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National Association of Federally-Insured Credit Unions

May 7, 2019

The Honorable Maxine Waters
Chairwoman
Committee on Financial Services
United States House of Representatives
Washington, DC 20515

The Honorable Patrick McHenry
Ranking Member
Committee on Financial Services
United States House of Representatives
Washington, DC 20515

Re: Tomorrow's Committee Markup

Dear Chairwoman Waters and Ranking Member McHenry:

I write to you today on behalf of the National Association of Federally-Insured Credit Unions (NAFCU) in regard to tomorrow's Committee markup to share our thoughts on legislation before the Committee. NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve over 116 million consumers with personal and small business financial service products.

NAFCU has consistently recognized the importance of the Financial Crimes Enforcement Network (FinCEN), *Bank Secrecy Act* (BSA), and Anti-Money Laundering (AML) requirements in assisting in the prevention of tax evasion, money laundering and terrorist financing. Credit unions support efforts to combat criminal activity in the financial system. Our members have a good working relationship with FinCEN, and they consistently inform us that the publication of periodic BSA/AML guidance is very helpful. However, BSA/AML requirements still remain a burden to implement. We believe that the BSA/AML system is in need of improvements and reform, and we are pleased that the Committee is prepared to advance legislation to strengthen and improve the system as part of tomorrow's markup.

H.R. 2514, the *COUNTER Act*

NAFCU supports the efforts found in the amendment in the nature of a substitute to H.R. 2514, the *Coordinating Oversight, Upgrading and Innovating Technology, and Examiner Reform Act* (COUNTER Act), offered by Representative Emmanuel Cleaver. In particular, we support FinCEN encouraging more coordination between law enforcement priorities and credit union examiners. Our members have consistently reported a lack of consistency among examiners in reviewing BSA policies and procedures, which makes it difficult to accurately anticipate how extensively to prepare for an exam. Additionally, many of our members have indicated that prudential examiners are too heavily focused on auditing absolute numbers of Suspicious Activity Report (SAR) filings and absolute compliance. As an example, many of our members have experienced situations where an examiner makes a finding on a SAR based on a purely technical issue, such as a strict timing deadline, which does not truly affect the usefulness of the SAR. Instead, NAFCU believes that FinCEN should encourage prudential examiners to conduct more holistic and systemic audits, such as reviewing a credit union's procedures and practices. We are pleased to see the focus on training for examiners on countering the financing of terrorism (CFT)

and AML issues, found in Section 202 of the legislation, and believe this is an important step to help improve the credit union experience with examiners in this area.

We are also pleased to see the focus on modernizing the AML system, found in Title III of the legislation, which includes encouraging innovation and providing exemptive relief to facilitate the testing of new technologies and innovations. For example, some of NAFCU's member credit unions would like to see an updated database for SAR and Currency Transaction Report (CTR) filings to streamline the narrative reporting that law enforcement often requests from financial institutions. We also support the efforts in the bill to increase information sharing and allow the sharing of compliance resources in this area. Taken together, these steps can help strengthen and improve the system. We would also urge the Committee to support efforts to amend the legislation to address the issue of compliance burdens from SARs, including proposals to create a modified-SAR in certain instances, and to support efforts to modernize the CTR threshold level, such as indexing it for inflation.

NAFCU continues to believe that it would be helpful to community institutions if FinCEN would provide opportunities for technical grants or training to help assist with the cost of software or technological capabilities to reduce the number of man-hours involved with BSA compliance. Such a move would be in direct alignment with FinCEN's objectives, as training and technological subsidies would enable more credit unions to have robust BSA/AML procedures in-place, thereby furthering FinCEN's goals. We believe this is an idea that deserves further consideration, whether as part of this bill or future legislation.

H.R. 2513, the *Corporate Transparency Act of 2019*

NAFCU supports the efforts found in the amendment in the nature of a substitute to H.R. 2513, the *Corporate Transparency Act of 2019*, offered by Representative Carolyn Maloney. The bill would help financial institutions, including credit unions, comply with the new Customer Due Diligence (CDD) Rule by requiring companies to disclose their true "beneficial owners" to FinCEN for creation of a database of beneficial ownership information that would be available to law enforcement agencies and financial institutions.

NAFCU urges the Committee to support these two important bills and advance them at the markup. We appreciate the ongoing focus on improving current BSA/AML regulatory compliance regime for community institutions such as credit unions. We look forward to working with you as this legislation moves forward. Should you have any questions or require any additional information, please do not hesitate to contact me or Alex Gleason, NAFCU's Associate Director of Legislative Affairs, at 703-842-2237.

Sincerely,



Brad Thaler
Vice President of Legislative Affairs

cc: Members of the House Financial Services Committee