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April 4, 2017

The Honorable Jeb Hensarling
Chairman
House Financial Services Committee
United States House of Representatives
Washington, D.C. 20515

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

Re: Tomorrow's hearing to receive the CFPB semi-annual report

Dear Chairman Hensarling and Ranking Member Waters:

On behalf of the National Association of Federally-Insured Credit Unions (NAFCU), the only trade association exclusively representing the federal interests of our nation's federally-insured credit unions, I write today in conjunction with tomorrow's hearing to receive the Consumer Financial Protection Bureau's (CFPB) semi-annual report to Congress. NAFCU urges the committee to press the CFPB to provide greater relief to credit unions.

During the consideration of financial reform, NAFCU was concerned about the possibility of overregulation of good actors such as credit unions, and this is why NAFCU was the only credit union trade association to oppose the CFPB having authority over credit unions. Unfortunately, many of our concerns about the increased regulatory burdens that credit unions would face under the CFPB have proven true. As expected, the breadth and pace of the CFPB's rulemaking is troublesome, and the unprecedented new compliance burden placed on credit unions has been immense.

The impact of this growing compliance burden is evident as the number of credit unions continues to decline. Since the second quarter of 2010, we have lost more than 1,500 federally-insured credit unions – over 20% of the industry. The overwhelming majority of these were smaller institutions below $100 million in assets. While it is true that there has been a historical consolidation trend in the industry, the passage of the *Dodd-Frank Act* has served to accelerate this trend. In 2016 the industry lost 5.6 percent of credit unions, which represents the highest rate of consolidation in a single year since World War II. The fact is that many smaller institutions simply cannot keep up with the new regulatory tide and have had to merge out of business or be taken over.

One way that the CFPB can provide immediate help is by improving the guidance it gives with its rulemakings. In attempting to understand ambiguous sections of CFPB rules, NAFCU and many of its members have reached out to the CFPB to obtain legal opinion letters (written guidance) as to the agency's interpretation if its regulations. Many other financial agencies, including the National Credit Union Administration (NCUA), issue legal opinion letters to help institutions understand otherwise ambiguously written rules. The CFPB has declined to do so. What they have done is set up a "help line" where financial institutions can call for oral guidance from the agency. While this is helpful, there are reports of conflicting guidance being given depending on who answers the phone. This is not just unhelpful, but can be confusing when NCUA examines credit unions for compliance with CFPB regulations. NAFCU would appreciate the CFPB establishing procedures for institutions to get much needed official written legal advisory opinions to provide clearer guidance. Setting up such a process within the CFPB would be beneficial to credit unions and other financial institutions. Unfortunately, too often we have seen the CFPB regulate through enforcement action, which just adds to the uncertainty that financial institutions face in dealing with the Bureau.

Another way that the CFPB can provide relief to credit unions is by using its broad legal authority granted by Sec. 1022 of the *Dodd-Frank Act* to exempt credit unions from various rulemakings. Given the unique member-owner nature of credit unions and the fact that credit unions did not participate in many of the questionable practices that led to the financial crisis, subjecting credit unions to rules aimed at large bad actors only hampers their ability to serve their members. A 2015 Government Accountability Office (GAO) report found that financial services have been limited or discontinued by many community-based financial institutions due to new regulations. While some the rules of the CFPB may be well-intentioned, many credit unions do not have the economies of scale that large for-profit institutions have, and, as the GAO report indicated, may end a product line or service rather than face the hurdles of complying with new regulation. While the CFPB has taken some positive steps, such as their small creditor exemption, NAFCU has long urged that more needs to be done to exempt credit unions from burdensome rulemakings.

Director Cordray has previously suggested that Congress did not give the CFPB the authority to exempt credit unions from its rulemakings. The previously mentioned Sec. 1022 of the *Dodd-Frank Act* specifically grants the Bureau authority to exempt "any class of covered persons" from any provision or rule issued under Title X. Last year, a bipartisan majority of 329 Members of the House of Representatives wrote to Director Cordray to urge him to do more in this area. We hope Director Cordray will agree and respond accordingly to provide more regulatory relief by better tailoring its regulations. We urge the CFPB to work more closely with the National Credit Union Administration (NCUA) in this effort. This must include greater exemptions from CFPB rules for credit unions and the Bureau allowing NCUA to do the rulemaking for credit unions.

NAFCU looks forward to working with the committee to continue to make improvements to the CFPB and provide regulatory relief to credit unions. We hope that you will use this week's hearing to push the CFPB to take greater steps to provide relief to credit unions under its current authority. We thank you for the opportunity to share our thoughts with you today. If you have any questions, or if my colleagues or I can be of assistance in any way, please do not hesitate to contact me or NAFCU's Associate Director of Legislative Affairs, Allyson Browning, at (703) 842-2836.

Sincerely,

Brad Thaler
Vice President of Legislative Affairs

cc: Members of the House Financial Services Committee