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National Association of Federally-Insured Credit Unions

Carrie R. Hunt
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December 4, 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: S. 2155, the *Economic Growth, Regulatory Relief and Consumer Protection Act*

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 to share our thoughts on, and express our support for, S. 2155, the *Economic Growth, Regulatory Relief and Consumer Protection Act,* ahead of tomorrow's scheduled mark-up of the legislation.

Overview

During the consideration of financial reform, NAFCU was concerned about the possibility of over-regulation of good actors, such as credit unions, and this is why NAFCU was the only financial services trade association to oppose the CFPB having authority over credit unions. Unfortunately, many of our concerns about the increased regulatory burdens that credit unions would face under the *Dodd-Frank Act* have proven true. We believe that the primary focus of the CFPB should be on regulating the unregulated bad actors, not adding new regulatory burdens to good actors, like credit unions, that already fall under a prudential regulator. As expected, the breadth and pace of the Consumer Financial Protection Bureau's (CFPB) rulemaking is troublesome, and the unprecedented new compliance burden placed on credit unions has been immense.

The impact of this growing compliance burden is evident as the number of credit unions continues to decline. Since the second quarter of 2010, we have lost over 1,700 federally-insured credit unions – over 22% 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, this trend has accelerated since the passage of the *Dodd-Frank Act*. Many smaller institutions simply cannot keep up with the new regulatory tide and have had to merge out of business or be taken over. There is an urgent need for Congress to enact meaningful regulatory relief for credit unions.

Regulatory burden is the top challenge facing credit unions today. Reducing burdensome and unnecessary regulatory compliance costs is the only way for credit unions to thrive and continue to

provide their member-owners with basic financial services and the exemplary service they need and deserve. NAFCU believes that credit unions must have a positive regulatory environment that allows them to succeed.

The *Economic Growth, Regulatory Relief and Consumer Protection Act*

We are pleased to see the coalition of Committee Republicans and Democrats come together to get a package of relief and economic growth ideas that can get bipartisan support. While the bill does not have everything that credit unions would like to see in a package, S. 2155 contains a number of key provisions in Title I that will help credit unions continue to meet the needs of their members. I would like to highlight a few key ones below.

Section 105 would exempt loans for one- to four-unit non-owner occupied dwellings from the credit union member business lending (MBL) definition. This 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 is a key provision for credit unions and we would urge you to oppose any efforts to remove this provision from the legislation.

Section 101 would provide key regulatory burden relief and safe harbor for certain mortgage loans that are made by certain credit unions and held in portfolio. As member-owned cooperatives, credit unions make mortgages to meet the needs of their members, taking into account the individual. They also hold many of these loans in portfolio. These loans meet the spirit of the Qualified Mortgage (QM) standard, even if they do not fit into the QM box, and deserve the same safe harbor and relief.

Section 104 would provide important relief from new Home Mortgage Disclosure Act (HMDA) reporting requirements for smaller lenders. The CFPB's new rule, that went beyond the parameters of the Dodd-Frank Act, created new burdens and costs for many small lenders, with little likely benefit or additional data. Section 104 creates a common-sense exception and relief for smaller lenders.

Section 110 provides credit union members with the important ability to not have to wait three days if a credit union is able to provide them with better terms before closing. Credit unions work for the best interest of their members in a mortgage transaction and may be able to provide a better rate to a member as they head to closing. However, under current law, members may have to turn this down, as they have specific arrangements in place and cannot delay closing and wait the required three-day waiting period.

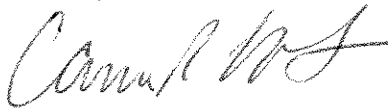
We are also pleased to see the consumer protections, including the text of the *Senior$afe Act,* in Title III of the legislation.

Finally, we would urge the Committee to make an improvement to Title II of the legislation by adding a provision to delay or repeal the National Credit Union Administration's (NCUA) risk-based capital rule. NAFCU believes that credit unions must have modernized capital standards that reflect the realities of the 21st century financial marketplace. NCUA Chairman Mark

McWatters has testified before the Committee of his desire to change this rule. However, a vacancy on the NCUA Board has hindered his ability to make changes. With the rule set to take effect a year from now, credit unions must soon begin shifting their portfolios to come into compliance. This could lead to some institutions constraining lending in 2018 as they seek to maintain their capital level and capital cushion under the new regime. NAFCU believes that Congress should step in and stop this rule from taking effect on January 1, 2019, and give the NCUA Board time to re-examine and establish a risk-based capital standard that reflects current realities. We would urge you to include this important relief provision as part of this legislative effort.

The *Economic Growth, Regulatory Relief and Consumer Protection Act* is an excellent step toward providing bipartisan regulatory relief and economic growth. NAFCU strongly urges you to support S. 2155 when it comes before the Committee tomorrow. We thank you for the opportunity to share our input and look forward to working with the Committee as this legislation moves through the process. 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.

Sincerely,



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