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May 20, 2013

The Honorable Shelley Moore Capito  
Chairman  
Subcommittee on Financial Institutions  
and Consumer Credit  
House Financial Services Committee  
United States House of Representatives  
Washington, D.C. 20515

The Honorable Gregory Meeks  
Ranking Member  
Subcommittee on Financial Institutions  
and Consumer Credit  
House Financial Services Committee  
United States House of Representatives  
Washington, D.C. 20515

**Re: Credit Union concerns with the CFPB's Ability-to-Repay Rule**

Dear Chairman Capito and Ranking Member Meeks:

On behalf of the National Association of Federal Credit Unions (NAFCU), the only trade association that exclusively represents the interests of our nation's federal credit unions, I write today in conjunction with tomorrow's hearing, "Qualified Mortgages: Examining the Impact of the Ability- to-Repay Rule." NAFCU member credit unions and their 95 million member-owners appreciate the subcommittee's timely focus on this complex final rule scheduled to take effect in January of 2014.

As members of the subcommittee are aware, a host of mortgage related rules have been promulgated and taken individually or in their cumulative effect, will undoubtedly alter the mortgage market in unintended ways. The ability-to-pay rule is of particular concern moving forward as the stringent requirements contained in the final rule will require credit unions to make major investments and incur significant expenses. Accordingly, as indicated by NAFCU member credit unions in our recent *Economic and Credit Union Monitor Survey*, nearly 44% of respondents said they will cease originations of non-qualified mortgages (QM). Another 44% indicated they will reduce originations that fall outside of the QM guidelines.

NAFCU has taken advantage of every opportunity available to discuss with the Consumer Financial Protection Bureau (CFPB) aspects of the ability-to-repay rule that are likely to be problematic for credit unions and their members. While credit unions understand the intention of the rule and importance of hindering unscrupulous mortgage lenders from entering the marketplace, we cannot support the ability-to-repay rule in its current form. A major issue, for example, is the underwriting criteria that dictates a consumer have a total debt-to-income ratio that is less than or equal to 43 percent in order for that loan to be considered a QM. NAFCU believes this arbitrary threshold will prevent otherwise healthy borrowers from obtaining

obtaining mortgage loans and will have a particularly serious impact in rural and underserved areas where consumers have a limited number of financial service options. In addition, as the subcommittee is aware, the rule excludes from the definition of QM those mortgage loans with terms exceeding 30 years. By definition this punishes credit unions and their members if a longer-term product is the best choice under a particular set of certain circumstances.

Before the ability-to-repay rule goes into effect, we also urge the subcommittee to review and address the definition of "points and fees" contained in the rule. As currently defined, "points and fees" will include, among other charges, fees paid to affiliated title companies, salaries paid to loan originators, amounts of insurance and taxes held in escrow, loan level prices adjustments, and payments by lenders to correspondent banks, credit unions and mortgage brokers in wholesale transactions. As a result of this troublesome definition many affiliated loans, particularly those made to low- and moderate-income borrowers, would not qualify as QMs and would be unlikely to be made or would only be available at higher rates due to heightened liability risk. NAFCU supports Rep. Huizenga's bipartisan legislation- the *Consumer Mortgage Choice Act* (H.R. 1077) - that would satisfactorily address this important aspect of the ability-to-repay rule.

Thank you for holding this important hearing and for providing us with the opportunity to comment on the ability-to-repay rule on behalf of our member credit unions. If you have any questions or would like further information about any of these issues, please do not hesitate to contact me or NAFCU's Vice President of Legislative Affairs Brad Thaler by telephone at (703) 842-2204 or by e-mail at [bthaler@nafcu.org](mailto:bthaler@nafcu.org).

Sincerely,



Carrie Hunt

Vice President of Regulatory Affairs and General Counsel

cc: Members of the Subcommittee on Financial Institutions and Consumer Credit