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August 13, 2018

The Honorable Steven T. Mnuchin
Secretary
United States Department of the Treasury
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

RE: Report on Nonbank Financials, Fintech, and Innovation

Dear Secretary Mnuchin:

On behalf of the National Association of Federally-Insured Credit Unions (NAFCU), the only national trade association focusing exclusively on federal issues affecting the nation's federally insured credit unions, I am writing to thank you for your strong commitment to regulatory relief and the many positive recommendations included in the U.S. Department of the Treasury's (Treasury) report, titled "A Financial System that Creates Economic Opportunities: Nonbank Financials, Fintech and Innovation" (Report).

NAFCU strongly supports the administration's deregulatory agenda, expressed in Executive Order 13772 (Order). Treasury's review of regulations to ensure consistency with the Administration's Core Principles has already started to have a beneficial impact on credit unions and financial services at large. Treasury's latest report is a positive step towards creating a regulatory environment that allows credit unions to grow, innovate, and offer better products and services to members. NAFCU appreciates Treasury's thoughtful and thorough recommendations for creating a more vibrant financial marketplace that promotes fair competition.

While many of the Report's recommendations will require Congressional action, we are pleased to see that many others can be implemented through policy changes at relevant federal regulators. Understandably, not all of the recommendations proffered in the Report are wholly applicable to credit unions, but NAFCU and our members fully support those that will provide benefit and relief to this country's 116 million credit union member-owners. Important recommendations that NAFCU supports are discussed further below.

NAFCU-Supported Recommendations from "A Financial System that Creates Economic Opportunities: Nonbank Financials, Fintech and Innovation"

Small-Dollar Lending

Treasury recommends that the Bureau of Consumer Financial Protection (Bureau) rescind its final rule entitled "Payday, Vehicle Title, and Certain High Cost Loans" (Payday Rule), which applies to short-term, small-dollar lenders. Treasury also recommends that both federal and state banking regulators take steps to encourage prudent and sustainable short-term, small-dollar installment lending by banks.

NAFCU supports exempting credit unions from the Bureau's Payday Rule. NAFCU also supports efforts by the National Credit Union Administration (NCUA) to promote responsible short-term, small-dollar installment lending through its payday alternative loans (PALs) program. NAFCU has encouraged the Bureau to work with the NCUA to accommodate more flexible PALs options.

Debt Collection

The Report states that Treasury does not support broad expansion of the *Federal Debt Collection Practices Act* (FDCPA) to first-party debt collectors absent further Congressional consideration of such action. Although the Bureau has yet to issue a proposal related to third- or first-party debt collection, NAFCU maintains that credit unions should not be the target of any future debt collection rules. Accordingly, we support efforts by Treasury to achieve transparency in the debt collection marketplace while recognizing that first-party debt collectors, such as credit unions, are already held to high standards and subject to the Bureau's existing authority to regulate unfair, deceptive, and abusive debt collection practices.

***Telephone Consumer Protection Act* (TCPA) Reform**

Treasury's recommendations regarding reform of the TCPA are aligned with a number of NAFCU supported ideas. NAFCU advocates for the creation of a reassigned numbers database and a safe harbor for calls to reassigned numbers. We also share Treasury's view that the Federal Communications Commission should provide clear guidance on methods for consumers to revoke consent. Lastly, NAFCU supports Treasury's recommendation that Congress make certain statutory changes to the TCPA.

Payments

NAFCU supports Treasury's recommended strategies for achieving faster and more secure payments. We are particularly encouraged by Treasury's view that the Federal Reserve should move quickly to facilitate a faster retail payments system, such as through the development of a real-time settlement service. NAFCU has recommended that the Federal Reserve play an operational role in a future faster payments system, and NAFCU shares Treasury's belief that doing so would also allow for more efficient and ubiquitous access to innovative payment capabilities.

NAFCU is also supportive of Treasury's commitment to ensuring competitive equality. In particular, we are appreciative of Treasury's emphasis that institutions such as credit unions should have the ability to access the most-innovative technologies and payment services.

NAFCU generally agrees with Treasury's approach for achieving more secure payments. The Report notes that continued work in the area of payment security should ensure that innovative payments solutions, especially in security, do not include specific tech mandates. Treasury's recommendation aligns with NAFCU's position that there is no one-size-fits-all approach to cybersecurity.

Remittances

NAFCU supports the Bureau's ongoing efforts to reassess Regulation E and explore avenues for more meaningful regulatory relief. Numerous credit unions have been forced to stop offering remittance transfer services because the compliance burden is simply too high. Between the countless disclosure requirements and additional fees, many credit unions have come to realize that they cannot justify continuing to offer remittance services. With fewer credit unions providing such services, consumers' options and ability to shop are severely limited.

Consistent with the Report's recommendations, NAFCU supports efforts to grant more flexibility with respect to issuance of Regulation E disclosures. NAFCU also advises raising the current 100 transfer per annum threshold for applicability of the remittance transfer rule's safe harbor exemption. NAFCU is hopeful that these changes will allow credit unions to focus on providing better remittance services instead of scaling back operations due to unreasonable compliance costs.

Data Sharing and Section 1033 of the *Dodd-Frank Wall Street Reform and Consumer Protection Act* (Dodd-Frank Act)

Although Treasury has taken a broad view of how consumers may authorize third-party access to transaction data, NAFCU is hopeful that the Report's recognition of liability concerns will ensure that credit unions are not subject to new regulatory burdens that create additional privacy risks. Like Treasury, NAFCU is concerned about credit union liability arising from unauthorized access by third parties or other downstream fintech applications.

Despite these concerns, we see value in Treasury's general recommendation that data sharing agreements between consumers and third-party aggregators should be expressed transparently, in plain language, and presented in a reasonably simple and intuitive format. NAFCU is optimistic that innovation-focused efforts to promote flexible use of disclosures will translate into modernization of existing disclosure and advertising requirements, which have often proven inflexible and unwieldly in an increasingly digital environment.

Data Security and Breach Notification

NAFCU supports Treasury's recommendation that Congress enact a federal data security and breach notification law to protect consumer financial data and notify consumers of a breach in a timely manner. NAFCU's overall view of such legislation shares many of the same principles expressed in the Report. NAFCU agrees with Treasury that future legislation should protect consumer data while recognizing existing federal data security requirements for financial institutions, such as credit unions.

Financial institutions, including credit unions, have been subject to federal standards on data security since the passage of the *Gramm-Leach-Bliley Act* (GLBA), while retailers and other entities that handle sensitive personal financial data are not subject to these same requirements. We encourage Treasury to work with Congress to develop a legislative solution that holds non-regulated entities to a flexible, scalable standard equivalent to what is in the GLBA. Such a standard should reflect (1) the size and complexity of an organization; (2) the cost of available tools to secure data; and (3) the sensitivity of the personal information an organization holds, as well as guarantee that small organizations are not burdened by excessive requirements.

New Credit Models

NAFCU supports Treasury's view that regulators, through interagency coordination, should tailor regulation and guidance to enable the increased use of new credit models and data sources. NAFCU generally agrees that regulators should permit "prudent experimentation" and accommodate innovation through the use of new approaches to supervision and oversight.

NAFCU and its member credit unions have long advocated for the use of alternative models that more accurately capture creditworthy borrowers and allow them to access affordable credit. NAFCU is particularly encouraged by the Federal Housing Finance Agency's (FHFA) recent efforts to solicit input on the use of new credit score models as well as section 310 of the *Economic Growth, Regulatory Relief, and Consumer Protection Act*, which requires the FHFA to establish a process for validating and approving new credit score models. NAFCU and its member credit unions support flexibility in the use of credit scores and the opportunity for a credit union to decide, based on its unique membership, which credit score works best. Competition between credit score models is likely to lead to more accurate and inclusive models that provide a broader population of borrowers with access to affordable credit.

Regulatory Review of Outdated Regulations and Electronic Signatures

NAFCU supports Treasury's recommendation that financial regulators should periodically review existing regulations as innovations occur and new technology is developed to determine whether such regulations fulfill their original purpose in the least costly manner. We are also encouraged by the Report's focus on regulatory flexibility to promote electronic signatures and acceptance of electronic mortgage notes.

NAFCU has recommended to various Federal Reserve Banks that borrower-in-custody (BIC) program requirements be amended to permit acceptance of electronically signed loans as pledged collateral. Accordingly, we view the Report's suggestions regarding acceptance of eNotes on collateral pledged to Federal Home Loan Banks (FHLB) as complementary to our efforts to facilitate improved access to liquidity sources. While we recognize that FHLB advances are different than contingent funding provided through Reserve Bank discount windows, we believe that modernized rules regarding electronic signatures would improve credit union access to funding sources in general.

Credit unions are experienced lenders that know how to create legally binding and enforceable agreements utilizing electronic records and signatures. NAFCU encourages Treasury to work with individual Reserve Banks to resolve uncertainty regarding acceptance of electronically signed, pledged collateral in order to improve credit union access to liquidity.

Conclusion

NAFCU is committed to engaging with Treasury as the Order's key objectives are realized through discrete recommendations and deregulatory action. We look forward to meeting with you and your staff in the future to develop appropriate implementation strategies and ensure that credit unions can realize the economic advantages of streamlined financial regulation.

On behalf of this country's credit unions, owned by 116 million members, NAFCU appreciates your hard work and dedication to achieving important regulatory reform. Should you have any questions or concerns, please do not hesitate to contact me or Carrie Hunt, NAFCU's Executive Vice President and General Counsel, at chunt@nafcu.org or (703) 842-2234.

Sincerely,

B. Dan Berger
President and CEO