Credit Union National Association
CUNA

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The Honorable Paul Ryan
Speaker
House of Representatives
Washington, DC 20515

The Honorable Nancy Pelosi
Minority Leader
House of Representatives
Washington, DC 20515

Dear Speaker Ryan and Leader Pelosi:

On behalf of America's credit unions, I want to express our strong support for S. 2155, the Economic Growth, Regulatory Relief and Consumer Protection Act. The Credit Union National Association (CUNA) represents America's credit unions and their 110 million members.

We applaud the good faith effort to pass common-sense regulatory reform legislation and will continue to work with Congress to advance similarly-spirited legislation. S.2155 is the result of months of deliberate bipartisan negotiations. The legislation includes several provisions supported by Republicans and Democrats in the House of Representatives and the United States Senate. And it enjoys the support of America's credit unions and small banks. This is true, targeted regulatory reform that will help Americans on Main Street, and it is the type of legislation that Congress should be proud to enact.

For these reasons as well as those outlined below, we urge Members of the House of Representatives to vote YES on this legislation and consider it a key vote for America's credit unions.

Section 101 – Minimum Standards for Residential Mortgage Loans
Section 101 would establish a safe harbor from certain requirements for a loan to be considered a Qualified Mortgage (QM) for purposes of the Ability to Repay rule for banks and credit unions under $10 billion in total consolidated assets, so long as that loan is held in portfolio by the originating institution or a qualifying transferee. The safe harbor would not apply, however, to loan products with interest-only or negative amortization features or prepayment penalties, or where total points and fees exceed 3% of the total loan amount. Additionally, the lender must still "consider and document the debt, income, and financial resources of the consumer," i.e., the borrower's ability to repay.

These changes are particularly appropriate because small, community-based financial institutions like credit unions often have specific knowledge about a borrower's financial situation, and may be able to better meet the borrower's need if they can tailor the loan product. Lenders that hold loans in portfolio have more than adequate incentive to ensure the borrower's ability to repay, because they retain all of the credit risk associated with the loan and they are subject to robust safety and soundness supervision from their prudential regulator. This provision will help credit unions, many of which are primarily portfolio lenders, continue to provide mortgage credit to their members, even in circumstances where rigid adherence to the one-size-fits-all QM rule would deny a member the opportunity to own a home.

Section 104 – Home Mortgage Disclosure Act Adjustment and Study
Section 104 of S. 2155 would rescind the additional data points required to be collected by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) for insured credit unions and depository banks that originate fewer than 500 closed-end mortgages and/or 500 open-end lines of credit (HELOCs) in each of two consecutive years. This provision would provide much needed relief, particularly for smaller credit unions, which otherwise must undertake significant expense to bring their systems into compliance with a rule that does very little – if anything –to provide credit union members with additional protection.

We are dismayed that the impact and effect of this provision has been distorted throughout the debate. Credit unions exist to serve their members; they have not and do not discriminate against borrowers. The additional HMDA requirements – particularly the new requirements on HELOCs, which operate on a different lending platform than closed end loans – increase the likelihood that small credit unions will exit the HELOC or first mortgage business because of the increased cost of compliance. This means that the very borrowers that HMDA is designed to ensure have equal access to credit may see a reduction in availability of credit. We find it hard to believe that those concerned with this proposal would welcome a scenario in which the failure to enact this provision would lead to reduced credit availability, but we believe that is a likely outcome.

What is most discouraging about the opposition to this provision is that ignores the facts. The fact is that if this provision is enacted into law, all the information mandated under Home Mortgage Disclosure Act (HMDA) prior to the enactment of the Dodd-Frank Act would still be collected and reported from all mortgage lenders. This includes “the number and dollar amount of mortgage loans and completed applications involving mortgagors or mortgage applicants grouped according to census tract, income level, racial characteristics, age, and gender.” In other words, the CFPB would still be collecting data to evaluate the racial or gender composition of borrowers who are approved or denied for a loan for a given financial institution, even those that originate fewer than 500 closed-end mortgages or HELOCs.

Moreover, the additional data required by the Dodd-Frank Act would still be collected for a significant percentage of loans originated. For example, based on 2016 call report data, credit unions originated 724,453 closed-end mortgages, but the full set of Dodd-Frank HMDA data would still be reported on 74% (537,322) of those loans (i.e., those loans made by credit unions that originate in excess of 500 mortgages annually).

This is a commonsense approach that ensures that the government has a clear view of fair lending activity in the mortgage market without imposing overly burdensome and expensive regulatory requirements on the small lenders in the market.

Section 105 – Credit Union Residential Loans
Section 105 presents a simple fix, based on consistency and fairness, that could significantly reduce constraints and free up billions in capital for economic development. 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. Credit unions that make such loans, however, are forced to classify these as business loans. S. 2155 would correct this disparity by providing consistency in treatment between banks and credit unions, allowing substantially more capital investment in affordable rental housing. We estimate that up to $4 billion in capital could be freed up by this simple change. Including this provision along with others aimed at community financial institutions demonstrates recognition that credit unions play an important role in delivering economic prosperity for millions of American families.

Section 109 – No Wait for Lower Mortgage Rates
Section 109 removes the three-day wait period required for the combined TILA/RESPA mortgage disclosure if a creditor extends to a consumer a second offer of credit with a lower annual percentage rate. This additional waiting period, even when the benefit of a lower rate inures to the borrower, has never made sense, and has significantly delayed closings for many credit union borrowers.

Additionally, Section 109 would express the sense of Congress that among other things, the CFPB should clarify "the extent to which lenders can rely on model disclosures published by the Bureau of Consumer Financial Protection without liability if recent changes to regulations are not reflected in the sample TRID Rule forms published by the Bureau of Consumer Financial Protection." Reliance upon model forms provided by the very agency tasked with monitoring compliance with the TRID Rule is entirely reasonable, and we strongly support this provision.

Section 213 – Budget Transparency for the NCUA
Section 213 would provide additional transparency with respect to the budget process of credit unions' prudential regulator, the National Credit Union Administration (NCUA). Under this provision, the NCUA would be required to make publicly available a draft of their proposed budget, hold a hearing with public notice during which this draft would be discussed, and solicit and consider public comment about the draft budget. Given that the NCUA is funded entirely by credit union user fees, this transparency and opportunity to provide feedback is highly appropriate, and CUNA strongly supports this provision.

Section 216 – Treasury Report on Risks of Cyber Threats
We are also pleased that Section 216 would require the U.S. Department of Treasury to conduct a study on the risks that cyber threats may pose to financial institutions. Particularly in light of recent data breaches, which cause tremendous disruption and impose significant costs to credit unions, we applaud this effort to try to understand those risks more fully and potentially how to mitigate them across the financial services sector.

Section 301 – Protecting Consumers' Credit
In the wake of countless recent breaches of personal data at various major retailers and other entities, it is more important than ever that consumers have the ability to effectively monitor and maintain the integrity of their credit file. Section 301 would help consumers by directing the credit bureaus to keep fraud alerts in credit reports for at least a year when a consumer indicates they may have been a victim of identity theft or fraud. This section would also permit consumers to institute an unlimited number of security freezes to protect themselves from potential identity theft.

Section 302 – Protecting Veterans' Credit
Veterans have just as much right to an accurate credit report as everyone else, particularly where potentially negative information on their report results from inaccurately reported medical debt from medical services they may have received. Section 302 would help protect veterans' credit by excluding and removing inaccurate information about veterans' medical debt from their credit file.

Section 303 – Immunity from Suit for Disclosure of Financial Exploitation of Senior Citizens
Many credit unions provide a full range of financial services, including financial management, retirement planning, and credit counseling to their members, including seniors and their families. Credit unions also provide elder abuse information and additional resources to help consumers. The member-owner relationship between the credit union and its members puts credit union employees in a key position to detect suspicious activity around senior accounts because employees often know the members well. However, in some cases certain

privacy laws make it difficult, or in some cases impossible, for employees to ring the alarm bell when exploitation is suspected.

Section 303 tells credit union and bank employees very clearly: if you see something, say something. It provides a safe harbor for properly trained financial employees who report alleged elder financial abuse. This represents an important step toward improving protections for seniors.

Section 307 – Property Assessed Clean Energy Financing

Finally, section 307 addresses long-held concerns about Property Assessed Clean Energy (PACE) loans—that the same consumer protections in place with respect to mortgage lending are nonexistent for PACE loans. Much work remains to be done in states with PACE programs to ensure these liens are recorded appropriately relative to the underlying mortgage, and CUNA continues to advocate against expansion of the PACE programs in states where they do not already exist. Meanwhile, at the federal level, this provision would provide significant clarity to homeowners evaluating whether a PACE loan is appropriate for their situation.

Conclusion

On behalf of America's credit unions and their 110 million members, we thank you for your consideration of these views, and look forward to working with you in the days and weeks to come to secure passage of this important legislation. We encourage Members to vote YES on this key credit union vote.

Sincerely,

Jim Nussle
President & CEO