NAFCU

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Fred R. Becker, Jr.
President and CEO

June 28, 2010

The Honorable Nancy Pelosi Speaker U.S. House of Representatives Washington, D.C. 20515	The Honorable John Boehner Minority Leader U.S. House of Representatives Washington, D.C. 20515

Re: Reject Conference Report to H.R. 4173; Reject Interchange Price Controls

Dear Speaker Pelosi and Leader Boehner:

On behalf of the National Association of Federal Credit Unions (NAFCU), the only trade association exclusively representing the interests of our nation's federal credit unions, I am writing to express our grave disappointment with the final version of H.R. 4173, which members of the House and Senate Conference Committee have presented to Congress and the American people.

Since the Administration released its White Paper last June, laying out a comprehensive strategy for modernizing and protecting our financial system, credit unions have consistently supported bringing the largest risk-taking financial institutions, along with unregulated predatory lenders and mortgage brokers, within a more stringent regulatory regime. The abuses that took place on Wall Street and in the unregulated mortgage market, at the expense of hard-working Americans, are unacceptable and should never be allowed to occur again.

While community-based financial institutions have helped carry the American consumer for the last two years of this crisis, many will unfortunately feel the negative impacts from this legislation. It is disheartening that special interests from large retailers, oil companies, automobile dealers, pawn brokers and others are emerging as the real winners in this bill.

Regrettably, issues unrelated to the root causes of the financial crisis have found their way into this vast legislation. Perhaps most notable is an untested proposal allowing the Federal Reserve to set price controls on debit interchange transaction fees that was added to the legislation with very little debate and no previous government study. Without a single Congressional hearing to take into account the effect these provisions will have on financial institutions or the consumer,

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the unintended consequences the debit interchange language will be far-reaching and extremely damaging for smaller institutions, particularly our nation's credit unions.

While much fanfare has been given to the purported small issuer exemption to this provision, it is unfeasible and provides no relief to credit unions of any size. Proponents of these interchange provisions are aware of this fact, and therefore blocked an attempt in conference to allow the Federal Reserve to study the impact of the legislation on small issuers on an annual basis. The amendment does nothing to prevent card networks from charging higher rates to smaller issuers, who will not be able to compete with price-controlled large banks. Many credit unions are only able to provide debit cards to consumers because all issuers receive the same interchange rates, regardless of size. H.R. 4173 will inevitably lead to the same reduction in debit interchange revenue for credit unions as for large issuers. These community financial institutions will be forced to drop debit programs or pass the additional costs onto consumers, while big-box retailers and their Wall Street stockholders reap the benefit.

The interchange language therefore has a huge impact on credit unions and other small issuers, and a limited effect on the giant networks that are at the heart of the problem. These provisions will devastate credit unions as they scramble to find other ways to cover the enormous fraud and data breach losses associated with maintaining debit card portfolios, while still offering the services that their members have come to expect. What is most alarming, however, is that Congress has allowed the influence of big retailer special interests to prevail at the expense of the consumer – there is not one provision or guarantee in the debit interchange language that would ensure cost savings seen by merchants will in any way benefit everyday Americans in the form of lower prices at the checkout line.

In addition to these new debit interchange liabilities, credit unions, already regulated by the National Credit Union Administration (NCUA), will face increased burdens from having to comply with rules issued by a new regulator established by the legislation – the Consumer Financial Protection Bureau. While the NCUA was given a seat on the Financial Services Oversight Council (FSOC), which will have the ability to review the Bureau's regulations, the overall make up of the Council and requirement of a two-thirds vote to overturn rulemaking will make it unlikely that the FSOC will have the authority needed to ensure that credit unions and their members are adequately protected from onerous new regulations. As not-for-profit cooperatives, the cost of these new burdens on credit unions will have to be borne by the 92 million Americans who are credit union members. Interestingly, however, the CFPB would have limited reach over predatory auto dealers, payday lenders, and the mortgage servicers and brokers who were at the very center of the current foreclosure crisis. These entities would largely remain within the lax regulatory framework of the Federal Trade Commission and a patchwork of state laws. This is a discouraging result given the strong record of member services and accessible financial products long offered by credit unions, who are trying to compete with these unregulated entities in a tough economic environment.

Numerous members of Congress touted the good work of credit unions, and recognized that they were not the cause of the current economic crisis and did not make the loans that helped lead to the downfall of the housing market. Yet the final legislation released by the Conference Committee does little to alleviate the concerns credit unions expressed with the burdens that would be imposed on them under H.R. 4173. It is disappointing to see that many of the "bad actors" appear to receive more beneficial treatment under the bill than do not-for-profit credit unions.

It is with the above considerations in mind that NAFCU has no choice but to oppose the conference report on H.R. 4173, and we urge the House to do the same. It has been nearly two years since the heart of the Great Recession and the economy has shown signs heading toward recovery. We believe that these landmark reforms deserve the time necessary to ensure they achieve the objectives Congress and the Administration hoped to bring about, and are not hastily drafted policies that will end up hurting Main Street and American consumers because of an arbitrarily-imposed deadline. Taking a couple more weeks to fully consider the implications of financial reform and prevent unintended consequences will not harm the road to recovery and will ultimately benefit the American consumer. We therefore urge the House to reject the report on the floor and send the bill back to conference for a full and complete deliberation.

Should you have any questions or require any additional information please do not hesitate to contact myself or Brad Thaler, NAFCU's Director of Legislative Affairs, at 703-522-4770.

Sincerely,

Fred R. Becker, Jr.
President and CEO

cc: Members of the United States House of Representatives