STATEMENT

OF

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"LEGISLATIVE PROPOSALS ON REFORMING MORTGAGE PRACTICES"

BEFORE THE

HOUSE FINANCIAL SERVICES COMMITTEE

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I. Introduction

NCUA's primary mission is to ensure the safety and soundness of federally insured credit unions. It performs this important public function by examining all federal credit unions, participating in the supervision of federally insured state chartered credit unions in coordination with state regulators, and insuring credit union members' accounts. In its statutory role as the administrator for the National Credit Union Share Insurance Fund, NCUA provides oversight and supervision to approximately 8,362 federally insured credit unions, representing 98% of all credit unions and approximately 87 million members.

II. Mortgage Lending in Federally Insured Credit Unions

Through the first half of 2007, the Mortgage Bankers Association estimated mortgage loan originations in the marketplace of over $1.33 trillion, of which federally insured credit unions originated only 2.14% or $28.3 billion.[1] Mortgage loans in federally insured credit unions represent only 9% of mortgage loans outstanding in all federally insured depository institutions.[2]

Nearly 60% of federally insured credit unions offer mortgage loans to their members. Those not offering mortgage loans are generally smaller credit unions that cannot afford the expertise or infrastructure to grant mortgages or manage mortgage portfolios. Additionally, smaller federal credit unions have difficulty implementing a wide range of mortgage products since loans to a single member are statutorily limited to 10% of a federal credit union's total unimpaired capital and surplus.[3] Consequently, as illustrated below, the majority of federally insured credit union mortgage lending occurs in larger credit unions:

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[1] Based on information available at the Mortgage Banker's Association website for 2007 Originations http://www.mbaa.org/files/Bulletin/InternalResource/57620_.pdf
[2] NCUA data and *FDIC- Statistics on Depository Institutions Report, 1-4 Family Residential Net Loans and Leases for all depository insured institutions as of 12/31/2006.* 31 Dec. 2006. Federal Deposit Insurance Corporation. < http://www2.fdic.gov/SDI/SOB>.
[3] 12 C.F.R. 701.21(c)(5). Unimpaired capital and surplus equals shares plus post-closing, undivided earnings.

Federally Insured Credit Unions by Asset Size	Number of Mortgage Loans Originated in 2007	% of Federally Insured Credit Union Mortgage Loan Portfolio as of 6/30/2007
Greater than $1 billion	248,762	44.75%
$500 million-$1 billion	113,184	17.59%
$50 million-$500 million	249,304	31.96%
$10 million-$50 million	42,323	5.28%
Less than $10 million	3,430	0.42%

Demand for mortgage loans in federally insured credit unions remains high. Mortgage loans led all loan types in growth in the first half of 2007, increasing $11.2 billion (93% of all new loan growth) to a new high of 50% of total loans. NCUA continues to closely watch performance indicators in the mortgage lending area through data collection and the examination and supervision process.

Composition of Mortgages in Federally Insured Credit Unions

As the following chart demonstrates, the majority of mortgage loans in federally insured credit unions are fixed rate, with almost all of the remainder being standard adjustable rate mortgages. Nontraditional mortgages are offered by less than 5% of federally insured credit unions and represent less than 2% of mortgage loans outstanding.

Type of Mortgage	Dollar Amount of Mortgage Loan Portfolio (billions)	% of Federally Insured Credit Union Mortgage Loan Portfolio as of 6/30/2007
Fixed Rate	$146	57.3%
Adjustable Rate	$109	42.7%
Interest Only or Payment Option[4]	$4.5	1.8%

Fixed rate mortgage loans accounted for 91% of the increase in mortgage loans in the first half of 2007. Fixed rate mortgages in federally insured credit unions grew at an annualized rate of almost 15% in the first half of 2007. Adjustable rate mortgage loans accounted for just 9% of the increase in mortgage loans in the first half of 2007, and grew at an annualized rate of just 2%. This indicates a clear preference by credit union members for fixed rate mortgage loans in the current economic environment, and likely includes a significant degree of refinancing of adjustable rate mortgages.

Nontraditional Mortgage Lending in Federally Insured Credit Unions

Given the growth in popularity of nontraditional mortgage products in the broader market (also referred to as “exotic,” or “alternative” mortgage products), NCUA amended the 5300 Call Report to collect data on certain nontraditional first mortgage loans. Results for these mortgage products became available with the March 2007 reporting cycle.[5] The data indicates that these mortgage products (specifically “Interest-Only” or “Payment Option” mortgages) are only offered in a small number of federally insured credit unions and comprise a very small portion of the mortgage portfolio.

[4] NCUA does not capture information relating to the type (fixed or adjustable) of “interest-only” or “payment-option” loans, just the dollar amount outstanding for these loan products. This amount is reflected in the totals for both fixed and adjustable rate mortgage loans outstanding.
[5] NCUA’s 5300 Call Report is the data collection tool used to collect required financial statement reports from federally insured credit unions on a quarterly basis.

There are several reasons why these riskier mortgage loans are not prevalent in federally insured credit unions. As earlier addressed, many federally insured credit unions are smaller institutions that lack the sophistication or resources to underwrite these types of loans. Also, as member-owned not-for-profit cooperatives, credit unions' lending motivation is designed to be member-oriented, appropriately concerned with the suitability and impact on the member. In addition, the Federal Credit Union Act prohibits prepayment penalties and establishes a statutory limit for interest rates.[6] Because of these statutory provisions, the regulatory environment for federal credit unions is not conducive to some of the features that make the cost of underwriting these loans more tenable to other types of institutions.

Mortgage Loan Performance in Federally Insured Credit Unions

NCUA's most current call report data indicates mortgage loan delinquencies greater than 30 days increased slightly in 2007, moving from 0.99% to 1.01%. Mortgage loan delinquencies over 60 days were at only 0.44% of total mortgage loans. While mortgage loan delinquencies in federally insured credit unions have increased overall over the last few years, the level of delinquency has remained sound and relatively consistent, as demonstrated in the following table:

Mortgage Loan Delinquency and Net Charge-Offs In Federally Insured Credit Unions					
Year Ending:	**2003**	**2004**	**2005**	**2006**	**06/2007**
Delinquency >30 days	0.83%	0.77%	0.79%	0.99%	1.01%
Delinquency >60 days	0.28%	0.25%	0.27%	0.34%	0.44%
Net Charge-Offs/Average Mortgage Loans	0.02%	0.02%	0.02%	0.03%	0.05%[7]

[6] The Federal Credit Union Act establishes a limit of 15% per annum inclusive of all service charges, with authority for the NCUA Board to establish a higher ceiling when certain economic conditions are met. The ceiling is currently set at 18%. 12 U.S.C. §§1757(5)(A)(vii) and 1757(5)(A)(viii).
[7] Annualized.

As also shown in the table above, the ratio of net mortgage loan charge-offs to average mortgage loans remains low at only 0.05%. The level of credit union mortgage loans in foreclosures ($165 million) remained stable during the first half of 2007. Mortgage loans in foreclosure represented only 0.06% of total mortgage loans outstanding at mid-year. Though the above mentioned mortgage loan figures indicate good performance, the slight increase in delinquent mortgage loans merit continued observation through routine supervision efforts.

III. NCUA's Ongoing Efforts to Promote Sound Risk Based Lending

NCUA has issued numerous pieces of guidance to federally insured credit unions on the safety and soundness principles of an effective risk based lending program.[8] These universal principals are applicable to the various types of mortgage lending programs.

Lending Guidance Issued by NCUA

Over the last several years, NCUA issued several pieces of guidance to outline risk based lending concepts. NCUA periodically issues guidance to federally insured credit unions through Letters to Credit Unions. Examiners routinely discuss the guidance set forth in these letters with credit union management and evaluate their responses through the examination and supervision function.

Recognizing the emergence of risk based lending efforts in the credit union industry, in 1995, NCUA issued Letter to Credit Unions 174 to all federally insured credit unions discussing the potential advantages and disadvantages to federally insured credit unions of risk based lending programs, or programs where subprime credit could be offered. Risk based lending involves setting a tiered pricing structure that assigns loan rates based upon an individual's credit risk. A tiered pricing structure enables federally insured credit unions to make more loans to disadvantaged, lower income, or credit-challenged individuals. Through a carefully planned risk-based lending program,

[8] Risk based lending is a means by which a credit union may be able to more effectively meet the credit needs of all its members. It involves setting a tiered pricing structure that assigns loan rates based upon an individual's credit risk. The precepts of risk based lending are more fully discussed in NCUA Letters to Credit Unions 174, *Risk Based Loans* and 99-CU-05, *Risk Based Lending.*

federally insured credit unions can make loans to somewhat higher-risk borrowers, as well as better serve their lower-risk members.

Letter to Credit Unions 174 stated that “[c]redit unions should engage in risk-based lending, not as a means of re-pricing existing balance sheets, but as a tool to reach out to the underserved...” and also noted that “[s]afety and soundness should remain of paramount importance....” Attached to Letter to Credit Unions 174 was an informational whitepaper discussing safety and soundness considerations and stressing the importance of consumer compliance issues related to risk based lending. Specifically, the whitepaper discussed the necessity of planning, policies, procedures, portfolio limitations and monitoring, and effective pricing. Additionally, the whitepaper reminded federally insured credit unions of their obligations under the Equal Credit Opportunity Act, Fair Housing Act, and the Fair Credit Reporting Act. Finally, the whitepaper outlined the examination procedures NCUA would use to review these programs.

In 1999, NCUA issued Letter to Credit Unions 99-CU-05 to all federally insured credit unions restating that soundly managed risk based lending programs were a way to reach out to all members. In Letter to Credit Unions 99-CU-05, NCUA noted that those receiving the largest benefit from risk based lending programs would be individuals attempting to repair or establish credit, but reiterated the need for sound planning, underwriting, monitoring, and control. Additionally, Letter to Credit Unions 99-CU-05 noted that a federally insured credit union’s capital adequacy would be evaluated considering the volume and type of risk based lending pursued and the adequacy of the credit union’s risk management program. Lastly, Letter to Credit Unions 99-CU-05 provided federally insured credit unions with more information about NCUA’s expectations for risk based lending program planning, loan policies, and procedures.

In 2004, NCUA issued Letter to Credit Unions 04-CU-13 to all federally insured credit unions discussing NCUA’s supervisory expectations for controls over several types of specialized lending programs, including subprime lending.

Subprime lending involves higher levels of risk and requires greater skill to successfully implement. Properly managed, however, it can be a viable and safe component of a federally insured credit union's balance sheet. A well-managed subprime program enables federally insured credit unions to serve disadvantaged members. Sound underwriting practices, effective control and monitoring systems and sufficient capital levels are key components to a well-managed program. All of these aspects are more fully discussed in NCUA's guidance on this topic.

Letter to Credit Unions 04-CU-13 outlined NCUA's underwriting expectations for federally insured credit unions engaged in subprime lending, noting the need to focus on borrowers' ability to repay loans as structured. A questionnaire on Subprime Lending Controls was also introduced to federally insured credit unions as an attachment to Letter to Credit Unions 04-CU-13. This questionnaire is currently used as part of the evaluation of risk based lending and subprime lending programs in federally insured credit unions with loan portfolios containing significant amounts of subprime loans.

In 2005, NCUA continued its efforts to address emerging risks in mortgage lending and concerns about alternative or exotic mortgage products in the overall mortgage market when a Supervisory Letter was issued to its examiners. The letter focused on the evolution of products in the mortgage market, the unusual volume of originations of variable rate mortgage products in a low interest rate environment, and the market trend toward liberalization of underwriting standards. The alert outlined potential issues with "interest-only" and "payment-option" adjustable rate mortgages with illustrations of payment shock for each of the products discussed.

The above referenced Supervisory Letter was then issued to federally insured credit unions in October 2005 with Letter to Credit Unions 05-CU-15, which also addressed the use of alternative or exotic mortgage products to afford housing in areas of high housing value appreciation. Additionally, Letter to Credit Unions 05-CU-15 notified federally insured credit unions that "NCUA field staff will be monitoring these trends and will evaluate not only interest rate risk related to mortgage lending but also the increased credit risk associated with these newer mortgage products and more liberal underwriting standards."

In 2006, NCUA issued Nontraditional Mortgage Guidance and began work on Proposed Subprime Lending Guidance, both in tandem with other regulators. While nontraditional and subprime mortgage lending are not major components of federally insured credit union mortgage portfolios, NCUA was concerned that predatory and unsound lending in other areas of the marketplace may increase consumers' monthly debt burdens significantly, resulting in a "ripple effect" that would not only impact credit union members but also federally insured credit union asset quality. If credit union members begin to experience difficulty making payments on homes they have financed elsewhere, loan accounts at their federally insured credit unions could also be impacted.

As a result of comments received on the consumer protection section of the proposed Nontraditional Mortgage Guidance, the agencies crafted proposed illustrations of Consumer Information for Nontraditional Mortgage Products.[9] These illustrations are designed to assist consumers by providing examples of model or sample disclosures or other descriptive materials as part of the Interagency Nontraditional Mortgage Guidance.

Then in April of 2007, NCUA and the other FFIEC member agencies jointly released a statement encouraging financial institutions to work constructively with residential mortgage borrowers who may be unable to meet their contractual payment obligations. This joint statement explains that prudent workout arrangements consistent with safe and sound lending practices are generally in the long-term best interest of both the financial institution and the borrower.

[9] See 71 FR 58672.

In July of 2007, NCUA and the other FFIEC member agencies jointly released a finalized Interagency Statement on Subprime Mortgage Lending[10] to address emerging risks and lending practices associated with certain subprime adjustable rate mortgage products that can cause payment shock to consumers. As with nontraditional mortgage products, although these types of loans do not appear to be prevalent in the credit union industry, the NCUA cautioned federally insured credit unions on the potential "ripple" effect to their asset quality if some of their members have these types of loans at other financial institutions and are struggling to repay considerably higher priced mortgage payments. As with the Interagency Nontraditional Mortgage Guidance, the agencies issued proposed illustrations to assist financial institutions in implementing the guidance specifically related to the consumer protection section of this document.

Just last month, NCUA, the other FFIEC member agencies, and the Conference of State Bank Supervisors jointly issued a statement encouraging federally regulated financial institutions and state-supervised entities that service securitized residential mortgages to review and determined the full extent of their authority under pooling and servicing agreements to identify borrowers at risk of default and pursue appropriate loss mitigation strategies designed to preserve homeownership. Appropriate loss mitigation strategies may include, for example, loan modifications, conversions of an adjustable rate mortgage into a fixed rate mortgage, deferral of payments, or extending amortization. In addition, this issuance suggests institutions consider referring appropriate borrowers to qualified homeownership counseling services that may be able to work with all parties to avoid unnecessary foreclosures.

Examination & Supervision Efforts

NCUA monitors safety and soundness of federal credit unions through a risk-focused examination program. This program, introduced in 2002, allows examiners to focus their attention on areas of high or increasing risk across seven specific categories;

[10] The agencies published for comment the proposed Statement on Subprime Mortgage Lending on March 8, 2007. See 72 FR 10533.

credit risk, interest rate risk, liquidity risk, transaction risk, compliance risk, strategic risk, and reputation risk. Issues of concern identified during examinations can impact the level of risk in more than one of these risk categories; from a consumer protection viewpoint, the topic of mortgage lending most notably impacts compliance risk and reputation risk.

The risk-focused examination program leverages off of the experience and knowledge of examiners to focus attention on areas of greater risk, thereby more effectively utilizing agency resources. Examiners are not required to review all compliance areas during each safety and soundness examination. However, if the examiner is aware of specific issues with violations or member complaints stemming from mortgage-related issues, they are expected to expand their scope and review this area. Any issues identified are documented and discussed with management. For significant issues identified, examiners reach formal agreements with the officials to implement corrective action. For non-material isolated instances, examiners address these as informal discussion items or minor matters requiring management attention.

In addition to the typical lending questionnaires to capture issues with mortgage-related lending regulations, including but not limited to, Equal Credit Opportunity Act, Home Mortgage Disclosure Act, Fair Housing Act, Real Estate Settlement Procedures Act, and Truth in Lending, NCUA examiners can utilize a series of optional checklists for specialized lending programs. Examiners can select from a series of questionnaires tailored to specific lending arrangements or programs; such programs addressed include outsourced lending relationships, indirect lending controls, and sub-prime lending controls.

NCUA has devoted an entire section of the *Examiner's Guide* outlining procedures to evaluate a credit union's compliance with consumer protection issues, including real estate lending. In addition, NCUA developed and published a *Consumer Compliance Self Assessment Guide* to aid a credit union's board of directors and management, compliance officers, and others with compliance responsibility in meeting their duties and obligations. The *Consumer Compliance Self Assessment Guide* contains Overviews, Review Considerations, Checklists, and Glossaries specifically relating to the Fair Housing Act, the Homeowner's Protection Act, the National Flood Insurance Act / Flood Disaster Protection Act, the Home Mortgage Disclosure Act, the Real Estate Settlement Procedures Act, and Truth in Lending.

<u>Member Complaint Process</u>

NCUA is aware potential issues involving consumer compliance regulations may occur outside of an examination. Thus NCUA also has a formal process in place to collect and act on complaints received by credit union members. Members are made aware of NCUA's role in the complaint resolution process through two primary methods: 1) NCUA is listed as a point of contact on Statement of Adverse Action notices provided to members whenever a request for credit at a Federal Credit Union is denied; and 2) NCUA's Internet site provides a toll free consumer assistance hotline number and email contact information to report complaints.[11] Most complaints received by NCUA are in the form of a written letter by the member.

NCUA's complaint process is designed to encourage members to work with the credit union to resolve issues. Typically, NCUA initially directs the FCU to investigate the complaint and provide the member a response with a copy to NCUA, or respond directly to NCUA. NCUA will then review the credit union's response and, if warranted, may further investigate the complaint. NCUA reviews all complaints for regulatory and consumer compliance violations. When a violation occurs, the violation is logged in NCUA's Consumer Regulation Violation Log (CRVL) for necessary follow-up through our safety and soundness examination program.

NCUA's central and regional offices have systems to track incoming complaints and responses. Each NCUA regional office has staff responsible for reviewing and evaluating consumer complaints. For complaints regarding state chartered credit

[11] See http://www.ncua.gov/ConsumerInformation/Consumer%20Complaints/complaintmain.htm.

unions, NCUA will coordinate with the appropriate state regulator. FCUs have supervisory committees comprised of credit union members whose primary duties include member protection, oversight of internal audit functions, and ensuring credit union member assets are safeguarded.[12]

The statutory purpose of the supervisory committee is to ensure independent oversight of the board of directors and management and to advocate the best interests of the members. Consistent with this responsibility, the Federal Credit Union Act provides supervisory committee members with the authority, by unanimous vote, to suspend any board member, executive officer, or credit committee member.

As the members' advocate, supervisory committees are responsible for investigating member complaints. Complaints cover a broad spectrum of areas, including compliance matters, annual meeting procedures, dividend rates and terms, and credit union services. Regardless of the nature of the complaint, NCUA expects supervisory committees to conduct a full and complete investigation.

The supervisory committee investigates each complaint referred to them by NCUA and provides an explanation of the circumstances directly to NCUA. NCUA encourages the resolution of the matter voluntarily, but is authorized and prepared to invoke administrative action authority, if necessary, to achieve a proper outcome. Regional Directors are responsible for making determinations about necessary action on a case-by-case basis and coordinate their responses with NCUA's central office.[13]

Generally speaking, the overwhelming majority of member complaints, regardless of the particular issue, stem from either the member's misunderstanding of the FCU's policies or poor initial communication between the credit union and the member. As a result, virtually all complaints are resolved after NCUA directs the FCU to address the complaint with its member and communicate with the member. Following a final review

[12] State chartered credit unions have comparable oversight function.
[13] NCUA Instruction No. 12400.05, dated April 23, 2004.

of the matter, NCUA sends the member a letter that summarizes the results of the review and advises the member in writing of its understanding that the complaint is resolved.

Consumer Protection for Credit Union Mortgage Applicants

Credit unions must comply with the same mortgage specific federal regulations as other federally insured institutions, including: Truth in Lending (Regulation Z), the Real Estate Settlement Procedures Act (RESPA), the Home Owner's Equity Protection Act (HOEPA), the Flood Disaster Preparedness Act (FDPA), the Fair Housing Act (FHA), and the Home Mortgage Disclosure Act (HMDA).[14] NCUA's examiners review compliance with applicable laws and regulations in the normal course of the examination and supervision process.

As the enforcement authority for HMDA in credit unions, NCUA is responsible for the oversight of HMDA data collection.[15] For the 2006 reporting period, approximately 2,060 institutions overseen by NCUA for the purpose of HMDA reporting submitted loan/application register data. The respondents included federally insured credit unions, non-federally insured credit unions, and credit union service organizations. Combined, the NCUA respondents submitted data for 820,538 loan applications.

Based on the HMDA data collected, credit unions appear to be actively meeting the need for mortgage products among credit union applicants for mortgage credit. Reporting credit unions approved an overwhelming majority of the applications processed during the 2006 reporting period. Approximately 67% of all applications resulted in a loan origination. Moreover, the reporting credit unions denied fewer than 14% of all applications. Of the total applications processed, 12.30% resulted in a denial of credit and 1.45% resulted in a denial of a request for pre-approval of credit.

[14] These laws also apply to privately insured credit unions.
[15] NCUA is responsible for HMDA data collection for federally insured and privately insured credit unions.

Credit unions are also serving underserved areas with mortgage products. When credit unions complete the loan/application registers, they identify the location of the properties under consideration by census tract. The HMDA data compares the income levels of the census tracts of the properties under consideration to the income levels of the larger metropolitan statistical areas (MSA) that encompass the properties. NCUA uses a similar methodology when determining, for the purposes of chartering policy, if an area qualifies as underserved. An area with a median family income level at or below 80% of the median family income for the larger metropolitan statistical area is underserved.

Census tract income information was available for approximately 90% of the mortgage loan applications reported. For underserved areas, 63% of mortgage loan applications the credit unions processed resulted in originations, with fewer than 19% of the mortgage loan applications that included property in underserved areas denied. The approval rate in areas for mortgage loans in non-underserved census tracks was 67%, with only approximately 13% denied. During 2006, reporting credit unions originated over 548,000 mortgages, with 13% of those originations occurring in underserved areas.

IV. NCUA Perspectives on Mortgage Reform Legislation

NCUA is pleased to offer comments regarding various legislative proposals before the House Financial Services Committee. The primary focus will be on H.R. 3915, the Mortgage Reform and Anti-Predatory Lending Act, introduced by Chairman Barney Frank. NCUA will also comment on H.R. 3878, the Escrow, Appraisal and Mortgage Servicing Improvements Act, introduced by Congressman Paul Kanjorski and others.

This statement will address the legislation in the above-described order. NCUA recognizes and supports H.R. 3915's goal of making all persons originating mortgage loans to consumers accountable for their consumer mortgage practices. The agency believes establishing licensing and registration requirements and providing certain minimum standards for consumer mortgage loans work to enhance consumer protection and to ensure underwriting standards used by mortgage originators are consistent with prudent lending practices. The legislation's application to all mortgage originators, including those that are not depository institutions or institution-affiliated parties of a depository institution, further contributes to these worthy goals.

<u>Rulemaking Authority under the Proposed Legislation</u>

Rulemaking authority under the proposed legislation is given variously, and in several sections, to the Secretary of Housing and Urban Development (Secretary), the Comptroller of the Currency (OCC), the Director of the Office of Thrift Supervision (OTS), the Federal Deposit Insurance Corporation (FDIC) and the Federal Trade Commission (FTC). Title I, Sections 102 and 103 require joint rulemaking by the Secretary, OCC, OTS and FDIC, in consultation with the FTC, to prescribe, respectively, regulations implementing stated requirements and establishing such other requirements as may be appropriate for residential mortgage loan origination purposes and anti-steering regulations. Section 104, paragraph (d) charges the OCC, OTS, and FDIC (the Federal banking agencies), in consultation with the Secretary, to jointly prescribe licensing and registration regulations for depository institutions and institution-affiliated parties of depository institutions.

The terms depository institution and institution-affiliated parties of depository institutions would include a credit union and its credit union service organization (CUSO) affiliate. Under Title II, the Federal banking agencies are tasked with jointly prescribing regulations to define the term "net tangible benefit" under Section 202; to carry out the purposes of Section 203 concerning safe harbor mortgages and the rebuttable presumption that the minimum standards for residential mortgage loans and the net tangible benefit for refinancing residential mortgage loans are met; to ensure that assignees exercise reasonable due diligence in purchasing residential mortgage loans by establishing regulations for adequate, thorough, and consistently applied sampling procedures; and, to prescribe the manner in which a creditor describes negative amortization to a consumer under section 206.

Though credit unions are properly subject to this legislation, none of these regulators have supervisory and enforcement authority for federally insured credit unions. NCUA is concerned that important aspects of credit union operations, as well as appropriate regulatory distinctions, may be overlooked by regulators unfamiliar with the NCUA and the credit union industry. For example, not all CUSOs qualify as a credit-union affiliate; federal credit unions may not charge a prepayment penalty; and certain compensation arrangements in connection with a loan are prohibited under NCUA's lending rules. In addition, the legislation amends the Truth in Lending Act, which is implemented by the Federal Reserve Board's Regulation Z and NCUA is responsible for examining and enforcing federal credit union compliance with Regulation Z.

Given the potential impact of the bill and resulting regulations on federally insured credit unions, NCUA respectfully requests that joint rulemaking authority include the agency in the above referenced provisions.

Additional Mortgage-Related Legislation

Congressman Kanjorski's bill, H.R. 3837, is also relevant to the discussion of possible reforms to other aspects of the home mortgage lending industry. Title I of the legislation establishes a requirement for the use of escrow accounts to pay property taxes, insurance premiums, and other required periodic payments in connection with a loan secured by a mortgage or deed of trust on a single-family, owner-occupied dwelling under certain conditions, addresses restrictions on force-placed insurance, requires comprehensive studies on mortgage servicing fraud and mortgage servicing improvements, and requires escrow payments to be included in a repayment analysis.

NCUA commends the Congressman's interest in addressing these mortgage servicing issues, particularly those that enhance transparency and consumer disclosures. As the legislation moves forward, NCUA will provide additional information on the relative benefit of these changes to consumers and their operational impact on credit unions.

NCUA and the Role of Consumer Financial Education

NCUA and the credit union industry have historically placed significant emphasis on programs that enhance and expand the financial literacy of credit union members. These efforts are directed at several elements of basic financial education, notably those concerning homeownership. NCUA has implemented several programs to encourage federally insured credit unions to expand homeownership opportunities and provide financial education to members.

Studies have indicated that the single most important step that could be taken to improve home ownership opportunities and retention, particularly among low-income borrowers, is the expansion of financial education and counseling. Additionally, studies also suggest that the growth of subprime lending in recent years has not been accompanied by a commensurate emphasis on financial literacy. Lending done by insured depositories such as banks, thrifts, and credit unions can and should have financial education as an integral part of any lending process.[16]

NCUA is a member of the Financial Literacy and Education Commission (the Commission), a federal entity established under the Financial Literacy and Education Improvement Act, enacted by Title V of the Fair and Accurate Credit Transactions Act of 2003, to improve financial literacy and education of persons in the United States.

The principal duties of the Commission include: (1) encouraging government and private sector efforts to promote financial literacy; (2) coordinating financial education efforts of the federal government, including the identification and promotion of best practices; (3) the development of a national strategy to promote financial literacy and

[16] "Strengthening the Ladder for Sustainable Homeownership," prepared by the National Housing Conference for the Annie E. Casey Foundation, February 2005, page 18. Established in 1948, the Foundation's stated mission is to foster public policies, human service reforms, and community support that more effectively meet the needs of today's vulnerable children and families.

education among all American consumers; (4) the establishment of a website to serve as a clearinghouse and provide a coordinated point of entry for information about federal financial literacy and education programs, grants, and other information; and (5) the establishment of a toll-free hotline available to members of the public seeking information about issues pertaining to financial literacy and education.

In addition to serving as a member of the Commission, NCUA Chairman JoAnn Johnson has served as Chairman of its MyMoney.gov website subcommittee since October 2006. The MyMoney.gov web site was created to provide public access to financial education tools and resources, which will empower Americans to save, invest and manage money wisely to meet personal goals. In this role, the Chairman coordinates the efforts of twenty federal agencies to improve financial education across the nation.

Based on empirical and anecdotal evidence, NCUA stands behind comprehensive, accessible and understandable financial education aimed at homeowners as an essential first step in giving consumers a fair chance to gain control of their financial future. NCUA will continue to explore new and innovative ways to promote this to the credit union industry and to the consumers who choose a credit union for home mortgage borrowing. NCUA's view is that while financial education is not a panacea or a substitute for strong and robust regulation and oversight of consumer protection laws, it is an important and cost-effective way to equip consumers with basic understandings of a very complex financial landscape.

V. Conclusion

Consumers face an increasingly complex financial landscape where the expansion of choices has been accompanied by a corresponding number of potentially disadvantageous and costly options. While the availability of new and innovative mortgage products has been beneficial to a large segment of the American public, too often these products have been offered to consumers who are unaware of the totality of the financial terms and conditions involved.

NCUA supports any responsible legislative effort that enhances consumer protection while preserving and expanding consumer ability to determine what mortgage products and services best suit them. Congress should concentrate on promoting a legal regime that not only eliminates negative anti-consumer lending practices but also improves upon the understandability and usefulness of consumer protections in such a way that adds to the borrower's understanding of the process, rather than simply adds to the number of pieces of paper in a settlement package.

Markets work best when aware consumers evaluate their options and make informed decisions. NCUA encourages Congress to keep that notion in the forefront as it engages in the commendable effort to improve mortgage lending for all consumers.