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National Association of Federally-Insured Credit Unions

February 15, 2022

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

The Honorable Patrick McHenry
Ranking Member
House Financial Services Committee
United States House of Representatives
Washington, DC 20515

Re: Tomorrow's Hearing: "An Unprecedented Investment for Historic Results: How Federal Support for MDIs and CDFIs Have Launched a New Era for Disadvantaged Communities"

Dear Chairwoman Waters and Ranking Member McHenry:

I write to you today on behalf of the National Association of Federally-Insured Credit Unions (NAFCU) regarding tomorrow's hearing. We appreciate the opportunity to share our views on the important role that Community Development Financial Institutions (CDFIs) and Minority Depository Institutions (MDIs) play in the economy and local communities. NAFCU advocates for all federally-insured not-for profit credit unions that, in turn, serve over 127 million consumers with personal and small business financial service products.

Credit unions are proud of their record of diversity. According to the NCUA's "2020 Minority Depository Institutions Report to Congress," at the end of 2020 there were 520 federally-insured credit unions designated as MDIs, 417 of which also have the low-income credit union designation. Credit union MDIs are located in 37 states, Washington, D.C., Puerto Rico, and the U.S. Virgin Islands. These institutions serve over 4.3 million members and tend to be smaller institutions; 82 percent of MDI credit unions have assets of $100 million or less. They also tend to underperform growth in all categories, including asset size, membership, and loan volume, in comparison to the rest of the credit union industry, and the disparity is growing.

Credit unions are also proud of their participation in the CDFI program, which provides grants to allow credit unions to better serve low-income members and underbanked communities. There were 416 CDFI-designated credit unions as of December 28, 2021, up from 285 in November of 2018, serving nearly 17 million predominantly low-income consumers and communities of color. In addition to helping credit unions in low-income areas serve members in need, the CDFI program gives credit unions access to funds that they are not able to raise from the capital markets.

As the Committee examines approaches to aid CDFIs and MDIs, we believe it is important to properly fund federal support for CDFIs and MDIs. This includes increased funding through the annual appropriations process for both the CDFI Fund and the NCUA's Community Development Revolving Loan Fund (CDRLF). The CDRLF is an important tool for credit unions to serve low-income areas by providing grants to low-income credit unions to meet needs in those areas, often

to provide technology resources to help members. During the pandemic, CDRLF requests have far outpaced available funding. NCUA Chairman Todd Harper has specifically called for additional CDRLF funding to help low-income credit unions.

Additionally, we would support creating a CDFI Crisis Fund that would automatically make additional capital available to CDFIs to address natural disasters and economic crises when they occur in their community as proposed by Senator Brian Schatz.

Regarding the subject legislation of this hearing, NAFCU would like to offer its support for:

- the *CDFI Bond Guarantee Program Improvement Act*;
- the *Federal Home Loan Banks' Mission Implementation Act*;
- the *Advancing Technologies to Support Inclusion Act*; and
- the *Supporting the Creation of Diverse and Mission-Driven Community Financial Institutions Act*.

NAFCU is generally supportive of the *Promoting and Advancing Communities of Color Through Inclusive Lending Act*, but would like to see further clarity in Section 7. We are concerned that, while well intended, the process could be hindered by the legislation as written. Likewise, NAFCU is supportive of the intentions of the *CDFI Certification Consultation Act*, but is concerned that the legislation, as written, could further slow down the approval process. We look forward to working with the Committee to achieve the intended goals of these pieces of legislation.

Finally, we would urge you to consider the following areas to assist CDFI and MDI credit unions:

Improve the Process for Certification as a CDFI
NAFCU has heard from many credit unions that have been waiting several months for certification as a CDFI with little clarity or insight on their status. While it is important that the CDFI Fund have the resources to handle the volume of applications in a more timely manner, it is also critical that technical issues or overburdensome requirements do not hamper efforts by credit unions to serve those who want to help members in need. We believe that the CDFI Fund is best situated as a resource for institutions, and not a regulator. Additionally, transparency is key. As such, we believe the process for certifying, and maintaining certification, for a credit union, as an insured depository institution (IDI), should recognize their unique nature. Examples of how this can be done include:

- Ensuring that the "primary mission test" is not a hurdle for credit unions as not-for-profit member-owned cooperatives;
- The "target market test" for certification should focus on those to whom the credit union provides a wider range of financial services, and not just to whom it has already made loans, to meet thresholds; and
- Allowing a longer "cure period" to maintain certification that ensures credit unions can keep existing CDFI-backed programs in place. Credit unions, as not-for-profit, member-owned financial institutions, often face limited resources and staffing, which may impact their ability to quickly cure any issues, but they are still required to meet the same

regulatory burdens and subject to the same market pressures as large, for-profit banks. A longer "cure period" for CDFI credit unions will allow them to meet the challenges of unforeseen events like natural disasters and pandemics—and deal with existing regulatory requirements, some of which are unique to credit unions—all while continuing to serve their communities.

Allow all Credit Unions to Serve Underserved Areas

As has been noted by Members of Congress across the political spectrum, credit unions were not the cause of the Great Recession, and an examination of their lending data indicates that credit union mortgage lending outperformed bank mortgage lending during the downturn. This is partly because credit unions did not contribute to the proliferation of subprime loans. Before, during, and after the financial crisis, credit unions continued to make quality loans through sound underwriting practices focused on providing their members with solid products they can afford.

In addition, both during and after the crisis, credit unions have been committed to helping the portions of their communities that are most in need obtain high quality products and services. This has been demonstrated once again during the pandemic. Unfortunately, credit unions that want to do more are limited in who they can serve by the *Federal Credit Union Act* (FCU Act), which restricts credit unions to serving a distinct field of membership. Many credit unions want to help those in underserved areas but the ability to add underserved areas to their fields of membership is limited. Currently, only multiple common bond credit unions have the authority to add underserved areas. We urge the Committee to amend the FCU Act to allow all credit unions the ability to add underserved areas to their fields of membership.

Loan Maturity Limits

The FCU Act has a general statutory limit on federal credit union loans of 15 years, with a limited number of exceptions, such as mortgage loans for a primary residence. The rigid and limited set of exceptions to the FCU Act's general 15-year maturity limit does not provide the NCUA with the ability to expand the types of loans that may be made with a longer maturity limit through regulation. For example, many military members may purchase a home to move to when their service ends, but because it is not their current primary residence, they may be unable to obtain a loan with a term longer than 15 years. Additionally, a number of credit unions have been approached by members wanting to obtain financing for solar loans with a term longer terms. Both of these examples highlight the fact that the current 15-year limit is outdated and does not conform to maturities that are commonly accepted in the market today, resulting in credit unions turning away members in need and losing market share in a growing area of climate-friendly lending. In a rising interest rate environment, it is important that consumers have options for longer maturity products. We urge you to adopt an approach similar to the one found in S.762, the *Expanding Access to Lending Options Act*, introduced by Senators Tim Scott, R-SC, and Catherine Cortez-Masto, D-NV, to address this issue.

Allow GSEs to Purchase Non-Conforming Loans from CDFIs

An important aspect of the CDFI Fund is that it provides awards to CDFI institutions to allow them to finance mortgage lending for first-time homebuyers and be able to provide flexible underwriting for community facilities. CDFIs often provide educational services such as credit counseling and

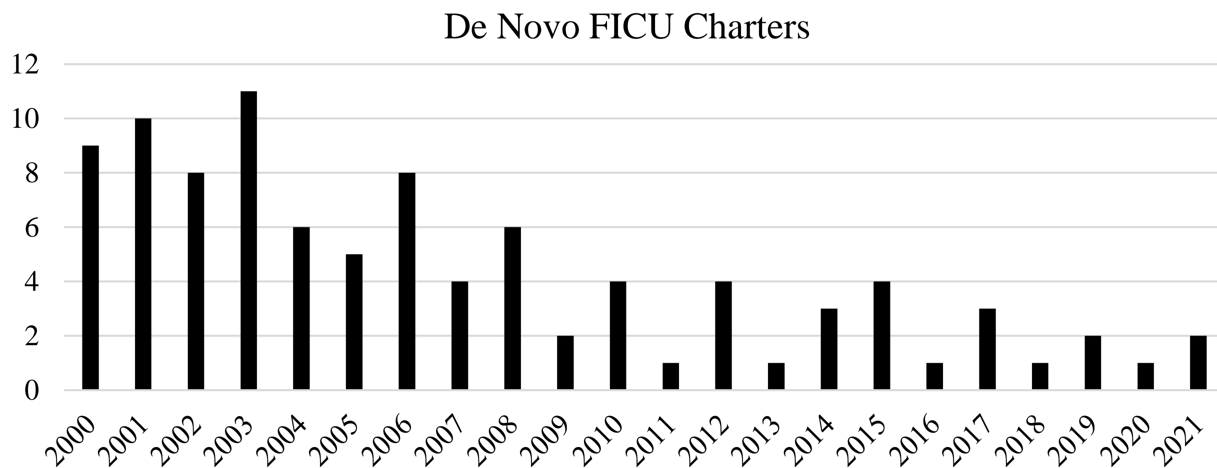
homebuyer classes to help their borrowers use credit effectively and ensure they are able to keep up with their loan obligations. However, the majority of the mortgages originated by CDFIs are considered non-conforming (as they do not meet the loan-to-value, debt-to-income, FICO score, or other requirements), and Fannie Mae and Freddie Mac (the government-sponsored enterprises (GSEs)) are unable to purchase these loans. NAFCU has urged the Federal Housing Finance Agency (FHFA) to create a pilot program to allow the GSEs to buy such non-conforming loans from CDFIs because they are serving the exact communities that the GSEs aim to serve through their statutorily mandated missions.

Credit unions that are classified as CDFIs are best situated to originate loans to the communities most in need. NAFCU believes that one way to help address the widening homeownership gap for minorities would be for the FHFA to permit the GSEs to purchase mortgages like the ones made by CDFIs to their communities through new pilot programs with less stringent purchase criteria. Establishing such pilot programs will facilitate the development of a vibrant secondary market, thus ensuring the long-term viability and even expansion of such lending programs in the primary mortgage market. This would mean CDFIs could make more of these loans to support their communities and help resolve some of the access and equity issues currently impacting many borrowers. Should the FHFA prove unwilling to allow the GSEs to purchase these mortgages, we urge you to consider taking legislative action on behalf of CDFIs and the underserved areas they serve to bring about this change.

Federal Housing Administration (FHA) Lending
Credit unions in general, and especially credit unions designated as CDFIs and MDIs, play a vital role in supporting underserved communities. As noted above, to obtain and maintain their certification, CDFIs must demonstrate that at least 60 percent of their lending activity is directed to one or a combination of target markets: economically distressed geographies (Investment Areas); low-income targeted populations (LITP); and minority communities, specifically African Americans, Hispanics, and Native Americans (other targeted populations - OTP). One of CDFIs' most important values to these communities is their ability to provide responsible and affordable mortgage lending for first-time homebuyers, lending to small businesses, and offer flexible underwriting for community facilities. The financial products offered by CDFIs are designed to support the specific needs of the borrower, particularly low- and moderate-income, as well as minority borrowers, as most are fixed-rate and self-amortizing with lower origination fees. This keeps payments affordable and allows borrowers to decrease the principal, so the loan is actually paid off at the end of the term. Although these products provide much-needed credit in their respective communities, their specialized nature may set them apart from conventional mortgage products. NAFCU has urged the FHA to introduce additional programs that provide insurance for CDFI loans and that make it easier for these communities to have access to FHA-backed mortgage products.

We recommend that Congress require the U.S. Department of Housing and Urban Development to conduct a study to determine the level of participation of CDFIs in FHA loan insurance programs and offer targeted training and resources to grow the number of CDFIs that are FHA-approved lenders.

De Novo Credit Unions
The rising cost of compliance deters many would-be *de novo* (start-up) credit unions. Additionally, the initial capital infusion and cash outlays are often too great for many communities and associations, and there is little to no return on investment. Starting a new credit union is essentially an altruistic endeavor, as there is no ultimate financial incentive for those that are successful, and the costs and hurdles can be discouraging. Furthermore, the complex chartering process is relatively easy and straightforward when compared to what a *de novo* credit union will face once it is chartered and operating. All of these factors contribute to a significant decline in the pace of *de novo* credit unions post financial crisis.



A new charter is considered as one with at least one filed call report
Source: NAFCU analysis of NCUA call report data

The chart above outlines the number of *de novo* federally-insured credit unions chartered since the year 2000.

The NCUA takes an active role in helping new credit unions form and provides support. NAFCU appreciates the NCUA's strategic focus on easing barriers to the formation of new credit unions, including streamlining the chartering process, offering assistance to groups attempting to establish a new credit union in earlier stages, and providing newly formed credit unions with additional flexibility in meeting regulatory requirements.

Still, the NCUA's abilities are limited by what is allowed under statute. NAFCU urges Congress to modernize the FCU Act to promote the chartering of *de novo* credit unions and to provide greater flexibility regarding prompt corrective action capital requirements for *de novo* credit unions. Although the FCU Act gives the NCUA the authority to offer some prompt corrective action flexibility for new credit unions, expanding the agency's authority would be helpful.

Subordinated Debt
Congress may provide more flexibility to credit unions' ability to serve low- and moderate-income individuals in their communities by supporting the NCUA in its efforts to permit credit unions to issue subordinated debt. Currently, low-income credit unions are able to offer a form of subordinated debt called secondary capital. Low-income credit unions may issue secondary capital accounts to non-natural persons and these accounts are generally treated as regulatory capital. The approval process to offer secondary capital can, however, be complex. NAFCU appreciates the NCUA's recent supervisory guidance pertaining to the evaluation of secondary capital plans, as it provides valuable insight into why a secondary capital plan may be denied. Nonetheless, NAFCU continues to urge the agency to provide further support and guidance to low-income credit unions so they can better utilize this important resource.

NAFCU advocates for a more streamlined process for the approval of secondary capital applications. Although every secondary capital plan is necessarily different depending on the credit union in question, the process should be more standardized to help credit unions anticipate and better prepare their secondary capital plans for approval. Additional flexibility, guidance, and other resources, particularly on how credit unions can more comprehensively project future performance over a reasonable time horizon would be helpful as many low-income credit unions continue to face obstacles in the approval process. Additionally, NAFCU supports improved flexibility in credit unions' capital framework to enhance consistency across regions regarding the treatment of secondary capital as it applies to a credit union's net worth calculation.

Taking the steps outline above would go a long way to helping meet the needs of CDFIs and allowing them to meet the challenges that arise.

We thank you for the opportunity to share our thoughts and look forward to continuing to work with you on improving CDFIs and MDIs so they can continue to serve the economy and their communities. Should you have any questions or require any additional information, please contact me or Chad Adams, NAFCU's Senior Director of Legislative Affairs, at (703) 842-2265 or cadams@nafcu.org.

Sincerely,

Brad Thaler
Vice President of Legislative Affairs

cc: Members of the U.S. House Committee on Financial Services