



Credit Union National Association

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**DANIEL A. MICA**  
PRESIDENT & CEO

601 Pennsylvania Ave., NW | South Building, Suite 600 | Washington, DC 20004-2601 | **PHONE:** 202-638-5777 | **FAX:** 202-638-7734

June 30, 2010

Members of the United States House of Representatives  
Washington, DC 20515

Dear Representatives:

On behalf of the Credit Union National Association (CUNA), I am writing regarding H.R. 4173, the Dodd-Frank Wall Street Reform and Consumer Protection Act. CUNA is the largest credit union advocacy organization in the United States, representing nearly 90% of America's 7,700 state and federally chartered credit unions and their 92 million members.

As we have said since the Administration first released its proposal to restructure the financial regulatory regime, consumers of financial products, especially consumers of products and services provided by currently unregulated entities, need greater protections and a consumer financial protection agency could be an effective way to achieve that protection, provided the agency does not impose duplicative or unnecessary regulatory burdens on credit unions. In order for such an agency to work, consumer protection regulation must be consolidated and streamlined; it should not add to the regulatory burden of those who have been regulated and performed well, such as credit unions.

While we oppose this legislation because of our concerns with Section 1075, regarding interchange fees, we believe that the remainder of the legislation provides for significant and timely reforms in a manner that is balanced. We appreciate all of the Members of the Senate and the House of Representatives who worked tirelessly to help this legislation achieve this balance.

#### **Bureau of Consumer Financial Protection**

As H.R. 4173 has made its way through the legislative process, CUNA has had several concerns, especially with respect to the Bureau of Consumer Financial Protection (CFPB). For the most part, we believe that our concerns have been addressed without adversely affecting the purpose of the legislation and intent of its proponents.

We sought to ensure that the credit union prudential regulator continued to supervise credit unions and enforce their compliance with consumer protection law. H.R. 4173 provides that credit unions with fewer than \$10 billion in assets will be examined by the National Credit Union Administration (NCUA) and will have the primary responsibility to enforce credit union compliance with consumer protection laws. The CFPB would be able to join NCUA in examination of credit unions on a sampling basis; and the Bureau would be able to enforce compliance when NCUA did not act in a timely manner. While we would have strongly preferred that all credit unions be subject to the same examination and enforcement regime, this arrangement represents a reasonable compromise.



PO Box 431 | Madison, WI 53701-0431 | 5710 Mineral Point Road | Madison, WI 53705-4454 | **PHONE:** 608-231-4000

We were also concerned with the funding mechanism for the Bureau. Since credit unions are already subject to supervision for compliance with consumer protection laws and fund that supervision themselves, we wanted to make sure that credit unions did not end up paying more for the new Bureau than they do currently do for such supervision. The funding mechanism in H.R. 4173 provides for the Bureau to be funded by the Federal Reserve Board of Governors. This mechanism will protect credit unions from paying more than they do today.

We also believed that in order for the Bureau to work, it must have as part of its objectives a responsibility to identify and address outdated, unnecessary and unduly burdensome regulations in order to reduce regulatory burden. We are very pleased with the provision in Section 1021 which addresses this issue.

Credit union representation in the Bureau's rulemaking was also a key credit union concern throughout the legislative process. With the addition of the Chairman of the National Credit Union Administration to the Financial Stability Oversight Council, the credit union regulator will be able to participate in the review of rules promulgated by the CFPB, ensuring that rules which may present safety and soundness concerns to credit unions are addressed, stayed or set aside.

The earlier versions of this legislation included a provision that would have permitted the Bureau to collect deposit account data. We opposed this provision because it would have increased the regulatory burden credit unions face. Further, the National Credit Union Administration began a similar data collection program in 2009, and we believe that this provision would have represented an unnecessarily duplicative requirement. We are pleased that this provision is not included in the Conference Report.

Finally, we note that none of the legislative proposals included a requirement suggested by the Administration that credit unions be required to offer a "plain vanilla" product to a member before offering a product that might better meet the member's need. We appreciate that this proposal was not accepted because credit unions regularly tailor products to meet the specific needs of their members; a plain vanilla requirement might have hindered this key member service.

### **Deposit Insurance**

We support and appreciate the language in H.R. 4173 that makes permanent the \$250,000 deposit insurance level under the National Credit Union Share Insurance Fund. This provision will help reinforce credit union member confidence in the safety of their deposits at federally-insured credit unions. We also support language to provide parallel insurance coverage for credit union business share accounts with bank business transactions accounts.

### **Remittances**

Throughout the legislative process, we have had concerns with the remittances provisions of this legislation because the definition of "remittances" was overly broad and captured transactions that are not generally considered remittances. We appreciate the consideration that Senators Akaka and Dodd, as well as the Department of Treasury, gave to our concerns. The language in the Conference Report provides two meaningful exceptions to the important disclosure requirements under Section 1073: an exception from the disclosure of the amount of currency received by the recipient when the transaction is made using an insured credit union provided that the credit union makes a good faith estimate of the amount; and an exception for international transfers when the recipient nation does not legally allow, or the method by which transfers are made in the recipient country does not allow, the amount of currency that will be received to be known at the time of the transfer.

These exceptions address our concerns with respect to the application of Section 1073 to international money transfers beyond what are generally considered remittance transfers.

### **Access to Financial Institutions**

We applaud the inclusion of Title XII, Improving Access to Mainstream Financial Institutions. This Title is similar to legislation offered by Senators Akaka and Kohl and will help increase low- and moderate-income Americans' access to mainstream financial institutions as an alternative to payday lenders. Promoting thrift is one of the core missions of credit unions. Credit unions throughout the nation are dedicated to developing and offering products that provide consumers affordable payday lending alternatives.

We believe that Title XII could increase the number of small-dollar loans made by qualifying credit unions and decrease consumer dependence on less scrupulous providers of short-term, small dollar loans, while at the same time having the added benefit of increasing consumer access to mainstream financial institutions.

### **Executive Compensation**

We understand the concerns some have regarding the effect compensation structures that encourage excessive risk-taking have on the safety of financial institutions and the economy. We applaud efforts to address these egregious practices. However, we oppose the language of Section 956, as it would apply to credit unions, because the provision is unnecessary and will add to an already overwhelming regulatory burden for credit unions.

The language is unnecessary because the credit union cooperative structure combined with strong compensation regulations already in place have resulted in credit unions being largely immune from both excessive and unsafe risk-taking and from the criticism assigned to for-profit financial services providers. Credit unions are unique, member-owned, not-for-profit, financial cooperatives, and they simply do not have the same operational motives as for-profit depository institutions. For example, stock options are simply not an option at credit unions. As a result, credit unions are risk-averse institutions operating in the best interest of their members. Further, the compensation structure of credit unions is not only less aggressive than the for-profit financial institutions, it is also more modest. According to our most recent survey of our members, the median salary for a credit union CEO is approximately \$71,000; the average salary is approximately \$93,000.

Also, NCUA already has compensation regulations in place that are designed to prevent the types of dangerous compensation structures that exist in other sectors. These include Section 701.21(c) of NCUA's Rules and Regulations, compensation prohibitions for officials and employees in connection with any loan or line of credit to members; Section 701.33, compensation prohibitions and other provisions regarding credit union board members; and Section 712.8, compensation prohibitions concerning credit union employees or board members from credit union service organizations in which the credit union has an outstanding loan or investment.

We will be working with NCUA to ensure that the regulation promulgated under this Section is not unduly burdensome on credit unions.

### **Interchange**

The credit union opposition to Section 1075 is well established and well founded. The provision was not originally proposed by the Administration; it was not included in the House-passed version of the bill and was not subject to hearings or a comprehensive debate. Moreover, the

interchange provisions upset the carefully constructed balance that the bill has achieved as it has progressed through the legislative process and have the potential to harm credit unions and their members. While there are other provisions of the bill with which we may have some concerns, the inclusion of this provision is the only reason that credit unions oppose H.R. 4173.

Notwithstanding our opposition, we recognize that the provision includes an intended carve-out for small issuers. Our concern with the amendment is that the carve-out will not work because there is no mechanism to ensure that it will and no incentive for the payment card networks to make it work. Still, the statements of Senator Durbin, Chairman Frank and others regarding the importance of the small issuer carve-out and the other small issuer protections in the amendment are important. As the Federal Reserve Board develops implementing regulations, we urge the continued involvement of the Members of the House and the Senate who have expressed opposition to the amendment or concern for the impact on small issuers.

All stakeholders and interested parties should encourage the Board and the payment card networks to follow-through on the Congressional intent that this amendment should not adversely affect credit unions and other small issuers. Unless the carve-out is made to work, we believe that credit unions and their members will be harmed by these provisions.

#### **Conclusion**

Nearly everyone recognizes that credit unions did not cause the financial meltdown and that they had no part in it; however, credit unions continue to be collateral damage, even in the proposed solutions, particularly with respect to interchange. We have worked with Congress and the Administration over the last year in an attempt to minimize the adverse impact that this legislation will have on credit unions and their members, while at the same time recognizing that consumers of financial products, especially those provided by currently unregulated entities, need greater protection. With the exception of the interchange provision which we strongly and vigorously oppose, H.R. 4173 strikes a careful balance in protecting consumers while providing meaningful financial reform.

On behalf of America's credit unions, we appreciate your consideration of our views.

Sincerely,

A handwritten signature in cursive script that reads "Daniel A. Mica". The signature is written in black ink and is positioned above the printed name and title.

Daniel A. Mica  
President & CEO