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July 14, 2015

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

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

Dear Chairman Shelby and Ranking Member Brown:

On behalf of the National Association of Federal Credit Unions (NAFCU), the only trade association exclusively representing the federal interests of our nation's federally insured credit unions, I write today in conjunction with tomorrow's hearing to receive the Consumer Financial Protection Bureau's (CFPB) semi-annual report to Congress. NAFCU urges the committee to press the CFPB to provide greater relief to credit unions and to act on legislation pending in Congress to provide credit unions regulatory relief and improve the structure and processes of the CFPB.

During the consideration of financial reform, NAFCU was concerned about the possibility of overregulation of good actors such as credit unions, and this is why NAFCU was the only credit union trade association to oppose the CFPB having rulemaking authority over credit unions. Unfortunately, many of our concerns about the increased regulatory burdens that credit unions would face under the CFPB have proven true. While there are credible arguments to be made for the existence of the CFPB, its primary focus should be on regulating the unregulated bad actors, not adding new regulatory burdens to good actors, like credit unions, that already fall under a prudential regulator. As expected, the breadth and pace of the CFPB's rulemaking is troublesome, and the unprecedented new compliance burden placed on credit unions has been immense.

While it is true that credit unions under $10 billion are exempt from the examination and enforcement from the CFPB, all credit unions are subject to the rulemakings of the agency and they are feeling this burden. While the CFPB has the authority to exempt certain institutions, such as credit unions, from agency rules, they have been reluctant to use this authority in a broad way to provide relief.

The impact of this growing compliance burden is evident as the number of credit unions continues to decline. Since the second quarter of 2010, we have lost 1,250 federally-insured credit unions – over 17% of the industry. The overwhelming majority of these were smaller institutions below $100 million in assets. While it is true that there has been a historical consolidation trend in the industry, the passage of the *Dodd-Frank Act* has served to accelerate that trend. The percentage of credit unions disappearing annually rose from a 3.4% average in the ten years prior to Dodd-Frank to an average annual disappearance rate of 3.9% in the years after Dodd-Frank. The fact is that many smaller institutions simply cannot keep up with the new regulatory tide and have had to merge out of business or be taken over.

We believe that one way to improve the CFPB would be to change the leadership structure from a single director to a five member commission appointed by the President. NAFCU has long held the position that, given the broad authority and awesome responsibility vested in the CFPB, a five person commission has distinct consumer benefits over a single director. Regardless of how qualified one person may be, a commission would allow multiple perspectives and robust discussions of consumer protection issues throughout the decision making process. Credit unions and their 100 million members are greatly impacted by the actions of the CFPB and believe the operating structure of the CFPB should be as fair and transparent as possible.

Additionally, NAFCU has long urged the CFPB to provide relief to credit unions by using its broad legal authority to exempt credit unions from various rulemakings. Given the unique member-owner nature of credit unions and the fact that credit unions did not participate in many of the questionable practices that led to the financial crisis and the creation of the CFPB, subjecting credit unions to rules aimed at large bad actors only hampers their ability to serve their members. While the rules of the CFPB may be well-intentioned, many credit unions do not have the economies of scale that large for-profit institutions have and may opt to end a product line or service rather than face the hurdles of complying with new regulation. While the CFPB has taken some steps in this regard, such as their small creditor exemption, we continue to believe that more needs to be done to exempt all credit unions from burdensome rulemakings.

In the meantime, NAFCU believes that Congress should act on a myriad of bills to provide credit unions and other community institutions greater regulatory relief. The following bills are some of the NAFCU-supported CFPB relief measures pending action in the Senate:

- S. 1484, *The Financial Regulatory Improvement Act of 2015*
- S.1711 – which would provide temporary safe harbor from the enforcement of integrated disclosure requirements for mortgage loan transactions under the Real Estate Settlement Procedures Act and the Truth in Lending Act
- S. 482, *The CFPB Examination and Reporting Threshold Act of 2015*
- H.R. 685, *The Mortgage Choice Act of 2015*
- S. 871, *The HELP Rural Communities Act of 2015*
- H.R.1195 - *Bureau of Consumer Financial Protection Advisory Boards Act*

We hope that the Senate will take action on these important measures soon. We also hope that you will use today's hearing to push the CFPB to take greater steps to provide relief to credit unions under its current authority.

NAFCU looks forward to working with the committee to improve the CFPB and provide regulatory relief to credit unions. We thank you for the opportunity to share our thoughts with you today. If you have any questions, or if my colleagues or I can be of assistance in any way, please do not hesitate to contact me or NAFCU's Director of Legislative Affairs, Jillian Pevo, at (703) 842-2836.

Sincerely,

Brad Thaler
Vice President of Legislative Affairs

cc: Members of the Senate Banking Committee