N A C C A

National Association of Consumer Credit Administrators

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Senator Christopher J. Dodd, Chairman
U.S. Senate Committee on Banking, Housing, and Urban Affairs
534 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Dodd and Members of the Senate Committee on Banking, Housing, and Urban Affairs:

The National Association of Consumer Credit Administrators ("NACCA") is writing to comment on your financial reform draft proposal creating a Consumer Financial Protection Agency, and on similar legislation in H.R. 3126, the *Consumer Financial Protection Agency Act of 2009*. Both proposals would shape financial regulation for years to come. NACCA is an association of state government financial regulators from 49 states, the District of Columbia, Puerto Rico and Alberta, Canada. The primary focus of NACCA's members is the regulation of consumer credit.

When considering any legislation regarding financial regulation, NACCA respectfully requests that you consider these points:

> <u>Federal legislation should avoid federal preemption of state law.</u> Federal preemption has been a major impairment to the states' ability to adopt and enforce comprehensive consumer protection legislation. Particularly frustrating to states is the current ability of federally-chartered depository institutions and their subsidiaries to claim federal preemption and therefore avoid consumer protection regulation. In addition, federal laws deregulating the mortgage industry and preempting state laws contributed to the recent economic crisis.

Any regulatory standards set by federal legislation should be considered a floor, not a ceiling. In many cases, state laws are stricter and more effective in protecting consumers than federal law. States should be allowed to enact laws and rules which are not inconsistent with federal law yet provide stronger protection for a state's consumers.

State financial regulators have traditionally had a stronger consumer protection focus than federal regulators. Federal financial regulators have a history of focusing on a depository institution's safety and soundness, oftentimes at the expense of adequately considering the effect of an institution's practices on consumers. We agree that there is often an inherent conflict between the mission of safety and soundness compared to consumer protection. Because state regulators deal with non-depository institutions as well as depository institutions, state regulators have greater awareness and sensitivity to non-safety and soundness issues, e.g., consumer protection issues. As an example of this, more than 30 states have already enacted anti-predatory lending legislation. While the creation of a federal consumer finance protection agency may increase emphasis on consumer protection, it does not make sense to disregard the consumer protection focus which is already inherent and established in state regulation.

Limiting financial regulation to a federal level reduces the likelihood that problems with any particular financial institution will be detected. If a problem arises with a state-regulated entity which operates in multiple states, multiple state regulators are reviewing the entity's operations. Any one of those regulators can identify a problem and initiate corrective action. In addition, state regulators have, when appropriate, coordinated regulatory activities and enforcement actions. Such actions have included nationwide settlements involving Household International, Ameriquest Mortgage Company, and Countrywide Home Loans. If financial institutions were regulated by a single federal regulator, it is more likely that problems would go undetected due to a single regulator's inability to devote adequate resources to a particular institution.

Overall, the states have more resources to devote to financial regulation. While a federal regulatory agency may be larger than any single state regulatory agency, the combined state regulatory agencies are able to more effectively reach and regulate specific companies and institutions. This is a result of both a state regulator's proximity to a company's corporate headquarters and also the reduced likelihood that any particular company or institution will be lost in a bureaucratic shuffle. The federal legislation should recognize the state system and leverage those resources, rather than duplicate regulation with its associated cost burden. Further, the states have extensive experience resolving consumer complaints in the local jurisdictions. This important function for everyday consumers is more effective when the regulator's proximity is closer to both the consumer and the creditor.

Any regulatory standards set by the legislation should apply uniformly to all non-depository financial service providers. The delivery of financial services today is broad-based and provided by a diverse array of non-depository providers from payday lenders to motor vehicle installment sales to large finance companies to debt relief companies. Any standards for the application of federal policy should apply broadly and not exempt groups of non-depository financial providers.

Your decisions and actions in the coming weeks and months will have a great impact on the future of the financial services system in this country and the manner of regulating those services. We respectfully urge you to consider the above points when making your decisions.

Sincerely,

Joe Crider

Joe Crider
President