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National Association of Federally-Insured Credit Unions

June 8, 2020

The Honorable Mike Crapo
Chairman
Committee on Banking, Housing
& Urban Affairs
United States Senate
Washington, DC 20510

The Honorable Sherrod Brown
Ranking Member
Committee on Banking, Housing
& Urban Affairs
United States Senate
Washington, DC 20510

Re: Tomorrow's Hearing on "Oversight of Housing Regulators"

Dear Chairman Crapo and Ranking Member Brown:

I am writing on behalf of the National Association of Federally-Insured Credit Unions (NAFCU) to share our thoughts ahead of Tuesday's hearing entitled "Oversight of Housing Regulators." NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve 120 million consumers with personal and small business financial service products. NAFCU and our members welcome the Committee's oversight of financial regulators and ongoing efforts to address the current pandemic. Ahead of tomorrow's hearing, we would like to share our thoughts on a few important housing issues for credit unions in light of the pandemic.

Emergency QM Standard
First and foremost, while it is not in the purview of the Federal Finance Housing Agency (FHFA) or the Department of Housing and Urban Development (HUD), we believe Congress should establish an emergency Qualified Mortgage (QM) standard with flexible requirements that permits credit unions to make prudent loans for borrowers in crisis without losing the benefit of a safe harbor that it properly considered the member's ability to repay the loan under the *Truth in Lending Act* (TILA). There are provisions of the current QM rules around determining income, liabilities and debt-to-income ratios that are unworkable in these emergency situations and, without the protection of the QM safe harbor, loans being made during the crisis could subject credit unions to litigation. The addition of an emergency QM standard can establish safe and sound lending procedures within the context of the current crisis and allow credit unions a measure of insulation from future litigation related to the ability-to-repay requirements.

QM Patch Extension
Furthermore, to prevent market disruptions and ensure that consumers continue to have access to safe and affordable mortgage credit, Congress must act to extend the Temporary Government Sponsored Enterprises (GSE) QM patch (or GSE patch) for a suitable amount of time if the Consumer Financial Protection Bureau (CFPB) declines to do so. While the CFPB has indicated that they intend to temporarily extend the patch, they have not yet issued a proposed QM rule, so the timing remains uncertain. As NAFCU has shared with Congress and the CFPB, the GSE Patch has been a key factor in credit unions' ability to lend to members of their communities, especially those of low- and moderate-income. Allowing the patch to expire in the midst of the uncertainty due to the pandemic would further destabilize a housing market that is already under significant pressure.

Forbearance Issues for Mortgage Servicers
As NAFCU has previously highlighted to the Committee, concerns remain with the impact of sections 4022 and 4023 of the CARES Act, which provide borrowers with forbearance options for single-family and multifamily loans sold to the GSEs, respectively. The four-month limitation on servicer payments of principal and interest on loans in forbearance recently announced by the FHFA was an important step as the CARES Act did not address these broader issues. Additionally, even though we were pleased to see the recent guidance from the FHFA that the GSE's can buy mortgages in forbearance, the loan level price adjustment (LLPA) fee placed on the loans will create challenges for lenders. The higher LLPA associated with selling loans to the secondary market will make it more challenging for lenders to ensure that they have ample liquidity to continue lending during a downturn and may serve to ultimately constrain new credit. We would ask the Committee to urge the FHFA to further examine this LLPA fee structure and consider a lower LLPA to accommodate community lenders like credit unions and ensure they are still able to access the secondary mortgage market and make more loans to their members.

It is important that the FHFA and GSEs remain as transparent as possible with respect to expectations for servicers during these unprecedented times and offer assistance programs for servicers encountering difficulties making the required payments to the GSEs on mortgages and mortgage-backed securities (MBS). We ask that you echo these requests to the FHFA, as well as consider legislative action to ensure that this health crisis does not become another financial crisis.

FHA
Last week, the Federal Housing Agency (FHA) issued a forbearance partial indemnification policy that imposes a 20 percent first loss penalty against originators if the loan goes into forbearance before it is insured. Credit unions have a history of working with their members in a time of need and many are implementing new policies during the current pandemic that align with the credit union credo of always putting members first. However, NAFCU believes the combination of Congressional proposals requiring blanket forbearance with lenders being assessed a financial penalty by the insurers of government-backed loans should a member request forbearance as soon as a mortgage is closed will have unintended consequences for borrowers. This could encourage some lenders to look at other factors such as whether the borrower's income could be detrimentally affected by COVID-19, which would disproportionately affect low- and moderate-income individuals, therefore harming the very borrowers that forbearance is intended to protect. We ask that you highlight this problematic and contradictory issue during tomorrow's hearing.

In conclusion, we thank you for your leadership and ongoing oversight of housing regulators. NAFCU is pleased to see the Committee examining ways to continue regular oversight particularly during these uncertain times. Should you have any questions or require any additional information, please contact me or Janelle Relfe, NAFCU's Associate Director of Legislative Affairs, at 703-842-2836.

Sincerely,

Brad Thaler

Brad Thaler
Vice President of Legislative Affairs

cc: Members of the Senate Banking Committee