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National Association of Federally-Insured Credit Unions

October 13, 2021

The Honorable Al Green
Chairman
House Financial Services Subcommittee
on Oversight and Investigations
U.S. House of Representatives
Washington, DC 20515

The Honorable Tom Emmer
Ranking Member
House Financial Services Subcommittee
on Oversight and Investigations
U.S. House of Representatives
Washington, DC 20515

Re: Subcommittee Hearing, “Cashed Out: How a Cashless Economy Impacts Disadvantaged Communities and Peoples”

Dear Chairman Green and Ranking Member Emmer:

I am writing on behalf of the National Association of Federally-Insured Credit Unions (NAFCU) regarding tomorrow’s Subcommittee hearing on the impacts of a cashless economy. NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve more than 127 million consumers with personal and small business financial service products. Even with the rise of mobile banking and the continuous new developments in electronic payments, cash remains an important payment method for credit union members and we appreciate the Subcommittee’s attention to this dynamic issue.

As the Subcommittee is aware, cash is often used more in underserved areas where consumers may lack access to financial services that can provide other options. Credit unions, by definition, exist to provide provident credit and financial services to consumers, many of whom may otherwise have limited access to financial services. Credit unions are proud of their service to underserved communities and want to do more. We would urge you to support efforts to allow all types of credit unions to add underserved areas to their fields of membership, such as the discussion draft of the *Expanding Financial Access for Underserved Communities Act* that is currently before the Committee. We also would urge you to support efforts to increase financial access and inclusion in underserved areas, allowing individuals who do have access to technology to use it to access their financial institution. Taking these steps would help provide more financial services options to consumers who do not have access to them now.

While many credit union members utilize mobile banking, a number that has grown during the pandemic, we recognize there are many reasons why consumers choose to pay with cash. With the constant data breaches that continue to affect Americans, a national data security standard could alleviate some of the concerns consumers have with using mobile payments, including a debit or credit card. Under the *Gramm-Leach-Bliley Act (GLBA)*, credit unions and other depository institutions are required to meet certain criteria for safekeeping consumers’ personal information and are held accountable if that standard is not met through examination and penalties. Unfortunately, there is no comprehensive regulatory structure akin to the GLBA that covers other

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entities that collect and hold sensitive information. NAFCU strongly supports the passage of legislation requiring any entity responsible for the storage of consumer data to meet standards similar to those imposed on depository institutions under the GLBA.

Along those lines, we also believe that Congress or the CFPB should ensure that the *Electronic Funds Transfer Act* (Regulation E) has a clear error resolution mechanism that ensures that third parties are also held accountable for helping resolve the issue when a dispute arises. Credit unions shoulder unique investigative burdens when a transaction involves a mobile payment application. As mobile payment applications become more prevalent, there should be more clarity or guidance regarding the responsibilities of mobile payment platform providers to resolve disputes, especially with respect to instances of fraud. Error resolution investigations put a strain on credit union resources and in certain situations, may not be the best party to investigate a dispute. We believe Congress and the CFPB should examine what protections are needed to combat P2P app-based fraud.

Merchants are also steering away from cash because, despite what they claim in the interchange debate, there is a cost for them to handle cash that is much higher than their cost of interchange. Merchants and consumers derive benefits from electronic payments. Still, merchants continue to misrepresent the effects of interchange fees and the Durbin Amendment, hoping to increase their windfall from price controls even more. Retailers had promised to pass benefits and savings on to consumers if Congress enacted debit interchange price controls. Instead, the Federal Reserve has found that this amendment has been a multi-billion dollar windfall for merchants. Consumers are seeing little benefit, while retail prices keep rising. Furthermore, despite the amendment's attempt to exempt smaller institutions, the trickle-down impact of this price cap has dropped the average interchange fee for credit unions under \$10 billion as well. Quite simply, the Durbin Amendment is not doing what proponents said it would and we urge you to reject any calls to expand the impact of this amendment to credit cards and would encourage the repeal of this failed policy.

Ultimately, NAFCU continues to have concerns about the ability of merchants to discriminate against types of payments they accept, which could ultimately serve to limit consumer choice and options. We appreciate the Subcommittee's continued oversight in this area.

We thank you for the opportunity to share our thoughts in advance of tomorrow's hearing. Should you have any questions or require any additional information, please contact me or Lewis Plush, NAFCU's Associate Director of Legislative Affairs, at 703-842-2261.

Sincerely,



Brad Thaler
Vice President of Legislative Affairs

cc: Members of the House Financial Services Subcommittee on Oversight and Investigations