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**National Association of Federally-Insured Credit Unions**

July 25, 2023

The Honorable Raphael Warnock  
Chairman  
Subcommittee on Financial Institutions  
and Consumer Protection  
United States Senate  
Washington, DC 20510

The Honorable Thom Tillis  
Ranking Member  
Subcommittee on Financial Institutions  
and Consumer Protection  
United States Senate  
Washington, DC 20510

**Re: Subcommittee on Financial Institutions and Consumer Protection Hearing: “Taking Account of Fees and Tactics Impacting Americans' Wallets”**

Dear Chairman Warnock and Ranking Member Tillis:

I write to you today on behalf of the National Association of Federally-Insured Credit Unions (NAFCU) ahead of tomorrow’s Subcommittee hearing, “Taking Account of Fees and Tactics Impacting Americans' Wallets.” As you are aware, NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve nearly 137 million consumers with personal and small business financial service products. NAFCU and our members appreciate the continued work of the Subcommittee in examining fees imposed on consumers. Ahead of tomorrow’s hearing, we would like to share some thoughts on the role the Consumer Financial Protection Bureau (CFPB) plays in the mischaracterization of junk fees and the potential impact it has on consumers.

NAFCU and our member credit unions appreciate the opportunity to provide input to the Subcommittee. We are concerned with the CFPB’s efforts to diminish commonsense incentives that promote financial responsibility, such as overdraft fees and credit card late fees, as well as reasonable and legal business service charges. These efforts are a complete mischaracterization of “junk fees” and will unnecessarily cause financial harm to American consumers.

Last year, the CFPB launched an initiative to target standard fees charged by credit providers that included sensible payment guardrails such as overdraft and credit card late fees. This initiative has been mislabeled, and in the CFPB’s most recent Request for Information (RFI), lawful payment incentives are called “junk fees,” “excessive or exploitative fees,” and “inflated or surprise fees.” These fees bear no resemblance to the type of hotel and resort fees referenced in the RFI and, in contrast, are all subject to comprehensive federal or state laws and regulations. Sensible payment guardrails are not unfair, deceptive, or abusive, and there are mechanisms in place to ensure consumers are well informed of the fees. The CFPB’s guidance falsely suggests that these fees are for the sole benefit of the financial institution; however, these fees are used to help the consumer make responsible financial decisions and encourage on-time payments or otherwise prevent violations of the terms of financial agreements. These fees also enable companies to offset the costs of late payments and their associated risks so that

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they can continue to offer the financial products that people want and need, particularly to financially vulnerable communities and individuals trying to build credit. The CFPB's targeting of overdraft protection programs has failed to take into account that these programs are often opted in to by the consumer and are often a product consumers want.

NAFCU supports fair, transparent, and competitive markets for consumer financial services and is happy to work with the CFPB to improve consumers' understanding of financial products and services. We caution, however, that increasing the required disclosures or mandating that contingent fees be included in a lump-sum price would only further confuse and frustrate consumers who may have varying demands for convenience. NAFCU has urged the CFPB to continue to study the markets and products listed in its RFI before taking any supervisory or regulatory action, as the Bureau's current data and analyses do not suggest an unfair or underregulated environment. NAFCU now recommends that you closely scrutinize the Bureau's alleged authority to make changes to its regulatory framework to limit the fees described in the RFI.

While we understand the significance of required disclosures and the positive impact they have on consumers' understanding of financial product pricing, sensible payment guardrails provide for better comparison shopping and improved consumer repayment behavior. To claim that fees which must be disclosed are in fact surprise or junk fees is a mischaracterization and one that undercuts the Bureau's own efforts to develop effective disclosures. NAFCU's members often report that they are frustrated and confused by the volume of required disclosures, despite their best efforts to educate consumers about the importance of these disclosures and the information they contain regarding the terms and fees of products and services. To this end, instead of pushing the bounds of statutory authority to regulate fees in connection with consumer financial products and services, the CFPB should be engaged in broad consumer education initiatives regarding financial disclosures. For example, providing toolkits to develop optional, real-time disclosures compatible with mobile banking applications may serve as a practical and effective resource.

We thank you for the opportunity to share our thoughts and we look forward to continuing to work with the Subcommittee on these important issues. Should you have any questions or require any additional information, please contact me or Amber Milenkevich, NAFCU's Senior Associate Director of Legislative Affairs, at (703) 402-2330 or [amilenkevich@nafcu.org](mailto:amilenkevich@nafcu.org).

Sincerely,



Brad Thaler  
Vice President of Legislative Affairs

cc: Members of the Subcommittee on Financial Institutions and Consumer Protection