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The Honorable Mitch McConnell
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Chuck Schumer
Democratic Leader
United States Senate
Washington, DC 20510

Dear Majority Leader McConnell and Minority Leader Schumer:

On behalf of America's credit unions, I want to express our strong support for S. 2155, the Economic Growth, Regulatory Relief and Consumer Protection Act. The Credit Union National Association (CUNA) represents America's credit unions and their 110 million members.

We applaud the good faith effort to craft common-sense regulatory reform legislation. S.2155 is the result of months of deliberate bipartisan negotiations and contains several provisions supported by America's credit unions.

Section 101 – Minimum Standards for Residential Mortgage Loans

Section 101 would establish a safe harbor from certain requirements for a loan to be considered a Qualified Mortgage (QM) for purposes of the Ability to Repay rule for banks and credit unions under \$10 billion in total consolidated assets, so long as that loan is held in portfolio by the originating institution or a qualifying transferee. The safe harbor would not apply, however, to loan products with interest-only or negative amortization features or prepayment penalties, or where total points and fees exceed 3% of the total loan amount. Additionally, the lender must still “consider and document the debt, income, and financial resources of the consumer,” i.e., the borrower's ability to repay.

These changes are particularly appropriate because small, community-based financial institutions like credit unions often have specific knowledge about a borrower's financial situation, and may be able to better meet the borrower's need if they can tailor the loan product. Lenders that hold loans in portfolio have more than adequate incentive to ensure the borrower's ability to repay, because they retain all of the credit risk associated with the loan and they are subject to robust safety and soundness supervision from their prudential regulator. This provision will help credit unions, many of which are primarily portfolio lenders, continue to provide mortgage credit to their members, even in circumstances where rigid adherence to the one-size-fits-all QM rule would deny a member the opportunity to own a home.

Section 104 – Home Mortgage Disclosure Act Adjustment and Study

Section 104 of S. 2155 would rescind the additional data points required to be collected by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) for insured credit unions and depository banks that originate fewer than 500 closed-end mortgages and/or 500 open-end lines of credit (HELOCs) in each of two consecutive years. All of the information mandated under Home Mortgage Disclosure Act (HMDA) pre-Dodd-Frank Act must still be collected and reported. This includes “the number and dollar amount of mortgage loans and completed applications involving mortgagors or mortgage applicants grouped according to census tract, income level, racial characteristics, age, and gender.” In other words, the CFPB would still be collecting data to evaluate the racial or gender composition of borrowers who are approved or denied for a loan for a given financial institution, even those that originate fewer than 500 closed-end mortgages or HELOCs.

Moreover, the additional data required by the Dodd-Frank Act would still be collected for a significant percentage of loans originated, both by count and unpaid principal balance (UPB). Based on call report data from December 2016, 220,659 closed-end mortgages totaling \$31.7 billion were originated by credit unions that originated between 25 and 500 of these loans (and thus would become exempt under S.2155), as compared to 874,471 closed-end mortgage loans totaling \$151 billion UPB that were originated by the credit union system as a whole. In other words, 75% of credit union closed-end mortgages originated, representing 79% of UPB would still report the full complement of HMDA data required by the Dodd-Frank Act.

This provision would provide much needed relief, particularly for smaller credit unions, which otherwise must undertake significant expense to bring their systems into compliance with a rule that does very little – if anything – to provide credit union members with additional protection.

Section 105 – Credit Union Residential Loans

Section 105 presents a simple fix, based on consistency and fairness, that could significantly reduce constraints and free up billions in capital for economic development. Under current law, when a bank makes a loan for the purchase of a 1-4 unit, non-owner-occupied residential property, the loan is classified as a residential real estate loan. Credit unions that make such loans, however, are forced to classify these as business loans. S. 2155 would correct this disparity by providing consistency in treatment between banks and credit unions, allowing substantially more capital investment in affordable rental housing. We estimate that up to \$4 billion in capital could be freed up by this simple change. Including this provision along with others aimed at community financial institutions demonstrates recognition that credit unions play an important role in delivering economic prosperity for millions of American families.

Section 108 – Property Assessed Clean Energy Financing

Section 108 addresses long-held concerns about Property Assessed Clean Energy (PACE) loans—that the same consumer protections in place with respect to mortgage lending are nonexistent for PACE loans. Much work remains to be done in states with PACE programs to ensure these liens are recorded appropriately relative to the underlying mortgage, and CUNA continues to advocate against expansion of the PACE programs in states where they do not already exist. Meanwhile, at the federal level, this provision would provide significant clarity to homeowners evaluating whether a PACE loan is appropriate for their situation.

Section 110 – No Wait for Lower Mortgage Rates

Section 110 removes the three-day wait period required for the combined TILA/RESPA mortgage disclosure if a creditor extends to a consumer a second offer of credit with a lower annual percentage rate. This additional waiting period, even when the benefit of a lower rate inures to the borrower, has never made sense, and has significantly delayed closings for many credit union borrowers.

Additionally, Section 110 would express the sense of Congress that among other things, the CFPB should clarify “the extent to which lenders can rely on model disclosures published by the Bureau of Consumer Financial Protection without liability if recent changes to regulations are not reflected in the sample TRID Rule forms published by the Bureau of Consumer Financial Protection.” Reliance upon model forms provided by the very agency tasked with monitoring compliance with the TRID Rule is entirely reasonable, and we strongly support this provision.

Section 213 – Budget Transparency for the NCUA

Section 213 would provide additional transparency with respect to the budget process of credit unions' prudential regulator, the National Credit Union Administration (NCUA). Under this provision, the NCUA would be required to make publicly available a draft of their proposed budget, hold a hearing with public notice during which this draft would be discussed, and solicit and consider public comment about the draft budget. Given that the NCUA is funded entirely by credit union user fees, this transparency and opportunity to provide feedback is highly appropriate, and CUNA strongly supports this provision.

Section 303 – Immunity from Suit for Disclosure of Financial Exploitation of Senior Citizens

Many credit unions provide a full range of financial services, including financial management, retirement planning, and credit counseling to their members, including seniors and their families. Credit unions also provide elder abuse information and additional resources to help consumers. The member-owner relationship between the credit union and its members puts credit union employees in a key position to detect suspicious activity around senior accounts because employees often know the members well. However, in some cases certain privacy laws make it difficult, or in some cases impossible, for employees to ring the alarm bell when exploitation is suspected.

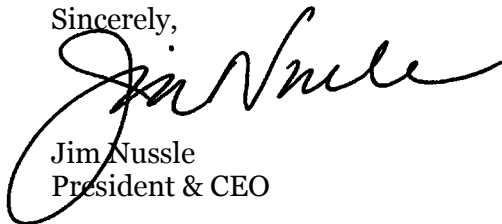
Section 303 tells credit union and bank employees very clearly: if you see something, say something. It provides a safe harbor for properly trained financial employees who report alleged elder financial abuse. This represents an important step toward improving protections for seniors.

Section 501 – Treasury Report on Risks of Cyber Threats

Finally, we are pleased that Section 501 would require the U.S. Department of Treasury to conduct a study on the risks that cyber threats may pose to financial institutions. Particularly in light of recent data breaches, which cause tremendous disruption and impose significant costs to credit unions, we applaud this effort to try to understand those risks more fully and potentially how to mitigate them across the financial services sector.

Once again, on behalf of America's credit unions and their 110 million members, we thank you for your consideration of these views, and look forward to working with you in the days and weeks to come to secure passage of this important legislation.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Nussle", written in a cursive style.

Jim Nussle
President & CEO