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National Association of Federally-Insured Credit Unions

March 9, 2020

The Honorable Michael Crapo
Chairman
Committee on Banking, Housing,
and Urban Affairs
United States Senate
Washington, DC 20510

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

Re: Tomorrow's Hearing on "The Consumer Financial Protection Bureau's Semi-Annual Report to Congress"

Dear Chairman Crapo and Ranking Member Brown:

I write today on behalf of the National Association of Federally-Insured Credit Unions (NAFCU) in regard to tomorrow's hearing entitled "The Consumer Financial Protection Bureau's Semi-Annual Report to Congress." NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve nearly 120 million consumers with personal and small business financial service products. NAFCU appreciates the Committee's ongoing oversight of the Consumer Financial Protection Bureau (CFPB) and efforts to promote financial inclusion and consumer protection. We welcome this opportunity to share our thoughts on some issues pertinent to the CFPB.

First, NAFCU would like to highlight our position on the CFPB's ongoing rulemaking to revise the definition of qualified mortgage (QM) under the ability-to-repay/QM rule in light of the scheduled expiration of the Government-Sponsored Enterprise (GSE) Patch. In NAFCU's [comments](#) on the rulemaking, we emphasized that the GSE Patch has been a key factor in credit unions' ability to lend to members of their communities, especially those of low- and moderate-income, to help them achieve homeownership. We asked that the CFPB grant an extension of the GSE Patch until revisions to the QM definition are finalized to alleviate market disruptions. On that point, we are pleased that Director Kraninger indicated in her January 17th letter to lawmakers that the CFPB will at least extend the GSE Patch until a new rule is finalized.

However, we would discourage the CFPB from pursuing a QM definition that uses the spread between the annual percentage rate (APR) and the average prime offer rate (APOR) as a proxy for underwriting requirements (the "APOR approach"), which Director Kraninger indicated in her letter is the likely direction in which the CFPB is headed with its proposed rule. As NAFCU noted in both our initial comments as well as a January 21st [joint letter](#) with a coalition of consumer groups and financial services trades, we support: (1) the continued use of a modified debt-to-income (DTI) ratio in conjunction with certain compensating factors, which could be used in the underwriting process and would provide guidance to creditors on their use; and (2) significant changes to Appendix Q to rely on more flexible and dynamic standards for calculating income and debt. We also have a concern that the APOR approach could ultimately not be the best option for consumers. Above all, we think maintaining access to affordable and sustainable mortgage credit

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should be a key objective of this rulemaking, and we ask the Committee to help enforce this message to the CFPB.

NAFCU would also like to reiterate our support for Director Kraninger's efforts to provide financial institutions with regulatory certainty and targeted relief, while focusing the CFPB's efforts on bad actors. Credit unions have a long history of providing affordable and responsible financial services to their members and were not responsible for the predatory lending practices that led to the financial crisis. Nonetheless, the credit union industry has been greatly impacted from the onslaught of post-crisis financial regulation.

In the last decade, over 1,500 federally-insured credit unions have been forced to close their doors or merge with other credit unions, which amounts to more than 20 percent of the industry. A large majority of those credit unions that closed or merged were small in asset size, and as such, could not afford to comply with all the rules promulgated by the CFPB. NAFCU appreciates the CFPB undertaking a review of its rules and hopes to see more relief targeted at community institutions. Many credit unions cannot afford to comply with complex rules and would otherwise be forced to stop offering services to members. Although the CFPB already provides for some exemptions based on an entity's asset size, NAFCU strongly believes that the CFPB can do more, such as increasing the exemption threshold, or considering exemptions based on an institution's characteristics and activities. NAFCU asks that the Committee encourage the CFPB to utilize its authority in Section 1022 of the *Dodd-Frank Wall Street Reform and Consumer Protection Act* to provide targeted exemptions for credit unions while still ensuring its rules regulate bad actors.

Lastly, NAFCU has long held the position that given the broad authority and awesome responsibility vested in the CFPB, a five-person commission leadership structure would provide consumers and regulated institutions alike with more continuity in policymaking over the course of time. Given the recent legal challenge to the CFPB in *Seila Law* before the U.S. Supreme Court, we believe it is an optimum time for Congress to consider moving the CFPB leadership structure to a bipartisan commission.

We appreciate your leadership and ongoing focus on issues important to credit unions, and we look forward to continuing to work with the Committee and the CFPB on these topics. Should you have any questions or require any additional information, please do not hesitate to contact me or Janelle Relfe, NAFCU's Associate Director of Legislative Affairs, at 703-842-2836.

Sincerely,



Brad Thaler
Vice President of Legislative Affairs

cc: Members of the Senate Banking Committee