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National Association of Federally-Insured Credit Unions

February 9, 2021

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

The Honorable Patrick McHenry
Ranking Member
Committee on Financial Services
United States House of Representatives
Washington, D.C. 20515

Re: Tomorrow's Markup on Financial Services Committee Reconciliation Legislation Pursuant to S.Con.Res.5, the Concurrent Resolution on the Budget for Fiscal Year 2021

Dear Chairwoman Waters and Ranking Member McHenry:

I write to you today on behalf of the National Association of Federally-Insured Credit Unions (NAFCU) to share our thoughts on the legislation under consideration by the Committee on Financial Services pursuant to the reconciliation instructions contained within S.Con.Res.5, the Concurrent Resolution on the Budget for Fiscal Year 2021 ("Budget Resolution"). As you are aware, NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve 123 million consumers with personal and small business financial service products. We thank you for providing credit unions with important tools to help their members in previous relief packages. Still, as you are aware, more needs to be done to help our nation recover. We would like to take this opportunity to highlight how the legislation under consideration will help, as well as provide input on how credit unions are continuing to address the pandemic and share areas where further help is needed.

As you know, credit unions have been on the frontlines working with their members during these times of economic uncertainty. Credit unions have voluntarily implemented programs to protect their members' financial health, including skipping payments without penalty, waiving fees, low or no-interest loans, loan modifications and no interest accruals. The relief provided by Congress thus far has been helpful in these efforts; however, more must be done to ensure credit unions have the necessary tools to continue to support their members through this crisis.

We are pleased that the legislation under consideration by the Committee takes steps to provide struggling renters and homeowners with financial assistance to stay in their homes. Rental assistance not only enables financially struggling Americans to stay in their homes during this pandemic, but it also helps small landlords continue to make their mortgage payments. Considering the toll this pandemic has taken on many vulnerable families, we support the Committee's proposal to allocate an additional $25 billion for emergency rental assistance. Moreover, we are supportive of the provisions to help homeowners struggling due to the pandemic, including $9.961 billion to states, territories, and tribes to help these households with mortgage payments and other housing related costs. All in all, this assistance helps ensure this health crisis does not become another housing crisis. While credit unions have worked with their members to provide forbearance, that relief over time can strain a financial institution, making it harder to operate and provide additional credit to members. This assistance is necessary to help struggling Americans stay in their homes, while ensuring that financial institutions such as credit unions have the liquidity to continue to serve their members.

Furthermore, we are supportive of the effort to allocate $10 billion to the State Small Business Credit Initiative found in today's version of the Amendment in the Nature of a Substitute (ANS). The economic impact of COVID-19 and the credit needs of small businesses will be with us beyond the short-term bridge provided by the Paycheck Protection Program (PPP). With that in mind, we need to ensure that small businesses have access to as many potential sources of capital as possible.

Next, we would like to take this opportunity to share additional areas that we believe should be addressed by Congress and the Administration in future relief efforts. We outlined these areas in detail in a letter to the Committee on February 3, 2021. For your reference, these asks are summarized below:

- *Capital and Prompt Corrective Action Flexibility:* Provide temporary capital flexibility for the National Credit Union Administration (NCUA) and credit unions, such as a reduction in the level at which credit unions are considered well capitalized and adequately capitalized on par with relief provided to community banks by section 4012 of the *Coronavirus Aid, Relief, and Economic Security Act* (CARES Act).
- *Credit Union Investment Authorities:* Authorize additional investment authorities for federal credit unions similar to what is allowed for some state-chartered credit unions so they can better manage the influx of deposits during the pandemic and earn a better return, allowing them to provide more products and services to their members.
- *Member Business Lending (MBL) Cap Relief:* Exclude business loans made in response to COVID-19 relief from the credit union member business lending (MBL) cap. This proposal had bipartisan support in the House last Congress in the form of H.R. 6789, the *Access to Credit for Small Businesses Impacted by the COVID-19 Crisis Act of 2020*, and similar legislation was introduced in the Senate.
- *Loan Maturity Extension:* Provide credit unions with relief from the outdated 15-year general maturity limit found in the *Federal Credit Union Act* (FCU Act) for most credit union loans, as proposed by legislation from last Congress in the House (H.R. 1661) and Senate (S. 3389). Credit unions frequently hear from small businesses that a 20-year loan would be preferable in terms of a lower monthly payment, but because of the 15-year maturity limit, small businesses often turn to banks in order to get those loans.
- *Allow Credit Unions to Do More to Help Underserved Populations:* Amend the FCU Act to allow all credit unions to add underserved areas to their fields of membership. This is one way to help those who need it most have access to capital at no cost to the federal government.
- *Modernize the E-SIGN Act:* Modernize provisions in the *Electronic Signatures in Global and National Commerce Act* (E-SIGN Act) to help credit unions better meet the needs of members, while respecting social distancing requirements. We urge you to consider legislation such as S. 4159, the *E-SIGN Modernization Act of 2020*, that was introduced last Congress.

- *Limit Liability for Essential Businesses:* Ensure that there is a liability shield for businesses that follow the law, protect their employees, and serve as "good actors" to the public by providing important services, so that these businesses are not targets of demand letters and lawsuits because of it.

Additionally, we urge you to help credit unions and their members by extending and expanding several key provisions from past relief efforts:

- *NCUA's Central Liquidity Facility (CLF)*: Make permanent the changes to the CLF in section 4016 of the CARES Act that were subsequently extended through the end of 2021 by the year-end COVID-19 stimulus package.
- *Deposit Insurance:* Provide the NCUA with the same powers as the FDIC under section 4008 of the CARES Act, extending their ability to establish a maximum guarantee to all shares or deposits held in a federally-insured credit union.
- *Current Expected Credit Loss (CECL):* Exempt credit unions from the CECL standard, or further delay implementation to provide additional clarity and relief for credit unions.
- *Changes to SBA Loan Programs:* Extend provisions to make SBA loan programs more appealing, such as increasing the loan guarantee on SBA 7(a) loans to 90 percent, which helps credit unions continue to serve their small business members through the recovery ahead.

Finally, as we also outlined in our letter to the Committee on February 3, 2021, we would like to raise concerns with some provisions that have been put forth that, although well-meaning, may have unintended consequences and could place new hardships on credit unions, hampering their ability to help members get access to credit. These problematic provisions include legislatively mandated blanket loan forbearance, overbroad restrictions on first party debt collection, the elimination of courtesy pay programs, major changes to bankruptcy provisions, and blanket suppression of adverse information in credit reports. Enacting provisions now that harm community financial institutions could further exacerbate the current health and economic crisis.

We thank you for your leadership in continuing efforts at pandemic relief and appreciate the opportunity to share our thoughts. We look forward to continuing to work with you on pandemic relief and economic recovery. Should you have any questions or require any additional information, please contact me or Sarah Jacobs, NAFCU's Associate Director of Legislative Affairs, at (571) 289-7550.

Sincerely,

Brad Thaler

Brad Thaler
Vice President of Legislative Affairs

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