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May 11, 2021

The Honorable Chuck Schumer
Majority Leader
United States Senate
Washington, DC 20515

The Honorable Mitch McConnell
Republican Leader
United States Senate
Washington, DC 20515

Dear Leader Schumer and Leader McConnell,

On behalf of America's credit unions, I am writing in support of the Congressional Review Act (CRA) resolution to overturn the Office of the Comptroller of Currency's (OCC) "True Lender" rulemaking. CUNA represents America's credit unions and their more than 120 million members.

In what appears to be a blatant attempt by an unelected regulatory agency to weaken state laws, in July 2020, the OCC issued a Notice of Proposed Rulemaking (NPRM) related to determining the "true lender" in partnerships between national banks and third parties, including marketplace lenders. Under the proposal, a national bank would be considered the true lender of the loan if, as of the date of origination, it is named as the lender in the loan agreement or funds the loan.

CUNA has significant concerns with the "true lender" proposal as it could be exploited to promote "rent-a-charter" arrangements between payday lenders and national banks, which can be used to evade state restrictions on high interest rates or loan terms. We believe the OCC's final rule is not in the best interest of consumers and should be withdrawn. Instead, the OCC, in coordination with its sister banking regulators, should focus its relief efforts on facilitating and promoting the fair and reasonable loan options that are offered by local-community based lenders like credit unions.

CUNA has long held the position that similar products and services should be regulated similarly so that consumers protection runs with a product or service, not with the entity providing the products or service. Credit unions and banks are subject to most of the same consumer protection laws. While not perfect, these requirements help protect consumers. Unfortunately, clever fintechs and others can use partnerships with banks and possibly a banking charter to avoid consumer protections with the approval of the OCC.

That said, CUNA supports the CRA resolution and believes it is the right course of action. A reversal by the OCC could be challenged in court and divert resources from the OCC. Additionally, it could take years for the OCC to promulgate a new rulemaking. Furthermore, it is unclear if the next Comptroller would be even be willing to reverse the rule.

On behalf of America's credit unions, thank you for your leadership in bringing this important legislation to the floor.

Sincerely,

A handwritten signature in black ink that reads "Jim Nussle".

Jim Nussle
President & CEO