions violated the agency's conversion regulations because required disclosure documents that were mailed to all credit union members were not properly folded.

Texas Credit Union Commissioner Harold Feeney disagreed with the NCUA's assessment, pointing out that no state or federal regulation dictates how the required disclosure materials should be folded.

It is unreasonable for any regulator to interfere with an entity's strategic, business decision based on how a piece of paper is folded. This is just the latest example of the NCUA exceeding its statutory authority to regulate credit union conversions. We further request that Congress ensure that credit unions' charter options are preserved.

Sincerely,

A handwritten signature in cursive script that reads "Robert R. Davis".

Robert R. Davis  
Executive Vice President and  
Managing Director, Government Relations

cc: The Honorable Barney Frank, Ranking Member  
Members of the House Financial Services Committee