CUNA
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November 6, 2007

The Honorable Barney Frank
Chairman
Committee on Financial Services
United States House of Representatives
2129 Rayburn House Office Building
Washington, DC 20515

The Honorable Spencer Bachus
Ranking Member
Committee on Financial Services
United States House of Representatives
2246 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Frank and Ranking Member Bachus,

On behalf of the Credit Union National Association (CUNA), I am writing regarding H.R. 3915, the Mortgage Reform and Anti-Predatory Lending Act of 2007, which you have scheduled for full committee consideration on November 6, 2007. CUNA represents nearly 90% of America's 8,400 credit unions and 87 million credit union members. We certainly appreciate the opportunity to provide our views on this legislation. We have referred the legislation to our Consumer Protection Subcommittee but offer these summary comments based on our preliminary assessment.

Given credit unions' member-owned, not-for-profit structure, it is not surprising that we would support efforts to eliminate predatory mortgage lending practices. It is also true that credit unions are heavily regulated in the area of mortgage lending and provide extensive disclosures to members seeking mortgage lending services to finance the purchase of their home. In fact, credit unions are subject to the same range of consumer protection laws that apply to banks, such as Truth-in-Lending, Home Mortgage Disclosure Act, Real Estate Settlement Procedures Act, Fair Lending and the Equal Credit Opportunity Act. To the extent credit unions make loans under the Home Equity Protection Act, they are also subject to those requirements.

In recognition of credit unions' history of favorable lending practices, and the range of mortgage finance and related regulations credit unions operate under, we believe some of the provisions in the legislation are more appropriately tailored for the mortgage brokerage industry. We address a number of those issues below. However, there are provisions in the legislation that we believe are appropriate for consideration for broader application, as long as the regulatory burden of compliance is minimized.

Reasonable and Good Faith Determination of Ability to Repay
Section 201 would require lenders to make a "reasonable and good faith"

determination that the borrower has the "ability to repay" the loan, based on the consumers' credit history, current income, expected income, current obligations, debt-to-income ratio, employment status and other financial resources other than the consumer's equity in real property. The bill also references "net tangible benefit" and "rebuttable presumption." While lenders have understandable concerns about a number of the subjective terms used in the bill that could lead to numerous lawsuits, we hope that such terms could be defined carefully by regulation.

Prepayment Penalties on Sub Prime Loans
Section 206 would prohibit prepayment penalties on "sub prime" loans, and require that all remaining prepayment penalties expire three months before a loan resets. This section would also prohibit the financing of single-premium credit insurance premiums and mandatory arbitration. CUNA supports these provisions, noting that federal credit unions are prohibited under the Federal Credit Union Act from charging prepayment penalties.

Prohibition of Certain Mortgage Lending Activities
We also favor several of the provisions of Section 302 including those which prohibit (a) prepayment penalties for HOEPA loans that are below the FHA loan limit; (b) balloon payments unless the payments are adjusted to the regular income of the borrower; (c) encouraging borrowers to default on an existing loan when refinancing their debt with a high-cost mortgage; (d) charging multiple late fees on the same delinquent payment and capping those fees at 4%; (e) unilaterally accelerating the loan; (f) structuring the loan to evade HOEPA protections; (g) making a high cost loan unless the borrower receives counseling; and, (h) modification and deferral fees, unless it is beneficial to the borrower. This section also includes language to prohibit the financing of points and fees. While we do not support a complete prohibition on the financing of points and fees, which at times can be helpful to the consumer if structured appropriately, CUNA could support important limitations on this activity.

Licensing and Registration
We do have concerns with the unintended consequences that would result for credit unions under Title I of the bill. These provisions would require the licensing and registration of depository institution employees who are involved in the mortgage loan process. We question the rationale for imposing this additional regulatory burden on federally-insured depository institutions, which are regularly examined for safety and soundness. We also note that Title I allows the federal financial institution regulators to impose fees in connection with maintaining the nationwide licensing and registration system, and will also impose requirements for fingerprinting and collecting additional employee information. All of this will impose significant additional costs on credit unions and other financial institutions, which

will be borne by consumers ultimately. We would urge the committee to reconsider whether this type of licensing is necessary for federally-insured depository institutions.

Study of Disclosures and Provisions
We also would encourage you to direct the Government Accountability Office to study how the disclosures and requirements of this legislation compliment disclosures and provisions that are currently required by law, and the extent to which these new requirements are duplicative and represent an additional regulatory burden for depository institutions. An example of concern are the provisions in Section 122 that will require additional disclosures of the comparative costs and benefits of the mortgage loans offered by the originator.

Thank you again for requesting our views on H.R. 3915 which contains several provisions to eliminate predatory mortgage practices and benefit the consumer. We look forward to working with the Committee on this legislation.

Sincerely,

Daniel A. Mica
President & CEO