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National Association of Federally-Insured Credit Unions

March 20, 2020

The Honorable Maxine Waters
Chairwoman
Committee on Financial Services
United States House of Representatives
Washington, DC 20515

The Honorable Brad Sherman
Chairman
Subcommittee on Investor Protection, Entrepreneurship, and Capital Markets
Committee on Financial Services
United States House of Representatives
Washington, DC 20515

The Honorable Gregory W. Meeks
Chairman
Subcommittee on Consumer Protection and Financial Institutions
Committee on Financial Services
United States House of Representatives
Washington, DC 20515

The Honorable Wm. Lacy Clay
Chairman
Subcommittee on Housing, Community Development and Insurance
Committee on Financial Services
United States House of Representatives
Washington, DC 20515

The Honorable Emanuel Cleaver
Chairman
Subcommittee on National Security, International Development and Monetary Policy
Committee on Financial Services
United States House of Representatives
Washington, DC 20515

The Honorable Al Green
Chairman
Subcommittee on Oversight and Investigations
Committee on Financial Services
United States House of Representatives
Washington, DC 20515

The Honorable Joyce Beatty
Chairwoman
Subcommittee on Diversity and Inclusion
Committee on Financial Services
United States House of Representatives
Washington, DC 20515

The Honorable Bill Foster
Chairman
Task Force on Artificial Intelligence
Committee on Financial Services
United States House of Representatives
Washington, DC 20515

The Honorable Stephen Lynch
Chairman
Task Force on Financial Technology
Committee on Financial Services
United States House of Representatives
Washington, DC 20515

**Re: Credit Union Response to COVID-19**

Dear Chairwoman Waters, Chairman Sherman, Chairman Meeks, Chairman Clay, Chairman Cleaver, Chairman Green, Chair Beatty, Chairman Foster and Chairman Lynch:

I write to you today on behalf of the National Association of Federally-Insured Credit Unions (NAFCU), in response to your letter on March 11, 2020, to share with you examples of how credit unions are working with their members during the uncertainty arising from COVID-19, the “novel coronavirus,” and to ask for your support for measures that would help credit unions help consumers during economic uncertainty. As you are aware, 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.

Credit unions are member-owned, not-for-profit financial institutions. They play an important role in the financial health of Main Street America and are proud of the role they played during the Great Recession and the recent economic turnaround. The guiding principle of all credit unions is to work to increase the financial stability and success of their members. As such, they are completely dedicated to serving the needs of their member-owners. From their inception, credit unions have, by their nature, tailored the services they provide to meet the specific needs of their membership, not to maximize profits for outside investors.

NAFCU also believes that as Congress responds to the pandemic, it is important that policymakers recognize that this is not a crisis caused by the financial services industry. Measures to address the current crisis should not harm credit unions, nor threaten the safety and soundness of financial institutions. While it is important to help consumers and small businesses during this time of crisis, it is critical that policy decisions do not threaten the ability of credit unions to operate in a safe and sound manner as they work to serve their members. We want to ensure that a national health crisis does not become a national financial crisis. NAFCU cannot support measures that unnecessary threaten credit unions from receiving the income they need to operate and meet the needs of their members, such as an extension of interchange price caps, blanket loan forbearance for those unimpacted by the pandemic, and broad measures that could threaten the integrity of our nation's credit reporting system.

**What Credit Unions Are Doing**

Credit unions are keenly aware of hardships that some of their members may face from the COVID-19 outbreak and stand ready to work with them on their personal financial needs. Similar to the immediate response we saw when credit unions step up to help members during the government shutdown, we are pleased to report that credit unions across the nation are working to proactively assist their members impacted by COVID-19 uncertainty.

First and foremost, credit unions are concerned about the health and safety of their staff and members. Many are taking steps to help minimize person-to-person interaction, such as limiting staff travel, encouraging staff to telework as much as reasonably possible, and reminding members of online and mobile banking resources as well as drive through windows, if available. Some credit unions are taking the additional step of limiting access to branch lobbies, such as by requiring members to make an appointment before visiting or creating "seniors only" hours. Furthermore, many credit unions are providing their employees with additional paid time off to help ensure that those affected by this crisis do not face unnecessary financial hardship.

Credit unions are also concerned about the financial health of their members, that is why they are working with their members to address individual situations. A number of credit unions are instituting programs similar to those they provided during government shutdowns, such as skipping payments without penalty, waiving of fees, low or no-interest loans, loan modifications, no interest accruals, and more. They are also ensuring that their members have the tools they need, whether it is having cash available for them, or access to other forms of payment services. For example, Kinecta Federal Credit Union in Manhattan Beach, California is offering emergency relief loans to help their members affected by COVID-19. These loans are offered in amounts up to $2,000 at an APR of 0.00 percent with terms up to 24 months. Members have up to 90 days to make their first payment.

Some credit unions are experiencing significant cash withdrawals. In order to best serve their members, credit unions are increasing cash on hand and some are taking the step to require advance notice for large withdrawals (e.g. over $50,000).

One thing almost all of our member credit unions tell us is that they will work with individual members on a case-by-case basis to meet their unique needs if their portfolio of products does not match their needs. This personalized service fits in with the credit union focus on serving the financial needs of the member. Given that these efforts could lead to offering non-standardized products, we would encourage you in your oversight role to urge financial regulators, such as the National Credit Union Administration (NCUA), to not penalize institutions for these efforts during future examinations.

Credit unions have also been working to publicize their assistance programs and COVID-19 updates so that their members know that they have options. These communications include special webpages, updates to members, or branch postings, among others. NAFCU is also working hard to ensure that credit unions are aware of the resources available to them in these extraordinary times and to facilitate communication between credit unions regarding what programs and policies have been helpful to their members. We are in daily contact with our credit unions via emails, phone calls, webinars, and online networks.

**What Policymakers Can Do**

Unfortunately, while credit unions continue to do good work, a number of outdated provisions hamper some of these efforts. There are important policy changes that the government can take to help credit unions serve consumers during these uncertain times.

We would urge you to support the following measures:

*Provide Relief from the Outdated Credit Union Member Business Lending Cap*

Credit unions face arbitrary restrictions in the *Federal Credit Union Act* (FCU Act) on the ability to offer member business loans (MBLs). In 1998, Congress codified the definition of an MBL and limited a credit union's member business lending to the lesser of either 1.75 times the net worth of a well-capitalized credit union or 12.25 percent of its total assets. As part of S. 2155 in 2018, Congress clarified that one-to-four family non-owner occupied homes should not be counted as business loans toward the cap.

As the country faces recovery from the impact of COVID-19 on the economy, many credit unions have capital to help small businesses create jobs. However, due to the outdated and arbitrary MBL cap, their ability to help stimulate the economy is hampered. Removing or modifying the cap would help provide economic stimulus and create jobs without using taxpayer funds to do so.

There are a number of possible approaches to provide this relief. One approach is to raise the cap to 20 percent of the credit union's assets. Such an approach has received bipartisan support in previous Congresses. Another approach is to raise the threshold for what counts as a business loan toward to the cap (currently $50,000) to a higher level (such as $250,000), which could open up additional lines of credit to small and micro businesses, as they would now be exempt from the cap.

We also support exempting loans to our nation's veterans from the cap. Bipartisan legislation is pending in the House (H.R. 2305) and the Senate (S. 2834) that would provide this relief. Relief can also be provided by exempting all government-backed loans (such as SBA loans) from the cap. Currently, only the guaranteed portion of the loan is exempt from the cap.

*Provide Capital Relief to Credit Unions*

Credit unions remain well-capitalized as an industry and stand ready to help in the economic recovery. However, pending new capital requirements from regulators could stymie these efforts. Even though the Financial Accounting Standards Board has delayed its new Current Expected Credit Losses standard for credit unions until the first quarter of 2023, credit unions will have to start bringing their portfolios in line now. This could cause constraints on lending just as the nation is seeking to recover. Further delaying implementation of this standard could help provide additional clarity and relief for credit unions.

General regulatory flexibility for well-capitalized credit unions can also help these institutions work with their members to provide much-needed relief without additional "red-tape" getting in the way. Such an "off-ramp" for community banks that meet a certain leverage ratio was enacted as part of S. 2155. Enacting a similar provision now for credit unions can go a long way to giving them greater flexibility to meet the needs of their members while ensuring safety and soundness.

The NCUA can also help in this area by permanently grandfathering "excluded goodwill" and "excluded other intangible assets" in the Risk-Based Capital (RBC) calculation for credit unions. Currently, these amounts may be included in a credit union's RBC ratio calculation until January 1, 2029, at which point the 2015 NCUA RBC final rule requires that both goodwill and other intangible assets be deducted from the numerator of a credit union's RBC ratio. Permanently grandfathering goodwill and other tangible assets would result in several benefits to the credit union industry and make it easier for healthy credit unions to merge with credit unions that may be negatively impacted by the emerging economic downturn. This is an important step to help ensure smooth credit union consolidations as the economy recovers.

*Allow Credit Unions to Do More to Help Underserved Populations*

Credit unions want to help the American consumer, especially in turbulent times. Too many Americans are unbanked, underbanked or underserved by financial institutions, and do not have the access that they need to financial services. Credit unions stand ready to help with financial literacy education and access to loans and other financial products, but many are limited in their ability to add underserved areas to their field of membership. Allowing all credit unions to add underserved areas to their field of membership is one way to help those who need it most have access to capital without burdening the federal government.

*Modernize Outdated Governance Provisions Found in the Federal Credit Union Act*

A number of provisions relating to the governance of federal credit unions are outdated and need modernizing. For example, provisions requiring an in-person member meeting are particularly concerning during these times of COVID-19 uncertainty. At a time when few people may want to congregate in large groups, an outdated provision requiring a group meeting for actions that can be handled by a board or virtually only serves to put credit union volunteers and leadership at risk. A number of credit unions are already trying to change plans for annual member meetings in light of COVID-19. There is already bipartisan legislation pending in the Senate, S. 3323, that would remove the requirement for a special in-person meeting of the members of a credit union and replace it with board action to expel a member for threats or criminal acts against the credit union, its employees or its members. Such a measure is a common-sense step Congress can take to help credit unions in the current environment.

*Raise the 15-Year Maturity Limit on Certain Credit Union Loans*

Credit unions have a long track record of providing provident credit to members during times of uncertainty. However, as noted, outdated provisions in the FCU Act sometimes hamper those efforts. This is the case with the 15-year general maturity limit found in the FCU Act for most credit union loans (with certain exceptions, such as owner-occupied mortgage loans). This limit hampers credit unions' ability to provide certain products, such as student loans and mortgage loans to those who may be looking to take advantage of great rates and purchase a future home, such as members of the military who may be stationed outside of an area. Bipartisan legislation to help on this issue has been introduced in both the House (H.R. 1661) and the Senate (S. 3389).

*Modernize the E-SIGN Act*

The *Electronic Signatures in Global and National Commerce Act* (E-SIGN Act) was passed nearly 20 years ago and generally allows electronic signatures and documents to carry the same legal weight as hard copy or paper documents. At a time when social distancing has become paramount to the health and safety of credit union members, employees, and their families, credit unions are discovering that some of the E-SIGN Act's outdated provisions have become a burden. Modernizing E-SIGN provisions could help credit unions better meet the needs of members, while respecting social distancing requirements.

*Provide Emergency Funding for CDFI Institutions and the CDRLF*

The Community Development Financial Institutions (CDFI) Fund and the Community Development Revolving Loan Fund (CDRLF) are important tools for credit unions to access to funds to help those underserved and lower-income areas. An increase in funding of these programs would allow more credit unions to access monies to provide specific programs to help their members.

*Have Federal Financial Regulators Provide Immediate Regulatory Relief*

Federal financial regulators have the ability to act immediately in a number of areas to help credit unions. These steps include:

- Moving to extended examination cycles for all credit unions in good standing. Currently credit unions below $1 billion in good standing are eligible for extended exam cycles. Extending this to all credit unions could provide relief. With so many credit unions now having employees telework and limiting person-to-person interaction, at the very least, on-site examinations by all regulators should be put on hold until the crisis has passed.
- Extending all upcoming mandatory compliance deadlines for at least 18 months, unless the regulation is in response to the current situation or includes regulatory flexibility.
- Allowing credit unions to conduct all board meetings or member meetings virtually. In-person meetings would likely violate the current 10-person limit recommended by the CDC. With comments that this crisis could extend into the summer, a simple delay of required business is not always an option. Immediate action to allow virtual meetings would provide relief.
- Requiring the Consumer Financial Protection Bureau and the NCUA provide flexibility to credit unions who work with their members to assist with COVID-19 relief. This includes capital level forbearance, waiving certain timing requirements at the request of the consumer, and not penalizing credit unions who make good faith efforts to help their members.

*Assist Associations in Relief Efforts*

Finally, as you consider measures to help various industries and small businesses, such as potential payroll tax relief, NAFCU also urges you to ensure such steps cover not only credit unions, but also associations. Many industry conferences and trainings stand to be impacted by COVID-19 and face cancellation or decreased attendance. Insurance plans for travel and events often do not cover cancellations for pandemics, which increases the cost of COVID-19 on the entire industry. Any relief package should address this important topic. As you continue your vital work to respond to COVID-19, we strongly urge you to include these provisions to help our nation's credit unions and the 120 million Americans than they serve. During times of economic crisis, credit unions always focus on their members and doing all that they can to help. We are pleased that the NCUA has expressed flexibility during these difficult times, and we would urge you to support steps outlined in this letter to help credit unions.

Thank you for your attention to this matter. We look forward to continuing to work with you on this important issue. Should you have any questions or require any additional information please contact me or Brad Thaler, NAFCU's Vice President of Legislative Affairs, at 703-842-2204 or bthaler@nafcu.org.

Sincerely,

B. Dan Berger
President and CEO

cc: Members of the United States House of Representatives
Members of the United States Senate