DAKOTA CREDIT UNION ASSOCIATION

March 29, 2022

Melane Conyers-Ausbrooks
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, Virginia 22314–3428

Submitted electronically to regulations.gov

RE: RIN 3133-AF42; Succession Planning

Dear Ms. Conyers-Ausbrooks,

The Dakota Credit Union Association (DakCU), which represents state and federally chartered credit unions in the states of North Dakota and South Dakota, appreciates the opportunity to provide comment to the National Credit Union Administration (NCUA) regarding its proposed rule concerning succession planning.

DakCU agrees with the NCUA that succession planning is very important for the credit union industry. Furthermore, DakCU is likewise concerned with the decline in the number of credit unions. This decline follows the long-running trend of consolidation across all depository institutions. As noted in the proposed rule, "One of the reasons for the consolidation is the lack of succession planning. An NCUA analysis found that poor management succession planning was either a primary or secondary reason for almost a third (32 percent) of credit union consolidations." *87 FR 6079, February 3, 2022*. However, DakCU does not believe creating more rules and regulations is the best solution or approach to resolve this issue.

DakCU completely agrees with the NCUA, that "the public is better served with a greater number of credit unions." *87 FR 6079, February 3, 2022*. However, at the same time a credit union is owned by its members and governed by its elected volunteer Board of Directors. If the credit union's members and Board of Directors choose a different path for the future of that particular credit union that will best serve the membership and is compliant with the Federal Credit Union Act and NCUA rules and regulations, DakCU does not believe it is our or NCUA's place to micromanage that decision. In fact, NCUA's publication, "Truth in Mergers: A Guide for Merging

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Credit Unions" discusses several benefits of mergers. On page 10, the guide provides, "Benefits: When is a Merger in the Credit Union's Best Interest? There can be significant benefits to a merger between credit unions. From a management perspective, a merger can: Improve a credit union's financial condition; Help a credit union expand or improve the services it offers to members; Expand a credit union's field of membership; **Ensure a succession plan**. A merger can also provide direct benefits to credit union members, including lower cost of services, lower loan rates, and higher dividends. These benefits are significant, immediate, and persistent." [Emphasis added.]

DakCU appreciates the intent of NCUA's proposed rule is to strengthen current succession planning efforts being taken by credit unions, and to require others that have not yet done so to commence their succession planning process. Again, DakCU does not believe another layer of rules and regulations is the best approach and may in fact become more of a burden than an asset to small credit unions.

DakCU believes a better approach to encouraging meaningful succession planning is through guidance, tools, educational material, and financial support for credit unions to identify and develop leadership talent. If the credit union does not have the resources or opportunity to learn the importance and value of succession planning, even with a regulatory requirement, they may just "check the box" to get the task done instead of putting meaningful effort into the process. Thus, even with a regulatory requirement, the NCUA may not see its intended objective with this rulemaking.

This new requirement is proposed to be added to section 12 CFR 701.4 which relates to the general authorities and duties of FCU directors. The Board of Directors would be required to have a working familiarity with the FCU's succession plan. However, the proposed rule does not mandate the contents of training to meet this requirement allowing the FCU flexibility in how it will meet this requirement. While still opposed with the overall proposed rulemaking, DakCU does support the NCUA's proposed flexibility regarding the additional obligations assigned to the Board of Directors.

The proposed rule would require that a FCU's board of directors establish a process to ensure proper succession planning for officers of the board, management officials, executive committee members, supervisory committee members, and (where provided for in the bylaws) the members of the credit committee. DakCU is concerned with the scope of the individuals that must be included within the credit union's succession plan, especially as it relates to individuals that are elected by the membership. The proposed succession plan contents, while providing some flexibility does require that it identify the necessary general competencies and skills for positions identified in the plan, which is proposed to include elected volunteers. The NCUA has held that the only qualifications for a FCU directors are those imposed by the FCU Act and the FCU's bylaws. Any other limitations on eligibility for election would be impermissible. *NCUA Legal Opinion 94-1011*.

DakCU acknowledges that the "proposed regulatory amendments provide FCUs with broad discretion in how to implement the new requirements. For example, while the proposed rule would require succession plans to include certain mandatory elements, the rule neither specifies how the topics should be addressed nor does it otherwise prescribe the contents of the succession plans." *87 FR 6080, February 3, 2022*. DakCU thanks the NCUA for proposing this flexibility, but ultimately DakCU is opposed to this rulemaking as it does not believe a regulation is needed nor will lead to its intended result of preventing future mergers among credit unions. As discussed above, a better approach would be through ongoing communication, guidance, tools and support on the importance of succession planning.

Thank you for this opportunity to share our comments and concerns.

Respectfully,

Jeffrey Olson

Jeffrey Olson
CEO/President

Amy Kleinschmit

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Chief Compliance Officer

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