America's Credit Unions

Testimony of

Ana Fonseca
President & CEO
Logix Federal Credit Union

On behalf of
America's Credit Unions

Hearing: "A New Era for the CFPB: Balancing Power and Reprioritizing Consumer Protections"

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Executive Summary

Credit unions, such as Logix FCU, are inherently different from the unregulated entities and bad actors that the Consumer Financial Protection Bureau (CFPB) was created to address. Our member-owned cooperative structure makes credit unions the original consumer protectors. Still, credit unions find themselves subject to the rules, burdens and costs associated with being regulated by the CFPB. For an institution like Logix, crossing the arbitrary $10 billion threshold that subjects us to greater CFPB scrutiny has a cost that takes millions of dollars away from programs to serve our members.

Recent years have seen the CFPB focus less on its statutory mission and become more focused on changing the marketplace in a politicized fashion. Change needs to come to consumer protection, and we believe the time for Congress to act is now. Should Congress decide to maintain the CFPB and reform it, we would recommend a series of legislative changes that include:

- Moving the leadership to a bipartisan commission
- Increasing Congressional oversight of the CFPB
- Providing greater clarity on UDAAP
- Expanding and clarifying exemptions for credit unions from the CFPB
- Increasing CFPB usage of cost-benefit analysis and SBREFA panels
- Reforming the Civil Investigative Demand (CID) process

These statutory changes and clarifications should be combined with a renewed focus and commitment from the Bureau to be a data driven organization that focuses on its specific statutory obligations to protect consumers from unregulated entities and bad actors operating in the financial system. New CFPB rulemaking should follow principles that will help ensure this approach.

Consumer protection in financial services is important, and we applaud the Subcommittee for beginning this difficult discussion on how to reform and improve the CFPB moving forward to prioritize consumer protection.

Introduction

Good morning, Chairman Barr, Ranking Member Foster, and Members of the Subcommittee. My name is Ana Fonseca, and I am testifying today on behalf of America's Credit Unions. I currently serve as the President and CEO of Logix Federal Credit Union headquartered in Valencia, California. I have worked in the credit union industry for over 35 years, including 33 years at Logix as the COO, CFO, and, for the last 6 years, as the President and CEO. America's Credit Unions is the voice of consumers' best option for financial services: credit unions. The association advocates for over 4,000 institutions who serve their over 142 million members nationwide. I thank you for the opportunity to share my experiences and concerns as a credit union CEO with you today.

About Logix FCU

Logix was founded as the Lockheed Aircraft Employees Federal Credit Union in 1937, during the height of the Great Depression. Twelve charter members started the credit union, which was originally located on the grounds of Lockheed's Burbank facilities. The efforts of those founding members allowed Lockheed employees access to credit when bank loans were unavailable and provided a secure place for savers to deposit their money, with the greater benefit of helping fellow Lockheed employees. This cooperative banking structure remains the core of our organization today even though we expanded to serve groups beyond Lockheed Martin and now have over 253,000 members and $9.8 billion in assets. Today Logix operates 18 branches in the San Fernando, San Gabriel, Santa Clarita, and Antelope valleys, as well as eastern Ventura County.

At Logix we pride ourselves on our focus on programs to serve our members. This is just part of the credit union difference. We offer our members great rates and flexibility on fees. For example, as part of our courtesy pay or overdraft program, we allow the member the ability to cure an overdraft on the same day it occurs, and do not charge a fee for nominal overdrafts under $5.00. We are there to help as well. During the recent devastating wildfires in our area of California, we launched a special website and programs to help our members impacted by the fires that included providing emergency access to cash, fee waivers, low-interest loans, and payment deferrals.

Additionally, our focus on members over profits has allowed us to return nearly $10 million in bonus dividends to our members in recent years as they benefit from our success.

However, we are concerned as we approach the "magical" arbitrary $10 billion threshold that will subject my credit union to even greater regulatory scrutiny and examination by the CFPB. We expect to cross this threshold in 2026, and it will pose additional costs and challenges, despite us

maintaining the same focus we have always had on serving our members and helping them thrive.

Logix's journey to meet CFPB compliance as a $10 billion institution has placed a significant burden on operations and has required extensive audits, significant costs, and substantial staffing increases. According to our own internal analysis, we face operational and financial challenges, including $517,000 for CFPB Exam Readiness Reviews, annual compliance software costs of $300,000, and an annual budget of $200,000 for compliance audits and legal services. We expect our compliance staffing will increase by at least 30 employees, which translates to an annual staffing cost increase of $3.3 million a year once we cross the $10 billion threshold. These added costs are particularly burdensome given the estimated $10 million (and growing) in lost annual interchange revenue as a result of the Durbin Amendment's limitation on interchange fees for institutions with more than $10 billion in assets. With such a significant decrease in revenue, combined with a substantial increase in CFPB compliance-related expenses, our ability to deliver the superior value our members have come to expect over the past 88 years will be severely impacted.

Background on Credit Unions

Credit unions serve a unique function in the delivery of necessary financial services to Americans. Credit unions are the original consumer financial protectors because of our not-for-profit, member-owned cooperative structure that aligns the interest of the credit union with its members. Member-ownership and not-for-profit status results in a wide range of pro-consumer credit union behaviors. Credit union members across the country recognize the real measurable "transformative power" associated with cooperative finance.

Every credit union is a cooperative institution organized "for the purpose of promoting thrift among its members and creating a source of credit for provident or productive purposes" (12 § USC 1752(1)). Congress established the federal credit union system as an alternative to banks and to meet a precise public need—serving those that banks left behind—and today credit unions provide financial services to over 142 million Americans. Since President Franklin D. Roosevelt signed the Federal Credit Union Act (FCU Act) into law nearly 91 years ago, two fundamental principles regarding the operation of credit unions remain every bit as important today as in 1934:

1. Credit unions remain totally committed to providing their members with efficient, low-cost, personal financial services; and
2. Credit unions continue to emphasize traditional cooperative values such as democracy and volunteerism.

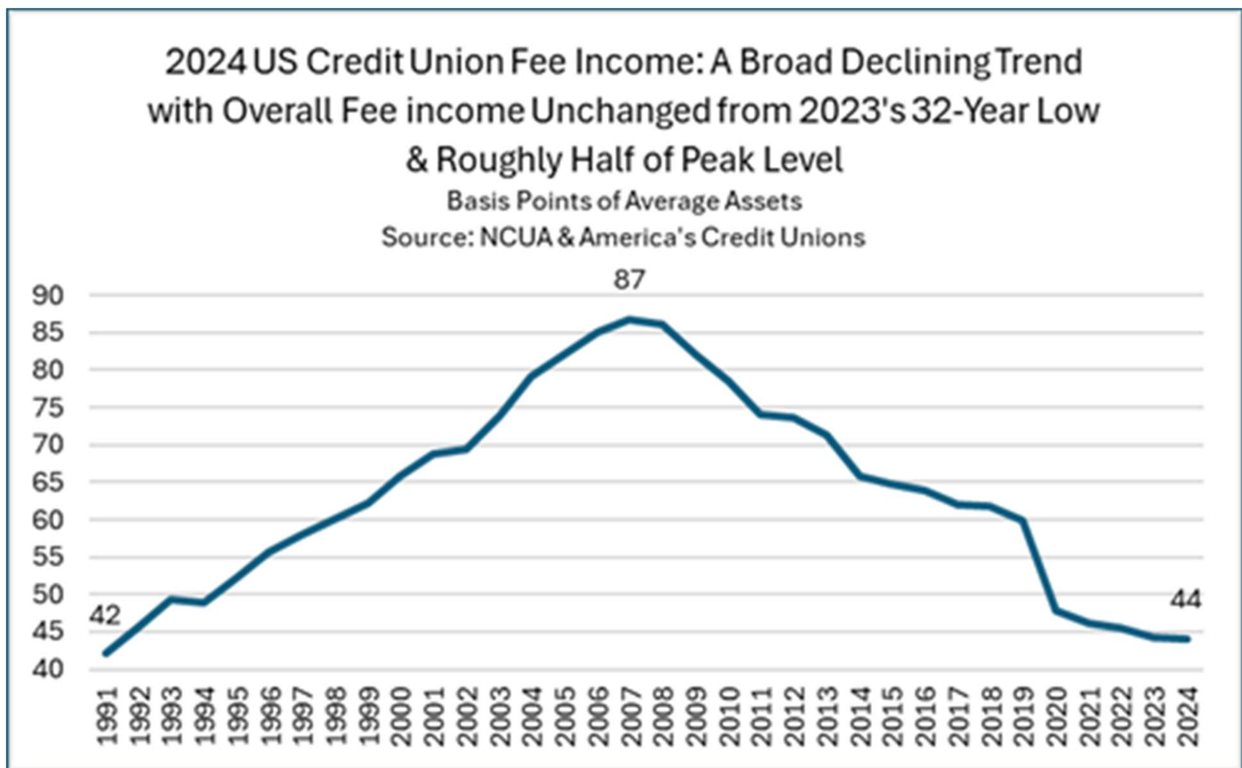
The nation's approximately 4,600 credit unions serve a different purpose and have a fundamentally different structure than traditional banks. Credit unions exist solely for providing financial services to their members, while banks aim to make a profit for a limited number of shareholders. As owners of cooperative financial institutions, united by a common bond, all credit union members have an equal say in the operation of their credit union—"one member, one vote"—regardless of the dollar amount they have on account. These singular rights extend all the way from making basic operating decisions to electing the generally unpaid, volunteer board of directors, something unheard of among for-profit, stock-owned banks. Credit unions continue to play a very important role in the lives of millions of Americans from all walks of life. Since the Great Recession, consolidation of the financial institution sector has progressed at an increasingly rapid rate. At a time when for-profit banks are deemphasizing the human touch for financial services, credit unions are second-to-none in providing their members with quality personal financial services at the lowest possible cost.

Credit Unions and the Consumer Financial Protection Bureau

From the inception of the CFPB, credit unions have expressed frustration with being regulated in the same manner as for-profit banks and non-regulated entities. There are a number of statutory consumer protection provisions included in the FCU Act that the laws governing other types of financial institutions do not have. This is one reason why the industry was concerned about credit unions of any size being placed under the CFPB's direct regulatory authority as part of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). Despite the fact that credit unions are already heavily regulated and did not contribute to the 2008 financial crisis, credit unions of all sizes are still subject to the rulemaking authority of the CFPB. While some may argue that the CFPB "levels the playing field" for community-based financial institutions, the reality could not be further from the truth, as community-based financial institutions do not have the armies of lawyers that large Wall Street banks have to keep up with the pace and scope of regulations coming out of the CFPB. This has led to significant consolidation in the industry since the passage of the Dodd-Frank Act and the creation of the CFPB. There are over 3,000 fewer credit unions today than there were when the Dodd-Frank Act was signed into law.

The last few years have seen the CFPB place even more stress on regulated financial institutions as part of its "junk fees" initiative where the CFPB targeted lawful standard fees charged by financial institutions that included sensible payment guardrails such as credit card late fees and valuable member-requested services like overdraft programs. This initiative has been mislabeled and mischaracterized for political purposes, with the CFPB referring to lawful payment incentives like late fees as "junk fees." These fees bear no resemblance to the type of hotel and resort fees referenced by others as "junk fees" and, in contrast, are all subject to comprehensive federal or state laws and regulations that include clear and conspicuous consumer disclosures.

Service fees for financial products enable credit unions to make financial services overall more affordable and more accessible for Americans, particularly those who are low income. It is important to recognize that fee income at credit unions remains at a 32-year low, as evidenced by recent data published by the National Credit Union Administration (NCUA) and America's Credit Unions (see figure below). It is important to note that this decline started *before* the creation of the CFPB. This is possible in part because of the move towards service fees, such as overdraft or late fees. Credit union members pay for the services they use, such as an overdraft program, which allows the credit union to keep basic services such as checking accounts low-cost or free for their members. The cost of eliminating or reducing overdraft to align with government mandated price caps instead of market forces is that credit unions like mine will have to raise prices for all members to replace that revenue, making basic banking services less affordable.



The CFPB Needs to be Insulated from Dramatic Political Swings

While the concept of an independent entity to protect consumers from unregulated bad actors is a laudable one, the single director structure of the CFPB has created great regulatory uncertainty in the marketplace. The last four years have seen the CFPB too often take an approach that could be called "regulation by enforcement" where press releases on enforcement actions seem to create new standards that entities must comply with to promote a political

agenda, leading to greater uncertainty. This needs to change. Moving forward, the CFPB should, at the very least, agree to counterparty review of press releases on enforcement agreements.

Additionally, the CFPB has often ignored contrary data in rulemaking to advance politically-driven goals, often to the detriment of consumers. For example, on the credit card late fees rule, the Bureau admittedly ignored data that a majority of cardholders will likely see their credit card interest rates increase and credit availability decrease in order to issue the rule that the leadership wanted. This is no way to make regulation. There must be a depoliticization of the Bureau and a return to data-driven rulemaking that focuses on the consumer and sets clear rules of the road for entities to follow.

Finally, we were dismayed to see a number of post-election, non-emergency rulemakings pushed out during the Presidential transition period. These rules seem to represent a transparent attempt by the previous Bureau leadership to rashly impose its regulatory agenda upon the American people without respect for the Administrative Procedure Act (APA), stakeholder feedback, or the bounds of its statutory authority. We believe that the current leadership of the Bureau should take this moment of pause in these rulemakings and review whether the rules:

1. Conform with the Bureau's authority under the Dodd-Frank Act;
2. Have sufficient factual basis to support their proposal;
3. Would not create more costs than benefits; and
4. Adequately address feedback from stakeholders.

These regulations include:

- Overdraft Lending: Very Large Financial Institutions. Final Rule published December 30, 2024.
- Prohibition on Creditors and Consumer Reporting Agencies Concerning Medical Information (Reg V). Final Rule published January 14, 2025.
- Protecting Americans from Harmful Data Broker Practices (Reg V). Proposed rule published on December 13, 2024.
- Fair Credit Reporting Act (Regulation V); Identity Theft and Coerced Debt. Proposed rule published on December 13, 2024.
- Electronic Fund Transfers Through Accounts Established Primarily for Personal, Family, or Household Purposes Using Emerging Payment Mechanisms. Proposed rule published on December 15, 2024.

Pausing these rulemakings was a crucial first step to bringing the Bureau back into alignment with its original mandate and beginning the process of actually protecting consumers from financial

harms without damaging the financial institutions created to help them. We hope a review will lead to administrative reconsideration and reform of these proposals.

The Future Direction of the CFPB

We believe the CFPB and Congress must take this moment of administrative transition to recalibrate the Bureau's priorities and operational framework to balance robust consumer protections with a regulatory environment that promotes innovation, transparency, and accountability. The time to act is now. This recalibration must include a more disciplined approach by the CFPB to rulemaking, enforcement, and retrospective regulatory review, as well as fair examinations, and a focus on reducing unnecessary burdens on financial institutions like credit unions that play a vital role in local communities. The new approach by the CFPB and other financial regulators should be a return to focusing on their specific statutory mission and authorities.

Congress established the Bureau to address the reckless lending practices of large, too-big-to-fail banks and unregulated financial institutions. Since its inception, the Bureau has taken several hundred enforcement actions against entities operating in the financial services space, including over 100 against banks. This is where the Bureau should direct its primary attention and resources. By tailoring regulations to target unregulated entities and bad actors the Bureau can achieve its objectives more effectively. Credit unions, which were not part of the problem, should not bear the unintended consequences of broad regulatory measures. There have only been 3 enforcement actions against credit unions in the 15-year history of the Bureau. A new focused approach by the Bureau would be more efficient and avoids imposing unnecessary burdens on financial institutions that have a strong track record of consumer protection.

Credit unions are among the most heavily regulated entities in the country, despite their consumer-friendly practices and role in supporting local communities. Regulatory burdens contribute significantly to the consolidation of small credit unions, with approximately 300 mergers occurring annually. This consolidation reduces competition and consumer choice, leading to higher costs and decreased access to financial products and services. To promote consumer welfare, greater access to credit unions is essential. Their cooperative member-owned structure aligns with consumer interests, discouraging predatory pricing and excessive risk-taking. Credit unions also serve as countercyclical economic forces, stabilizing local economies during downturns. America's Credit Unions has urged the Bureau to focus its regulatory efforts on Wall Street banks and unregulated or under-regulated sectors of the financial services industry. We believe the Bureau should carefully evaluate its proposals to minimize adverse impacts on Main Street institutions like credit unions, which are often the only option for consumers and small businesses seeking fair financial services. Credit unions' cooperative, not-

for-profit structure ensures they prioritize their members' interests over profits, a dynamic absent in for-profit banking.

The 2008 financial crisis, the worst economic disruption since the Great Depression, stemmed from the collapse of the subprime mortgage market. Reckless mortgage originations, fueled by unrealistic expectations of rising home prices and risky credit practices, primarily occurred in the for-profit sector. Large banks and mortgage brokers originated subprime loans, which were then packaged and sold as securities by Wall Street investment banks. This system, driven by profit motives, led to a financial collapse that did not involve credit unions. Out of this crisis, the CFPB was created to establish greater oversight of mortgage brokers and large and often unscrupulous participants in the financial services marketplace.

Credit unions, in contrast, operated conservatively, holding the majority of their mortgages in portfolios and carefully managing risks. This approach shielded credit unions from the volatility that characterized the broader financial system. During the crisis, credit unions continued lending while many for-profit institutions curtailed operations due to weakened balance sheets. This resilience underscores the need for a tailored regulatory approach that reflects credit unions' lower-risk profile. In this era Logix never offered exotic mortgage products and continued to lend during the crisis. We helped members remain in their homes with very few foreclosures and did not take significant losses and recognized positive earnings every year during the downturn.

Legislative Recommendations to Improve the CFPB

There are a series of legislative changes that have been introduced to reform the CFPB. These start with some relatively minor reforms and go all the way up to full elimination. America's Credit Unions supports Congress making changes to improve the CFPB moving forward as we outline below. Should Congress move to completely eliminate the CFPB, we would ask for the opportunity to carefully consider what would take the place of the CFPB, as we are concerned that a patchwork of state laws instead of a federal standard would not serve credit unions and our members. Should the CFPB remain as a stand-alone government agency we recommend the following reforms:

Change Leadership to a Bipartisan Commission

America's Credit Unions believes that, given the broad authority and awesome responsibility vested in the CFPB, a five-person, bipartisan commission has distinct consumer benefits over a single director. Regardless of how qualified one person may be, a commission would allow multiple perspectives and robust discussion of consumer protection issues and debate over the best means to regulate and provide oversight throughout the decision-making process. A diversity of perspectives will enhance the rule-writing process and lead to better outcomes with more

reasoned and data-driven rationales. Additionally, a commission helps ensure some continuity of expertise and rulemaking. The current single director structure can lead to uncertainty during the transition from one Presidential administration to another. The U.S. Supreme Court highlighted this fact when it released a decision in *Seila Law v. the Consumer Financial Protection Bureau* that found the single director, removal only for "just cause" structure of the CFPB to be unconstitutional. It is with this in mind that we urge Congressional action on legislation to transform the structure of the CFPB from a single director to a bipartisan commission. We support legislative efforts that would improve the Bureau by making this change such as proposed in the Consumer Financial Protection Commission Act.

Increase Congressional Oversight of the CFPB

While it is important to ensure funding availability to enforce consumer protection laws, that funding should be subject to greater transparency and scrutiny, and not unlimited. As such, America's Credit Unions supports subjecting the CFPB to the Congressional appropriations process to ensure greater oversight from Congress, such as proposed in H.R. 654, the Taking Account of Bureaucrats' Spending (TABS) Act. We also support an independent Inspector General for the Bureau that would also be required to testify before Congress on an annual basis to keep lawmakers better informed as proposed in the CFPB–IG Reform Act of 2025.

Provide Clear Rules of the Road on UDAAP

The CFPB must address persistent concerns about its reliance on vague statutory authorities, particularly under the unfair, deceptive, or abusive acts or practices (UDAAP) standard. The ambiguous nature of the "abusive" prong has caused widespread confusion among regulated entities, as the Bureau has declined to provide meaningful guidance or adopt formal rules clarifying its scope. Instead, the CFPB has relied heavily on case-by-case enforcement actions to define prohibited practices, a method that deprives regulated parties of fair notice, leads to "gotcha" enforcement, and creates a chilling effect on innovation.

For example, the CFPB has initiated enforcement actions against practices common in the financial services industry without prior rulemaking or guidance. In some cases, these actions targeted practices that were previously accepted or explicitly permitted by other regulators. This approach undermines confidence in the regulatory framework, discourages innovation, and ultimately limits consumer choice. To remedy this, Congress should require the CFPB to issue clear rules and guidance through notice-and-comment procedures before pursuing enforcement actions. Monetary sanctions should be reserved for cases where regulated parties had reasonable notice—whether through regulations, judicial precedents, or well-established interpretations by agencies like the Federal Trade Commission (FTC)—that their conduct was unlawful.

While the 2023 Statement of Policy Regarding Prohibition on Abusive Acts or Practices provided some guidance by outlining examples of abusive conduct, it failed to offer the level of clarity necessary for regulated entities to operate with confidence.[1] Unlike the 2020 Policy Statement[2], which included critical principles like a cost-benefit analysis and limits on dual pleading, the 2023 framework lacks structured guardrails to balance enforcement with fairness. The absence of objective criteria and a "reasonable person" standard exacerbates this ambiguity, leaving institutions to navigate subjective interpretations of what constitutes abusive practices.

Without clear parameters, institutions face increased compliance costs and reduced incentives to innovate, ultimately harming consumers by limiting access to beneficial financial products and services. Congress should pass H.R. 1652, the Rectifying UDAAP Act. Until Congress acts, the CFPB should reinstate the principles of the 2020 Policy Statement, including cost-benefit considerations and clear boundaries for enforcement, and define the abusiveness standard through formal rulemaking. Establishing precise thresholds and a consistent framework would reduce uncertainty, foster innovation, and ensure that regulatory actions align with both consumer protection goals and the operational realities of financial institutions.

Expand and Clarify Exemptions for Credit Unions from the CFPB

We believe credit unions should be exempted from efforts aimed at addressing misconduct by bad actors and unregulated entities in the financial marketplace. When broad regulations make it more costly or challenging to access the safe and affordable credit offered by credit unions, consumers ultimately suffer. The Bureau has consistently stated it does not intend to negatively impact credit union lending. The only way to ensure this outcome is to exempt credit unions and credit union service organizations (CUSOs) from regulatory requirements that are not designed to address their practices. The Bureau has legal authority and precedent to use its exemption powers to protect consumers by relieving credit unions and CUSOs of unnecessary regulatory burdens, enabling them to continue providing essential services but it has not fully used it.

Congress anticipated the need for regulatory exemptions and explicitly empowered the Bureau to tailor its rules through the Dodd-Frank Act. Congress deliberately provided this authority in Section 1022 of the Dodd-Frank Act:

> *The Bureau, by rule, may conditionally or unconditionally exempt **any class of covered persons**, service providers or consumer*

[1] 88 FR 21883.
[2] CFPB, "Statement of Policy Regarding Prohibition on Abusive Acts or Practices" (Jan. 24, 2020) *available at* https://files.consumerfinance.gov/f/documents/cfpb_abusiveness-enforcement-policy_statement.pdf.

> *financial products or services from any provision of this title, or from any rule issued under this title . . . .*[3] (Emphasis added.)

The Act's plain language, supported by legal precedent, confirms the Bureau's broad discretion to issue exemptions in cases where it serves the Act's purposes, which include ensuring fair, transparent, and competitive markets for consumer financial products and services. Unfortunately, the Bureau has not used this discretionary authority.

The unique structure and mission of credit unions further support their exemption from inappropriate regulatory requirements. Unlike for-profit financial institutions driven by shareholder returns, credit unions are not-for-profit cooperatives with a statutory mission to promote thrift and provide credit for provident or productive purposes. This mission ensures that credit unions prioritize their members' financial well-being, offering safe, affordable credit while avoiding harmful practices. Additionally, credit unions are already subject to extensive state and federal regulations, creating a stark contrast between their operations and those of nonbank lenders or large, profit-driven institutions. It is critically important for the Bureau to understand that credit unions are not asking to be exempt from all its rules; instead, we ask the Bureau to carefully consider the downstream impact of its rules and how those rules – without appropriate tailoring—could negatively affect the ability of consumers to access financial products and services from reputable, community-based financial institutions.

Credit unions and CUSOs should be considered for and receive appropriate exemptions from some of the Bureau's regulatory requirements. Throughout their history, credit unions have been supervised by several different federal agencies. The lesson that comes through clearly, based on these different supervisory arrangements, is that credit unions are best positioned to succeed when policy decisions affecting them are made by a regulatory agency that has significant familiarity with the characteristics that differentiate them from other financial services providers. The NCUA, due to its half-century of experience regulating credit unions, has a special understanding of the credit union model as well as the environmental and operational challenges credit unions face daily. For that reason, the CFPB should work more closely with the NCUA throughout the policymaking process and avoid implementing policies that conflict with or are duplicative of those issued by the NCUA, especially regarding examinations.

To ensure this is accomplished, we support statutory changes that would expand and clarify the exemption authority granted to the CFPB.

[3] 12 U.S.C. § 5512(b)(3)(a).

Improving Use of Cost-Benefit Analysis and Small Business Review Panels

Reviewing the cost versus benefit of rules, as well as their impact on smaller entities, should be an important part of the rulemaking process. Unfortunately, the CFPB has moved away from this approach in recent years. Greater use of cost-benefit analysis would also provide the Bureau with a more rigorous framework for evaluating the economic impact of proposed regulations, including unintended consequences such as reduced access to credit or higher consumer costs. For example, the proposals targeting overdraft fees or credit eligibility determinations must be carefully analyzed to ensure they do not exacerbate financial exclusion or disproportionately harm underserved populations. By adopting these principles, the CFPB could foster a regulatory process that is transparent, accountable, and aligned with its mission to protect consumers while maintaining economic stability. We support the efforts in H.R. 2183, the CFPB Dual Mandate and Economic Analysis Act and the draft Transparency in CFPB Cost-Benefit Analysis Act that would seek to accomplish this.

Additionally, credit unions have advocated for Small Business Regulatory Enforcement Fairness Act (SBREFA) panels when it comes to the CFPB. While the CFPB has used this tool on some rules in the past, the voice of panelists was not always heard. There were several instances where SBREFA panel reports clearly recorded specific issues voiced by panelists that were ultimately not addressed in final rules. Unfortunately, the CFPB has addressed this by simply moving away from using SBREFA panels with more recent rulemakings. America's Credit Unions supports efforts to strengthen the SBREFA process as utilized by the CFPB and to require greater cost-benefit analysis as part of rulemakings such as H.R. 1606, the Making the CFPB Accountable to Small Businesses Act of 2025.

Reform the Civil Investigative Demand (CID) process

The CFPB's investigative and enforcement practices require significant reform to ensure fairness and adherence to procedural safeguards. The Bureau's reliance on administrative adjudications has denied respondents key procedural protections available in federal court. These expedited proceedings limit discovery, curtail opportunities for defense, and inappropriately prioritize speed over fairness. At a minimum, the CFPB should issue rules outlining the criteria for choosing between federal court actions and administrative proceedings, and it should prioritize the use of federal courts for cases involving novel legal issues or significant penalties.

Similarly, the Bureau's Civil Investigative Demand (CID) process has drawn criticism for its lack of transparency, procedural fairness, and alignment with statutory protections outlined in the Dodd-Frank Act. While the Bureau has the authority to issue CIDs as part of its investigations into violations of consumer financial laws, these demands often rely on vague, boilerplate language that fails to specify the nature of the alleged violation or the laws implicated. This ambiguity

places an undue burden on financial institutions, which must expend significant resources to comply with these overly broad demands. The CFPB should adopt reforms to ensure that CIDs are narrowly tailored in purpose and scope, providing clear and specific details about the conduct under investigation and the materials requested. Such reforms would help institutions respond more effectively and reduce the risk of unnecessary disruption to their operations.

Additionally, the CFPB should implement procedural safeguards to ensure fairness in the CID process. Current rules, which limit institutions to a 20-day window to petition for modifications or set-asides, provide insufficient time to formulate a meaningful response. This compressed timeline, combined with the lack of confidentiality protections for petitioners, discourages institutions from challenging overbroad or unwarranted demands due to the risk of reputational harm. To address these issues, the Bureau should extend the timeframe for filing petitions, allow challenges at any point during an investigation, and ensure the confidentiality of such proceedings. Strengthening meet-and-confer processes, including requiring decision-making personnel to participate directly, would also enhance the fairness and efficiency of the CID process, fostering a more collaborative approach to resolving disputes. These changes would align the CID process with statutory intent while balancing the CFPB's investigatory authority with the need to minimize undue burdens on financial institutions. We believe enacting H.R. 1653, the Civil Investigative Demand Reform Act of 2025, would be an important step in this process.

Principles That Should Guide CFPB Rulemaking

We would like to take this opportunity to highlight for Congress several key principles we believe should guide any future CFPB activity. These principles were developed in consultation with members of America's Credit Unions.

- *Use the Bureau's authority in a manner consistent with the original purpose of the CFPB and the spirit of the Dodd-Frank Act*

The focus of the Bureau should be to adhere to the law and carry out its statutorily defined functions. The Bureau should dedicate most of its time and resources to unregulated and under-regulated entities. If the Bureau spent fewer resources on regulating and supervising credit unions and other lenders already subject to federal prudential regulation, then it would have more available to focus on unregulated institutions and the businesses actively engaged in objectionable practices that exploit consumers. We believe this balance can be accomplished without sacrificing important consumer protections.

Credit unions remain some of the most regulated entities in the country. Despite our pro-consumer history, credit unions have repeatedly been lumped in with others through the

promulgation of overly broad rulemakings, increasing compliance costs without a material benefit for consumers. In fact, the increasing cost and complexity of regulatory compliance remains a contributing factor in the significant consolidation taking place among community-based financial institutions. Ultimately, consumers lose when fewer choices are in the marketplace, resulting in a higher cost of financial services and reduced access to local community-based providers.

- *Appropriately tailor regulations to reduce disruption for community-based financial institutions*

In the wake of the financial crisis, Congress contemplated the need for exemptions to certain rules and crafted the Dodd-Frank Act to authorize the Bureau to tailor its rules to avoid adverse outcomes for consumers and regulated entities. Congress deliberately provided this express authority in Section 1022 of the Dodd-Frank Act. Congress clearly granted the Bureau broad authority to tailor regulations in a manner consistent with the best interest of consumers. We appreciate that the Bureau has used its Section 1022 authority in some rulemakings to create exemptions based on asset size, loan volume, the merits of a specific product, or other factors. However, we believe the Bureau should use its exemption authority more consistently and to greater effect.

Credit unions and CUSOs should be considered for and receive appropriate exemptions from some of the Bureau's regulatory requirements. It is critically important for the Bureau to understand that credit unions are not asking to be exempt from all its rules; instead, we ask the Bureau to carefully consider the downstream impact of its rules and how those rules—without appropriate tailoring—could negatively affect the ability of consumers to access financial products and services from reputable, community-based financial institutions.

- *Be consistent and transparent during the development and implementation of rulemakings and supervision and enforcement policies*

The current CFPB structure vests substantial authority with the Director. It is critical for the CFPB Director to avoid disrupting the efficient functioning of markets due to unnecessary secrecy, surprise regulation, "gotcha" enforcement, or the pursuit of political goals. Often, it is consumers themselves who are negatively affected by opaque, abrupt, or extreme changes in policy from one administration to the next.

Whatever the future governance structure of the Bureau, we believe the CFPB should emphasize regular and open communication with financial services providers and be transparent during the policymaking process. An open communication posture would generate goodwill with industry

and further both consumer protections and proper due process. To that end, we are ready and willing to assist in communicating and amplifying any critical information from the Bureau to credit unions and their members. We are also at the Bureau's disposal to solicit feedback from our members, as stakeholder input is critical to an efficient and effective regulatory environment.

Relatedly, we encourage the Bureau to regularly conduct reviews of its regulations in the interest of streamlining and eliminating outdated or superfluous requirements, increasing the efficiency of rules, or to provide exemptions where appropriate. However, it is critical that the Bureau keep in mind that any change in regulation—even a change intended to reduce complexity—always comes with a cost. For most Bureau rulemakings, the Dodd-Frank Act and the Regulatory Flexibility Act provide specified review processes intended to assist in identifying necessary or appropriate regulatory changes after the rule has been "in the field" for a reasonable time. Therefore, the Bureau should reserve the adoption of substantial changes to rules or policies for cases where there are compelling data-based reasons for doing so or an imminent need that addresses a specified consumer impact.

- *Consult with the NCUA during the policymaking process and avoid implementing duplicative or contradictory policies*

Throughout their history, credit unions have been supervised by several different federal agencies. The lesson that comes through clearly, based on these different supervisory arrangements, is that credit unions are best positioned to succeed when policy decisions affecting them are made by a regulatory agency that has significant familiarity with the characteristics that differentiate them from other financial services providers. The NCUA, due to its half-century of experience regulating credit unions, has a special understanding of the credit union model as well as the environmental and operational challenges credit unions face daily. If full regulatory and examination authority for credit unions cannot be returned to the NCUA, at the very least the CFPB should work more closely with the agency throughout the policymaking process and avoid implementing policies that conflict with or are duplicative of those issued by the agency, especially regarding examinations.

- *Provide certainty to regulated entities by adopting clear "rules of the road" and prioritizing internal consistency*

Since the passage of the Dodd-Frank Act, there has been a massive increase in new consumer financial services regulations. This environment is particularly burdensome for credit unions which, unlike big banks, do not have scores of legal experts in-house to assist with compliance matters. Given the heightened nature of the regulatory landscape, it is important that the Bureau

provide certainty to regulated entities through the adoption of clear "rules of the road," internal consistency from the Director's office down to the field examiners, and robust guidance and implementation support.

In that spirit, we encourage the Bureau to provide helpful compliance resources, especially interactive webinars on final rules and Small Entity Compliance Guides, that help stakeholders understand regulatory expectations. We also encourage the Bureau to be proactive and continue providing compliance resources after final action as questions in need of clarification are identified. For example, the Bureau's recent implementation of an Advisory Opinion program is a positive development and should be maintained.

Regarding clarity, we oppose the Bureau adopting a "regulation by enforcement" approach to policymaking. We believe if the Bureau wants to make actionable policy, then it should propose clear regulations pursuant to the Administrative Procedure Act (APA) process instead of using its enforcement authority against financial institutions expecting the subsequent consent order to serve as a means for others to determine what practices are in violation of the law. We also caution against an unproductive and inflammatory "regulation by press release" approach to governance characterized by clearly politicized press releases intended to serve as a bully pulpit. The Bureau's recent reliance on blog posts, guidance, and even amicus brief filings to issue proclamations regarding the application of consumer financial protection laws is inappropriate and denies stakeholders the opportunity to participate in the statutorily mandated notice and comment process.

- *Conduct thorough research prior to the adoption of a new rule or policy and base policy decisions on relevant data*

The Bureau prides itself on being a modern, data-driven regulator. Former Director Cordray often referred to the data underlying consumer complaints as the Bureau's "compass," playing a key role in identifying and prioritizing the Bureau's actions, including in the realm of rulemakings. However, data for data's sake is insufficient, and it is critical that the Bureau's policy and regulatory decisions be wholly supported by relevant, timely, and representative data. Unfortunately, it has been common for a CFPB rulemaking to lack (or at least appear to the public to lack) sufficient evidence, data, research, or other information to substantiate assertions within the rulemaking. The Bureau has also refused, in certain instances, to publicly share the data upon which it relies to justify a rulemaking—in direct contravention of its obligations under the APA. We challenge the CFPB to set a new standard for evidence-based rulemaking decisions and processes.

It is critical that the Bureau base its decisions on data specific to the entities it intends to regulate through an action. For example, relying on bank data to justify a rulemaking that also covers credit unions without evaluating credit union-specific data is misguided. Almost equally critical is that the Bureau be wholly transparent in its reliance on data, ensuring the public has access to the same information—absent confidential and personally-identifiable information—the Bureau relies on as a foundation for its rulemakings.

- *Ensure continued access to credit from reputable providers*

Credit unions often provide the safest and most affordable loan options for consumers in need of credit. When developing rulemakings overseeing lending, the Bureau should carefully evaluate and consider the impact a policy decision may have on the availability of credit for consumers, especially when the action is likely to impact the cost of credit. At Logix, we understand the nuances of how our members use our affordable credit cards and we educate them on the potential fees and costs associated with this service. It is important that the CFPB strikes an appropriate balance between its consumer protection mission and the availability of products and services. This balance is critical whether the product is a mortgage, credit card, or emergency loan. Many consumers rely on access to credit to manage their everyday finances, and the Bureau should ensure reputable providers, especially community-based providers, are able to meet those needs.

- *Encourage and support innovation in the consumer financial services marketplace*

Innovation through technology and other creative solutions has the potential to enhance the delivery and quality of financial products and services to consumers. In recent years, credit unions have been at the vanguard of innovation as a byproduct of their cooperative nature, member-driven focus, and relatively small size. Consumers benefit when financial institutions are provided with more opportunities, under the careful oversight of regulators, to pursue fresh answers to traditional questions. However, the Bureau should not approach innovation in a manner that places traditional depository institutions at a disadvantage compared to another business model. Ultimately, credit unions must be given equal access to innovation policies and programs.

- *Expand Retrospective Regulatory Review*

Retrospective review is a critical tool for ensuring that regulations remain relevant and effective in a rapidly changing financial landscape. While the Dodd-Frank Act requires the CFPB to review certain rules every five years, this process is limited in scope and frequency. Unlike the Economic Growth and Regulatory Paperwork Reduction Act (EGRPRA), which mandates a 10-year review

cycle for banking regulations, the CFPB’s current approach excludes non-significant rules and regulations adopted before its establishment. By adopting a broader retrospective review framework, the CFPB could identify outdated or overly burdensome rules, solicit public input, and issue reports detailing how it will address regulatory inefficiencies.

Conclusion

In conclusion, I want to thank the Subcommittee for holding this important hearing today. While we believe that the CFPB can fill an important role in regulating the previously unregulated bad actors that operate in the financial services marketplace, the time has come to make changes to the CFPB to depoliticize the organization and return it to its intended focus. Changes to improve the CFPB include moving its leadership to a bipartisan commission, increasing Congressional oversight through appropriations and an independent inspector general, increasing cost-benefit analysis and examination of small entity impact of rulemakings, and ultimately providing greater exemptions for credit unions. Consumer protections are important, and we applaud the Subcommittee for beginning this difficult discussion on how to reform and improve the CFPB moving forward to prioritize consumer protection. We welcome the opportunity to have an ongoing dialogue with Congress on ways to improve the structure, governance and authorities of the CFPB.

Thank you for the opportunity to appear before you today. I welcome any questions you may have.