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**B. Dan Berger**  
President & Chief Executive Officer

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

April 13, 2017

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

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

**RE: NAFCU Proposals to Help Foster Economic Growth**

Dear Chairman Crapo and Ranking Member Brown:

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 today in conjunction with your request for ideas and proposals to help foster economic growth. We appreciate the committee's focus on this important issue.

NAFCU has always believed that credit unions play an essential and vital role in the economic health of local communities. This was demonstrated during the recent financial crisis when credit unions were able to continue to lend and help credit worthy consumers and small businesses during difficult times, often when no one else would. Despite the fact that credit unions played no part in causing the financial crisis, they are still heavily regulated and affected by many of the rules meant for those entities that did. Unfortunately, every credit union dollar spent on compliance with regulatory burdens is a dollar that can't be used to help consumers through member service, better rates or additional money to lend.

During the consideration of financial reform, NAFCU was concerned about the possibility of overregulation of good actors, such as credit unions, and this is why NAFCU was the only credit union trade association to oppose the Consumer Financial Protection Bureau (CFPB) having authority over credit unions. Unfortunately, many of our concerns about the increased regulatory burdens that credit unions would face under the CFPB have proven true. As expected, the breadth and pace of the CFPB's rulemaking is troublesome, and the unprecedented new compliance burden placed on credit unions has been immense. NAFCU continues to believe that credit unions should be exempted from CFPB rulemaking, with authority returned to the National Credit Union Administration (NCUA). As you examine the federal financial regulatory system, we urge you to support such a reform.

The impact of the growing compliance burden is evident as the number of credit unions continues to decline. Since the second quarter of 2010, we have lost more than 1,500 federally-insured credit unions – over 20% of the industry. The overwhelming majority of these were smaller institutions below \$100 million in assets. While it is true that there has been a historical consolidation trend in the industry, the passage of the *Dodd-Frank Act* has accelerated this trend. In 2016, the industry lost 5.6

percent of credit unions, which represents the highest rate of consolidation in a single year since World War II. The fact is that many smaller institutions simply cannot keep up with the new regulatory tide and have had to merge out of business or close their doors. This is why regulatory relief remains a top priority for our nation's credit unions.

It is with this in mind that NAFCU would like to offer the following ideas to help foster economic growth and regulatory relief:

**I. Provide Greater Clarity to CFPB's 1022 Exemption Authority**

NAFCU believes that Section 1022 of the *Dodd-Frank Act* gives the CFPB broad exemption authority to exempt classes of institutions, including credit unions, from CFPB rules on a case-by-case basis. We believe that this was also the congressional intent of this provision. However, CFPB Director Richard Cordray has testified before Congress that he believes he does not have the authority to outright exempt credit unions from various CFPB rules under Section 1022. The failure of the Bureau to provide outright exemptions for credit unions to various rules has greatly increased the compliance burden on the credit union industry, as credit unions are now forced to spend time and resources reviewing rules to see if they meet any arbitrary exemption threshold the Bureau may set. Time and money spent on this effort takes away from economic benefits that credit unions could be providing to their members.

Last year, a bipartisan group of 70 Senators sent a letter to Director Cordray urging him to do more with the authority under Section 1022 to reduce the burden on community institutions, such as credit unions. A copy of that letter is attached with this submission. We would urge you to adopt the suggested legislative language found in Attachment A to clarify the ability of the CFPB to specifically exempt credit unions from CFPB rules. NAFCU also supports the language found in H.R. 1264, the *Community Financial Institution Exemption Act*, introduced by Representative Roger Williams earlier this year.

**II. Make Common-Sense Improvements to the CFPB**

We believe that one way to improve the Bureau would be to change the leadership structure from a single director to a five member commission appointed by the President. NAFCU has long held the position that, given the broad authority and awesome responsibility vested in the CFPB, a five person commission has distinct consumer benefits over a single director. Regardless of how qualified one person may be, a commission would allow multiple perspectives and robust discussion of consumer protection issues throughout the decision making process.

We also believe that the main focus of the CFPB should be on unregulated entities operating in the financial services arena and other significant market actors that have a national impact, and thus we believe that the supervision threshold for the CFPB should be raised to \$150 billion and indexed for inflation. Making this change would allow functional

regulators to focus on community and regional institutions, while allowing the CFPB to focus on entities that are otherwise unregulated and keep a national perspective.

Legislative language for these ideas is found in Attachment B.

### **III. Require the CFPB to Provide Guidance or Rulemaking for its UDAAP Authority**

Uncertainty stemming from CFPB's authority to take action on entities committing unfair, deceptive, or abusive acts or practices (UDAAP) can prevent institutions from providing services that consumers may want. Credit unions want to comply and provide the services that their members want and need. However, when the CFPB does not provide clarity in regards to UDAAP, either through rulemaking or guidance, economic opportunity is stymied as institutions fear the CFPB will only regulate through enforcement action. We would urge the adoption of suggested legislative language in Attachment C to require the CFPB to provide more clarity and guidance to those they regulate.

### **IV. Require the CFPB to Better Tailor Regulations and Subject Them to Review**

NAFCU supports measures that would require the CFPB to better tailor its regulations to institutions based on their size and risk, and provide greater review and scrutiny. Despite credit unions being smaller and less risky than mega-banks, they have too often found themselves subject to burdensome new regulations designed for big banks, negatively impacting their ability to serve their members and foster economic development. We would urge you to adopt language from the *Taking Account of Institutions with Low Operation Risk (TAILOR) Act* and from the *Regulations From the Executive in Need of Scrutiny (REINS) Act*, as well as subjecting the CFPB to the *Economic Growth and Regulatory Paperwork Reduction Act (EGRPRA)* review.

### **V. Repeal the Durbin Debit Interchange Amendment**

The interchange price caps passed as part of the *Dodd-Frank Act* have failed to produce the consumer benefits that proponents promised. This provision has essentially been a windfall to merchants and their stockholders, while costing credit unions and their members billions of dollars that could have been used to help foster economic growth through better rates and more loans. We urge you to repeal the debit interchange provision found in the *Dodd-Frank Act* by adopting the legislative language found in Attachment D.

### **VI. Make Improvements to Field-of-Membership Restrictions for Credit Unions**

We urge you to adopt language allowing credit unions of all charter types to add underserved areas to their fields of membership (FOM). Doing so would go a long way in removing the barriers that limit consumers' access to essential financial services and open up the economic benefits of credit unions to more Americans.

The proposed language found in Attachment E would allow existing non-multiple-common-bond credit unions to petition NCUA to allow a credit union to add underserved areas to their existing field of membership. It would require the credit union to maintain a method for serving those underserved areas and be subject to NCUA reporting requirements.

NAFCU also supports other updates to FOM restrictions, such as removing the word “local” from the phrase “well-defined, *local* community” in Section 109(b)(3) of the *Federal Credit Union Act*.

## **VII. Provide Credit Unions Parity in the Treatment of Residential Loans**

NAFCU urges you to exempt loans for one-to-four-unit non-owner occupied dwellings from the credit union member business lending (MBL) definition. The proposal found in Attachment F would allow credit unions to treat loans that qualify for the exemption as residential loans with lower interest rates—similar to how banks make those loans to small businesses—and not have to count them toward their MBL cap. This would free up capital for additional lending to small businesses to help foster economic growth.

This idea was recently introduced as bipartisan legislation, S. 836, the *Credit Union Residential Loan Parity Act*, by Senators Ron Wyden and Lisa Murkowski. NAFCU would also urge you to eliminate the arbitrary and outdated credit union member business lending cap.

## **VIII. Capital Reforms for Credit Unions**

Under current law, a credit union’s net worth ratio is determined solely on the basis of retained earnings as a percentage of total assets. Because retained earnings often cannot keep pace with asset growth, otherwise healthy growth can dilute a credit union’s capital ratio and trigger prompt corrective action (PCA) rules. NAFCU supports removing this artificial constraint by empowering NCUA to authorize qualified credit unions access to supplemental capital. The objective of supplemental capital is to ensure credit unions can continue to accept new deposits, especially during tough economic times, when demand for loans and other income-generating services are low, and to provide the NCUA with the same authority and flexibility to adjust capital requirements in response to changes in economic conditions as Congress has provided to federal banking regulators.

NAFCU also supports congressional action to suspend the implementation of NCUA’s recent risk-based capital rule, to allow the new leadership at the agency time to review the rule and request any statutory changes that the agency deems necessary to institute a capital system for credit unions that accurately accounts for risk.

Legislative language in regards to these capital reforms is found in Attachment G.

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The Honorable Sherrod Brown  
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### **Additional Areas for Regulatory Relief**

Finally, there are a number of additional areas where credit unions could use regulatory relief to help them better serve their members and foster economic development. These include, but are not limited to, requiring better cost-benefit analysis by regulators, improvements to the Qualified Mortgage (QM) rule – such as a safe-harbor for loans held in portfolio, improvements to the TILA/RESPA rule, improvements to the CFPB's new *Home Mortgage Disclosure Act* (HMDA) rule, and providing greater clarifications and fixes to DoD's recent *Military Lending Act* rule. Comprehensive relief in these areas will go a long way to improving the ability of credit unions to foster economic growth and better serve their over 106 million members.

We thank you for the opportunity to provide these ideas. We look forward to working with the committee on this effort. Should you have any questions or require any additional information please contact me or Brad Thaler, NAFCU's Vice President of Legislative Affairs, at 703-842-2204 or [bthaler@nafcu.org](mailto:bthaler@nafcu.org).

Sincerely,



B. Dan Berger  
President and CEO

cc: Members of the Committee on Banking, Housing, and Urban Affairs

Attachments

## Attachment A

### **1022 Exemption Relief**

The Consumer Financial Protection Act of 2010 (12 U.S.C. 5481 et seq.) is amended— in section 1022(b)(3)(A):

- Striking “may conditionally or unconditionally” and inserting “shall conditionally or unconditionally,”
- Inserting after “or consumer financial products or services,” the following: “including credit unions chartered under Federal or State law,”
- Adding “(i) the nature of the entity, including not-for-profit status;”

Section 1022(b)(3)(A) provides the following:

“A) IN GENERAL.— The Bureau, by rule, shall conditionally or unconditionally exempt any class of covered persons, service providers, or consumer financial products or services, including credit unions chartered under Federal or State law, from any provision of this title, or from any rule issued under this title, as the Bureau determines necessary or appropriate to carry out the purposes and objectives of this title the factors in subparagraph (B).

(B) FACTORS.— In issuing an exemption, as permitted under subparagraph (A), the Bureau shall, as appropriate, take into consideration—

- (i) the nature of the entity, including not-for-profit status;
- (ii) the total assets of the class of covered persons;
- (iii) the volume of transactions involving consumer financial products or services in which the class of covered persons engages; and
- (iv) existing provisions of law which are applicable to the consumer financial product or service and the extent to which such provisions provide consumers with adequate protections.” )

# United States Senate

WASHINGTON, DC 20510

July 18, 2016

The Honorable Richard Cordray  
Director  
Consumer Financial Protection Bureau (CFPB)  
1700 G Street, NW  
Washington, D.C. 20552

Dear Director Cordray,

In both good economic times and bad, community banks and credit unions serve as pillars of their communities, providing the capital and access to credit that families and small businesses need to grow. That is why Congress and federal regulators have long taken the approach that credit unions and community banks should be treated differently from the largest financial institutions and non-bank lenders. It is our hope that the CFPB also takes this approach and considers the impact of its rule-making on smaller financial institutions and consumers. We request that the CFPB carefully tailor its regulations to match the unique nature of community banks and credit unions.

As it has now been six years since the enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank), there are many new rules and regulations in place. We must ensure that credit unions and community banks are not unduly burdened by compliance, but rather have the ability to maintain their close relationships and continue to offer a wide variety of consumer financial products and services.

We agree that it is important for consumers to be empowered to take more control over their economic lives, and that bad actors should be rooted out of the financial marketplace. However, the CFPB must also consider its impact on community-based depository lenders, who are essential to spurring economic growth and prosperity at a local level, and not disrupt the good work of community lenders to help someone start a business, buy a home or car, or put their kids through college. Since we all recognize these community lenders were not the primary cause of the financial crisis, the CFPB must carefully tailor its rulemaking.

Dodd-Frank explicitly granted the CFPB the authority to tailor regulations in Section 1022(b)(3)(A) by allowing the CFPB to "exempt any class" of entity from its regulatory requirements. We believe the CFPB has robust tailoring authority and ask that you act accordingly to prevent any unintended consequences that negatively impact community banks and credit unions or unnecessarily limit their ability to serve consumers.

Thank you for your consideration and we look forward to working with you on this important matter.

Sincerely,



Joe Donnelly  
United States Senator



Ben Sasse  
United States Senator

Joe Marchese Mike McConnell

Amy Klobuchar John Cornyn

Nikki Stenerow John Barrasso

Gene McCasill Tom Cotton

Gay C. Pitt

Shelley Moore Capito

Tom Bice

Richard Shelby

Angus King

Devin Sull

Heidi Heitkamp

Kelly A. Ayotte

U. H.

Bill Cassidy, M.D.

Jon Tester

Lee Meriwether



Tom Uball

Jim

Bob Carey, Jr.

Clara Kim

Mark R Warner

Paul Vitter

Mary F. Burt

Ron Johnson

Frank

Jeff

Ray Bent

Steve Dains

John Bergman

Tom Hill

Chin Hatch

Paul Cochran

Susan M. Collins

M. Mitch Bond

Chuck Grassley

Pat Roberts

Jerry Moran

Ray Winter

Bencarb

Mike Cypso

Joni K. Anst

~~Sam Kelly~~

Pat Rooney

Mark

Long Dan

Michael B. Enji

John

Conan Alexander

Tom Tillis

Rand Paul

John M. L.

~~Sam Kelly~~

~~Sam Kelly~~

Long Dan

David A. Leduc

Michael B. Enji

John Howard

T. S.

Art Tucker

Don Cook

PA Fleck

Rob Hartman

J. R. Rink

Jefferson

## Attachment B

### Change the CFPB to a 5-person board

#### **MAKING THE BUREAU AN INDEPENDENT FINANCIAL PRODUCT SAFETY COMMISSION.**

(a) *IN GENERAL.*—*The Consumer Financial Protection Act of 2010 (12 U.S.C. 5481 et seq.) is amended—*

(1) *in section 1011—*

(A) *in subsection (a)—*

(i) *by striking “in the Federal Reserve System,”;*

(ii) *by striking “independent bureau” and inserting “independent commission”;*

(iii) *by striking “Bureau of Consumer Financial Protection” and inserting “Financial Product Safety Commission(hereinafter in this section referred to as the ‘Commission’); and*

(iv) *by striking “Bureau” each place such term appears and inserting “Commission”;*

(B) *by striking subsections (b), (c), and (d);*

(C) *by redesignating subsection (e) as subsection (i);*

(D) *in subsection (i), as so redesignated—*

(i) *by striking “, including in cities in which the Federal reserve banks, or branches of such banks, are located,”; and*

(ii) *by striking “Bureau” each place such term appears and inserting “Commission”; and*

(E) *by inserting after subsection (a) the following new subsections:*

*“(b) AUTHORITY TO PRESCRIBE REGULATIONS.—The Commission may prescribe such regulations and issue such orders in accordance with this title as the Commission may determine*

*to be necessary for carrying out this title and all other laws within the Commission's jurisdiction and shall exercise any authorities granted under this title and all other laws within the Commission's jurisdiction.*

*“(c) COMPOSITION OF THE COMMISSION.—*

*“(1) IN GENERAL.—The Commission shall be composed of 5 members who shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals who—*

*“(A) are citizens of the United States; and*

*“(B) have strong competencies and experiences related to consumer financial products and services.*

*“(2) STAGGERING.—The members of the Commission shall serve staggered terms, which initially shall be established by the President for terms of 1, 2, 3, 4, and 5 years, respectively.*

*“(3) TERMS.—*

*“(A) IN GENERAL.—Each member of the Commission, including the Chair, shall serve for a term of 5 years.*

*“(B) REMOVAL.—The President may remove any member of the Commission for inefficiency, neglect of duty, or malfeasance in office.*

*“(C) VACANCIES.—Any member of the Commission appointed to fill a vacancy occurring before the expiration of the term to which that member's predecessor was appointed (including the Chair) shall be appointed only for the remainder of the term.*

*“(D) CONTINUATION OF SERVICE.—Each member of the Commission may continue to serve after the expiration of the term of office to which that member was appointed until a successor has been appointed by the President and confirmed by the Senate, except that a member may not continue to serve more than 1 year after the date on which that member's term would otherwise expire.*

*“(E) OTHER EMPLOYMENT PROHIBITED.—No member of the Commission shall engage in any other business, vocation, or employment.*

*“(d) AFFILIATION.—Not more than 3 members of the Commission shall be members of any one political party.*

*“(e) CHAIR OF THE COMMISSION.—*

*“(1) APPOINTMENT.—The Chair of the Commission shall be appointed by the President from among the members of the Commission.*

*“(2) AUTHORITY.—The Chair shall be the principal executive officer of the Commission, and shall exercise all of the executive and administrative functions of the Commission, including with respect to—*

*“(A) the appointment and supervision of personnel employed under the Commission (other than personnel employed regularly and full time in the immediate offices of members of the Commission other than the Chair);*

*“(B) the distribution of business among personnel appointed and supervised by the Chair and among administrative units of the Commission; and*

*“(C) the use and expenditure of funds.*

*“(3) LIMITATION.—In carrying out any of the Chair’s functions under the provisions of this subsection the Chair shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.*

*“(4) REQUESTS OR ESTIMATES RELATED TO APPROPRIATIONS.—Requests or estimates for regular, supplemental, or deficiency appropriations on behalf of the Commission may not be submitted by the Chair without the prior approval of the Commission.*

*“(f) NO IMPAIRMENT BY REASON OF VACANCIES.—No vacancy in the members of the Commission shall impair the right of the remaining members of the Commission to exercise all the powers of the Commission. Three members of the Commission shall constitute a quorum for the transaction of business, except that if there are only 3 members serving on the Commission because of vacancies in the Commission, 2 members of the Commission shall constitute a quorum for the transaction of business. If there are only 2 members serving on the Commission because of vacancies in the Commission, 2 members shall constitute a quorum for the 6-month period beginning on the date of the vacancy which caused the number of Commission members to decline to 2.*

*“(g) SEAL.—The Commission shall have an official seal.*

*“(h) COMPENSATION.—*

*“(1) CHAIR.—The Chair shall receive compensation at the rate prescribed for level I of the Executive Schedule under section 5313 of title 5, United States Code.*

*“(2) OTHER MEMBERS OF THE COMMISSION.—The 4 other members of the Commission shall each receive compensation at the rate prescribed for level II of the Executive Schedule under section 5314 of title 5, United States Code.”;*

*(2) in section 1012(c), by striking paragraphs (2), (3), (4), and (5); and*

*(3) in section 1014(b), by striking “Not fewer than 6 members shall be appointed upon the recommendation of the regional Federal Reserve Bank Presidents, on a rotating basis.”.*

*(b) COMMISSION FUNDING.—Section 7 of the Federal Reserve Act (12 U.S.C. 289) is amended by adding at the end the following:*

*“(d) TRANSFER FOR FISCAL YEAR 2016.—*

*“(1) IN GENERAL.—The Federal reserve banks shall transfer from the surplus funds of such banks to the Board of Governors of the Federal Reserve System for transfer to the Secretary of the Treasury for deposit in the general fund of the Treasury, a total amount of \$75,000,000 in fiscal year 2016.*

*“(2) ALLOCATED BY FED.—Of the total amount required to be paid by the Federal reserve banks under paragraph (1) for fiscal year 2016, the Board of Governors of the Federal Reserve System shall determine the amount each such bank shall pay in such fiscal year.*

*“(3) REPLENISHMENT OF SURPLUS FUND PROHIBITED.—During fiscal years 2016 through 2026, no Federal reserve bank may replenish such bank's surplus fund by the amount of any transfer by such bank under paragraph (1).”.*

## **SEC.. DEEMING OF NAME.**

*Any reference in a law, regulation, document, paper, or other record of the United States to the Bureau of Consumer Financial Protection shall be deemed a reference to the Financial Product Safety Commission.*

## **SEC. . CONFORMING AMENDMENTS.**

*(a) CONSUMER FINANCIAL PROTECTION ACT OF 2010.—*

(1) *IN GENERAL.*—Except as provided under paragraph (2), the Consumer Financial Protection Act of 2010 (12 U.S.C. 5481 et seq.) is amended—

(A) by striking “Director of the Bureau” each place such term appears, other than where such term is used to refer to a Director other than the Director of the Bureau of Consumer Financial Protection, and inserting “Financial Product Safety Commission”;

(B) by striking “Director” each place such term appears and inserting “Financial Product Safety Commission”, other than where such term is used to refer to a Director other than the Director of the Bureau of Consumer Financial Protection; and

(C) in section 1002, by striking paragraph (10).

(2) *EXCEPTIONS.*—The Consumer Financial Protection Act of 2010 (12 U.S.C. 5481 et seq.) is amended—

(A) in section 1013(c)(3)—

(i) by striking “Assistant Director of the Bureau for” and inserting “Head of the Office of”; and

(ii) in subparagraph (B), by striking “Assistant Director” and inserting “Head of the Office”;

(B) in section 1013(g)(2)—

(i) by striking “ASSISTANT DIRECTOR” and inserting “HEAD OF THE OFFICE”; and

(ii) by striking “an assistant director” and inserting “a Head of the Office of Financial Protection for Older Americans”;

(C) in section 1016(a), by striking “Director of the Bureau” and inserting “Chair of the Financial Product Safety Commission”; and

(D) in section 1066(a), by striking “Director of the Bureau is” and inserting “first member of the Commission is”.

(b) *DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT.*—The Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5301 et seq.) is amended—



(1) in section 111(b)(1)(D), by striking “Director of the Bureau” and inserting “Chair of the Financial Product Safety Commission”; and

(2) in section 1447, by striking “Director of the Bureau” each place such term appears and inserting “Financial Product Safety Commission”.

(c) *ELECTRONIC FUND TRANSFER ACT*.—Section 920(a)(4)(C) of the *Electronic Fund Transfer Act* (15 U.S.C. 1693o-2(a)(4)(C)), as added by section 1075(a)(2) of the *Consumer Financial Protection Act of 2010*, is amended by striking “Director of the Bureau of Consumer Financial Protection” and inserting “Financial Product Safety Commission”.

(d) *EXPEDITED FUNDS AVAILABILITY ACT*.—The *Expedited Funds Availability Act* (12 U.S.C. 4001 et seq.), as amended by section 1086 of the *Consumer Financial Protection Act of 2010*, is amended by striking “Director of the Bureau” each place such term appears and inserting “Financial Product Safety Commission”.

(e) *FEDERAL DEPOSIT INSURANCE ACT*.—Section 2 of the *Federal Deposit Insurance Act* (12 U.S.C. 1812), as amended by section 336(a) of the *Dodd-Frank Wall Street Reform and Consumer Protection Act*, is amended by striking “Director of the Consumer Financial Protection Bureau” each place such term appears and inserting “Chair of the Financial Product Safety Commission”.

(f) *FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL ACT OF 1978*.—Section 1004(a)(4) of the *Federal Financial Institutions Examination Council Act of 1978* (12 U.S.C. 3303(a)(4)), as amended by section 1091 of the *Consumer Financial Protection Act of 2010*, is amended by striking “Director of the Consumer Financial Protection Bureau” and inserting “Chair of the Financial Product Safety Commission”.

(g) *FINANCIAL LITERACY AND EDUCATION IMPROVEMENT ACT*.—Section 513 of the *Financial Literacy and Education Improvement Act* (20 U.S.C. 9702), as amended by section 1013(d)(5) of the *Consumer Financial Protection Act of 2010*, is amended by striking “Director” each place such term appears and inserting “Chair of the Financial Product Safety Commission”.

(h) *HOME MORTGAGE DISCLOSURE ACT OF 1975*.—Section 307 of the *Home Mortgage Disclosure Act of 1975*, as amended by section 1094(6) of the *Consumer Financial Protection Act of 2010*, is amended by striking “Director of the Bureau of Consumer Financial Protection” each place such term appears and inserting “Financial Product Safety Commission”.

(i) *INTERSTATE LAND SALES FULL DISCLOSURE ACT*.—The *Interstate Land Sales Full Disclosure Act*, as amended by section 1098A of the *Consumer Financial Protection Act of 2010*, is amended—

(1) by amending section 1402(1) to read as follows:

*“(1) ‘Chair’ means the Chair of the Financial Product Safety Commission;”*; and

*(2) in section 1416(a), by striking “Director of the Bureau of Consumer Financial Protection” and inserting “Chair”.*

*(j) REAL ESTATE SETTLEMENT PROCEDURES ACT OF 1974.—Section 5 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2604), as amended by section 1450 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, is amended—*

*(1) by striking “The Director of the Bureau of Consumer Financial Protection (hereafter in this section referred to as the ‘Director’)” and inserting “The Financial Product Safety Commission”; and*

*(2) by striking “Director” each place such term appears and inserting “Financial Product Safety Commission”.*

*(k) S.A.F.E. MORTGAGE LICENSING ACT OF 2008.—The S.A.F.E. Mortgage Licensing Act of 2008 (12 U.S.C. 5101 et seq.), as amended by section 1100 of the Consumer Financial Protection Act of 2010, is amended—*

*(1) by striking “Director” each place such term appears in headings and text, other than where such term is used in the context of the Director of the Office of Thrift Supervision, and inserting “Financial Product Safety Commission”; and*

*(2) in section 1503, by striking paragraph (10).*

*(l) TITLE 44, UNITED STATES CODE.—Section 3513(c) of title 44, United States Code, as amended by section 1100D(b) of the Consumer Financial Protection Act of 2010, is amended by striking “Director of the Bureau” and inserting “Financial Product Safety Commission”.*

#### **SEC. . EFFECTIVE DATE.**

*This Act and the amendments made by this Act shall take effect on the date on which not less than 3 persons have been confirmed by the Senate to serve as members of the Financial Product Safety Commission.*

## **CFPB Threshold**

### **SECTION 1. SHORT TITLE.**

This Act may be cited as the “Consumer Financial Protection Bureau Examination and Reporting Threshold Act of 2017”.

### **SEC. 2. INCREASE IN THE EXAMINATION THRESHOLD.**

Section 1025(a) of the Consumer Financial Protection Act of 2010 (12 U.S.C. 5515(a)) is amended by striking “\$10,000,000,000” each place that term appears and inserting “\$150,000,000,000”.

### **SEC. 3. INCREASE IN THE REPORTING THRESHOLD.**

Section 1026(a) of the Consumer Financial Protection Act of 2010 (12 U.S.C. 5516(a)) is amended by striking “\$10,000,000,000” each place that term appears and inserting “\$150,000,000,000”.

### **SEC. 4. EFFECTIVE DATE.**

This Act and the amendments made by this Act shall take effect on the date that is 45 days after the date of enactment of this Act.

## Attachment C

### UDAAP Regulation Language

The Consumer Financial Protection Act of 2010 (12 U.S.C. 5481 et seq.) is amended— in section 1031(b):

- Striking “may prescribe” and inserting “shall prescribe, within a reasonable period of time,”
- Inserting after “Or the offering of a consumer financial product or service.” the following: “The Bureau shall also, from time to time, provide guidance in order to further clarify its rules under this section and coordinate efforts with other regulators.”

*Or that section could be amended to give them an 18- month timeline:*

- Striking “may prescribe” and inserting “shall prescribe, not later than 18 months after the date of enactment of this Act,”
- Inserting after “Or the offering of a consumer financial product or service.” the following: “The Bureau shall also, from time to time, provide guidance in order to further clarify its rules under this section and coordinate efforts with other regulators.”

*Section 1031(b) would be as follows with both our changes and the CHOICE Act changes included:*

**(b) RULEMAKING.**—The Bureau shall prescribe, within a reasonable period of time, rules applicable to a covered person or service provider identifying as unlawful unfair or deceptive acts or practices in connection with any transaction with a consumer for a consumer financial product or service, or the offering of a consumer financial product or service. The Bureau shall also, from time to time, provide guidance in order to further clarify its rules under this section and coordinate efforts with other regulators. Rules under this section may include requirements for the purpose of preventing such acts or practices.

*OR:*

**(b) RULEMAKING.**—The Bureau shall prescribe, not later than 18 months after the date of enactment of this Act, rules applicable to a covered person or service provider identifying as unlawful unfair or deceptive acts or practices in connection with any transaction with a consumer for a consumer financial product or service, or the offering of a consumer financial product or service. The Bureau shall also, from time to time, provide guidance in order to further clarify its rules under this section and coordinate efforts with other regulators. Rules under this section may include requirements for the purpose of preventing such acts or practices.

## **Attachment D**

### **Durbin Amendment Repeal**

#### ***PROHIBITION OF GOVERNMENT PRICE CONTROLS FOR PAYMENT CARD TRANSACTIONS.***

*(a) IN GENERAL.—Section 1075 of the Consumer Financial Protection Act of 2010 is hereby repealed and the provisions of law amended by such section are revived or restored as if such section had not been enacted.*

*(b) CLERICAL AMENDMENT.—The table of contents under section 1(b) of the Dodd-Frank Wall Street Reform and Consumer Protection Act is amended by striking the item relating to section 1075.*

## **Attachment E**

### **Field of Membership Improvements**

#### **AMENDMENTS RELATING TO CREDIT UNION SERVICE TO UNDERSERVED AREAS.**

(a) IN GENERAL.—Paragraph (2) of section 109(c) of the Federal Credit Union Act (12 U.S.C. 1759(c)(2)) is amended to read as follows:

“(2) EXCEPTION FOR UNDERSERVED AREAS.—

“(A) IN GENERAL.—Notwithstanding subsection (b), the Board may approve an application by a Federal credit union to allow the membership of such credit union to include any person or organization whose principal residence or place of business is located within a local community, neighborhood, or rural district if—

“(i) the Board determines—

“(I) at any time after August 7, 1998, that the local community, neighborhood, or rural district taken into account for purposes of this paragraph is an underserved area (as defined in section 101(10)); and

“(II) at the time of such approval, that the credit union is well capitalized or adequately capitalized (as defined in section 216(c)(1)); and

“(ii) before the end of the 24-month period beginning on the date of such approval, the credit union has established and maintains an ongoing method to provide services in the local community, neighborhood, or rural district.

“(B) TERMINATION OF APPROVAL.—Any failure of a Federal credit union to meet the requirement of clause (ii) of subparagraph (A) by the end of the 24-month period referred to in such clause shall constitute a termination, as a matter of law, of any approval of an application under this paragraph by the Board with respect to the membership of such credit union.

“(C) ANNUAL CREDIT UNION REPORTING REQUIREMENT.—Any Federal credit union which has an application approved under this paragraph shall submit an annual report to the Administration on the number of members of the credit union who are members by reason of such application and the number of offices or facilities maintained by the credit union in the local community, neighborhood, or rural district taken into account by the Board in approving such application.

“(D) PUBLICATION BY ADMINISTRATION.—The Administration shall publish annually a report containing—

“(i) a list of all the applications approved under this paragraph prior to the publication of the report;

“(ii) the number and locations of the underserved areas taken into account in approving such applications; and

“(iii) the total number of members of credit unions who are members by reason of the approval of such applications.”.

(b) UNDERSERVED AREA DEFINED.—Section 101 of the Federal Credit Union Act (12 U.S.C. 1752) is amended—

(1) by striking “and” at the end of paragraph (8);

(2) by striking the period at the end of paragraph (9) and inserting “; and”; and

(3) by adding at the end the following new paragraph:

“(10) the term ‘underserved area’—

“(A) means a geographic area consisting of a single census tract or a group of census tracts, each of which meets the criteria for—

“(i) a low-income community, as defined in section 45D(e) of the Internal Revenue Code of 1986; or

“(ii) is underserved, based on data of the Board and the Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), by other depository institutions (as defined in section 19(b)(1)(A) of the Federal Reserve Act); and

“(B) notwithstanding subparagraph (A), includes, with respect to any Federal credit union, any geographic area within which such credit union—

“(i) has received approval to provide service before the date of the enactment of this paragraph from the National Credit Union Administration; and

“(ii) has established a service facility before such date of enactment.”.

(c) CONFORMING AMENDMENT.—Section 109(e)(2) of the Federal Credit Union Act (12 U.S.C. 1759(e)(2)) is amended by inserting “subsection (c)(2) and” after “provided in”.



## **Attachment F**

### **Credit Union Residential Loan Parity**

#### **TREATMENT OF A NON-OWNER OCCUPIED 1- TO 4-FAMILY DWELLING.**

(a) REMOVAL FROM MEMBER BUSINESS LOAN LIMITATION.—Section 107A(c)(1)(B)(i) of the Federal Credit Union Act (12 U.S.C. 1757a(c)(1)(B)(i)) is amended by striking “that is the primary residence of a member”.

(b) RULE OF CONSTRUCTION.—Nothing in this Act or the amendment made by this Act shall preclude the National Credit Union Administration from treating an extension of credit that is fully secured by a lien on a 1- to 4-family dwelling that is not the primary residence of a member as a member business loan for purposes other than the member business loan limitation requirements under section 107A of the Federal Credit Union Act (12 U.S.C. 1757a).

## Attachment G

### Credit Union Capital Improvements – Supplemental Capital

#### **SEC. . IMPROVING CREDIT UNION SAFETY AND SOUNDNESS.**

The Federal Credit Union Act (12 U.S.C. 1751 et seq.) is amended—

(1) in section 107—

(A) in paragraph (16), by striking “and” at the end;

(B) in paragraph (17), by striking the period and inserting “; and”; and

(C) by adding at the end the following:

“(18) to receive payments on uninsured non-share accounts described under section 216(o)(2)(D), subject to such terms, rates, and conditions as may be established by the board of directors, within limitations prescribed by the Board.”; and

(2) in section 216—

(A) in subsection (b)(1)(B)(ii), by striking “must rely” and inserting “rely predominantly”; and

(B) in subsection (o)(2)—

(i) in subparagraph (B), by striking “and” at the end;

(ii) in subparagraph (C)(ii), by striking the period and inserting “; and”; and

(iii) by adding at the end the following:

“(D) with respect to any insured credit union other than a low-income credit union, includes uninsured non-share accounts as authorized by the Board, that—

“(i) do not alter the cooperative nature of the credit union;

“(ii) are subordinate to all other claims against the credit union, including the claims of creditors, shareholders, and the Fund;

“(iii) are available to be applied to cover operating losses of the credit union in excess of its retained earnings and, to the extent so applied, will not be replenished;

“(iv) if they have a stated maturity, have an initial maturity of at least 5 years;

“(v) if they have a stated maturity, the net worth value of such accounts may be discounted at the discretion of the Board when the remaining maturity is less than 5 years;

“(vi) are subject to disclosure and consumer protection requirements as determined by the Board;

“(vii) are offered by a credit union that is determined by the Board to be sufficiently capitalized and well-managed; and

“(viii) are subject to such rules and regulations as the Board may establish.”.

## **Credit Union Capital Improvements – Risk-Based Capital**

### **SECTION 1. SHORT TITLE.**

This Act may be cited as the “Risk-Based Capital Study Act of 2017”.

### **SEC. 2. NCUA STUDY.**

(a) **IN GENERAL.**—The National Credit Union Administration shall conduct a study of the appropriate capital requirements for Federal credit unions and State credit unions (as such terms are defined, respectively, under section 101 of the Federal Credit Union Act (12 U.S.C. 1752) (hereinafter referred to as “credit unions”)).

(b) **ISSUES TO BE STUDIED.**—The study required under subsection (a) shall include—

(1) an analysis of whether or not the National Credit Union Administration has the clear legal authority to prescribe separate risk-based capital thresholds for both “adequately capitalized” and “well capitalized” credit unions;

(2) a discussion of the differences between credit unions and other types of depository institutions and reasons why they should have similar or different risk-weights for their capital requirements;

(3) a discussion of the rationale behind the risk-weights assigned in the final rule of the National Credit Union Administration titled “Risk-Based Capital” (80 Fed. Reg. 66625; October 29, 2015); and

(4) an analysis of the impact the final rule described in paragraph (3) would have on excess capital above the minimum level for a credit union to be “well capitalized” (a credit union’s “capital cushion”) including the impact it could have on credit union lending and credit union examinations.

(5) an analysis of the impact the final rule described in paragraph (3) would have on credit unions' capital in light of changes to generally accepted accounting principles (GAAP) made by the Financial Accounting Standards Board (FASB) in "Update 2016-13—Financial Instruments—Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments."

(c) **VOLUNTARY PARTICIPATION.**—Any credit union may voluntarily provide information for the study required under subsection (a) upon the request of the National Credit Union Administration, but may not be required to provide such information.

(d) REPORT TO CONGRESS.—Not later than 270 days after the date of the enactment of this Act, the National Credit Union Administration shall issue a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives containing—

(1) all findings and determinations made in carrying out the study required under subsection (a); and

(2) any legislative recommendations of the National Credit Union Administration to improve the capital system for credit unions or establish a risk-based capital system for credit unions.

### **SEC. 3. DELAY OF IMPLEMENTATION.**

Notwithstanding any other provision of law, the National Credit Union Administration may not implement any rule or regulation with respect to risk-based capital for credit unions, including the final rule described under section 2(b)(3), before the end of the 24-month period beginning on the date the National Credit Union Administration issues the report required under section 2(d).