



**America's
Credit Unions**

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99 M Street SE
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April 23, 2024

The Honorable French Hill
1533 Longworth House Office Building
U.S. House of Representatives
Washington, DC 20515

The Honorable David Scott
468 Cannon House Office Building
U.S. House of Representatives
Washington, DC 20515

Re: H.R. 8071, the Fair Audits and Inspections for Regulators' Exams Act

Dear Representatives Hill and Scott:

On behalf of America's Credit Unions, I am writing in strong support of your bill, H.R. 8071, the Fair Audits and Inspections for Regulators' (FAIR) Exams Act. America's Credit Unions is the voice of consumers' best option for financial services: credit unions. We advocate for policies that allow the industry to effectively meet the needs of their nearly 140 million members nationwide.

The FAIR Exams Act is a strong step in the right direction toward ensuring that federal financial institution regulators conduct fair exams for those they supervise, consistent with the law and relevant regulations to ensure safety and soundness. This legislation would amend the Federal Financial Institutions Examination Council (FFIEC) Act to authorize financial institutions to seek a prompt, independent review of a "Material Supervisory Determination" (MSD) from a regulatory examination—and can further be appealed to the U.S. Court of Appeals. In addition, it would require federal financial regulators to conduct and complete examinations in a timely fashion and provide a final exam report no later than sixty days after the exit interview or the provision of additional exam material. Further, following the exam exit interview, the regulator would be required to share with the financial institution the materials relied on in making the MSD. Also, the bill would create a new Office of Independent Examination Review to adjudicate MSD appeals. This office would be led by an independent director appointed by the FFIEC and would report annually to Congress on the actions taken under this bill. Finally, this legislation would prohibit federal financial regulators from retaliating against financial institutions for exercising their appellate rights under this bill.

Credit unions support a strong and effective regulatory system for credit unions. After all, credit unions' own net worth and combined National Credit Union Share Insurance Fund deposits fund solutions for any credit union losses. We do not view your legislation as weakening the federal examination system. To the contrary, by increasing the consistency and fairness of the system, safety and soundness can also be enhanced. We applaud your leadership on this issue and would like to work with you to enhance the legislation as it goes through the legislative process.

This legislation also seeks to address the concern that examiners are in some cases requiring credit unions and other financial institutions to take action that is not required by law or

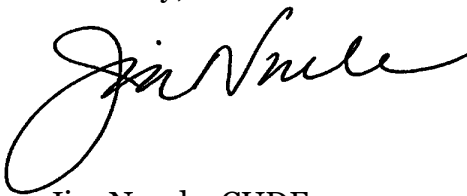
regulation and in other cases prohibiting these institutions from taking action that is otherwise permitted by law or regulation. By requiring examiners to provide the materials relied upon in making a MSD and establishing an independent appeals process, this bill introduces greater examiner accountability, transparency, and consistency. A well-functioning examination process should embody all of these characteristics.

We would request one change to the bill regarding the new Office of Independent Examination Review. We are concerned that its operational costs are not properly distributed. This bill would divide the costs evenly amongst the financial prudential regulators. Although this may appear to be a logical distribution of operational costs, it is ultimately unfair as credit unions are generally smaller and less complex than banks, especially big banks. Accordingly, their examinations—while equally as robust—may not require the same number of resources from the regulator. Mandating that the National Credit Union Administration (NCUA) share equally in the operational costs of this new office places an undue and disproportionate burden on the credit union industry, which funds the NCUA’s budget. A more reasonable alternative could be a proportional split of the costs based on the amount of assets under supervision by each regulator.

Your legislation will facilitate transparency and improve consistency in the examination process; provide a resource for financial institutions to express concern about their examination experience; and establish an independent adjudicatory process for the appeal of material supervisory determinations. We strongly support this legislation and look forward to working with you to ensure its timely enactment.

On behalf of America’s Credit Unions and the nearly 140 million credit union members, thank you for introducing this important piece of legislation.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Nussle". The signature is fluid and cursive, with a large loop at the end.

Jim Nussle, CUDE
President & CEO