



**Submission for the Record
From Mary Martha Fortney, NASCUS President and CEO
To Senate Committee on Banking, Housing, and Urban Affairs
Hearing on Housing Finance Reform:
Protecting Small Lender Access to the Secondary Mortgage Market
November 11, 2013**

Chairman Johnson, Ranking Member Crapo, and distinguished Members of the Committee:

The National Association of State Credit Union Supervisors (NASCUS) appreciates the opportunity to provide this written statement for the record of the November 5, 2013 Senate Committee on Banking, Housing, and Urban Affairs hearing regarding the importance of protecting credit union access to the secondary mortgage market. As the professional association of the nation's state credit union regulatory agencies, NASCUS has been committed to enhancing state credit union supervision and advocating for a safe and sound state credit union system since its inception in 1965.

NASCUS applauds the committee's efforts in addressing this difficult issue and providing much needed reform to the housing finance market. While the Housing Finance Reform and Taxpayer Protection Act of 2013 (S.1217) provides for wide-ranging reform, NASCUS' comments will focus on the prudential benefits of maintaining credit union access to the secondary mortgage market, and the importance of streamlined coordination and information sharing between any new federal regulatory agency and the primary prudential regulator for the issuing or servicing financial institution.

Credit unions serve more than 97 million members across the country and play a vital role in the first mortgage market, especially in markets where larger financial institutions do not operate. Without a legislative mandate to maintain small lender access to the system, small lenders will effectively be shut out of the secondary market, which will undermine their ability to provide loans and services in already underserved areas. Any reform to the housing finance system should preserve the ability of small institutions to sell single loans directly into the secondary market, maintain existing standardization and digital underwriting programs, and embrace a pricing structure that values loan quality over lending volume. Small and medium sized credit unions generally do not produce the type

of loan volume that would be required to participate in a secondary market system without these provisions built in.

Credit unions did not cause the financial crisis, and their cooperative structure and conservative community based lending model allowed them to serve as a source of stability during the financial crisis when other lenders were unable or reluctant to provide needed credit in the housing marketplace. The reformed system should recognize the counter-cyclical benefits of maintaining an active presence of cooperative financial institutions in the mortgage market and the bill should protect that presence through appropriate pricing and access mechanisms.

From a safety and soundness perspective, the ability to sell mortgages into the secondary market helps credit unions to manage interest rate risk and provides them with a source of liquidity. While most depository institutions are vulnerable to interest rate risk because they use short-term liabilities to fund long-term fixed rate assets, credit unions face an additional challenge in that their ability to generate capital from other sources when interest spreads tighten is limited by statute.¹

As not-for-profit cooperative institutions, credit unions cannot turn to investors to generate needed capital, and must rely on their retained earnings. Consequently, credit unions must be particularly vigilant regarding rising interest rates, which can deplete retained earnings as the cost of funds rise compared to the credit union's return on assets. Although credit unions have an assortment of tools with which to manage interest rate risk, the ability to sell fixed rate mortgages into the secondary market remains a critical element of effective risk management for many credit unions. In addition, the ability to sell individual mortgages directly into the secondary market for cash provides credit unions with a valuable source of liquidity, which enables them to offer additional loans and better products to their members. State regulators want to ensure that the pursuit of a safe and sound secondary market does not inadvertently undermine the ability of entities that offer consumer friendly fixed rate mortgages, such as credit unions, to provide vital financial products to their members in a safe and sound manner.

NASCUS urges the committee to facilitate an orderly secondary market system that works in coordination with primary state and federal regulators in order to ensure seamless oversight while minimizing regulatory burden. The committee should consider amending S.1217 to require the Federal Mortgage Insurance Corporation (FMIC) to coordinate with primary prudential regulators, whether state or federal, when promulgating rules that would affect the institutions under their jurisdiction.

¹ Under current law, most credit unions are limited to retained earnings to build their net worth ratio for Prompt Corrective Action (PCA) purposes. The Capital Access for Small Businesses and Jobs Act (H.R.719) would amend the Federal Credit Union Act to allow sufficiently capitalized and well-managed credit unions to receive payments on certain uninsured non-share accounts, and count them toward PCA requirements. NASCUS supports this important and necessary legislation.

Currently, section 212(a)(3) only requires FMIC to coordinate with the Consumer Financial Protection Bureau (CFPB) and, to the extent practical and appropriate, the other federal banking agencies when developing standards for approval of servicers to administer eligible mortgages. As of March 2013, almost 40% of all credit unions in the country were state-chartered, and the ability to retain servicing rights on their members' loans is important for many of them. As a result, many state-chartered credit unions may be tweaking their operations in order to qualify as a mortgage servicer with FMIC. A statutory mandate that includes coordination with state regulators would facilitate information sharing and discussion that could prevent duplicative or conflicting regulation, reduce unnecessary cost and delay, and facilitate safe, sound, and efficient oversight of the mortgage market as a whole.²

NASCUS appreciates the opportunity to submit written comments to the Senate Committee on Banking, Housing, and Urban Affairs on this important issue. As drafted, S.1217 reflects a real understanding of the value that small lenders bring to the system, and NASCUS appreciates the efforts of the committee in fine-tuning the proposal to ensure access for all lenders. NASCUS and its state regulator members are available to answer any questions that the Committee may have regarding the safety and soundness implications of the proposed reform, and we look forward to continued dialogue on the issue as the bill progresses.

² NASCUS would be happy to suggest appropriate statutory language or meet with committee staff to elaborate on this suggestion.