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National Association of Federally-Insured Credit Unions

June 28, 2021

The Honorable Maxine Waters
Chairwoman
Committee on Financial Services
United States House of Representatives
Washington, D.C. 20515

The Honorable Patrick McHenry
Ranking Member
Committee on Financial Services
United States House of Representatives
Washington, D.C. 20515

Re: Tomorrow's Hearing, "A Biased, Broken System: Examining Proposals to Overhaul Credit Reporting to Achieve Equity"

Dear Chairwoman Waters and Ranking Member McHenry:

I write to you today on behalf of the National Association of Federally-Insured Credit Unions (NAFCU) in conjunction with tomorrow's hearing, "A Biased, Broken System: Examining Proposals to Overhaul Credit Reporting to Achieve Equity." As you are aware, NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve nearly 125 million consumers with personal and small business financial service products. NAFCU believes an accurate, fair, transparent, and equitable credit reporting system is imperative for both consumers and financial institutions, and we thank you for holding a hearing on this important topic.

The nation's credit reporting system is an important tool for financial institutions, such as credit unions, to responsibly lend to consumers while ensuring safety and soundness. As you consider proposals to reform the system, we urge you to reject efforts aimed at blanket suppression of adverse information in credit reports as this could lead to significant changes in how lenders use credit information to make loans and disrupt consumer access to credit. A better step would be to encourage efforts to allow credit reporting to reflect loans where payments are deferred or in forbearance, so these loans do not negatively affect a consumer's credit score.

An example of this approach is the relief in Section 4021 of the *Coronavirus Aid, Relief, and Economic Security Act* (CARES Act), which requires furnishers of information to credit reporting agencies (CRAs) to report an account current if an accommodation has been made during the pandemic. Accounts delinquent prior to the accommodation are reported as such unless the consumer brings the account current during the accommodation. This approach strikes a good balance by preserving the accuracy of credit reports while also protecting the credit profiles of consumers who receive payment relief due to the pandemic. Section 4021 is effective until 120 days after termination of the COVID-19 national emergency, hence consumers can avail themselves of this relief for the duration of the pandemic.

To that end, while we are supportive of the aim of Title III – Student Borrower Credit Improvement Act and Title IV – Credit Restoration for Victims of Predatory Activities and Unfair Consumer Reporting Practices of H.R. 4120, the *Comprehensive Credit Reporting Enhancement, Disclosure, Innovation, and Transparency Act* (Comprehensive CREDIT Act), to help students and consumers repair their credit, especially those who have been taken advantage of by predatory entities, we are concerned this legislation goes too far in suppressing adverse information and could diminish the accuracy of the credit reporting system. If lenders, such as credit unions, are unable to trust that credit reports are complete and accurate, they will have to devote more resources to investigating a borrower's credit history, increasing the cost of credit across the system, and reducing access to credit for historically marginalized communities. We ask that you instead consider an approach that utilizes coding of accounts, such as the approach by Section 4021 of the CARES Act noted above.

NAFCU recognizes that an effective dispute process by which consumers can rectify errors in their credit reports is essential to ensuring a fair and accurate credit reporting system. However, we are concerned about legislative approaches, such as in the *Protecting Your Credit Score Act* and Title I – Improvements to the Dispute Process of the Comprehensive CREDIT Act, that would require furnishers of information, such as credit unions, to review and consider new or additional information each time a consumer disputes the accuracy of information in their credit report. We have some concerns that this could result in predatory credit repair companies continually disputing accurate information, at great cost to financial institutions and consumers. Such continuous dispute opportunities could lead to situations where accurate "negative" information ends up being excluded from credit scores due to ongoing disputes. This will also leave less bandwidth for real disputes to be investigated.

Moreover, we have concerns about the expansion of private rights of action under the *Protecting Your Credit Score Act*, which could have a chilling effect on credit unions and other financial institutions that could see a rise in frivolous lawsuits that will take resources away from serving consumers. Allowing courts injunctive relief could also lead to situations where courts may interpret the *Fair Credit Reporting Act* (FCRA) differently than the Consumer Financial Protection Bureau (CFPB), leading to confusion amongst financial institutions on how to comply with the FCRA.

NAFCU is supportive of the *Protecting Your Credit Score Act's* efforts to hold CRAs accountable for their obligations under the *Gramm-Leach-Bliley Act* and to improve data security at the CRAs. We believe that there should be further examination as to whether the CFPB or the Federal Trade Commission (FTC) is best suited to establishing appropriate standards.

NAFCU and its member credit unions also support the use of alternative credit score models to enhance access to affordable credit for creditworthy borrowers who have historically been marginalized. Credit unions work hard to provide products and services for their members, particularly those in underserved communities, including rural areas. Alternative credit score models that do not penalize borrowers for a lack of traditional credit history and include other data sources to verify creditworthiness have the potential to increase access to credit for these communities especially, furthering financial inclusion. Section 501 of Title V – Clarity in Credit Score Formation of the Comprehensive CREDIT Act, which would require the CFPB to carry out a study to assess the impact of non-traditional data in credit reports, could be a good step to further examine the use and potential of these models.

Finally, we have serious concerns about proposals, such as the *National Credit Reporting Agency Act*, that would create a government-run credit bureau under the CFPB. NAFCU has concerns about the cost of establishing and running a government credit bureau, but more importantly, we think that such a system will not benefit consumers as much as improving upon the current private sector credit reporting industry. Furthermore, government retention of credit reporting information could erode consumer privacy, particularly if a single agency presented a data-rich target for criminals. We believe that consumers and lenders alike benefit from a robust, competitive, and innovative private sector credit reporting industry that is constantly evolving to consider new sources of data and increase the scope of the system to include underserved consumers. Replacing this system with a government-run credit bureau will stifle innovation and competition and have the unintended consequence of reducing access to credit.

We thank you for your leadership and appreciate the opportunity to share our thoughts on the importance of an accurate, fair, transparent, and equitable credit reporting system. We look forward to continuing to work with you on this important issue, as well as pandemic relief and economic recovery. Should you have any questions or require any additional information, please contact Sarah Jacobs, NAFCU's Associate Director of Legislative Affairs, at sjacobs@nafcu.org or (571) 289-7550.

Sincerely,

Brad Thaler

Brad Thaler
Vice President of Legislative Affairs

cc: Members of the U.S. House Committee on Financial Services