



National Association of Federal Credit Unions
3138 10th Street North • Arlington, Virginia • 22201-2149
(703) 522-4770 • (800) 336-4644 • Fax (703) 522-2734

Fred R. Becker, Jr.
President and CEO

January 11, 2010

The Honorable Christopher J. Dodd
Chairman
Committee on Banking, Housing
and Urban Affairs
United States Senate
Washington, D.C. 20510

The Honorable Richard C. Shelby
Ranking Member
Committee on Banking, Housing
and Urban Affairs
United States Senate
Washington, D.C. 20510

Dear Chairman Dodd and Ranking Member Shelby:

I am writing on behalf of the National Association of Federal Credit Unions (NAFCU), the only trade organization exclusively representing the interests of our nation's federal credit unions, to share our thoughts on the proposed Consumer Financial Protection Agency established by the *Restoring American Financial Stability Act of 2009*.

NAFCU recognizes the need for additional consumer protection in the financial services arena, and we believe that the *Restoring American Financial Stability Act* is well-intentioned in its effort to protect consumers from the predatory practices that led to the current crisis. The need for additional consumer protection, however, arises directly from the conduct of the many unregulated bad actors that pushed ill-advised products onto unsuspecting consumers. In that vein, we applaud the efforts to address such abuses and strengthen consumer protection.

It is for this reason that NAFCU supports the creation of a Consumer Financial Protection Agency (CFPA) that would have authority over non-regulated institutions that operate in the financial services marketplace. We do not believe, however, that such an agency should have authority over regulated federally-insured depository institutions, including credit unions. We believe that giving the CFPA such authority to regulate, examine, and supervise credit unions that already are regulated by the National Credit Union Administration (NCUA) would create an additional regulatory burden and cost to credit unions that already carry the greatest regulatory burden in the financial services industry.

We have instead proposed that, rather than extending broad CFPA authority to federally-insured depository institutions such as credit unions, each functional regulator (such as the NCUA) establish a new or strengthened office on consumer protection. Such an office should report directly to the Presidential appointees at the regulator and be responsible for ensuring that the regulator is looking out for consumer concerns in writing rules, supervising and examining institutional compliance, and administratively enforcing rules if violations occur. Furthermore, Congress could require that these consumer protection administrators have strong consumer protection backgrounds, analogous to the safety and soundness experience of current functional regulators.

The Honorable Christopher J. Dodd
The Honorable Richard C. Shelby
January 11, 2010
Page 2 of 2

NAFCU recognizes the Committee's concerns about regulatory arbitrage. We, however, find it implausible that a for-profit institution would convert to a not-for-profit cooperative credit union charter, simply for the purpose of being subject to the rules issued by the NCUA in lieu of those of any new consumer protection agency. Furthermore, there are many consumer protections already built into the *Federal Credit Union Act*, such as the only federal usury ceiling on financial institutions and a prohibition on pre-payment penalties.

NAFCU is also concerned about language in the *Restoring American Financial Stability Act* that allows the CFPB to assess credit unions to fund its operations. Credit unions already fund the NCUA, and creating a new agency that they, or their 92 million members, would have to pay for would be a significant additional financial burden on these not-for-profit institutions. As currently drafted, credit unions which hold more than \$10 billion in assets would be assessed to fund the CFPB, while federal credit unions under that threshold could also face the imposition of assessments if the CFPB needs additional funding. As not-for-profit institutions, such an additional cost incurred by credit unions would essentially amount to a tax on their 92 million members, which could potentially lead to higher loan rates and fees, decreased interest on deposits and/or diminished services. Furthermore, NAFCU does not support arbitrarily dividing the credit union industry based on asset-size.

Additionally, we believe that the NCUA must maintain federal preemption authority at its current standards. Many credit unions serve members that are from employee groups, schools or the Armed Services who are spread across the nation, yet wish to maintain their credit union membership. Allowing various states to create new and onerous burdens on federal credit unions that may have a limited presence or small number of members in their state would severely increase compliance costs and could ultimately force some credit unions to limit services to their members, as the cost of compliance for such a limited group would be too high for the institution.

We thank you for your attention to our concerns as the Senate takes up comprehensive financial regulatory reform. As deliberations on this legislation continue, we look forward to working with you to create a system of greater consumer protection, while not harming those institutions did not contribute to the nation's economic malaise.

If we can answer any questions or provide you with further information on this matter, please do not hesitate to contact NAFCU's Director of Legislative Affairs, Brad Thaler, at 703-522-4770.

Sincerely,


Fred R. Becker, Jr.
President/CEO

*Chuan D. D. -
We appreciate
your careful consideration
of our significant concerns!*

cc: Members of the Senate Banking, Housing, and Urban Affairs Committee