World Council

November 8, 2018

Vlad Dorjets
Office of Information and Regulatory Affairs
Office of Management and Budget
725 17th St. NW
Washington, DC 20503

Re: US-Canada RCC RFI

Dear Mr. Dorjets:

World Council of Credit Unions (World Council) appreciates the opportunity to comment on the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget's (OMB) Request for Information[1] on the United States-Canada Regulatory Cooperation Council (RCC) and the efforts to reduce unnecessary regulatory differences between the United States and Canada. Credit unions are cooperative depository institutions and World Council is the leading trade association and development organization for the international credit union movement. Worldwide, there are over 89,000 credit unions in 117 countries with more than USD 2.1 trillion in total assets serving 260 million physical person members.[2]

We appreciate the unique focus of the RCC that seeks to increase efficiency related to economic activity with Canada by reducing or eliminating unnecessary or unjustified regulatory burdens, or by simplifying regulatory compliance. Credit unions play a significant role at the heart of many of the economic transactions in the United States and Canada. Credit Unions have also advocated for well-functioning regulation noting that it is necessary for the proper functioning of modern financial organizations and markets. However, since the economic crisis, the one-size-fits-all approach to regulation have become increasingly burdensome for smaller financial institutions such as credit unions often leading to higher costs, reduced services, and reduced growth for developing markets.

A recent study performed by the Credit Union National Association (CUNA) indicates regulatory costs borne by credit unions totaling $6.1 billion since the economic crisis resulting in higher loan rates, fewer services and products, longer

[1] Office of Management and Budget, Request for Information, 83 Fed. Reg. 195 at 50689 (October 9, 2018) *available at* https://www.gpo.gov/fdsys/pkg/FR-2018-10-09/pdf/2018-21765.pdf.
[2] WOCCU, *2017 Statistical Report* (2018), *available at* https://www.woccu.org/impact/global_reach/statreport.

wait times for loans and less convenient service to their members.[3] Further, a recent Filene Research Institute study, focusing on United States and Canadian credit unions noted that new regulation puts the smallest credit unions at a severe competitive disadvantage.[4]

We know in Canada that decades of policy decisions have further disproportionately affected smaller credit unions to the extent that compliance for a credit union under $250 million in assets runs approximately $75 per member versus around $22 per person for a credit union with $2 billion in assets.[5] This distortion begs for increased scrutiny in both Canada and the United States to search for ways to provide meaningful competition to permit the banking sector to provide meaningful return to its members and thus the economy.

As noted in RCC's 2011 Joint Action Plan, Canada and the U.S. have an opportunity to take advantage of more integrated economies, trade relations and greater reliance on each other's regulatory outcomes. Through the process of providing better aligned regulatory systems, this will inevitably benefits citizens and businesses on both sides of the border. To that end, aligning the regulatory framework to take the proportional approach to regulation based on international standards to make regulatory standards "proportional" to a financial institution's risk profile and based on their impact on global financial systems would reduce unnecessary regulatory burdens on smaller institutions, and correspondingly benefit both sides of the border. This standard articulated in the Basel Committee on Banking Supervision's *Core Principles for Effective Banking Supervision* is the proper standard for regulatory revisions in this area.[6]

[3] *See* Credit Union National Association, *2017 Regulatory Burden Financial Impact Study: An Elevated New Normal available at* https://www.cuna.org/uploadedFiles/Global/About_Credit_Unions/FINAL_4-Page_Executive_Summary_Web.pdf.
[4] *See* Filene Research Institute, *Only Up: Regulatory Burden and Its Effects on Credit Unions available at* https://www.info-pro.com/wp-content/uploads/2015/05/331_Regulatory_Burden.pdf.
[5] *See* Martha Durdin, *Real competition is needed in Canada's banking sector*, The Hill Times (November 5, 2018) *available at* https://www.hilltimes.com/2018/11/05/real-competition-needed-canadas-banking-sector/174952?hootPostID=aac37846f51d0ad333847a2b2ebee039.
[6] *See*, Basel Committee on Banking Supervision, *Core Principles for Effective Banking Supervision*, at ¶4 (Sep. 2012) ("[T]he Committee has sought to achieve the right balance in raising the bar for sound supervision while retaining the Core Principles as a flexible, globally applicable standard. By reinforcing the proportionality concept, the revised Core Principles and their assessment criteria accommodate a diverse range of banking systems. The proportionate approach also allows assessments of compliance with the Core Principles that are commensurate with the risk profile and systemic importance of a broad spectrum of banks (from large internationally active banks to small, non-complex deposit-taking institutions)"), available at https://www.bis.org/publ/bcbs230.pdf.

The United States of America has taken the proportional approach with several regulatory asset thresholds below which credit unions are exempt from specific supervisory requirements:

- **US$20 Billion in Assets: Exemption from Regulatory Approval of Capital Plans:** Credit unions with less than US$20 billion in assets are not required to submit capital plans to the National Credit Union Administration (NCUA) for supervisory approval. *See* 12 C.F.R. Part 702, Subpart E ("Capital Planning and Stress Testing"), *available at* https://www.law.cornell.edu/cfr/text/12/part-702/subpart-E.

- **US$15 Billion in Assets: Exemption from Stress Testing:** Credit unions with less than US$15 billion in assets are exempt from stress testing requirements. *See id.*

- **US$10 Billion in Assets: Exemptions from Consumer Financial Protection Bureau Examination and Debit Card Interchange Fee Price Controls:**

  - **CFPB Examination:** Only credit unions and banks with more than $10 billion in assets are subject to direct examination by the Consumer Financial Protection Bureau (CFPB). *See* 12 U.S.C. § 5515, *available at* http://www.law.cornell.edu/uscode/text/12/5515.

  - **Debit Card Interchange Price Controls:** Only credit unions and banks with more than US$10 billion in assets are subject to the debit card interchange price controls in the Dodd-Frank Act. *See* 12 C.F.R. § 235.5(a), *available at* http://www.law.cornell.edu/cfr/text/12/235.5.

- **US$1 Billion in Assets: Extended Examination Cycle:** Federally insured credit unions with less than US$1 billion in assets are typically examined by NCUA every 14 to 20 months rather than once every 8 to 12 months. *See* NCUA, *Frequently Asked Questions about NCUA's Exam Flexibility Initiative* (Oct. 2016), *availible at* https://www.ncua.gov/About/Documents/exam-flexibility/frequently-asked-questions.pdf.

- **US$550 Million in Assets: "Small Credit Union" Definition:** The US's Small Business Administration (SBA) defines "small credit union" consistently with "small bank" for purposes of lighter regimes for "small business" (such as in terms of weighing the impact of new regulations in terms of paperwork burden, etc.) to include credit unions and banks with less than US$550 million in assets. *See* 13 C.F.R. § 121.201, *available at* https://www.sba.gov/document/support--table-size-standards.

- **US$500 Million in Assets: Exemption from External Audit Requirements:** FCUA Section 202(a)(6)(D) ("Large credit union audit requirement.") in general only requires federally insured credit unions to get an external audit if they have US$500 million in assets or more, and reads as follows (*see* 12 U.S.C. § 1782(a)(6)(D), *available at* http://www.ncua.gov/Legal/Documents/fcu_act.pdf).

- **US$500 Million or Less in Assets: Exemption from Basel III Risk-Based Capital Rule:** Credit unions with less than US$500 million in assets will be exempt from NCUA's Basel III Risk-Based Capital regulation that will likely take effect in 2019 or 2020. *See* Risk-Based Capital, 80 Fed. Reg. 66626 (Oct. 29, 2015), *available at* https://www.gpo.gov/fdsys/pkg/FR-2015-10-29/pdf/2015-26790.pdf *together with* Risk-Based Capital – Supplemental Rule adopted August 2, 2018 *available at* https://www.ncua.gov/regulation-supervision/Documents/Regulations/risk-based-capital-final-rule-oct-2018.pdf.

- **US$10 Million in Assets: Simplified Accounting and Capital Building Rules:**

  - **Simplified, non-GAAP Accounting:** FCUA Section 202(a)(6)(C) requires credit unions with more than $10 million in assets to follow US generally accepted accounting principles (GAAP), but those below US$10 million can follow a set of regulatory accounting principles (RAP) set forth in the NCUA Accounting Manual that are less stringent than US GAAP: The NCUA Accounting Manual can be accessed at this link http://www.ncua.gov/Legal/GuidesEtc/Pages/Accounting-Manual.aspx.

  - **New Credit Union (less than 10 Years in business) Capital Requirements:** NCUA has special rules for "Alternative Prompt Corrective Action for New Credit Unions" giving newly chartered credit unions up to 10 years to accumulate at least 6% "net worth", so long as they remain under US$10 million in assets until they have 6% "net worth". *See* 12 CFR §§ 702.301-702.307, *available at* http://www.law.cornell.edu/cfr/text/12/702/subpart-C.

Canada could likewise benefit from proportional application such as the above in particular in such areas such as mortgage lending which have endured the impact of tough new mortgage rules on credit unions as well as potential home buyers. Likewise, Canada in 2013 rescinded the discounted rate for taxation for credit unions, that essentially raised taxes on Canadian citizens. This makes little sense given that credit unions are member-owned not-for-profit institutions that return their earnings directly to their members, unlike a for-profit banking institution that rewards its shareholders. This is an area that should warrant proportional application of policies.

In conclusion, we urge the RCC to look at policies in the financial sector, particularly as they relate to credit unions and bring a proportional application of sound prudential regulatory policies that will balance the approach taken on both sides of the border. This will inevitably lead to better aligned regulatory systems, greater

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integrated economies, improved trade relationships, all of which benefit both Canada and the United States.

WOCCU appreciates the opportunity to comment on OMB's Request for Information on the United States-Canada Regulatory Cooperation Council. Please do not hesitate to contact me aprice@woccu.org or phone at +1 202-843-0704 should you have any questions regarding our comments.

Sincerely,

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World Council of Credit Unions

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