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Carrie R. Hunt
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National Association of Federally-Insured Credit Unions

May 1, 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 mark-up of H.R. 10, the *Financial CHOICE Act*

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 ahead of tomorrow's mark-up of H.R. 10, the *Financial CHOICE Act*, to urge your support for this legislation, in particular Section 735 of the legislation which would repeal Section 1075 of the *Dodd-Frank Act* (the Durbin Amendment).

Durbin Amendment Repeal is a "Key Vote" for Credit Unions

First and foremost, NAFCU strongly supports the repeal of the failed Durbin Amendment in Section 735 of H.R. 10. We urge the Committee to maintain this provision as the bill moves forward and to oppose any amendment offered to strip or weaken this provision at mark-up. Maintaining a full repeal of the Durbin Amendment is key vote for credit unions at the mark-up.

H.R. 10, the *Financial CHOICE Act*

As we shared with you last week, the *Financial CHOICE Act* is a comprehensive bill that contains a number of NAFCU-supported initiatives:

- ✓ **NAFCU supports a strong and vibrant industry that allows credit unions to grow.** Many elements of the bill will help create an environment that will allow credit unions to succeed. Changes to mortgage rules; changes to HMDA limits; and examining appropriate risk capital levels are key parts of the bill.

We would also encourage the Committee to go further by adding provisions providing credit unions relief from the arbitrary member business lending cap and providing greater clarity on the ability for all credit unions to add underserved areas to their fields-of-membership. The Committee could improve the capital "off-ramp" provision for credit unions by adding language that recognizes their unique nature and limited ability to raise capital, which disadvantages them in returning to the 10% threshold envisioned in the bill.

- ✓ **NAFCU supports a strong, independent NCUA as the primary regulator for credit unions.** The bill retains the cost-effective three-member structure of the NCUA Board as

NAFCU had urged. It also brings the NCUA under the congressional appropriations process - a move that NAFCU feels is unnecessary given that credit unions fund the NCUA, and we would urge further revision of this provision to only require approval of NCUA budget increases above inflation.

The CFPB has usurped many areas of NCUA authority under the guise of consumer protection. NAFCU and our member credit unions support consumers every day. The bill will convert the CFPB into a consumer law enforcement agency without supervision authority, eliminating many of its powers, including its authority with respect to unfair, deceptive or abusive acts and practices (UDAAP). This change will shift authority back to the NCUA. In addition, the new agency will no longer have preemption over consumer laws in contrast to the functional regulators. The proposed CFPB reforms, taken overall, would provide credit unions with some comprehensive regulatory relief from the current CFPB, allowing them to focus on serving their members. We would encourage the Committee to go even further and expand the exemption authority under Section 1022 of the *Dodd-Frank Act*. One way this could be addressed would be to include the language of H.R. 1264, the *Community Financial Institutions Exemption Act*.

- ✓ **NAFCU supports transparency and independent oversight.** The bill creates many opportunities for appropriate oversight of NCUA. First, NCUA's budget will have the opportunity to be reviewed in a budget hearing. Second, an independent appeals process will be created for credit union exams. Third, transparency regarding the overhead transfer rate will be ensured.
- ✓ **NAFCU supports appropriate, tailored regulation for credit unions promulgated with appropriate debate and dialogue.** The bill will ensure robust cost-benefit analyses for regulations and the ability for regulations to be reviewed by Congress. NAFCU supports cost-benefit analysis, and in any final legislation wants to ensure that we have an effective regulatory environment where positive regulations may be easily implemented and negative ones may be quickly eliminated. NAFCU believes that a board structure provides the appropriate mechanism for any agency to approve regulations by providing debate from multiple points of view. Accordingly, NAFCU supports a commission structure for the CFPB, or successor entity, as the ideal way to govern the agency. NAFCU also believes that enforcement orders should not take the place of regulation.
- ✓ **NAFCU supports an even playing field.** NAFCU believes that credit unions should have as many opportunities as banks and non-regulated entities to provide provident credit to our nations' consumers, and the relief provided in the discussion draft will help. Many elements in the bill do not directly impact credit unions, but NAFCU wants to ensure that all similarly situated depositories follow the same rules of the road and that unregulated entities do not escape all oversight. NAFCU believes that further examination of whether the 10% domestic deposit cap on banks should be lifted is warranted as the bill moves through the legislative process. We also would hope that the bill could be further clarified to ensure that there is a federal regulatory structure, whether the new CFPB/Consumer Law Enforcement Agency or not, for non-bank financial services market players that do not have a prudential regulator.

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NAFCU thanks you for the opportunity to share our thoughts ahead of the mark-up. We appreciate Chairman Hensarling's effort to provide regulatory relief and urge the Committee to maintain the Durbin amendment repeal provision in the *Financial CHOICE Act*. We would urge the Committee to support the legislation as well. We look forward to working with you on the *Financial CHOICE Act* as it moves through the legislative process. 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 Vice President of Legislative Affairs, Brad Thaler, at 703-842-2204 or bthaler@nafcu.org.

Sincerely,



Carrie R. Hunt
Executive Vice President and General Counsel

cc: Members of the House Financial Services Committee