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**National Association of Federally-Insured Credit Unions**

July 20, 2020

The Honorable Nancy Pelosi  
Speaker  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Kevin McCarthy  
Minority Leader  
U.S. House of Representatives  
Washington, D.C. 20515

**Re: H.R. 6395, the *William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021***

Dear Speaker Pelosi and Leader McCarthy:

I write to you today on behalf of the National Association of Federally-Insured Credit Unions (NAFCU) to share with you our thoughts on H.R. 6395, the *William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021* (FY 2021 NDAA), and to urge your support for Rules Committee Amendment #1 (Maloney Amendment #499), which would add the text of the *Corporate Transparency Act of 2019* and the *Coordinating Oversight, Upgrading and Innovating Technology, and Examiner Reform Act of 2019* (the *COUNTER Act of 2019*) to the legislation. As you are aware, NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve 120 million consumers with personal and small business financial service products.

First, we thank the House Armed Services Committee for recognizing the important role that defense credit unions play for our men and women in the military in providing traditional financial services and protecting our troops from predatory lenders by protecting credit union military base leases in this legislation. As you know, through a years-long series of discussions with the Department of Defense (DoD), months of debate and several hearings before Congress, an amendment to the *Federal Credit Union Act* (FCU Act) was passed as part of the *Financial Services Regulatory Relief Act of 2006* (P.L. 109-351) to clarify that DoD has the discretionary authority to lease space on military bases at a nominal rate to credit unions provided that they meet certain statutory and regulatory requirements regarding the provision of financial services in the on-base facility (12 U.S.C. § 1770). It is important to note that while DoD has chosen to afford space on military bases at a nominal rate to credit unions, they are not required to do so. DoD, like many others, recognizes the value that credit unions bring to our men and women in uniform, in good times and bad. For example, during the partial government shutdown last year, many credit unions offered programs to assist those impacted by a lack of a paycheck, while other financial institutions did little or nothing.

The Senate's version of the FY 2021 NDAA currently includes a provision that would require the DoD to treat large mega-banks, such as Wells Fargo, the same as a military installation's local not-for-profit defense credit union when it comes to rent on military bases. We thank the House for not including a similar provision, and we urge you to reject this provision when the legislation goes to conference. While we recognize the important role both credit unions and banks can play for our men and women in the military in the provision of traditional financial services, the fact

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remains that banks and credit unions are fundamentally different. For-profit banks ultimately focus on benefitting shareholders while credit unions focus on serving their member-owners.

It is important to point out that although bankers claim that they are required to pay rent on military bases at a fair market value cost, the reality is that banks also already have an avenue to pursue nominal cost leases via 10 U.S.C. § 2667. The *Floyd D. Spence National Defense Authorization Act For Fiscal Year 2001* (P.L. 106-398) gave DoD the authority to accept “in-kind consideration” for leases on military property, including “provision of such other services relating to activities that will occur on the leased property that the Secretary concerned considers appropriate.” If military banks were to work with DoD, in-kind consideration could be accepted with respect to a bank lease. Prior to the enactment of the aforementioned amendment to the FCU Act, credit unions also pursued nominal leases via this same provision in 10 U.S.C. § 2667. We would encourage military banks to work with DoD to make better use of this current provision and we urge the House to reject this Senate amendment in conference.

Second, in regard to H.R. 6395, we urge the House to support Amendment #1 under the Rule, offered by Representatives Carolyn Maloney (D-NY), Peter King (R-NY), Emanuel Cleaver (D-MO), Tom Malinowski (D-NJ), Maxine Waters (D-CA), and Michael Waltz (R-FL), which would add the text of the *Corporate Transparency Act of 2019* and the *COUNTER Act of 2019* to the legislation. NAFCU strongly supports these efforts, which would make critical improvements to our *Bank Secrecy Act* (BSA)/anti-money laundering (AML) regime. As we shared when the House considered and passed this legislation in October 2019, credit unions strongly support efforts to combat criminal activity in the financial system. NAFCU has consistently recognized the importance of the Financial Crimes Enforcement Network (FinCEN), BSA, and AML/countering the financing of terrorism (CFT) requirements in assisting in the prevention of tax evasion, money laundering and terrorist financing. 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 remain a burden to implement, and we believe that the system is in need of improvements and reform.

The *Corporate Transparency Act of 2019* 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 the creation of a database of beneficial ownership information that would be available to law enforcement agencies and financial institutions. As you know, the CDD rule has been highly burdensome for small financial institutions to implement, and the creation of this database would be enormously helpful for compliance purposes. Even more importantly, criminal actors frequently conceal their identities through anonymous shell companies, and as one of the few developed countries to not maintain a registry of beneficial ownership information, the United States has become a haven for these types of corporate entities. It is critical that you act now to establish a beneficial ownership database so we can address this illicit activity.

Furthermore, the *COUNTER Act of 2019* would make critical modernizations and improvements to our BSA/AML system. The legislation takes many steps that NAFCU strongly supports, including: having FinCEN encourage more coordination between law enforcement and credit

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union examiners on BSA/AML priorities; directing FinCEN to study and design a modified Suspicious Activity Report (SAR) that would reduce compliance burdens on financial institutions; modernizing the Currency Transaction Report (CTR) threshold by indexing it for inflation; encouraging innovation and providing exemptive relief to facilitate the testing of new technologies and innovations; and increasing information sharing and allowing the sharing of compliance resources in this area. Overall, the legislation in this amendment is an important step to improve the BSA/AML regulatory compliance regime for law enforcement and community institutions such as credit unions, and it merits inclusion in the FY 2021 NDAA.

We thank you for your leadership and appreciate the opportunity to share our thoughts on this important legislation. We look forward to continuing to work with you throughout the FY 2021 NDAA process. Should you have any questions or require any additional information, please contact me or Sarah Jacobs, NAFCU's Associate Director of Legislative Affairs, at (571) 289-7550.

Sincerely,



Brad Thaler  
Vice President of Legislative Affairs

cc: Members of the House of Representatives