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B. Dan Berger
President & Chief Executive Officer

National Association of Federally-Insured Credit Unions

March 6, 2020

Ms. Ann Misback
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551

RE: Regulation D Transaction Limit

Dear Ms. Misback:

On behalf of the National Association of Federally-Insured Credit Unions (NAFCU), I am writing to urge the Board of Governors of the Federal Reserve System (Board) to reconsider Regulation D's transaction limit. NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve 120 million consumers with personal and small business financial service products. NAFCU has long held the position that Regulation D's transaction limit is unreasonable and we have frequently recommended that it be eliminated.

In light of the unique risks posed by COVID-19 and uncertainty regarding what future actions might be taken privately and publicly to manage the spread of the virus, we believe the Board should take action now to remove the limit. Given the demonstrable strain the novel coronavirus has already placed in different parts of the country, where some schools and businesses have already suspended normal operations, eliminating the transaction limit would be a proactive measure to reduce potential stress on household liquidity during a time of elevated public anxiety.

As the Board is aware, Regulation D limits a credit union member's ability to transfer their money between savings and checking accounts to six transactions per month. This includes any transfers to cover overdrafts in a checking account. Once a transaction is made beyond that limit, a member could be charged a fee, or their savings account might be re-classified as a "transaction account." Under Regulation D's current rules, savings accounts are not subject to reserve requirements, while transaction accounts are. Attempts to explain to credit union members why this distinction necessitates limits on their withdrawals from savings accounts often leads to confusion.

For members, exceeding the transaction limit could mean paying an unexpected overdraft fee that might otherwise be covered by their savings account. Fortunately, credit unions are willing to work with their members to move funds to appropriate accounts if exceeding the limit becomes a persistent problem. However, if public health exigencies were to result in unexpected movement of funds out of savings accounts by a large number of credit union members at the same time, compliance resources could be overwhelmed and members experiencing financial strain might not realize that the protection of a linked savings account is limited to six transfers. The Government Accountability Office (GAO) has reported that the steps taken to enforce the transaction limit have contributed to various operational burdens at depository institutions: mailing disclosures, closing or converting accounts, and responding to complaints about the limit itself.[1] These burdens could be greatly magnified depending on how COVID-19 affects local communities and businesses. Some credit unions, due to their unique field of membership, might be highly dependent on the continued operation of small, regional employers. For these employee-based credit unions, the transaction limit would only serve to impair their ability to help members caught in a local outbreak.

More generally, when financial institutions comply with Regulation D by locking the transfer capabilities of savings accounts after the limit has been exceeded repeatedly, customers of these institutions might find that paying for necessary healthcare expenses, once transaction account funds have been depleted, is more difficult.[2] Furthermore, evidence suggests that consumers rarely take the time to read Regulation D disclosures, which could contribute to frustration during times of crisis.[3] Any public perception that funds are not available in such a scenario would pose serious reputational risk not only to individual financial institutions but to the financial sector as a whole.

Regardless of the future impact of COVID-19, the Board should seek to modernize Regulation D in recognition that the transaction limit does not contribute meaningfully to the execution of modern monetary policy.[4]

Conclusion

NAFCU strongly urges the Board to consider eliminating Regulation D's transaction limit for savings accounts. Doing so would alleviate potential stress on household liquidity during times of uncertainty, make it easier for consumers to manage their personal finances, and alleviate operational burdens placed on credit unions that must enforce the limit.

Should you have any questions or require additional information, please do not hesitate to contact me or Andrew Morris, Senior Counsel for Research and Policy, at (703) 842-2266 or amorris@nafcu.org.

Sincerely,

B. Dan Berger
President and CEO

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[1] See GAO, Observations on Regulation D and the Use of Reserve Requirements, GAO-17-117, 35-36 (October 2016), available at https://www.gao.gov/assets/690/680361.pdf.
[2] See 12 CFR 204.2(d) fn. 4 ("For customers who continue to violate those limits after they have been contacted by the depository institution, the depository institution must either close the account and place the funds in another account that the depositor is eligible to maintain or take away the transfer and draft capacities of the account.").
[3] See GAO at 36. "[C]redit unions and banks (84 percent versus 80 percent) cited getting customers to read Regulation D notices as a challenge."
[4] See GAO at 145. "The Federal Reserve currently operates a monetary policy approach that is similar to the type of framework it could employ if it were to significantly reduce or eliminate reserve requirements."