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Credit Union National Association
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December 9, 2009

Member of Congress
United States House of Representatives
Washington, DC 20515

Dear Member of Congress:

On behalf of the Credit Union National Association (CUNA), I am writing regarding H.R. 4173, the Wall Street Reform and Consumer Protection Act. CUNA is the largest credit union advocacy organization, representing nearly 90% of America's 8,200 state and federally chartered credit unions, and their 92 million members.

H.R. 4173 represents one of the most comprehensive and significant reforms to financial services law to come before Congress in the last eighty years. As this legislation has developed over the last six months, we have provided feedback and expressed concerns to Congress and the Administration regarding the Titles of H.R. 4173 which would create a consumer financial protection agency and create a dissolution fund for huge, failing, for-profit financial companies. We appreciate that several of our concerns have been given serious consideration by the House Financial Services Committee.

Consumer Financial Protection Agency (CFPA)
Unlike others in the financial services industry, credit unions have acknowledged from the beginning that consumers of financial products—especially consumers of products and services provided by currently unregulated entities—need greater protections. An agency with the primary mission of consumer protection could be an effective way to achieve that protection, provided it does not impose duplicative or unnecessary regulatory burdens on credit unions. Credit unions did not in any way contribute to the current financial debacle and their current regulatory regime, coupled with their cooperative structure, militates against credit unions ever contributing to a financial crisis.

In that vein, our message to Congress has been, essentially, "Don't throw the good out with the bad." In July, we identified several principles that we felt needed to be addressed in order for credit unions to be able to consider supporting the creation of a consumer financial protection agency. These concerns included the examination and enforcement of consumer protection regulation for credit unions, agency funding mechanisms, plain vanilla product requirements, credit union representation within the agency, and regulatory consolidation.

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We are pleased that the legislation does not include a "plain vanilla" product requirement. Our funding concerns have been essentially addressed with language that clarifies that credit unions will not pay more for examination and enforcement of consumer protection regulation than they currently pay. The Committee-approved bill includes language giving the Chairman of the National Credit Union Administration a set on the CFPA Advisory Board.

We continue to seek language that better ensures that the new agency will reduce regulatory burden and eliminate regulatory duplication, and in general simplify compliance with regulation. This is important to both credit unions and consumers alike, and simplifying regulations and reducing compliance burdens are not mutually exclusive goals. A single regulator of consumer protection law should be able to, and be required to, identify and eliminate the duplications that exist in current regulations promulgated by multiple regulators. One often mentioned example is the reconciliation of the requirements of the Real Estate Settlement Procedures Act, currently regulated by the Department of Housing and Urban Development, and Truth in Lending Act, currently regulated by the Federal Reserve Board. Other areas where different laws essentially require similar disclosures or impose compliance burdens certainly exist, and the CFPA should be explicitly directed by Congress to identify and eliminate these duplications.

Our final, and most significant, concerns with respect to the creation of the CFPA relates to the examination and enforcement of consumer protection law for credit unions. We are pleased that the Frank Manager's amendment includes language that would retain examination and enforcement authorities for credit unions with less than $10 billion in total assets with the federal agency having on-going examination authority over and expertise with credit unions. We greatly appreciate the Members of the Financial Services Committee that worked on this issue. The language of the bill allows the National Credit Union Administration "to examine, or require reports from," a federally insured credit union. CUNA assumes that this language means that NCUA, in fulfilling its obligations to the CFPA, will be able to rely upon the examinations done by state regulators for compliance with federal consumer protection laws for state chartered credit unions, similar to the statutory authority already provided to NCUA to accept examination reports from a state regulator for purposes of protecting the federal share insurance fund.

While we strongly prefer to have all credit unions subject to NCUA oversight under this legislation, the bill reported by the Committee does include language that permits the CFPA to delegate examination to NCUA even for credit unions above $10 billion in total assets. If this legislation becomes law, we hope that Congress will encourage the CFPA to exercise this authority with respect to credit unions so that the agency can rightly focus on the unregulated financial services providers.

Systemic Risk
Because of the relative size of credit unions, we believe no single credit union is large enough to impose any systemic risk on the overall financial system. Therefore, when the initial version of the systemic risk title was introduced, we were surprised to learn that credit unions might be included in legislation. And, we were deeply concerned that the members of credit unions, which are not-for-profit financial cooperatives, might be asked to pay into an insurance fund designed to dissolve huge, failing, for-profit financial companies.

We are grateful that the House Financial Services Committee passed the Sherman-Maffei amendment, which excludes any institution with assets below $50 billion from inclusion in the systemic risk dissolution fund. While we would have preferred that credit unions were excluded from the scope of this legislation by definition, the adoption of this amendment in Committee addressed our most significant concern with the systemic risk legislation.

Conclusion
Credit unions have approached the regulatory restructuring process with recognition that consumers needed greater protections as well as several significant concerns regarding how the legislation would affect credit unions' ability to continue to serve their members well. As the legislation has developed in the House, we have appreciated the Financial Services Committee taking into consideration our concerns and addressing several of them. While this legislation is not perfect, it has been significantly improved. We encourage the House to approve the Frank Manager's amendment which would increase the examination and enforcement threshold for credit unions in the CFPA title, to add language that would explicitly direct the CFPA to streamline and simplify regulation and disclosure, and to defeat extraneous and unrelated amendments.

On behalf of America's credit unions and their 92 million members, thank you very much for your consideration.

Sincerely,

Daniel A. Mica
President & CEO