



3138 10th Street North
Arlington, VA 22201-2149
703.842.2234 | 800.336.4644
gmesack@nafcu.org | nafcu.org

National Association of Federally-Insured Credit Unions

Greg Mesack
Senior Vice President, Government Affairs

September 18, 2023

The Honorable Andy Barr
Committee on Financial Services
Subcommittee on Financial Institutions
and Monetary Policy
United States House of Representatives
Washington, DC 20515

The Honorable Bill Foster
Committee on Financial Services
Subcommittee on Financial Institutions
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Re: Tomorrow's Hearing, "A Holistic Review of Regulators: Regulatory Overreach and Economic Consequences"

Dear Chairman Barr and Ranking Member Foster:

I write to you today on behalf of the National Association of Federally-Insured Credit Unions (NAFCU) in conjunction with tomorrow's hearing on regulatory overreach. As you know, NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve over 138 million consumers with personal and small business financial service products. We applaud the Subcommittee for examining regulatory overreach and look forward to working with you to that end.

While not the direct subject of this hearing, regulatory overreach has had a profound impact on credit unions and the 138 million consumers they serve. Since the passage of the Dodd-Frank Act, the number of credit unions has declined by more than half. A major reason for the decline in credit unions is that they were made subject to the rules and regulations of the Consumer Financial Protection Bureau (CFPB) despite being not-for-profit cooperatives with an incentive to ensure their members succeed. Furthermore, credit unions are already subject to strict field of membership and capital restrictions, as well as numerous consumer protection provisions in the Federal Credit Union Act, such as an interest rate ceiling, a prohibition on prepayment penalties, and a member business lending cap. As such, the CFPB should be more cognizant of the unique characteristics of the credit union industry and the benefits they provide to consumers and use its exemption authority to help limit burdens on credit unions. Unfortunately, this has not been the case.

The CFPB's regulations have significant impacts on the credit union industry and have had negative impacts on the ability to serve consumers. One of the most recent examples of regulatory overreach from the CFPB has been its characterization of certain financial services fees as "junk fees," "excessive or exploitative fees," or "inflated or surprise fees." These fees often have standing in statute or regulations and bear no resemblance to the type of hotel and resort fees referenced by others as "junk fees" and, in contrast, are all subject to comprehensive federal

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or state laws and regulations; are not unfair, deceptive, or abusive; and consumers are well-informed of the fees. The CFPB has been given no authority to define “junk fee,” rather, it is a term made up by the regulator.

Required disclosures of financial fees have made significant positive impacts on consumers’ understanding of financial product pricing, provided for better comparison shopping, and improved consumer repayment behavior. For not-for-profits like credit unions, fees are often one of the few ways to have funds to provide a service. A claim that such fees, which must be disclosed, are in fact surprise or junk fees is both a mischaracterization and a prime example of regulatory overreach. Ironically, this example of regulatory overreach is also one that undercuts the CFPB’s own efforts to help consumers by developing effective disclosures about financial products. Ultimately, the CFPB’s regulatory overreach as part of its war on fees could lead to serious negative economic consequences for consumers and community institutions.

We thank you for the opportunity to share our views on the negative impacts of regulatory overreach and encourage the Subcommittee to continue examining this important topic. Thank you again, and should you have any questions or require any additional information, please contact me or Chad Adams, NAFCU’s Senior Director of Legislative Affairs, at (703) 842-2265 or cadams@nafcu.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Mesack". The signature is fluid and cursive, with the first name "Greg" being more prominent than the last name "Mesack".

Greg Mesack

cc: Members of the Subcommittee on Financial Institutions and Monetary Policy