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The Honorable Maxine Waters
Chairwoman
Committee on Financial Services
United States House of Representatives
Washington, DC 20515

The Honorable Patrick McHenry
Ranking Member
Committee on Financial Services
United States House of Representatives
Washington, DC 20515

Dear Chairwoman Waters and Ranking Member McHenry:

On behalf of America's credit unions, I am writing to express our views on four measures, including three related to the Fair Debt Collection Practices Act (FDCPA), the Committee plans to consider this week. The Credit Union National Association (CUNA) represents America's credit unions and their 115 million members.

H.R. 2445 – Self-Employed Mortgage Access Act

H.R. 2445 would expand homeownership opportunities for self-employed consumers by allowing financial institutions to rely on standards other than Appendix Q to verify a consumer's income. Credit unions have consistently urged the Consumer Financial Protection Bureau (CFPB) to allow alternative methods for income verification given the practical difficulties faced by many consumers in satisfying Appendix Q's requirements. Accordingly, CUNA supports H.R. 2445 and the effort to provide consumers with reliable, yet more practical, options to verify self-employed income when attempting to obtain a mortgage.

Legislation Related to the Fair Debt Collection Practices Act

The Fair Debt Collection Practices Act (FDCPA) was enacted to establish guidelines and limitations on the practices of third-party debt collectors. Congress limited the scope of the FDCPA to third-party collectors, recognizing that the relationship that exists between creditors and borrowers incentivizes creditors to maintain goodwill with their customers or members in order to maintain an ongoing banking relationship with the consumer long after the collections process has been concluded. The dynamics that lead Congress in 1977 to limit the scope of this legislation to third-party collectors with no ongoing relationship with debtors have not changed over the years.

We appreciate that none of the bills under the Committee's consideration would expand obligations and restrictions on third party collectors to first party collectors. However, credit unions and other first party collectors have interest in some of these bills inasmuch as they may retain third party collectors under certain circumstances and to the extent that some of the bills may jeopardize consumers' ability to receive critical information regarding their debts.

H.R. 4664 – Monitoring and Curbing Abusive Debt Collection Practices Act

H.R. 4664 includes a provision that would prohibit the CFPB from finalizing a rule that permits collectors to send unlimited emails and text messages.

Communications have evolved significantly since the enactment of the FDCPA. Today, email and text communication are not only widespread, they are also the preferred communication method for many consumers. A consumer with a smartphone today could very reasonably receive dozens of notifications, including email and text message notifications, that provide important information on various topics and issues of relevance to the consumer. The CFPB has recognized, and commonsense confirms, that consumers ultimately benefit when they have real-time information regarding loan modifications, repayment schedules, and financial wellness. It is in consumers' interest to receive timely and accurate information regarding their financial matters, and to have a

convenient method by which to communicate with lenders and collectors. Credit unions, banks, collectors and others are meeting consumers where they are when they use these methods to interact with consumers.

Consumers should be protected from inaccurate or abusive communications related to debts, regardless of their form. However, this legislation is a solution in search of a problem because the CFPB has not proposed to allow unlimited text or email communications. Rather, the proposed rule provides debtors with considerable choice in terms of how they may be contacted. A consumer that does not want to receive text or email communications from a collector would have the ability under the proposed rule to opt-out. While this legislation is unnecessary, it could set a harmful precedent if such a limitation was applied to other communications between a consumer and financial service provider.

H.R. 5013 – Small Business Fair Debt Collection Protection Act

H.R. 5013 would expand the FDCPA to cover “small businesses,” as defined in a future rulemaking from the CFPB. We are concerned that this legislation would expand the scope of the FDCPA without making accommodations for the differences between small business and consumer lending and collections.

The FDCPA was enacted to establish guidelines and restrictions on the third-party collection practices of consumer debts. Expanding the scope of the law as envisioned in H.R. 5013 would disrupt the small business lending ecosystem and add to the total regulatory costs of entities operating in the small business lending space.

We hope Congress will focus on measures to expand lenders’ opportunities to serve the small businesses in their community rather than hampering lenders and the collections process with more red tape.

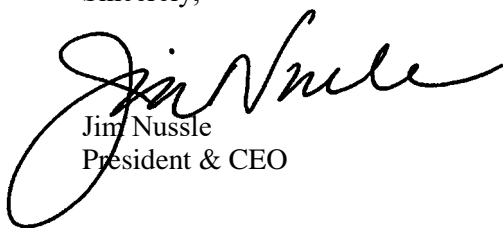
H.R. 5001 – Non-Judicial Foreclosure Debt Collection Clarification Act

H.R. 5001 would expand the FDCPA to cover non-judicial mortgage foreclosures. CUNA is concerned the expansion of the FDCPA to non-judicial foreclosures could create conflict between state and federal law, expose mortgage servicers to increased FDCPA liability, and produce regulatory compliance challenges for entities enforcing security interests.

Conclusion

We appreciate that the Committee is considering the views of community-based financial institutions during the mark-up process. On behalf of America’s credit unions and their 115 million members, thank you for the opportunity to share our views.

Sincerely,



Jim Nussle
President & CEO