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National Association of Federally-Insured Credit Unions

May 16, 2022

The Honorable Maxine Waters
Chairwoman
Committee on Financial Services
U.S. House of Representatives
Washington, DC 20515

The Honorable Patrick McHenry
Ranking Member
Committee on Financial Services
U.S. House of Representatives
Washington, DC 20515

Re: Tomorrow's Committee Markup: Key Votes and Credit Union Positions

Dear Chairwoman Waters and Ranking Member McHenry:

On behalf of the National Association of Federally-Insured Credit Unions (NAFCU), I am writing to share NAFCU's views on several bills being considered during the upcoming markup in the House Committee on Financial Services. NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve over 130 million consumers with personal and small business financial service products.

H.R. 7003, *Expanding Financial Access for Underserved Communities Act* (Support)
NAFCU is supportive of H.R. 7003, offered by Chairwoman Waters and Consumer Protection and Financial Institutions Subcommittee Chairman Ed Perlmutter. Credit unions have long been a critical provider of financial services to rural and underserved areas. As large and community banks have been shutting down branches and moving out of these areas, credit unions have been stepping up. It is unfortunate that banking groups continue to actively oppose H.R. 7003, attacking efforts by credit unions to do more to help the underserved, rather than focusing on ensuring people who live in banking deserts—areas that banks have abandoned—have access to basic financial services. Many credit unions want to do more to help underserved areas as banks abandon them and passing H.R. 7003 to help credit unions fill the void would be a commonsense first step. It is important to note that this legislation does not directly grant underserved areas to credit unions, rather it allows them to apply to the National Credit Union Administration (NCUA) to add these areas should they meet the necessary criteria.

Banks have closed more than 4,000 branches since March 2020, according to an independent National Community Reinvestment Coalition study. *This is a pace of over 200 bank branch closures a month in the last two years.* The number of bank branches in rural and underserved areas has declined by 10.8 percent since 2012 while the number of credit union branches in those areas has grown by 2.4 percent. Currently, only credit unions that are chartered as multiple common bond credit unions can add underserved areas. H.R. 7003 will knock down this harmful barrier by allowing all types of federal credit unions to add underserved areas to their field of membership.

H.R. 7003 will also build on the support provided by credit unions to small businesses during the pandemic and exempt business loans made by credit unions in low-income areas from the credit union

member business lending (MBL) cap. The MBL cap serves as a disincentive for many credit unions to focus on small business programs, as successful small business efforts could reach the cap and run into limitations. If banks were serious about helping small businesses and underserved areas, they would not have turned so many customers away during the pandemic that then went to credit unions for help. It was credit unions that stepped up to ensure small businesses in their communities were taken care of during the initial days of the pandemic, and their response through the Paycheck Protection Program (PPP) was tremendous. According to a NAFCU survey, 87 percent of NAFCU members reported providing PPP loans to new members and businesses that were turned away by banks and came to their credit union to apply for a PPP loan. Furthermore, according to NAFCU's analysis of the Small Business Administration's PPP data, a full 75 percent of credit union PPP loans went to businesses with fewer than five employees. Many of these are the same businesses that have been underserved by banking institutions and would benefit from the legislation's provision granting relief from the arbitrary credit union MBL cap for loans in underserved areas.

The numbers show that credit unions stand ready to do more to help those who have been left behind by banks. As you consider this critical legislation, we also urge you to reject efforts to add poison pills to the bill by amending it to put new onerous burdens or limitations on the credit union industry. Doing so would defeat the purpose of this important legislation. ***Support of the ANS for H.R. 7003 in its current form is a key vote for credit unions.*** We urge the Committee to pass H.R. 7003 and enhance the ability of credit unions to serve the underserved.

H.R. 7022, *Strengthening Cybersecurity for the Financial Sector Act of 2022* (Oppose)
NAFCU strongly opposes H.R. 7022, offered by Artificial Intelligence Task Force Chairman Bill Foster. NAFCU and our member credit unions believe that cybersecurity, including the security of vendors that credit unions do business with, is an important issue. However, we are opposed to granting additional authority to the NCUA to examine third parties at this time. NAFCU believes in a strong NCUA, but we also believe that the NCUA should stay focused on where its expertise lies—regulating credit unions. Credit unions fund the NCUA budget. Implementing such new authority for the NCUA would require significant expenditures by the agency. The history of the NCUA's budget growth has shown that these costs would ultimately be borne by credit unions and their members.

There are other tools already in place for the NCUA to get access to information about vendors. We believe the agency's time and resources are better focused on reducing regulatory burden by coordinating efforts among the financial regulators. The NCUA sits on the Federal Financial Institutions Examination Council (FFIEC) with the Federal Deposit Insurance Corporation (FDIC), the Office of the Comptroller of the Currency, and the Federal Reserve. The FFIEC was created to coordinate examination findings and approach in the name of consistency and to avoid duplication. This means that as a member of the FFIEC, the NCUA should be able to request the results of an examination of a core processor from the other regulators and not have to send another exam team from the NCUA into their business and duplicate an examination. This would seem to be an unnecessary burden on these small businesses. Additionally, if the NCUA did its own examination, the likelihood of finding anything the other regulators

did not would seem to be close to nil.

Instead of granting the NCUA vendor examination authority, Congress should encourage the agency to use the FFIEC and gain access to the information on exam findings on companies that have already been examined by other regulators. If that option is not available for the NCUA due to the decisions of the other FFIEC regulators, Congress should consider compelling the other regulators to share the information with the NCUA. This would seem to be a much more preferable route than raising costs on credit unions and their 130 million members for the creation of a duplicative NCUA program. Supervisory reports for core providers will likely have significant cross-applicability; according to the NCUA, approximately 5 core processor vendors control approximately 85 percent of credit union data.[1] Use of existing reports for other technology service providers would also address the NCUA's concerns without creating additional costs to credit unions or increasing regulatory burdens on credit unions and small businesses. As such, we urge Congress to oppose granting the NCUA this new authority and urge you to oppose H.R. 7022, the *Strengthening Cybersecurity for the Financial Sector Act of 2022*, in its current form. ***Opposition to H.R. 7022 and the new costs and burdens it creates is a key vote for credit unions.***

H.R. 5912, *Close the ILC Loophole Act* (Support)

NAFCU supports the bipartisan *Close the ILC Loophole Act* H.R. 5912, introduced by Representative Chuy Garcia. An industrial loan company (ILC) charter can offer certain nonbank parent companies the opportunity to skirt registration as a bank holding company and avoid consolidated supervision by the Federal Reserve.[2] This reduced oversight is further exacerbated by the fact that the FDIC lacks a complete range of statutory authority to fully supervise certain parent companies of ILCs.[3] As a result, the relationship between a nonbank parent and its ILC subsidiary lacks the degree of transparency and accountability intended by the *Bank Holding Company Act* while at the same time inviting potentially hazardous comingling of banking and commercial activities. In other words, the ILC charter frustrates a core principle of prudential regulation: that a bank's parent company should serve as a transparent source of strength rather than an opaque source of risk. The new draft of the ANS of H.R. 5912 represents a compromise that addresses these concerns, and the concerns of existing ILCs that have been operating in good faith under the law. It is a comprehensive solution to closing the ILC loophole once and for all and we urge its adoption at markup without additional amendments that seek to water down the important strides that the legislation is taking. ***Support for H.R. 5912 is a key vote for credit unions.***

H.R. 7733, *CDFI Bond Guarantee Program Improvement Act of 2022* (Support)

Finally, NAFCU also supports H.R. 7733, the *CDFI Bond Guarantee Program Improvement Act of 2022*, introduced by Housing, Community Development, and Insurance Subcommittee Chairman Emanuel Cleaver. The Community Development Financial Institution (CDFI) Bond Guarantee Program provides a

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[1] NCUA OIG, Audit of the NCUA's Examination and Oversight Authority Over Credit Union Service Organizations at 3.

[2] Cocheo, Steve, "Fintech Charters Signal a Tectonic Realignment in Banking," July 22, 2020.

[3] Under Section 10(b)(4) of the FDI Act, the FDIC is permitted to examine any insured depository institution, including an ILC, to examine the affairs of any affiliate, including the parent holding company, "as may be necessary to disclose fully (i) the relationship between the institution and the affiliate; and (ii) to determine the effect of such relationship on the depository institution." 12 U.S.C. § 1820(b)(4). However, this limited grant of authority is no substitute for the full range of examination powers necessary for consolidated supervision.

valuable line of long-term capital to CDFIs through the Federal Financing Bank. The CDFI Bond Guarantee Program was enacted in 2010 to provide long-term, low-cost capital to CDFIs, which use the funding for economic development activities in underserved communities. The program's authorization lapsed in 2014, but it has been extended on a year-by-year basis in annual appropriations bills. It would be a huge improvement and provide certainty to make this program permanent. We urge the Committee to support this important bill.

Conclusion
Thank you for the opportunity to comment on several of the measures before the Committee tomorrow. We appreciate your leadership and ongoing focus on issues important to credit unions. We look forward to working with you. Should you have any questions or require any additional information, please do not hesitate to contact me or Jake Plevelich, NAFCU's Associate Director of Legislative Affairs, at jplevelich@nafcu.org.

Sincerely,

Brad Thaler
Vice President of Legislative Affairs

cc: Members of the House Committee on Financial Services