3138 10th Street North
Arlington, VA 22201-2149
703.522.4770 | 800.336.4644
f: 703.524.1082
nafcu@nafcu.org | nafcu.org

National Association of Federally-Insured Credit Unions

March 22, 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 Hearing, "Oversight of the Treasury Department's and Federal Reserve's Pandemic Response"

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 issues of importance to credit unions ahead of tomorrow's hearing, "Oversight of the Treasury Department's and Federal Reserve's Pandemic Response." NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve 124 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 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.

Relief Measures That Should Be Extended and/or Modified

NCUA's Central Liquidity Facility (CLF)
We support, and ask that you make permanent, the changes to the CLF in section 4016 of the *Coronavirus Aid, Relief, and Economic Security Act* (CARES Act) that were subsequently extended through the end of 2021 by the year-end COVID-19 stimulus package, which passed Congress as part of the 2021 Consolidated Appropriations Act. We would note that National Credit Union Administration (NCUA) Board Chairman Todd Harper and Board Member (and former Chairman) Rodney Hood have both called on Congress to make these changes permanent. The CLF is an important liquidity tool for credit unions, and the recovery ahead will likely extend beyond this year. NAFCU believes strong liquidity is vital to ensuring loans to struggling families and small businesses continue to flow within the credit union system.

Deposit Insurance
NAFCU would like to highlight the lack of parity between credit unions and community banks in section 4008 of the CARES Act. This section appears to allow the Federal Deposit Insurance Corporation (FDIC) to establish an unlimited maximum guarantee, whereas the "equivalent" provision for the NCUA appears to only apply to noninterest bearing transaction accounts. Should you opt to extend this coverage, we ask that you consider providing the NCUA with the same powers as the FDIC, 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)
Credit unions remain well-capitalized as an industry and stand ready to help in the economic recovery. However, new accounting requirements could stymie these efforts. Even though the Financial Accounting Standards Board (FASB) has delayed its new CECL standard for credit unions until the first quarter of 2023, credit unions will have to start bringing their portfolios in line in 2021 and 2022. The temporary relief for 2020 provided in section 4014 of the CARES Act and subsequently extended for 2021 by the year-end stimulus package is a good first step. Still, CECL will remain a burden on credit unions as the economy recovers. This could cause constraints on lending and delay our nation's economic recovery. NAFCU believes that credit unions, as not-for-profit cooperative institutions, should not be subject to the CECL standard as they did not engage in the irresponsible practices that precipitated the Great Recession. If credit unions are not exempted, further delaying implementation of this standard could help provide additional clarity and relief for credit unions. We would note that former NCUA Board Chairman Rodney Hood called for a credit union exemption to the CECL Standard in an April 30, 2020 letter to FASB, stating that "…the compliance costs associated with implementing CECL overwhelmingly exceed the benefits."

Paycheck Protection Program (PPP)
As you know, credit unions have stepped up to ensure small businesses in their communities are taken care of during these uncertain times, and their response through the PPP has been tremendous. However, as you also know, implementation of the PPP has not always been smooth sailing. As we wrote to the House and Senate Small Business Committees earlier this month with a coalition of other financial services trade organizations, the thousands of loan holds by the SBA currently in the PPP system are problematic for lenders with the current March 31st program deadline. While we appreciate that the Small Business Administration (SBA) has implemented a system of automated checks on all applications to minimize waste, fraud, and abuse of funds, this check slows the approval process and certain hold codes require SBA review to be resolved. We are concerned that many loans with a hold code or submitted near the deadline could remain outstanding when the authorization expires, locking out eligible small businesses. We are pleased that the bipartisan *PPP Extension Act of 2021*, H.R. 1799, addresses this issue by creating an additional 30-day window to resolve issues beyond the new May 31st deadline, and we thank the House for passing this legislation.

Changes to SBA Loan Programs
NAFCU also supports extending provisions to make SBA loan programs more appealing, which helps credit unions continue to serve their small business members through the recovery ahead. For example, the year-end stimulus package increased the loan guarantee on SBA 7(a) loans to 90

percent, waived administrative fees for the 7(a) loan program, and eliminated fees for the 504 loan program, all effective until September 30, 2021. The guaranteed portion of government-backed loans is exempt from the credit union member business lending (MBL) cap; hence these changes free up additional capital for credit unions to serve small businesses.

Measures That Will Help Credit Unions Serve Their Members

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 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 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 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. The House legislation was recently reintroduced as H.R. 1471, the *Access to Credit for Small Businesses Impacted by the COVID–19 Crisis Act of 2021*.
- *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 this Congress in the Senate (S. 762). 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 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.

Relief Efforts Should Be Balanced to Not Harm Credit Unions' Ability to Serve Their Members

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 proposed 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 sjacobs@nafcu.org.

Sincerely,

Brad Thaler

Brad Thaler
Vice President of Legislative Affairs

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