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TESTIMONY
OF
DALLAS BERGL
CHIEF EXECUTIVE OFFICER
INOVA FEDERAL CREDIT UNION

BEFORE THE

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS
UNITED STATES SENATE

AT A HEARING ENTITLED,
"FOSTERING ECONOMIC GROWTH: THE ROLE OF FINANCIAL INSTITUTIONS IN LOCAL COMMUNITIES"

JUNE 8, 2017

Testimony
of
Dallas Bergl
Chief Executive Officer
INOVA Federal Credit Union
Before The
Committee on Banking, Housing and Urban Affairs
United States Senate
At a Hearing Entitled,
"Fostering Economic Growth: The Role of Financial Institutions in Local Communities"
June 8, 2017

Chairman Crapo, Ranking Member Brown, Members of the Committee:

Thank you for the opportunity to testify on this important topic. My name is Dallas Bergl, and I am the Chief Executive Officer for the INOVA Federal Credit Union, headquartered in Elkhart, Indiana. I am also a member of the Board of Directors of the Credit Union National Association (CUNA)[1], on whose behalf I testify today.

INOVA Federal Credit Union proudly serves over 32,000 members, providing small dollar loans, mortgage loans, and automobile refinance loans along with a variety of savings and deposit accounts. By asset size ($336 million), loans outstanding ($285 million), and member deposits ($291 million), we are small relative to the big banks. Nevertheless, we are an invaluable financial lifeline to our community: we provide products and services that larger financial institutions often do not, because it may not be worth their time or resources to do so.

Elkhart, in northern Indiana, became a symbol of distressed Middle America during and after the Great Recession. Among a variety of other manufacturing activity, the area is a hub of recreational vehicle manufacturing, one of the first industries to falter in the recession. In fact, less than a year into the recession, our community's unemployment rate tripled, peaking at 18.9 percent by early 2009. It was during this downturn that the importance of a credit union to a community like ours became apparent.

Life does not treat people equally or fairly, and economic disparity is clearly seen through the eyes of those with little or no savings at all. They struggle to afford life, to purchase a home, to pay their rent, or to put a meal on the table for their family. Consumers who do not have robust savings often also do not have solid credit histories or individuals who can cosign a loan for them. And, they end up borrowing small amounts of

[1] Credit Union National Association represents America's credit unions and their 110 million members.

money, where the cost of making the loan often equals and sometimes exceeds the interest paid. It's understandable that this is not an attractive investment for larger, for-profit financial institutions to undertake.

My credit union, and others like it throughout the country, lend and provide deposit accounts to these individuals, and other credit union members, because Congress gave us a mission to promote thrift and provide access to credit for provident purposes to our members. Serving our members and investing in their success, especially during tough economic times, is a key element to ensuring our communities grow and thrive. But the investments credit unions make do not just help our individual communities. Success begets success, and when individual communities grow and thrive, so does this country. It is the growth and success of individual communities, like Elkhart, that allows this country to achieve economic growth and be a competitive force in the international community. It is critical that credit unions can continue to support economic development in the United States. Congress has given us a big job, and we're helping consumers every day in ways that large, for-profit institutions simply will not: we're helping them put gas in their car, buy appliances, cover medical expenses, send their children to college, and purchase homes of their own.

I would like to say that credit unions face no hurdles in their pursuit of this statutory mission, but this has not been the case. The 2008 economic crisis hit small communities, like Elkhart, hard. So, when our government had to react and fix the bad policies that led to "too-big-to-fail" institutions, their irresponsible practices, and the subsequent economic harm to everyday Americans, we supported this effort. Consumers were losing their homes, life savings, and everything they worked for years to earn. Credit unions and their leaders, such as myself, expected a reaction from our government that was targeted to the abusers of consumers. What we did not expect, what we did not support, and what continues to perplex us, are the considerable new regulatory requirements for our institutions – the ones who put consumers, as their member-owners, first.

New mortgage requirements intended to prevent an economic crisis in the future have had the unintended effect of preventing credit unions like mine from lending at the same levels as before the crisis. Prior to the mortgage disclosure and underwriting requirements imposed by the Consumer Financial Protection Bureau (CFPB), my credit union closed as many as three mortgage loans in the time it now takes us to originate just one loan. Increasing the cost of making a loan does not create economic growth. It leads to fewer consumers getting help. While my credit union continues to provide mortgage loans, there are other credit unions in Indiana and elsewhere that are not as fortunate because they have had to stop their mortgage lending completely because of the new regulatory burden. This does not make sense: why would Congress support a regulatory regime that makes it harder for lenders with histories of safe and affordable lending to serve their members? Why would Congress allow this regulatory regime to continue and potentially have a similar effect on other critical lifeline services provided by credit unions, like small dollar lending?

My testimony presents commonsense proposals that will help responsible financial institutions, like credit unions and small banks, continue to serve their members and communities so they can grow and thrive; regulatory changes that can be tailored to address the problem institutions in this country without punishing solid ones; and proactive steps that can be taken with credit unions' regulator, the National Credit Union Administration (NCUA), to help foster the continued safety and soundness of the credit union system.

I believe it is my obligation, as a credit union representative invited to testify, to be honest with you, provide you with my advice based on years of experience in this industry, and tell you when ideas - even well intentioned ones - may not be workable. I truly believe that when credit unions and their members thrive, so does this country. It is through the prosperity of these individual financial institutions that we will prosper economically as a nation.

The Roadmap for Strengthening Credit Unions and Our Members

My primary goal as CEO of INOVA Federal Credit Union is to run my credit union successfully so we can best provide products and services for our members. That is what my volunteer, unpaid board of directors, consisting of members elected by fellow members, expects of me. It is what I expect of myself. Congress should enact legislation that allows credit unions to more effectively serve their members and help promote economic growth, starting with correcting a disparity in the treatment of certain residential loans made by credit unions and eliminating the credit union member business lending cap.

Under current law, when a bank makes a loan for the purchase of a 1-4 unit, non-owner-occupied residential property, the loan is classified as a residential real estate loan. That is appropriate because these are generally loans to individuals or households with regular jobs with modest real estate investments on the side. In fact, many of these loans can be sold to Fannie Mae and Freddie Mac as residential home loans. However, when a credit union makes the same loan, it is required to be classified as a business loan and is therefore subject to the statutory member business lending cap. This makes no sense, and Congress should fix it.

Correcting this disparity would provide economic growth in many ways. It would enable credit unions to provide additional credit to borrowers seeking to purchase residential units, and help stimulate investment in affordable rental real estate and employment in the construction trades. Further, changing the statutory classification of these loans would free up as much as $4 billion in business lending cap space, allowing credit unions to more fully serve their small business members. Serving these members, who want to contribute to our country's economy, should be the primary goal of all of us here today.

Further, eliminating the statutory cap on credit union member business lending would foster economic growth. As the committee knows well, there is no safety and soundness rationale to the member business lending cap, and there is no nexus between the business lending cap and the credit union tax status. The only

reason for the cap is to keep credit unions from serving small businesses to a greater degree. Perpetuating this policy robs America's small businesses of further access to safe and affordable credit. Eliminating the credit union business lending cap would free up significant additional capital for small businesses and help advance economic activity and job growth in areas served by business lending credit unions. We estimate that eliminating the cap on credit union member business lending would provide nearly $5 billion in new small business lending and help to create more than 54,000 jobs for Americans in the first year alone.

Macro-Level Changes to Improve the Regulatory Landscape

My credit union and our members experienced the financial crisis like all Americans did, perhaps even more so. Oftentimes, we felt helpless because we didn't cause the turmoil that took place. For this reason, we welcomed policies to address the problem actors. Yet, new regulations from the CFPB have not protected credit union members as we expected, nor have they prevented too-big-to-fail banks from getting bigger and absorbing more market share.

Since the beginning of the crisis, credit unions have been subject to more than 200 regulatory changes from over a dozen federal agencies. These new rules total nearly 8,000 Federal Register pages, and counting. The constant stream of new regulations from the CFPB particularly has led to credit union resources being diverted from serving members and to tough choices to limit or eliminate certain products and services.

Furthermore, disparity in the cost impact of regulatory burden has accelerated the consolidation of the credit union system (and the banking sector), robbing consumers of financial institution choices. While the number of credit unions has been declining since 1970, the attrition rate has accelerated since 2010, after the recession and the creation of the CFPB. Indeed, 2014 and 2015 were among the top five years in terms of attrition rates since 1970, at 4.2% and 4.1%. Attrition rates at smaller credit unions have been especially high. In both 2014 and 2015, the attrition rate at credit unions with less than $25 million in assets (half of all credit unions are of this size) has exceeded 6%. There is an indisputable connection between both the dramatically higher regulatory costs incurred by small credit unions and the increases in those costs since 2010, and their higher attrition rates.

Earlier this year, CUNA surveyed credit union executives to measure the impact of these rules on credit union members.[2] The findings indicate:

[2] Haller, Jon; Ledin, Paul; and Malla, Bandana, Credit Union National Association Impact of CFPB Rules Survey, *available at* https://www.cuna.org/uploadedFiles/CUNA/Legislative_And_Regulatory_Advocacy/Removing_Barriers_Blog/Removing_Barriers_Blog/FINAL%20Report%20Summary%20only%20Impact%20of%20CFPB%20Survey%20Analysis.pdf (February 2017).

- Over half (55%) of credit unions that have offered international remittances sometime during the past five years have either cut back (27%) or stopped offering them (28%), primarily due to burden from CFPB regulations.
- More than four in 10 credit unions (44%) that have offered mortgages sometime during the past five years have either eliminated certain mortgage products and services (33%) or stopped offering them (11%), primarily due to burden from CFPB regulations. Credit unions with assets of less than $100 million are the asset group most apt to have dropped their mortgage program altogether.
- Truth-in-Lending Act and Real Estate Settlement Procedures Act Integrated Disclosure (TRID) rules are far and away (80%) the single rule most negatively impacting credit unions that have offered mortgages. This is followed by the Qualified Mortgage rules (43%), Mortgage Servicing (30%), and new Home Mortgage Disclosure Act rules (19%). TRID rules serve as the most troublesome rule for all asset groups. (Notably, many credit unions have not yet turned their full attention to the new requirements in the new HMDA rules so this impact is likely understated).
- One in four credit unions (23%) that currently offer Home Equity Lines of Credit (HELOCs) indicate they plan to either curtail their HELOC offerings or stop offering them in response to the new HMDA rules.
- The clear majority of credit unions (93%) that either currently offer payday/small-dollar loans or are considering offering them indicate they are reconsidering their programs if there are increased regulations: (33%) will likely no longer consider introducing these loans, (43%) will review the impact and then decide whether to continue/discontinue the currently-existing offering, and (17%) will likely discontinue the currently existing loan product (without an impact review) if there are increased regulations.

These results show consumers are losing options from credit unions, and the smallest credit unions are being hit the hardest. Common-sense reforms must be enacted to better protect credit unions from the anti-competitive rules generated by this rigged regulatory regime that rewards the largest financial institutions and nonbank lenders that caused the financial crisis. There are ways that Congress can make the CFPB more effective and adaptable to our economic landscape.

1. <u>A Five-Person Commission for the CFPB</u>

As presently structured, the CFPB is an anomaly in the federal government - its authority is vested in a single person, removeable by the President only for cause, and absent the appropriate levels of Congressional oversight. Credit unions and our members benefit from policymaking that includes more voices and different

expertise. This is how my credit union is run – with a Board consisting of members from the community that can offer different perspectives and views. This is how all other federal financial regulatory agencies are run—with bipartisan boards made up of members with diverse views.

Director Cordray believes he has done more than enough to accommodate credit unions in rulemakings despite the substantial evidence they have been harmed by one-size-fits all rules.[3] Under the current structure, it is possible to ignore significant input from other regulators and Congress about issues such as exempting credit unions from certain rules, because ultimately, the Director answers to no one, not even consumers themselves.

A single director structure leaves consumers vulnerable to market uncertainty and drastic swings in policy due to the political environment. This uncertainty and the frequent changes in rules and policy can be problematic for credit unions, forcing membership resources to be diverted to appease the most recent perspective the CFPB director has.

Consumer protection is not about politics; it is about creating the best environment to enable financial health and safety—a mission the credit union movement has adhered to for many decades with bipartisan support. The best way to remove politics from this equation is through a multi-member commission. Perhaps the best indication that this is the best solution is the fact it is a proposal that both Democrats[4] and Republicans[5] have supported, only to walk away from it when it was politically convenient to do so. Credit union members and other consumers would benefit from a multi-member Commission that returns fairness and certainty to the rulemaking process. We urge you to put consumers ahead of politics and change the structure of the CFPB.

2. Enhance CFPB's Exemption Authority

Congress provided the CFPB with the authority to exempt any class of covered institutions from any of its rulemakings under Section 1022 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), and we were pleased it did so. However, the CFPB has resisted using this exemption authority to fully exempt credit unions from any of its rulemakings. Moreover, while under present law the CFPB is required to consult with the prudential regulators primarily responsible for ensuring safety and soundness, it is not engaging with the NCUA in a meaningful way during the rulemaking process. This is

[3] See e.g. Letter from Director Richard Cordray to Congressman and Congress Stivers, *available at* https://www.cuna.org/uploadedFiles/CUNA/Legislative_And_Regulatory_Advocacy/Removing_Barriers_Blog/Removing_Barriers_Blog/April%202016%20Response%20to%20Schiff-Stivers%20CFPB%20Letter.pdf (April 13, 2016).
[4] Department of Treasury, "Financial Regulatory Reform: A New Foundation: Rebuilding Financial Supervision and Regulation." *available at* https://www.treasury.gov/initiatives/Documents/FinalReport_web.pdf. 2009, p. 58.
[5] H.R. 1266 (114th Congress).

evidenced by the NCUA's recent objection to the CFPB's proposed rule for small dollar lending[6] and a letter sent to the CFPB last month outlining concerns with other CFPB rules.[7] This unwillingness to consider input from the NCUA early in the rulemaking process has resulted in proposals, final regulations, and guidance that are conflicting, confusing, and do not take into consideration the concerns of credit unions' prudential regulator.

Furthermore, the CFPB's unwillingness to adequately exercise its exemption authority has resulted in credit unions reducing the availability of, or eliminating entirely, safe and affordable financial products from the market. Nowhere is this seen more clearly than in the impact of the Bureau's first major rulemaking on remittances. More than half of the credit unions that offered remittances prior to the rule have either stopped offering this service to their members or have significantly reduced offering the service to stay below the low exemption threshold. Indeed, CFPB Director Richard Cordray himself noted at a recent hearing in the House Financial Services Committee that 96% of international remittances now run through large banks or nonbank providers, the very abusers from whom this rule was designed to protect consumers.[8] When a 'consumer protection' rule drives out safe providers and forces consumers into the hands of abusers, this is not consumer protection.

Because such one-size-fits-all CFPB rulemakings have harmed credit union members, the NCUA recently urged the CFPB to use its Section 1022 (b)(3)(A) exemption authority "whenever possible" given the credit union community's long history of serving their members and protecting consumers. The NCUA further stated, "Use of this permitted, yet underutilized, statutory authority is appropriate to address compliance costs and the unintended consequences of limiting access to affordable financial services for many millions of middle class credit union members through the enactment of needless regulatory burden."

In addition to the NCUA, 399 Members of Congress urged the CFPB to properly use its authority to exempt credit unions from regulations that were never intended to apply to them, and to ensure that regulations do not have the unintended consequences of limiting services or increasing cost for credit union members.[9]

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[6] National Credit Union Administration Comment Letter to CFPB in response to the CFPB's proposed rule for Payday, Small Dollar, and High Cost Loans, *available at* https://www.ncua.gov/newsroom/Documents/comment-letter-2016-oct-metsger-payday-rule.pdf (Oct. 3, 2016).

[7] National Credit Union Administration Letter to CFPB Concerning Compliance with CFPB Rules, *available at* https://www.cuna.org/uploadedFiles/CUNA/Legislative_And_Regulatory_Advocacy/Removing_Barriers_Blog/Removing_Barriers_Blog/Cordray%20CU%20Compliance%20with%20CFPB%20Rules%20Letter.pdf (May 24, 2017).

[8] CFPB Director Richard Cordray in response to a question by Representative Nydia Velazquez (D-NY) at a hearing entitled, "Semi-Annual Report of the Bureau of Consumer Financial Protection." (April 5, 2017).

[9] Letter from 329 U.S. Members of the House of Representatives to CFPB Director Richard Cordray, *available at* http://www.cuna.org/Legislative-And-Regulatory-Advocacy/Legislative-Advocacy/Letters-andTestimony/Letters/2016/Stivers-Schiff-Letter-w-signatures/ (Mar. 14, 2016); Letter from 70 U.S. Senators to CFPB Director Richard Cordray, *available at* http://www.cuna.org/Legislative-And-Regulatory-Advocacy/Legislative-Advocacy/Letters-and-Testimony/Letters/2016/160718-Letter-to-CFPB-on-Tailoring-Regulations/ (July 2016).

Further, the Small Business Administration Office of Advocacy additionally urged the CFPB to exempt credit unions from the CFPB's proposed small dollar loan rule.[10] It specifically outlined the economic impact of not doing so stating, "The CFPB's proposed rule may force legitimate businesses to cease operation. Imposing such a regulation will not alleviate a consumer's financial situation. The consumer will still need to pay his/her bills and other expenses. Imposing these strict regulations may deprive consumers of a means of addressing their financial situation."

Despite these loud and powerful voices encouraging the CFPB to exercise its Congressionally bestowed exemption authority, the CFPB has refused to listen. Therefore, we believe even further clarity about Congress' intent is prudent.

Congress conveyed the exemption authority for a reason: to make sure that the rules promulgated by the Bureau took into consideration the impact on small institutions, like credit unions and small banks. Congress understood then and we hope it understands now that a one-size-fits-all structure produces anti-competitive rules that disadvantage small providers, but rules which are tailored to the size and risk-profile of the institution allow them to continue to provide safe and affordable services to their members and customers. Consumers benefit when credit unions and other good actors spend fewer resources complying with rules meant to address other's bad behavior.

Sadly, consumers are paying the price for this anti-competitive rulemaking regime. In 2014, the impact of regulatory burden on credit unions and their members was $7.2 billion. This represented a 40% increase in compliance costs from 2010. Since 2014, significant new rulemakings have taken effect which will have undoubtedly increased the cost credit unions and their members are paying to comply with rules designed for abusers even more.

By more explicitly directing the CFPB to provide meaningful exemptions for institutions with a history of providing safe and affordable financial services, these institutions – credit unions and small banks – can take resources they intend to apply to superfluous compliance and invest them instead in their local communities. We urge Congress to enact legislation that exempts credit unions and small banks from all Bureau rulemakings unless, on an individual rulemaking basis, the Bureau demonstrates that a pattern of abuse exists that justifies application of a Bureau rule, and the Bureau receives the concurrence of the credit union and/or bank prudential regulators.

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[10] Small Business Administration Office of Advocacy Letter to CFPB in response to the CFPB's proposed rule for Payday, Small Dollar, and High Cost Loans, *available at* https://www.sba.gov/advocacy/10-07-2016-payday-vehicle-title-and-certain-high-cost-installment-loans (Oct. 7, 2016).

3. Reexamine the CFPB's UDAAP Authority

The CFPB's Unfair, Deceptive, or Abusive Acts or Practices (UDAAP) authority gives it the power to engage in nearly any policymaking desired, even in the absence of actual harm to consumers. For instance, in its proposed Payday and Small Dollar Loan rule, the CFPB is attempting to include consumer-friendly, credit union small dollar loan programs using this UDAAP authority.[11] The proposed rule imposes new, and extremely complex, requirements on credit unions despite little to no data suggesting these products have any pattern of harm to consumers. To the contrary, consumers have stated that credit union small dollar loans are often their safest and best option for credit.[12] My credit union has provided small dollar loans to our members for years to help them buy groceries, pay for health care, and pay the rent when they are short for the month.

Even the NCUA was concerned with the CFPB's overreaching proposal, and it sent its own comment letter urging the Bureau to exempt aspects of credit union lending from the rule.[13] The NCUA recently reiterated these concerns in a follow-up letter to the CFPB, specifically addressing its use of UDAAP authority.[14] The NCUA has also stated that the CFPB should provide clarity to credit unions with respect to UDAAP. Specifically, the agency expressed that "uncertainty regarding supervisory expectations can limit the ability of credit unions to provide the services sought by their members." The NCUA also expressed that there is no precedent for understanding the abusive prong of UDAAP, which can be broad.

When credit unions are operating without due process and do not have a clear picture of the rules they are operating under, we stop innovating and limit our products and services. The result is detrimental to our members and our communities. More clarity is needed about the CFPB's use of UDAAP authority, as this would be in the best interest of credit unions and their members.

Specific Changes to Strengthen Consumer Regulations

The 2008 financial crisis taught us that it is important to address the actions of financial services providers who are harming consumers. While the goal of the CFPB is to protect consumers, there are ways CFPB regulations could be better tailored to address the problem actors in the industry without impeding the ability of credit unions and other community financial institutions from continuing to operate and serve consumers.

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[11] Payday, Vehicle Title, and Certain High-Cost Installment Loans**,** 81 Fed. Reg. 47864, 47900 (July 22, 2016).
[12] Peace, Elizabeth. "Consumers Prefer Credit Unions to Payday Lenders," *Credit Union Times, available at:* http://www.cutimes.com/2015/07/28/consumers-prefer-credit-unions-to-payday-lenders (July 28, 2015).
[13] National Credit Union Administration Comment Letter to CFPB in response to the CFPB's proposed rule for Payday, Small Dollar, and High Cost Loans, *available at* https://www.ncua.gov/newsroom/Documents/comment-letter-2016-oct-metsger-payday-rule.pdf (Oct. 3, 2016).
[14] *Supra* note 9, NCUA Letter to CFPB.

In the past several years, since the creation of the CFPB, credit unions' ability to provide top quality and consumer-friendly financial products and services has been significantly impeded by a regulatory scheme which has favored the large banks and non-bank financial services providers that can afford to absorb regulatory and compliance changes. CUNA's recent Regulatory Burden Study found that in 2014, regulatory burden on credit unions caused $6.1 billion in regulatory costs, and an additional $1.1 billion in lost revenue. Even more alarming, these figures do not include the CFPB's recent regulatory additions to the Home Mortgage Disclosure Act (HMDA) and Truth in Lending Act/Real Estate Settlement Procedures Act Integrated Disclosure (TRID) requirements, which we believe have caused the greatest increase in compliance cost but have yet to be precisely measured. CUNA is in the process of updating the study to consider the impact of recently implemented regulations.

The CFPB regularly cites modest thresholds and accommodations it has provided in some mortgage rules and the remittances rule as proof it is considering the impact its rules have on credit unions and their members. And, the exemptions the CFPB provided for small creditors in the qualified mortgage/ability-to-repay underwriting rules were helpful to credit unions. Regrettably, the CFPB's efforts have not been sufficient and have not fully taken into consideration the size, complexity, structure, or mission of all credit unions. Below are regulatory changes that could be made to keep credit unions like mine operating and thriving in these markets. This nuanced policymaking can foster economic growth for credit unions and their members.

1. Home Mortgage Disclosure Act (HMDA)

The CFPB has acknowledged that credit unions maintained sound credit practices through the economic crises and did not engage in the practices that led to the crash of the housing market. Nonetheless, the HMDA rule penalizes credit unions where there has been no evidence of wrongful conduct. This makes little sense given credit unions' field of membership requirements.

The CFPB should modify the 2015 HMDA final rule to provide meaningful exemptions that will provide relief to credit unions. It will be difficult for credit unions to effectively participate in the mortgage lending market if they are forced out because of rules not tailored to their size or structure. While the 2015 HMDA final rule included exemption thresholds of 25 closed-end mortgages - 2 per month - and 100 open-end mortgages (HELOCs) - 2 per week - from HMDA reporting, this can hardly be described as tailoring the rule to minimize the impact on small entities given that prior to the rule, credit unions were not required to report HMDA data on HELOCs. The new HMDA reporting requirements are particularly troublesome since many credit unions process HELOCs on a consumer platform and mortgages on a different lending platform, a point that credit union leaders repeatedly raised with Bureau staff during the rulemaking process. The CFPB further

added to credit unions' regulatory burden by drastically increasing the number of data points they must report to a level well beyond the data points required by the Dodd-Frank Act.

CUNA's recent survey of credit unions showed that nearly one in four (23%) that currently offer HELOCs plans to either curtail their offerings or stop offering them completely in response to the new HMDA rules. We believe this is a conservative estimate since many credit unions have not fully turned their attention to implementing the new HMDA rules, given the other regulatory changes that have had their focus the past few years.

While the NCUA stated recently that there are several areas where relief is warranted for credit unions, it specifically identified HMDA as problematic. It urged the CFPB to significantly increase its exemption thresholds. Additionally, the NCUA expressed concerns that the CFPB is requiring the reporting of 14 additional data points beyond what was explicitly required in the Dodd-Frank Act. The NCUA stated, "the recording and submission of the additional data fields create a significant burden on credit unions," and it further urged the CFPB to exempt credit unions from this reporting requirement. The NCUA also points out the harm such arbitrary requirements could cause for consumers, stating, "While the Bureau may consider such additional data points as value added for economic modeling or other purposes, please consider the distinct economic burden places on the credit union community by this exercise."

Credit unions have provided an abundance of data to the CFPB showing that the thresholds for HMDA compliance do not provide enough regulatory relief. Congress should, therefore, encourage the CFPB to provide an exemption from reporting on HELOCs and a dramatic increase in the loan volume exemption threshold for closed-end mortgage loans. These changes would allow credit unions to continue to operate in the mortgage lending market and allow consumers to have more and safer choices. A more robust and competitive mortgage market with many participants benefits consumers most.

In addition, Congress should require the CFPB to make modifications to the rule so the required data points are limited to the enumerated data points in the Dodd-Frank Act. The Dodd-Frank Act enumerated data points are sufficient for purposes of identifying discriminatory practices and implementing the purpose of the rule.

Finally, Congress should require the CFPB to study the ramifications on privacy and the potential for identity theft before collecting any additional data points or making them public. The final rule also calls for the use of a "balancing test" by the CFPB yet does not otherwise indicate which fields will be made public. The CFPB should make modifications to the rule to clarify which fields will be made public and allow for notice and comment on the actual public data points.

2. Mortgage Origination Rules

In CUNA's recent survey of credit unions, 43 percent cited the CFPB's QM/ATR rule as most negatively impacting the ability to serve members with mortgage products. While the CFPB provided a "small creditor" exemption to certain provisions of this rule, it did not provide full relief for credit unions who in some instances were forced to change their product offerings. All credit unions, not just the very smallest, have a different operating structure than banks and for-profit lenders, and the regulatory changes implemented by the CFPB must reflect this difference. Modifications in these new underwriting rules for all credit unions would be appropriate to ensure they can continue to effectively serve their members.

Furthermore, credit unions agree that borrowers should have appropriate disclosures when buying a home, but the sweeping substantive changes made by the new TRID rules in addition to the Ability-to-Repay (ATR) underwriting requirements increase the regulatory burden on credit unions and create arbitrary barriers to homeownership. The CFPB should recognize credit unions are not predatory lenders but good faith partners for their members seeking to buy a home. Credit unions would support the following changes to the TRID framework, which would help us continue to operate in the current market.

First, origination waiting periods are harmful to consumers and lenders by delaying closings often not to the benefit of the consumer. We would support modifications to the rules to allow waiting periods to be waived. Congress should urge the CFPB to remove the required three-day waiting period prior to closings. This waiting period is disruptive to borrowers and credit unions alike, and can result in credit union homebuyers losing opportunities to other potential buyers, such as investors paying cash.

Second, credit unions would support a regulatory change that would allow a safe-harbor from TRID enforcement until it issues clear guidance and clarifies the technical and prescriptive TRID requirements. The rule should be modified to be principal-based instead of prescriptive.

Third, Congress should urge the CFPB to provide a definition for "residual income" in the TILA Regulation Z ATR requirements. The lack of a clear definition forces significant documentation requirements and creates unnecessary litigation and liability risk. This risk adversely affects consumers with less than meticulous credit records.

Fourth, the CFPB should make modifications to TILA regulations to allow for an ability to cure violations prior to the right to proceed with litigation.

Fifth, credit unions would support removal of the 2021 sunset for QM loans that are eligible for sale to the Government-Sponsored Enterprises (GSEs) to prevent market disruptions. The current exemption allows lenders to exceed the general requirement that QM loans have a debt-to-income ratio of 43%, an onerous standard. The exemption for GSEs assists in maintaining a functioning mortgage market.

In addition, credit unions would support revision of the loan originator compensation rules to narrow the overbroad definition of "loan originator." The definition, as currently written, is unclear and could potentially require registration of all employees of a credit union. Credit unions would also support clarification of assignee liability under the lending rules/statutes. This lack of clarity has the unintended consequence of causing the secondary market to reject loans because of possible technical, non-impactful errors. This is, in large part, due to the unclear interpretation of TILA/RESPA rules for which credit unions have requested additional guidance from the CFPB.

Finally, credit unions would strongly support increases to the tolerances for appraisal fees. The zero-tolerance requirement has caused problems and delays for credit unions and consumers.

3. Mortgage Servicing Regulations

The CFPB stated it has tailored its servicing rules by making certain exemptions for small servicers that service 5,000 or fewer mortgage loans. However, significant requirements under the servicing rules are excluded from the exemption and must be followed by large and small servicers alike. Small servicers remain subject to requirements related to successors-in-interest, force-placed insurance and in certain circumstances, early intervention requirements for borrowers in bankruptcy. CUNA continues to hear the most concerns about CFPB rules from the smaller credit unions whom the CFPB claims to have helped most through its thresholds.

Congress should urge the CFPB to provide a more complete exemption from these requirements for credit unions. First, the CFPB should change the language of the force-placed hazard insurance notice to include reference to a policy that provides insufficient coverage. Second, the CFPB should expand the small servicer exemption to fully exclude application of Regulation Z provisions to successors in interest, specifically provisions relating to disclosure requirements regarding post-consummation events, prohibited acts or practices and certain requirements for credit secured by a dwelling, mortgage transfer disclosures, and periodic statements for residential mortgage loans.

4. Remittances

The CFPB regularly cites the exemption to entities that provide fewer than 100 remittances annually as an example of regulatory relief to small entities. However, this exemption threshold—of just two transactions a week—is a prime example of one that has not provided significant relief to credit unions, as evidenced by the fact that half of credit unions offering remittances prior to the implementation of this rule have exited the market or reduced offerings. For credit unions to come back into, or continue to, participate in this market, the CFPB should re-propose this rule with an increased exemption threshold of at least 1,000. This would allow more credit unions to be exempt from the rule, providing consumers with more options.

5. Fair Debt Collection Practice Act (FDCPA)

When Congress enacted the FDCPA and for decades since, it recognized that including credit unions in a statute addressing abusive debt collection practices is unnecessary because credit unions are highly-regulated and supervised, and have longstanding relationships with their members. Since the enactment of the FDCPA, no subsequent law, including the Dodd-Frank Act, has changed this directive. As such, the CFPB should withdraw debt collection bulletins that attempt to use its UDAAP authority to place new requirements on creditors despite no statutory changes in the FDCPA or Federal Credit Union Act (FCUA). It is unclear what force of law CFPB bulletins have, and the lack of transparency surrounding them outside of the rulemaking process creates unclear requirements and due process concerns. The CPFB should also withdraw its bulletin concerning service providers. Again, a bulletin issued outside of the rulemaking process creates confusion and unclear guidance.

The CFPB issued a fair lending guidance bulletin unsupported by research or data. This guidance bulletin was also not issued through the normal course of the Administrative Procedures Act or the public rulemaking process. We are concerned with actions taken by the CFPB that circumvent the rulemaking process and rob us and our members of the opportunity to provide input. We, therefore, support the withdrawal of the CFPB's indirect lending guidance since it lacks transparency and has caused confusion about the CFPB's jurisdiction and interest in this market. Policymaking in this area should be open to the public and responsive to comments.

6. Payday and Small Dollar Loans

In the proposed payday and small dollar loan rule, the CFPB is attempting to sweep consumer-friendly credit union small dollar loan products and services into the rule using its UDAAP authority. It, unfortunately, proposes new and complex requirements on credit unions despite little to no data suggesting these products have any pattern of harm to consumers. To the contrary, consumers have stated that credit union small dollar loans are often their safest and best option for credit. Accordingly, Congress should urge the CFPB to exempt credit unions entirely from its proposed payday and small dollar loan rulemaking.

7. Voluntary Products

Federal credit unions are subject to the FCUA and TILA's Regulation Z, which are significantly altered by the CFPB's proposed new "All-in APR" calculation. Currently, federal credit unions typically view their loans under the TILA Regulation Z definition of cost of credit to determine what fees are finance charges, which does not include application fees, insurance, or other ancillary products within the cost of credit. Therefore, Congress should urge the CFPB to clearly delineate that ancillary products that are not required as part of the credit are not fees for the payment for the credit granted, and the fees are not finance charges for

purposes of Regulation Z. This will ensure that credit unions are not impeded from offering consumers the safest and most affordable insurance and other voluntary product options.

8. Arbitration

Credit unions are democratic organizations owned and controlled by their members. It is difficult to imagine a case in which class action litigation against a credit union would be the best course of action for credit union members, since it would put them in a position of having to sue themselves as owners. Accordingly, Congress should urge the CFPB to exempt credit unions from new arbitration requirements because of their unique member ownership structure in which class action litigation would lead to member harm.

9. Small Business Lending

Section 1071 of the Dodd-Frank Act amends the Equal Credit Opportunity Act to require financial institutions to compile, maintain, and submit to the CFPB certain data on credit applications by women-owned, minority-owned, and small businesses. This is one of the last remaining required rulemakings in the Dodd-Frank Act. Credit unions' unique and distinct memberships, as well as the statutory restrictions on credit union business lending and existing regulatory framework, would not coincide with the CFPB's plans for data collection and would likely result in data that does not portray a complete or accurate picture of credit union lending. Therefore, Congress should exempt credit unions from the Section 1071 requirements. Regulatory burden likely to be associated with this rule, particularly for small credit unions, would harm the ability of small business owners to obtain credit from their credit union.

10. Access to Financial Records

Per the CFPB, greater access to consumer data by data aggregation companies benefits consumers because it allows companies to innovate as they develop tools and services for consumers, such as personal financial management tools, credit decisions, bill payment, and fraud protection. Credit unions agree that some of the tools and services that rely on data aggregation are useful to consumers. However, the benefits of such practices are certainly not without serious risks. Accordingly, Congress should direct the CFPB to proceed carefully in the context of third-party access to consumer data. Credit unions are concerned with the very real threats to financial account providers, such as potential liability, and the potential harm to consumers. Such harm could result from unauthorized account access or authorized access by unscrupulous third-party aggregators.

Enabling Consumers to Achieve the Dream of Home Ownership

Housing is one of the largest sectors of the American economy and a key component of economic growth in many communities across the country. Many credit unions offer mortgages to satisfy member demand, and credit unions represent an increasingly significant source of mortgage credit nationally. In 2016, more than two-thirds of credit unions were active in the first mortgage arena, collectively originating over $143 billion worth of these loans – an amount equal to 7.5 percent of the total market. By comparison, in 1996 only 43 percent of credit unions were active and they originated a total of less than $20 billion in first mortgages. Moreover, credit unions are increasingly active participants in the secondary market. Whereas in 1996 only about 16 percent of mortgage lending credit unions sold loans into the secondary market, by 2016, nearly 30 percent of mortgage lending credit unions sold $56 billion into the secondary market, or 40 percent of total first mortgages originated.

Credit unions that elect to sell mortgages into the secondary market do so for a variety of reasons, but predominantly it is a tool to help them manage long term interest rate risk. Particularly today, with long term interest rates at or near historic lows, access to a highly liquid secondary market with relatively low transaction costs is vital for the health of credit union mortgage lending. Credit unions, therefore, have a deep interest in the structure of the housing finance system going forward, and support the creation of an efficient, effective, and fair secondary market with equal access for lenders of all sizes, which adheres to the following principles below.

1. Neutral Third Party

There must be a neutral third party in the secondary market, with its sole role as a conduit to the secondary market. This entity must be independent of any firm that has any other role or business relationship in the mortgage origination and securitization process, to ensure that no market participant or class of participants enjoys an unfair advantage in the system.

2. Equal Access

The secondary market must be open to lenders of all sizes on an equitable basis. Credit unions understands that the users (lenders, borrowers, etc.) of a secondary market will be required to pay for the use of such market through fees, appropriate risk premiums, and other means. However, guarantee fees or other fees/premiums should not have any relationship to lender volume. Additionally, I caution strongly against regimes that require lenders to retain significant amounts of risk beyond that represented by actuarially appropriate guarantee fees, as these risk retention arrangements may have a disproportionately negative impact on small lenders that are less able to manage such risk, and could therefore result in less consumer choice.

3. Strong Oversight and Supervision

The entities providing secondary market services must be subject to appropriate regulatory and supervisory oversight to ensure safety and soundness by ensuring accountability, effective corporate governance, and preventing future fraud. These entities should also be subject to strong capital requirements and have flexibility to operate well and develop new programs in response to marketplace demands.

4. Durability

Any new system must ensure mortgage loans will continue to be made to qualified borrowers even in troubled economic times. Without the backstop of an explicit federally-insured or guaranteed component of any revised system, credit unions will be concerned that private capital could quickly dry up during difficult economic times, as it did during the financial crisis, effectively halting mortgage lending altogether.

5. Financial Education

Credit unions have a noble history of offering a wide variety of financial counseling and other educational services to their members. Any new housing finance system should emphasize consumer education and counseling to ensure that borrowers receive appropriate mortgage loans.

6. Predictable and Affordable Payments

Any new system must include consumer access to a variety of products that provide for predictable, affordable mortgage payments to qualified borrowers. Traditionally, this has been through fixed-rate mortgages (such as the 30-year fixed rate mortgage), but other products that may be more appropriately tailored to a borrower's specific circumstances, such as certain standardized adjustable rate mortgages, should also be available.

7. Loan Limits

Our nation's housing market is diverse, with wide variation geographically and between rural and urban communities. Any new housing finance system should apply reasonable conforming loan limits that take into consideration local real estate prices in higher cost areas.

8. Affordable Housing

The important role of government support for affordable housing (defined as housing for lower-income borrowers but not necessarily high risk borrowers, historically provided through Fair Housing Act programs) should be a function separate from the responsibilities of the secondary market entities. The requirements for a program to stimulate the supply of credit to lower-income borrowers are not the same as those for the more general mortgage market. Credit unions believe a connection between these two goals could be accomplished by either appropriately pricing guarantee fees to minimize the chance of taxpayer expense, and/or adding a

small supplement to guarantee fees, the proceeds of which could be used by some other federal agency in a more targeted fashion in furtherance of affordable housing goals.

9. Mortgage Servicing

To ensure a completely integrated mortgage experience for member-borrowers, credit unions should continue to be afforded the opportunity to retain or sell the right to service their members' mortgages, at the sole discretion of the credit union, regardless of whether that member's loan is held in portfolio or sold into the secondary market. To lose control over this servicing relationship would be detrimental not only to a large majority of credit union member-borrowers, but could also result in fewer mortgage choices available to credit unions and their members, with higher interest rates and fees alike. Moreover, to the extent national mortgage servicing standards are developed, such servicing standards should be applied uniformly and not result in the imposition of any additional or new regulatory burdens upon credit unions.

10. Reasonable and Orderly Transition

Whatever the outcome of the debate over the housing finance system in this country, the transition from the current system to any potential new housing finance system must be reasonable and orderly to prevent significant disruption to the housing market which would harm homeowners, potential homebuyers, the credit unions who serve them, the nation's housing market, and economic growth.

Providing Credit Unions with the Tools for Success

Credit unions have a proven track record of being the responsible service providers and lenders in this country. Credit unions representatives, such as myself, believe there should be efforts made to remove barriers and provide more capabilities so we can continue to serve our members. We encourage Congress to use its oversight authority to monitor and encourage our prudential regulator, the NCUA, to continue with regulatory relief efforts all of which will help foster economic growth in local communities. As I have stated earlier in this testimony, it is the growth and health of local communities, like the ones my credit union serves, that contribute to the overall economic health of this country. Any effort to reduce the regulatory burden on credit unions will result in investment in their members through better rates on savings and loans, stronger capital positions, and the development of alternative financial products and delivery systems. We recommend Congress, through its oversight, monitor and encourage the NCUA to provide regulatory relief for credit unions on the following issues.

1. Appropriately Tailoring Rules for Credit Unions

Credit unions are member-owned not-for-profit cooperatives which inherently focus their purpose and existence on the benefit of their members. Our unique structure demands that the rules governing operations are

tailored to maximize the benefit to our member owners. As such, we urge Congress to encourage the NCUA to not mimic federal prudential banking regulators' rules designed for large banks owned by stockholders that bear little, if any, resemblance to a credit union. Rules should be properly tailored to recognize and account for the unique cooperative structure of credit unions.

2. Examination Flexibility

NCUA has adopted and is implementing an Examination Flexibility Initiative. Credit unions applaud the NCUA for these efforts which, if structured properly, will provide efficiencies and reduce costs to the agency, and reduce the examination burden on credit unions. This reduced regulatory burden will allow credit unions to focus their efforts and resources on their members. We urge Congress to monitor the progress of this effort and ensure that the technology upgrades and restructuring of the examination process and call report system ultimately result in budget efficiencies and reduced regulatory burden. As a further enhancement to these efforts, we urge Congress to encourage the NCUA to adopt the extended examination cycle for low-risk credit unions to those with $1 billion or more in assets. Currently, the extended examination cycle for low-risk credit unions is only available for those under $1 billion in assets.

3. Minimizing the Negative Impact of Accounting Standards on Credit Impairment on Credit Union Lending

Congress should ensure the NCUA works with credit unions to minimize the harmful effects the Financial Accounting Standards Board's (FASB) current expected credit loss (CECL) standard will undoubtedly have on their ability to lend to their members. The CECL standard will require credit unions and other financial institutions to forecast potential credit impairment using forward-looking information, as opposed to the current process of using historical data.

Application of CECL will have two impacts on credit unions: it will make the calculation of loan loss allowance accounts more complicated and costly, and it will require credit unions to hold more in those allowance accounts for any given loan portfolio. The NCUA has acknowledged that CECL will adversely affect credit unions' net worth ratios for any fixed level of credit risk exposure.

In the final standard, the FASB recognized that a one-size-fits-all approach is inappropriate in the context of determining credit losses. Specifically, the final standard contains language not included in the proposal that provides additional flexibility, stating there is no one methodology that entities must use in applying CECL. Further, the FASB stated its intent is that each institution applies the method appropriate for its portfolio based on the knowledge of its business and processes. Since the FASB is simply the accounting

standard setter, compliance with CECL will be assessed by the NCUA and the other federal financial regulators through the examination process.

Credit unions are required under the FCUA to follow U.S. generally accepted accounting principles (GAAP). However, the NCUA has significant latitude on how it applies these standards in the examination context. While application of CECL will in no way change economic reality, as noted above, it will result in lower apparent capital ratios at credit unions (and banks). Therefore, credit unions have repeatedly urged the NCUA to instruct examiners to make the appropriate adjustments in assessments of capital adequacy to minimize the negative impact on credit unions. To illustrate this, assume under the CECL approach a credit union's net worth ratio falls by 50 basis points. In such an instance, an examiner who otherwise might have suggested, for example, a 9% net worth ratio should now be satisfied with 8.5% which would provide the same level of loss absorption capacity as the previous 9%.

This scenario makes clear that the NCUA can adjust its processes in a way that minimizes the negative effect on credit unions' net worth ratios, which would likely translate directly into a decrease in consumer and business lending. Not only does the NCUA have the authority to reduce such harm, it can do so relatively easily and at no risk to the National Credit Union Share Insurance Fund (NCUSIF). Therefore, we urge Congress to work with the NCUA to ensure the agency takes appropriate steps to minimize effects of CECL that will have a real-life impact on credit union lending to their consumer- and business-members.

Further, while the standard's effective date is still several years away, the NCUA is scheduled to begin examining credit unions next year for CECL preparedness. Application of CECL will require credit unions to compile and analyze loan data at a level of granularity beyond what is currently the common practice. Thus, it is crucial that the NCUA provide credit unions with detailed guidance as soon as possible to educate them on the specific data they will be required to use for CECL. While the NCUA has stated its intention to release such guidance, credit unions are unable to proceed with preparation until they can study the compliance aid. Recognizing its importance, we ask Congress to encourage the NCUA to finalize and release this guidance as soon as possible.

4. Leverage Requirement

Under the FCUA, credit unions are subject to statutory capital requirements. For prompt corrective action purposes, a credit union must maintain a leverage ratio of 7% to be considered well-capitalized. This level is two percentage points higher than bank capital requirements. When the credit union requirement was set by Congress, credit unions were not subject to a Basel-style risk-based capital requirement. The new risk-based capital rule promulgated by the NCUA does follow a Basel approach. Therefore, a higher statutory

leverage requirement for credit unions is no longer necessary. Lowering the leverage requirement, supported by the new risk-based requirement, would provide regulatory relief for many credit unions and will allow credit unions to invest more in their members, fostering economic growth.

5. Corporate Stabilization Fund/NCUSIF

The NCUA is currently considering the process for winding down the Corporate Credit Union Resolution Program put in place during the height of the financial crises for five corporate credit unions conserved by the NCUA. The performance of the Corporate Stabilization Fund has improved dramatically as the economy and housing markets have recovered and the NCUA has obtained settlements from several of the investment banks that sold legacy assets to the corporate credit unions. Thus, credit unions have overpaid the projected final costs of the resolution and should receive refunds in the form of partial rebates of assessments and partial capital replenishment to members of some of the corporate credit unions. The assessment rebates will require a merger of the corporate stabilization fund and the NCUSIF. To accomplish the merger, NCUA will likely need to temporarily increase the normal operating level of the NCUSIF above 1.3% of insured shares. We urge Congress to monitor this transition ensuring that the increase in the normal operating level is not larger than necessary, that NCUA returns the normal operating level to 1.3% as soon as possible, and that credit unions receive rebates in a timely manner.

6. Elimination of the Loan Maturity Limit

Congress should consider lifting the loan maturity limit contained in 12 U.S.C. §1757(5) which limits maturities to 15 years. While the NCUA has limited authority to make exceptions to the 15-year limit (and it has chosen to do so), the statutory restriction still operates as an antiquated limit to some credit union lending, particularly Recreational Vehicle (RV), education, and other loans. Elimination of the loan maturity limit would allow for additional lending in these markets, which will foster economic development.

We Must Not Move One Step Forward, Two Steps Back

While credit unions support the changes offered in this testimony, there are other policy positions that have been considered that would not be in our best interest or the best interest of our members.

For example, credit unions are opposed to legislative changes to allow federal savings associations (S&Ls) to operate with the duties and responsibilities of national banks unless similar legislation enhancing the flexibility of the credit union charter are provided. This opposition is a matter of fairness and frankly, in the interest of good and consistent public policy. We are also opposed to legislative changes to eliminate a statutory cap on commercial lending for S&Ls, without eliminating credit unions' commercial lending cap.

While S&Ls were chartered for the specific purpose of mortgage lending, credit unions have been offering business purpose loans to their members for over 100 years. Since the beginning of the financial crisis, business loans have been the fastest growing loan type at credit unions; during this same period, commercial lending by S&Ls has decreased more than 17%. We disagree that either cap on business lending should exist in the first place. There are few more provident uses of credit than to start, maintain, or expand a business, and America's small businesses need more options to foster economic growth in this country. Credit unions have a long and rich history of serving their small business members well, but many credit unions that serve these members are staring the business lending cap straight in the face.

Credit unions also do not support any legislative change that would subject the NCUA, credit unions' prudential regulator, to the appropriations process. The money that funds the NCUA comes from credit unions, like mine, and their members, not the taxpayers in general. Maintaining a separate, independent federal regulator and insurer is critically important to the credit union system, and the structural and mission-driven differences between credit unions and banks necessitate such a regulatory scheme. Furthermore, credit unions are concerned that subjecting NCUA to the appropriations process could blur the independence of the agency and the credit union system, something we have fought hard to preserve. Credit unions and their members remain willing to pay for their own regulator provided there is sufficient transparency with respect to the agency's budget and the overhead transfer rate. Overall, with all the positive changes that could be made to help my credit union better serve consumers, this change would be a solution in search of a problem.

In addition, while credit unions support changes to the CFPB to make it a better, more focused agency, we do not support a legislative change that would remove the agency's authority to promulgate rules for and supervise the payday lending market, vehicle title loans, or other similar loans. The CFPB should be focusing on the lending activities of non-bank lenders rather than duplicating the supervision of highly-regulated and examined financial institutions. While we have significant concerns with the CFPB's proposed rule on small dollar loans, consumers could benefit from a regulatory approach that balances the need for access to credit with addressing consumer harms and predatory behavior. Our concern with the CFPB's small dollar rulemaking is that it would impede and discourage credit unions from offering member-friendly small dollar credit to consumers, depriving them of access to a safe and affordable alternative to entities with well-established histories of abuse. We encourage Congress to take a more measured approach to this issue that provides more protection to consumers, without unnecessarily limiting safe and affordable options in this market.

Furthermore, credit unions do not support legislative changes that would give banks with a leverage ratio more than 10 percent an exemption from "any federal law, rule or regulation providing limitations on mergers, consolidations, or acquisitions of assets or control, to the extent such limitations relate to capital or

liquidity standards or concentration of deposits or assets, so long as the banking organization, after such proposed merger, consolidation, or acquisition, would maintain a quarterly leverage ratio of at least 10 percent." Such a policy would provide very well capitalized banks an exemption from the 10 percent domestic deposit cap. Congress must consider the systemic risk this type of exemption would present, even if applied only to very well capitalized banks, as it could easily enable the very large banks to get substantially larger, increasing risk to the banking system and reducing consumer choice in the banking sector. As we have learned the hard way, policies that empower too-big-to-fail banks do not contribute to the economic growth of our country.

Finally, credit unions would not support legislative changes to repeal the Chevron deference doctrine of administrative law that gives federal agencies deference on their interpretations of statutes. The implications of such a policy change would prevent our federal regulators from doing the very job they were created to do. Credit unions need a regulator that understands their industry and their individual operations. The specialized expertise of independent agencies, when they are run by a bipartisan multi-member board, is critical to providing the regulated industry with policies to allow growth and prosperity. Federal agencies need the leeway to make decisions for their regulated entities within the confines of their statutory authority. There are alternative ways to monitor the policymaking of independent agencies, such as insuring the agencies are run by diverse group of decision-makers. Repealing the Chevron deference doctrine would not be the solution to agency overreach.

Conclusion

Thank you again for the opportunity to testify and be a part of this process. I take my role in the credit union movement, and as part of the economic environment, seriously. I believe we have an opportunity for success and greater economic growth if we make the right choices. And, these choices must not only benefit ourselves and our neighbors, but all Americans. Thank you for consideration of my views.