Testimony of

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On behalf of

The National Association of Federal Credit Unions

"Who's in Your Wallet? Dodd-Frank's Impact on Families, Communities and Small Businesses"

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Oversight and Investigations

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Introduction

Good morning, Chairman Neugebauer, Ranking Member Capuano, and Members of the Subcommittee. My name is Lynette Smith and I am testifying today on behalf of the National Association of Federal Credit Unions (NAFCU). I serve as the President and CEO of Washington Gas Light Federal Credit Union in Springfield, Virginia. Washington Gas Light FCU has more than 8,000 members with assets totaling $86.9 million.

At Washington Gas Light our mission is to "Bring our Members Financial Dreams to Light." We often times find ourselves as a lender of last resort for members with challenging credit histories. We pride ourselves in educating our members by offering a series of seminars providing financial literacy education tools that empower them to manage their personal goals from buying a home to retirement planning. We also help them take advantage of the free automated services we provide such as bill pay and home banking.

NAFCU is the only national organization exclusively representing the interests of the nation's federally chartered credit unions. Representing over 800 credit unions, NAFCU members collectively account for approximately 66 percent of the assets of all federally chartered credit unions.

On behalf of NAFCU and the entire credit union community I would like to thank you for holding this important hearing. We appreciate having the opportunity to share with the Subcommittee the impact that the *Dodd-Frank Wall Street Reform and Consumer Protection Act* [P.L. 111-203] is having, and will continue to have, on credit unions and their 94 million member-owners. As community-based financial service providers, credit unions are in the forefront serving Main Street America by helping small businesses grow as they recover from the financial crisis.

Background on Credit Unions

Historically, credit unions have served a unique function in the delivery of necessary financial services to Americans. Established by an act of Congress in 1934, the federal credit union system was created, and has been recognized, as a way to promote thrift and to make financial services available to all Americans, many of whom would otherwise have limited access to financial services. Congress established credit unions as an alternative to banks and to meet a precise public need—a niche credit unions fill today for Americans from all walks of life. Every credit union is a cooperative institution organized "for the purpose of promoting thrift among its members and creating a source of credit for provident or productive purposes." (12 § USC 1752(1)).

While over 75 years have passed since the Federal Credit Union Act (FCUA) was signed into law, two fundamental principles regarding the operation of credit unions remain every bit as important today as in 1934:

• credit unions remain totally committed to providing their members with efficient, low-cost, personal financial service; and,

• credit unions continue to emphasize traditional cooperative values such as democracy and volunteerism.

The nation's approximately 7,000 federally insured credit unions serve a different purpose and have a fundamentally different structure than banks. Credit unions exist solely for the purpose of providing financial services to their members, while banks aim to make a profit for a limited number of shareholders. As owners of cooperative financial institutions united by a common bond, all credit union members have an equal say in the operation of their credit union—"one member, one vote"—regardless of the dollar amount they have on account. These singular rights extend all the way from making basic operating decisions to electing the board of directors— something unheard of among for-profit, stock-owned banks. Unlike their counterparts at banks and thrifts, federal credit union directors generally serve without remuneration—a fact epitomizing the true "volunteer spirit" permeating the credit union community.

As consolidation of the commercial banking sector has progressed, with the resulting depersonalization in the delivery of financial services by banks, the emphasis in consumer's minds has begun to shift not only to services provided, but also—more importantly—to quality and cost of those services. Credit unions are second-to-none in providing their members with quality personal financial services at the lowest possible cost.

The Dodd-Frank Act and Credit Unions

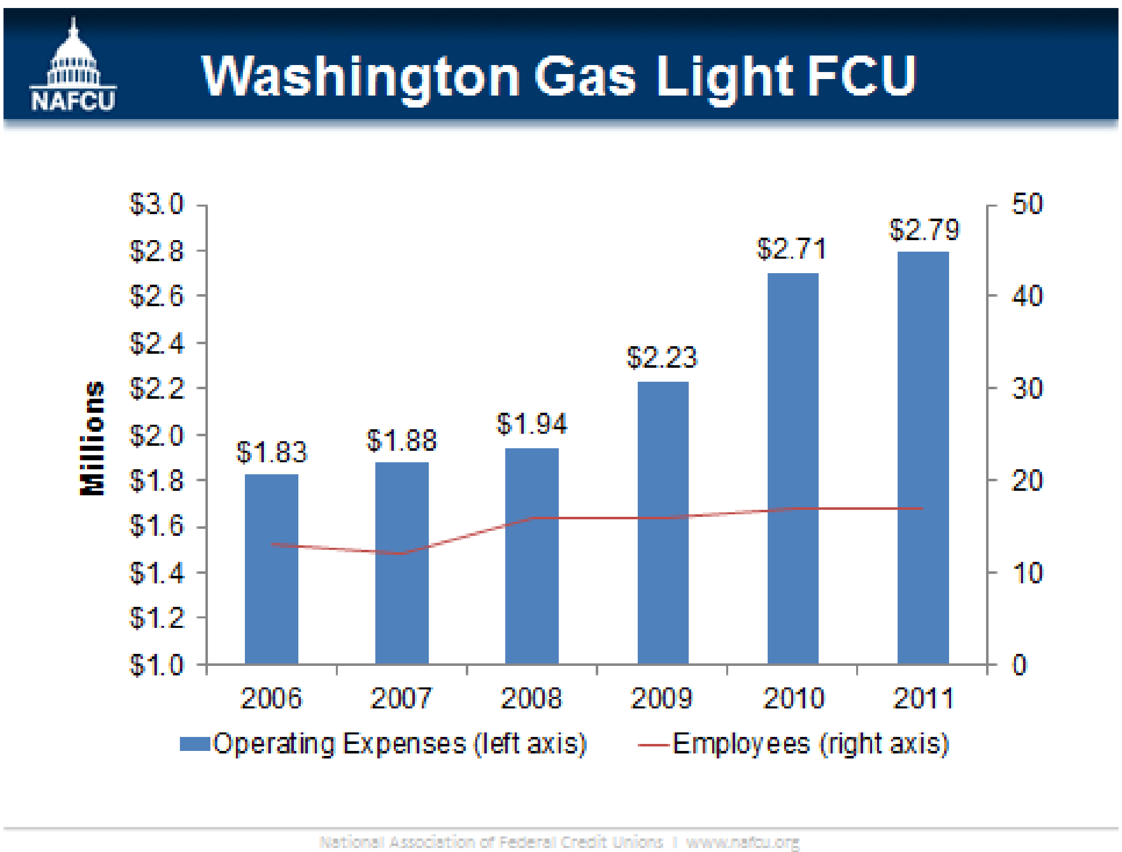
As widely recognized by members of Congress on both sides of the aisle, credit unions and other community based financial institutions were not the root cause of the housing or financial crises. Historically, credit unions have been among the most highly regulated of all financial institutions, facing restrictions on who they can serve and their ability to raise capital. Still, despite the fact that not one Congressional hearing was held on the issue of whether or not credit unions should be subject to any aspect of the new Consumer Financial Protection Bureau (CFPB)—and despite strong opposition from NAFCU—all credit unions are subject to the rule making authority of the CFPB. While there are credible arguments to be made for the existence of the CFPB, its primary focus should be on regulating the unregulated, not adding new regulatory burdens to entities that already fall under a functional regulator. In short, we are very concerned that efforts at the CFPB to rein in bad actors and greed on Wall Street will inevitably have a negative impact on community based financial institutions like credit unions, especially when it comes to regulatory and compliance burdens. Early evidence shows those concerns to be well placed. For example, credit unions will need to be in compliance with the nearly 2,000 pages of the CFPB's first two major rule proposals.

One of the biggest impacts Dodd-Frank has had on credit unions comes from the debit interchange price cap added on the Senate floor without benefit of a hearing in either the Senate or House. While this hastily crafted provision was supposed to exempt credit unions under $10 billion from its impact, market forces have already seen some credit unions begin to have higher debit card costs and declining interchange revenue. Some early evidence is starting to show that the worst concerns of credit unions may come true, and that market forces will eventually push everyone toward to the artificial capped rate.

Furthermore, with no end in sight, the steady stream of regulations pouring out of Dodd-Frank only adds to the existing compliance burden our nation's credit unions already face. While many of them are well-intentioned to correct the abuses of others, for credit unions they are often a solution in search of a problem. I cannot overemphasize how burdensome and expensive unnecessary Dodd-Frank Act related compliance costs will be for credit unions. We can only hope Congress will urge regulators to do more robust cost-benefit analysis of potential regulations and follow-up once the regulations are in place and make changes if the costs are too high.

Washington Gas Light has a staff of just 17. My employees and I already spend countless hours updating disclosure booklets and web sites while constantly reviewing documents to comply with the never ending changes to laws and regulations. Just in the last few years there have been extensive changes made from new credit card legislation to new disclosure requirements. Layered on top of this will be a number of rules from the CFPB that will directly impact credit unions. This will compound existing challenges and uncertainty.

Every dollar we spend at my credit union to keep up with various regulations and reporting requirements is one less dollar we can use towards credit availability for our members. My credit union is healthy, growing and has good loan demand. Still, rather than looking to hire a new loan officer, the growing compliance burden means I must look to hire a compliance officer. While we still try to make the loans our member's need, the staff time dedicated to compliance means that many often have to wait longer to get their loan. As depicted in the chart below, operating expenses at my credit union have steadily risen in large part due to increased compliance burden, while the number of employees at Washington Gas Light has remained nearly constant in that same timeframe.



Financial Stability Oversight Council Positioned to Facilitate Robust Regulatory Coordination

With households still recovering from the greatest financial crisis since the Great Depression, it has never been more important for regulators to institute commonsense regulations that strike a balance between protecting consumers and giving credit unions the flexibility they need to best serve their members.

Under the Dodd-Frank Act, the Financial Stability Oversight Council [FSOC] has a duty to facilitate regulatory coordination. We hope that they take this duty seriously. This duty includes facilitating information sharing and coordination among the member agencies of domestic financial services policy development, rulemaking, examinations, reporting requirements and enforcement actions. Essentially, the FSOC is charged with identifying weakness within the regulatory structure and promoting a safer, more stable system.

With respect to this goal, NAFCU would like to emphasize how important it is to credit unions for our industry's copious regulators to coordinate with each other to help mitigate regulatory burden. As NAFCU member credit unions have testified on numerous occasions, it is not any single regulation, but an accumulation of regulations from numerous regulators operating independently of each other with little to no coordination that magnifies the undue regulatory burden credit unions face today.

Included at the end of my written statement is a letter from NAFCU to Treasury Secretary Geithner in his capacity as Chairman of the FSOC expanding on the importance of increased regulatory coordination and how this can help keep credit union's focused on serving their members. NAFCU urges the Subcommittee to use its oversight authorities with the FSOC and to keep the FSOC's role in mind moving forward as the full impact of Dodd-Frank unfolds at our nation's credit unions.

Dodd-Frank Rule Making Underway

As widely publicized, the CFPB estimated that its first rule on international remittance transfers would require 7.7 million total employee hours of work for the industry to implement and comply with. This mindboggling headline strikes at the very core of what credit unions fear most – Dodd-Frank mandated regulation will be finalized so quickly, and so often, that community-based financial institutions simply won't be able to keep up.

It is worth noting that revisions that led to the CFPB's final rule on international remittance transfers were originally proposed by the Federal Reserve, but as mandated in Dodd-Frank, finalized by the CFPB. On the same day the rule was finalized, the CFPB simultaneously issued a proposed rule and request for comment that sought feedback on the disclosure process for recurring remittance transfers. The proposed rule also sought comment on whether it should allow an exception for institutions that infrequently provide such services. NAFCU appreciates the Bureau's decision to seek more input regarding the unique problems that arise with preauthorized or reoccurring electronic fund transfers. We hope that this is an openness that will continue in both word and deed.

Under the proposed rule, an exception for remittance transfer providers, presumably made to accommodate small financial institutions, falls far short of offering any tangible relief to credit unions who operate in this space. Those providers making less than 25 international remittance transfers a year would be exempt and therefore free of the extensive disclosure requirements that are mandated for those providers above that threshold. This arbitrary and exceptionally low number will not provide relief for credit unions. A NAFCU survey of our member credit unions found that nearly 84% of those credit unions that provide remittance services, make more than 25 a year. The same survey found that nearly 58% of those that had a remittance program make less than $1,000 per year on the program or operate it at a loss. The new compliance costs of this rule may force many of those to make changes to their programs or eliminate those services outright.

Furthermore, a vast majority of credit unions who provide remittance transfer services rely on open network systems. By the CFPB's own admission, under the rule already finalized, it will be exceedingly difficult for open network systems, as currently configured, to comply. This leaves credit unions with two plausible choices – stop doing international remittance transfers, a service that many members utilize and value, or pay for a massive reconfiguration of the payment networks needed to comply. It should be noted that Congress only recently gave credit unions the ability to do remittances for all consumers in their field of membership, in an effort to reach the under-or un-banked. Without changes, the new rule from the CFPB will likely lead some credit unions to stop remittance services and undo the intent of Congress by discouraging under- and un-banker populations from using credit unions for these services. This is the first of what has the potential to be many financial products credit unions will no longer be able to offer their members as a result of the undue regulatory burden being thrust upon them.

While the international remittance transfer rule was the first and only rule related to Dodd-Frank to be finalized by the CFPB thus far, there are an overwhelming number of upcoming Dodd-Frank mandates that will directly impact credit unions. The CFPB's mandates are particularly daunting as related to Regulation Z, the implementing regulations for the Truth in Lending Act (TILA). Nearly every aspect of current compliance requirements with respect to operating a mortgage portfolio has the potential to change.

By January 2013, the CFPB is expected to expand the scope of coverage under the Home Ownership and Equity Protection Act, address mortgage origination and mortgage servicing standards, amend rules associated with the Truth in Lending Act and Financial Institutions Reform, Recovery, and Enforcement Act, change requirements for escrow accounts and issue rules under Dodd-Frank relative to what constitutes a qualified mortgage (QM).

As subcommittee members are aware, the CFPB request for comment on QMs just closed on July 9, 2012. The request for comment was a follow-up on the Federal Reserve Board's proposed rule regarding a consumer's ability to repay mortgage loans. While NAFCU supports efforts to ensure that consumers cannot enter into mortgages they cannot afford, we are very concerned that the proposal will create more regulatory burden on credit unions. We believe: (1)

credit unions that make qualified mortgages should have a clear safe harbor; (2) disclosure of compensation arrangements are counterproductive to providing consumers with meaningful information; and (3) the 2011 proposal is overly complex. The proposal would require some credit unions, with narrowly tailored programs that require limited verification of income, to significantly overhaul these programs, thus incurring significant cost, even though there will be little benefit to their members. Additionally, many credit union members, including those in the immigrant community and those which operate cash based businesses, may no longer be able to obtain credit due to the inflexible income verification requirements, such as not counting spousal income.

NAFCU appreciates the focus that the House Financial Services Committee has placed on reviewing the QM request for comment from the CFPB. NAFCU strongly supports a clear safe harbor for lenders who have met qualified mortgage requirements.

Additionally on July 9, the CFPB released a much anticipated proposal combining and streamlining the Truth in Lending Act (TILA) and Real Estate Settlement Procedures Act (RESPA) mortgage loan forms. NAFCU has been actively participating in the processes the CFPB has used to gather information leading up to the proposal of this rule, including partaking in the recent Small Business Regulatory Enforcement Fairness Act review panel on this topic. NAFCU is hopeful that these panels will be held in the future, and input given will translate into commonsense rulemaking that doesn't create additional and unnecessary compliance burdens for credit unions. Still, NAFCU needs these efforts to have real impact on the rulemaking. In the proposed rule, the CFPB details discussion and gives a thorough cost benefit discussion of the rule for small entities, highlights the massive impact of the proposed rule, but makes no changes in the proposal for small entities.

As noted earlier, this proposal is just shy of 1100 pages. The proposal changes two separate regulations, changes dozens of substantive processes for financial institutions, including the way the annual percentage rate is calculated, changes what disclosures go on loan estimate and loan closing forms, will require hundreds of hours of staff training, and will require the reconfiguring systems and how loans get delivered. That does not even take into account changes that will need to be made with relationships with settlement agents and the like. And this is just one rule. It is not in any way an exaggeration to say that this will have a big impact on our ability to deliver credit.

In addition, while many of the details are yet to emerge about the various mortgage proposals, the sheer pace at which these new rules are scheduled to be implemented should cause serious pause. Even if they are well-intentioned and ultimately bring about positive changes, there is a significant burden on small institutions in just keeping up.

The CFPB recently released its 2012 Semi-Annual Regulatory Agenda which outlines **27** different areas where potential rulemaking may occur in the near future. As the CFPB's final rule on remittances and their mortgage-related proposed rules demonstrate, it will be very challenging for my limited staff of only 17, I am not sure how I can keep up and continue to serve our members' needs.

Review of Existing Regulations

In January of last year, President Obama announced a government review of existing regulations. We hope that this ongoing review by the Administration and the efforts by Congress can recognize what credit unions like mine know all too well – the problem is not necessarily one single bill or regulation, but the cumulative effect of new regulations piled on top of each other, without studying these effects on small financial institutions that don't have an army of lawyers with which to comply. These burdens do not just come from one or two regulators, but from a host of federal agencies and laws that can impact our business. The Dodd-Frank Act just made this worse. For small financial institutions, this is almost a death by a thousand cuts.

As part of this review, National Credit Union Administration (NCUA) Chairman Debbie Matz informed the Obama Administration that, since NCUA began to review their regulations every three years, they have been successful in reducing regulatory burdens. However, I can say from a credit union perspective that burdens on credit unions remain. It is unclear to credit unions whether there is a true process for NCUA to eliminate regulations, or if they have set or met any particular benchmarks in reducing compliance burdens.

In the past two years, NCUA has made changes to its Regulatory Flexibility (RegFlex) program. Under the RegFlex regime certain well-run credit unions were exempt from a number of regulatory requirements. Recently, NCUA expanded the RegFlex program to include all credit unions, but it also eliminated two very beneficial RegFlex provisions relative to fixed assets and personal guarantees. NAFCU feels that NCUA can and should do much more to eliminate outdated regulation. Even small tweaks to NCUA's rules can have a major impact on operations.

Furthermore, NCUA should actively embrace and take into consideration technology advancements when promulgating regulations – that would be one way to ease some burden.

As the CFPB ramps up, NAFCU has actively participated in the Bureau's request for comment on an array of issues including regulatory streamlining. To truly understand how the onslaught of regulation scheduled to be finalized through Dodd-Frank will impact credit unions, one must look at the regulatory environment that already exists. NAFCU is hopeful that the CFPB will ultimately use its authority not only to identify, but also to streamline and simplify regulation where possible. If the CFPB and other regulators will not do this in a timely and effective manner, Congress must step in and do so. As discussed earlier in my testimony, the members of the Financial Stability Oversight Council also have a unique role and distinct responsibility in terms of surveying the current regulatory environment, information sharing, and coordinating with respect to regulation.

Amending or eliminating outdated regulation must be a priority as unnecessary day-to-day compliance costs at credit unions represent resources that could otherwise be used to help members purchase a new car or start a new small business. A prime example of an outdated compliance burden is the redundant and unnecessary requirement in the Electronic Funds Transfer Act and its implementing rule (Regulation E – 12 CFR 1005.16) requiring automated teller machine (ATM) operators to provide two separate notices to consumers regarding the imposition of a fee for use of the ATM. NAFCU appreciates swift action in the Financial Services Committee and on the House floor in passing H.R. 4367. This bipartisan legislation introduced by Representatives Luetkemeyer (R-MO) and Scott (D-GA) will eliminate the physical placard disclosure requirement while retaining the on-screen notice with option for the consumer to decline the transaction. I look forward to Senate passage of this important bill as many credit unions are forced to constantly police ATM machines in an effort to fend-off the threat of frivolous lawsuits, spending time and resources that could be better used to help their members.

Another increased burden for credit unions comes from recent changes in the exam process. Part of the response to the economic crisis was to create new layers of regulation and institute more aggressive enforcement of existing law. Three credit unions, despite no contributions to the crisis, are already subject to new examinations of the CFPB. Many more will ultimately fall into the grasp of CFPB examinations as Congress did nothing to index the thresholds of the Dodd-Frank Act, including the CFPB examination threshold of $10 billion. This means the “supposed” $10 billion exemption is really a disintegrating one that will allow the CFPB to capture more and more institutions under its full power over time. One way for Congress to rectify this would be to pass legislation indexing all thresholds in the Dodd-Frank Act.

Regulators have increasingly tightened examination standards in order to aggressively enforce new and old regulations and to avoid a repeat of the crisis. Exam cycles are shorter, adding an element of burden to credit unions as staff time and resources are dedicated to prepare and respond to the exam. It is with this in mind that we also urge the committee to move forward and vote on the Financial Institutions Examination Fairness and Reform Act (H.R. 3461) introduced by Representatives Capito and Maloney.

I cannot overstate how critical it is for the CFPB to review and simplify the complex regulatory framework credit unions already face. Such an effort could help mitigate layering regulation upon regulation to the detriment of credit unions and their member-owners.

Attached for the Subcommittee's review, please find NAFCU's detailed response to the CFPB's request for comment on regulatory streamlining (Docket No. CFPB-2011-0039). Again, NAFCU and its member credit unions remain hopeful that steps are taken to update and streamline existing regulation before new regulation is simply pushed through and layered on top of it.

Cost-Benefit Analysis

One thing that is unfortunately missing from far too many regulations and laws is a robust cost-benefit analysis for the changes that are sought. This is particularly important for not-for-profit credit unions. Simply put: Are the benefits to the consumer greater than the cost of compliance?

Federal agencies are required to conduct cost-benefit analysis before they issue certain proposed or final rules. These requirements have been added incrementally by various statutes and executive orders over the past 50 years. The elements of analysis usually include some or a combination of the following: quantitative and qualitative estimates of costs and benefits, effects on the national economy, consideration of a range of alternatives, selection of the alternative that is least costly, most cost-effective, or least burdensome, or an explanation of why that alternative was not selected.

Many of the current requirements have substantial exclusions and exceptions, giving federal agencies considerable discretion to decide whether an analysis is required. For example, some requirements do not apply to rules that are issued without a prior notice of a proposed rulemaking, and agencies can avoid regulatory flexibility analyses if they certify that their rules do not have a significant economic impact on a substantial number of small entities. At NCUA, only credit unions under $10 million in assets are currently considered small entities. NCUA should consider raising the small entities benchmark. For example, the CFPB uses $175 million for the Small Business Regulatory Enforcement Fairness Act review panels.

The number of economically significant regulations, those costing the regulated community more than $100 million or having a significant adverse impact on competition, employment or productivity has increased substantially.

Conclusion

While credit unions were not the problem, the Dodd-Frank Act impacts credit unions in many ways. While the interchange provision has some of the biggest impact, the greatest impact will likely come from the ever increasing burden of new regulations emerging as a result of the Dodd-Frank Act, whether from the CFPB or functional regulators. Congress must continue vigorous oversight and look for ways to act on regulatory relief.

Regulators must also accept responsibility in this regard, and the newly created FSOC should make regulatory coordination part of its focus.

This is critical because every dollar spent on compliance, whether stemming from a new law or outdated regulation, is a dollar that could have been used to reduce cost or provide additional services or loans to members. This has a real impact on the small businesses in our local communities we are counting on to create jobs and economic growth. NAFCU continues to urge

Congress to move forward with legislation that will provide regulatory relief from outdated laws and regulations for credit unions.

We thank you for your time and the opportunity to testify before you here today on these important issues to credit unions and ultimately our nation's economy. I welcome any questions you may have.

Attached:

6.27.2012 letter from NAFCU President and CEO Fred Becker to Treasury Secretary Geithner re: FSOC's Role to Reduce Regulatory Compliance Buren at Credit Unions

3.2.2012 letter from NAFCU President and CEO Fred Becker to Monica Jackson/ CFPB re: Docket No. CFPB – 2011-0039/ Streamlining Regulations