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National Association of Federally-Insured Credit Unions

October 10, 2017

The Honorable Jeb Hensarling
Chairman
House Financial Services Committee
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Maxine Waters
Ranking Member
House Financial Services Committee
U.S. House of Representatives
Washington, D.C. 20515

Re: Tomorrow's Financial Services Committee mark-up

Dear Chairman Hensarling and Ranking Member Waters:

On behalf of the National Association of Federally-Insured Credit Unions (NAFCU), the only trade association exclusively representing the federal interests of our nation's federally-insured credit unions, I write in advance of tomorrow's mark-up to voice support for, and encourage favorable reporting of, several bills on the agenda. We appreciate the Committee's continued efforts to provide regulatory relief and create an environment in which credit unions can thrive.

NAFCU supports H.R. 1116, the *Taking Account of Institutions with Low Operation Risk Act of 2017*
This legislation, introduced by Representatives Tipton, Barr, Royce, Pittenger, Posey, Williams, Love, Loudermilk, and Trott, would ensure that NCUA, CFPB and other regulators do not use a one-size-fits-all approach to rulemaking. Instead, it would require that rules be tailored to fit the institutions' business models and risk profiles. Of particular importance, the bill would require NCUA (and other regulators) to consider the aggregate impact a new rule will have along with existing regulations. Many regulations are promulgated without this consideration, resulting in the current regulatory environment where smaller institutions are unable to keep up with the onslaught of regulations in the wake of the *Dodd-Frank Act*.

NAFCU supports H.R. 1699, the *Preserving Access to Manufactured Housing Act of 2017*
This bipartisan legislation introduced by Representatives Barr, Sinema, Sewell, Poliquin, Kustoff, and Rice would modify the definitions of a mortgage originator and a high-cost mortgage to ensure that consumers of small-balance mortgage loans, including manufactured housing loans, will have access credit. Working families across the country, particularly in rural America, depend on access to financing for affordable manufactured homes and this bill addresses an important barrier to entry in the marketplace.

NAFCU supports H.R. 2396, the *Privacy Notification Technical Clarification Act*
This bipartisan legislation introduced by Representatives Trott and Clay would make a technical correction to update the exception for certain annual notices provided by financial institutions.

NAFCU supports H.R. 2706, the *Financial Institution Customer Protection Act of 2017*
This legislation, Introduced by Chairman Luetkemeyer and Representatives Rothfus, Sessions, Budd, Stivers, Pittenger, Tipton, Williams, Lucas, Hollingsworth, Hultgren, MacArthur, and Tenney, would require federal regulators to provide a material reason for ordering financial institutions to terminate account relationships. This legislation is necessary to protect consumers from future policy directives such as the Justice Department's Operation Choke Point initiative.

NAFCU supports Emmer amendment to H.R. 2954, the *Home Mortgage Disclosure Adjustment Act*

This amendment to H.R. 2954, expected to be offered by Representative Emmer would ease the compliance burden for credit unions by exempting depository institutions that have originated fewer than 500 open-end lines of credit and 500 closed-end mortgages in the previous two years from HMDA's reporting and recordkeeping requirements. This amendment language would modify the bill to align this legislation with bipartisan legislation (S. 1310) pending before the Senate Banking Committee. We urge committee members to support this amendment and the underlying legislation.

NAFCU supports H.R. 3072, the *Bureau of Consumer Financial Protection Examination and Reporting Threshold Act of 2017*

This bipartisan legislation, introduced by Representatives Clay and Stivers, would provide relief to credit unions by amending the threshold of institutions subject to CFPB examining and reporting requirements from $10 billion to $50 billion. While NAFCU believes all credit unions should be exempt from these CFPB requirements, this legislation would provide a number of institutions relief.

NAFCU supports H.R. 3299, the *Protecting Consumers' Access to Credit Act of 2017*

This bipartisan legislation, introduced by Representatives McHenry and Meeks, would amend the *Federal Credit Union Act* to provide that federal interest rate preemption applies "regardless of whether the loan is subsequently sold, assigned, or otherwise transferred to a third party" including to non-bank purchasers. The Second Circuit's decision of *Madden v. Midland Funding, LLC's* has created a great deal of uncertainty for third-party loan purchasers ranging from debt buyers to marketplace lenders. This legislation would codify the "valid when made" doctrine by clarifying that third-party loan purchasers can collect the interest rate originally contracted for between the borrower and the depository institution.

NAFCU supports H.R. 3758, the *Senior Safe Act of 2017*

This bipartisan legislation, introduced by Representatives Sinema and Poliquin, would improve safeguards for seniors, protecting them from financial fraud while providing legal cover for financial services employees properly reporting suspicions of this financial abuse. The legislation incentivizes credit unions and financial institutions to adequately train their employees to best identify and report this predatory targeting of seniors to the appropriate authorities. It is imperative that credit unions be able to protect and serve their senior citizen members as they plan for retirement and seek counseling on how to properly manage their credit and savings.

NAFCU supports H.R. 3857, the *Protecting Advice for Small Savers Act of 2017*

This legislation, introduced by Chairman Wagner and Representatives Barr, Messer, Trott, Posey, Williams, Budd, Hollingsworth, and Kustoff, would replace the Department of Labor's "fiduciary rule" with a best interest standard for broker-dealers. The fiduciary rule went into effect June 9, with full implementation scheduled for January 1. NAFCU has previously aired concerns about how the rule's indirect costs would affect credit unions and has urged the department to revoke the rule or exempt credit unions.

In particular, we have concerns over the rule's provisions affecting certain communications beyond simple marketing statements. Part of what distinguishes credit unions as unique financial institutions is a commitment to personalized service – a feature that the fiduciary rule severely compromises by restricting the extent to which credit union employees may offer responsive investment information. As financial cooperatives directed by volunteer boards, credit unions exist for the primary purpose of serving their membership, not for earning fees on investment brokerage.

By replacing the fiduciary rule with a best interest standard, the *Pass Act* will protect credit unions from the potential for litigation risk that could ultimately lead to a reduction in consumer access to trustworthy investment advice.

NAFCU supports H.R. 3971, the *Community Institution Mortgage Relief Act of 2017*

This bipartisan legislation, introduced by Representatives Tenney, Sherman and Williams, would amend the *Truth in Lending Act* to provide a legal safe harbor from escrow requirements for smaller financial institutions, under $25 billion in assets that hold loans in portfolio for three years. The existing escrow rules drive small creditors from the mortgage market because it is difficult to provide cost-effective escrow services. The legislation also makes key changes for servicers that annually service 30,000 or fewer mortgage loans. Given their track record, small servicers such as credit unions should be incentivized to continue to service mortgage loans. While NAFCU believes all credit unions should receive the exemptions provided in both provisions, this bill does provide some relief on two important issues impacting NAFCU member credit unions and we would support its passage.

Finally, we hope this mark-up serves as another step forward in addressing regulatory relief for community financial institutions such as credit unions. As NAFCU has communicated in the past, there are a number of additional areas where credit unions need relief including additional capital reforms, field-of-membership improvements, and requiring regulators to perform robust cost-benefit analyses of regulations. We would urge the committee to tackle these and other areas as you continue your work on regulatory relief.

NAFCU thanks you for the opportunity to share our thoughts ahead of the mark-up. We appreciate the Committee's effort to provide regulatory relief and look forward to working with you on these and other issues to improve the environment for credit unions. 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 Senior Associate Director of Legislative Affairs, Chad Adams, at 703-842-2265 or cadams@nafcu.org.

Sincerely,

Brad Thaler
Vice President of Legislative Affairs

cc: Members of the House Financial Services Committee