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The Honorable Jeb Hensarling
Chairman
Committee on Financial Services
House of Representatives
Washington, DC 20515

The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
House of Representatives
Washington, DC 20515

Dear Chairman Hensarling and Ranking Member Waters:

On behalf of America's credit unions, I am writing regarding the House Financial Services Committee's legislative agenda for the remainder of the 115th Congress. The Credit Union National Association (CUNA) represents America's credit unions and their 110 million members.

We thank the Senate and the House for passing S. 2155, the Economic Growth, Regulatory Relief and Consumer Protection Act, and look forward to the President signing this bill into law very soon. Congress should be proud to have enacted this commonsense and targeted regulatory relief bill on a bipartisan basis. But, more needs to be done to ensure that consumers and small businesses that rely on credit unions and small banks to for access to credit can continue to receive those services safely and affordably.

Bureau of Consumer Financial Protection

Although S. 2155 made amendments to the Dodd-Frank Wall Street Reform and Consumer Protection Act, it was not a Dodd-Frank Reform bill and it did not address the fundamental issues related to the structure of the Bureau of Consumer Financial Protection (BCFP). We renew our call on Congress to replace the BCFP Director with a multi-member, bipartisan commission.

A BCFP commission has been supported by Democrats and Republicans over the years. It was the model that then-Harvard Law Professor Elizabeth Warren first proposed and it was included in the original proposals from the Obama administration. In the early years of the Bureau, Republican Members of Congress, including Chairman Hensarling, supported legislation to create a BCFP commission. While Democrats and Republicans have supported a commission over the years, both parties have walked away from their support and consumers have been the losers as a result.

The Bureau's unique structure places too much power in the hands of a single individual and that is the key reason the BCFP is the most politically charged federal governmental agency. Consumers deserve better from a consumer protection agency than for it to be a partisan lightning rod whose power goes unchecked and whose rulemaking and supervision priorities are sensitive to political winds. Congress erred when it established the Bureau with a single director and consumers need Congress to correct that error by enacting legislation to install a bipartisan, multi-member commission. We urge the Committee to consider such legislation.

Regulatory Relief

We look forward to working with the House Financial Service Committee to continue to work on regulatory relief legislation, and encourage Congress to enact several bills that have received wide bipartisan support.

- **H.R. 1116, the Taking Account of Institutions with Low Operation Risk (TAILOR) Act**, which would require federal regulatory agencies to tailor regulations to fit the business model and risk profile of institutions instead of imposing one-size-fits-all mandates across the board, allowing credit unions to focus more resources on providing services;
- **H.R. 2396, the Privacy Notification Technical Correction Act**, which would update the Gramm-Leach-Bliley Act to update the exception for certain annual notices provided by financial institutions and thereby provide credit unions the flexibility they need to ensure members have access to the relevant sections of the credit unions' privacy policy;
- **H.R. 2706, the Financial Institution Consumer Protection Act**, which would specify that government agencies cannot request or order a financial institution to terminate a customer account for reasons of reputational risk as such tactics could create unnecessary risks to consumers and the economy;
- **H.R. 3072, the Bureau of Consumer Financial Protection Examination and Reporting Threshold Act**, which would increase the threshold figure at which credit unions and banks are subject to direct examination and reporting requirements of the Bureau of Consumer Financial Protection (BCFP) from \$10 billion to \$50 billion and, as a result, enable the CFPB to focus its supervisory resources on institutions with a history of causing consumers problems;
- **H.R. 3299, the Protecting Consumers' Access to Credit Act**, which would amend the Federal Credit Union Act, among others, to state loans that are valid when made as to their maximum rate of interest in accordance with federal law shall remain valid with respect to that rate regardless of whether a bank has subsequently sold or assigned the loan to a third party;
- **H.R. 3911, the Risk-Based Credit Examination Act**, which would amend the Securities Exchange Act of 1934 to allow the Securities and Exchange Commission to perform risk-based examinations of the Nationally Recognized Statistical Rating Organizations (NRSROs) and reduce compliance burdens for financial services providers;
- **H.R. 4545, the Financial Institutions Examination Fairness and Reform Act**, which would facilitate examination transparency and consistency for credit unions and other financial institutions; and
- **H.R. 5078, the TRID Improvement Act**, which would amend the Real Estate Settlement Procedures Act to require the BCPF to allow the accurate disclosure of title insurance premiums and any potential available discounts to homebuyers. This would benefit credit unions and consumers, who would have easier access to potential discounts.

NCUA's Risk-Based Capital Rule

Credit unions also want to work with the Committee on efforts related to the National Credit Union Administration's (NCUA) risk-based capital standards. Credit unions throughout the United States have expressed their significant concerns with the standards and many of these concerns pertain to whether NCUA has legal authority to impose the requirements. In addition, credit unions have a particular concern with risk-based capital standards for the purpose of determining whether a credit union is well-capitalized as the Federal Credit Union Act permits the NCUA to impose a risk-based standard for the purpose of determining capital adequacy only.

Credit unions also have significant concern with the additional regulatory burden imposed by these standards, and question whether the cost is justified. Our analysis shows that it would have done very little to reduce costs to the National Credit Union Share Insurance Fund (NCUSIF) had it been in effect during the most recent financial crisis. The current Prompt Corrective Action (PCA) system served very well during that crisis, with relatively few credit union failures. If a goal of a PCA scheme is for covered institutions to hold sufficient capital to withstand a severe financial crisis without imperiling the deposit insurance fund, credit unions' performance during the recent financial crisis stands as compelling evidence that a major overhaul of current credit union capital requirements toward a Basel-style system is simply not required.

CUNA supports H.R.5288, To delay the effective date of the rule issued by the National Credit Union Administration titled "Risk-Based Capital," which would postpone the risk-based capital rule for a period of two years, pushing back the rule's effective date from January 2019 to January 2021.

America's credit unions—nearly half of which employ fewer than five full-time employees and hold less than \$20 million in assets—were neither responsible for nor participatory in the risky financial activities that predicated the 2008 financial crisis and the ensuing regulatory capital and liquidity response. The risk-based capital rule continues to be a solution in search of a problem. We urge the Committee to consider legislative proposals to address this issue.

BSA/AML Compliance

CUNA supports efforts to track money laundering and terrorist financing, and looks forward to working with the Committee to strike the right balance between the costs to credit unions, and the benefits to the federal government from the Bank Secrecy Act (BSA), AML (Anti-Money Laundering), and Office of Foreign Assets Control (OFAC) regulations. As such, CUNA supports legislative and regulatory changes to address the redundancies, unnecessary burdens, and opportunities for efficiencies within the BSA/AML statutory framework.

Data Security

It is critical for Congress to address the weaknesses in law that permit and perpetuate merchant data breach. We urge the Committee to develop and pass legislation that includes:

- A strong national data security standard that requires all businesses to protect and safeguard information;

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- A requirement that a breached entity timely notify consumers, law enforcement and other agencies as appropriate; and
- Requirements that the breached entity is made responsible to others in the payments ecosystem for losses and other damages that are the result of a data breach.

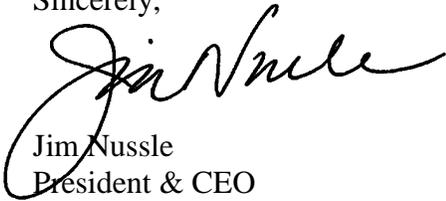
Simply put, the merchants that accept cards for payment ought to be held to the same standards as the credit unions and banks that issue cards. Subjecting merchants to Gramm-Leach-Bliley Act standards will go a long way to reduce the instances of merchant data breach and protect consumers' personal financial information.

Conclusion

We applaud Congress for the enactment of S. 2155 and urge you to continue to work to make sure that the credit unions and banks serving Main Street are able to do so in a regulatory environment that is tailored to the size and complexity of their institutions.

On behalf of America's credit unions and their 110 million members, thank you for considering our views.

Sincerely,



Jim Nussle
President & CEO