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National Association of Federally-Insured Credit Unions

June 14, 2022

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
Washington, DC 20515

The Honorable Kevin McCarthy
Minority Leader
U.S. House of Representatives
Washington, DC 20515

Re: H.R. 2543, the *Financial Services Racial Equity, Inclusion, and Economic Justice Act*

Dear Speaker Pelosi and Leader McCarthy:

I am writing on behalf of the National Association of Federally-Insured Credit Unions (NAFCU) to share our thoughts on H.R. 2543, the *Financial Services Racial Equity, Inclusion, and Economic Justice Act*, as it comes before the House. NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve over 130 million consumers with personal and small business financial service products.

Credit Unions and Underserved Areas

First and foremost, NAFCU is strongly supportive of Title V, Subtitle B of H.R. 2543, which includes the text of the *Expanding Financial Access for Underserved Communities Act*. This legislation, offered by House Financial Services Committee Chairwoman Maxine Waters and Consumer Protection and Financial Institutions Subcommittee Chairman Ed Perlmutter, takes important steps to help credit unions help those other financial service providers have left behind. Credit unions have long been a critical provider of financial services to rural and underserved areas. As large and community banks have been shutting down branches and moving out of these areas, credit unions have been stepping up. It is unfortunate that banking groups continue to actively oppose this effort, attacking efforts by credit unions to do more to help the underserved, rather than focusing on ensuring people who live in banking deserts—areas that banks have abandoned—have access to basic financial services. Many credit unions want to do more to help underserved areas as banks abandon them and passing this provision to help credit unions fill the void would be a commonsense first step. It is important to note that this legislation does not directly grant underserved areas to credit unions, rather it allows them to apply to the National Credit Union Administration (NCUA) to add these areas should they meet the necessary criteria.

Banks have closed more than 4,000 branches since March 2020, according to an independent National Community Reinvestment Coalition study. *This is a pace of over 200 bank branch closures a month in the last two years.* The number of bank branches in rural and underserved areas has declined by 10.8 percent since 2012 while the number of credit union branches in those areas has grown by 2.4 percent. Currently, only credit unions that are chartered as multiple common bond credit unions can add underserved areas. This legislation will knock down this harmful barrier by allowing all types of federal credit unions to add underserved areas to their field of membership.

The *Expanding Financial Access for Underserved Communities Act* will also build on the support provided by credit unions to small businesses during the pandemic and exempt business loans made by credit unions in low-income areas from the credit union member business lending (MBL) cap. The MBL cap serves as a disincentive for many credit unions to focus on small business programs, as successful small business efforts could reach the cap and run into limitations. If banks were serious about helping small businesses and underserved areas, they would not have turned so many customers away during the pandemic that then went to credit unions for help. It was credit unions that stepped up to ensure small businesses in their communities were taken care of during the initial days of the pandemic, and their response through the Paycheck Protection Program (PPP) was tremendous. According to a NAFCU survey, 87 percent of NAFCU members reported providing PPP loans to new members and businesses that were turned away by banks and came to their credit union to apply for a PPP loan. Furthermore, according to NAFCU's analysis of the Small Business Administration's PPP data, a full 75 percent of credit union PPP loans went to businesses with fewer than five employees. Many of these are the same businesses that have been underserved by banking institutions and would benefit from the legislation's provision providing relief from the arbitrary MBL cap for loans in underserved areas.

The numbers show that credit unions stand ready to do more and help those who have been left behind by banks. We urge the House to reject any amendment that would remove this provision from the bill.

Community Development Financial Institutions (CDFI) Provisions

NAFCU also supports Title V, Subtitle A, which contains the text of the *CDFI Bond Guarantee Program Improvement Act of 2022*, introduced by Housing, Community Development and Insurance Subcommittee Chairman Emanuel Cleaver. The CDFI Bond Guarantee program provides a valuable line of long-term capital to CDFIs through the Federal Financing Bank. The CDFI Bond Guarantee Program was enacted in 2010 to provide long-term, low-cost capital to CDFIs, which use the funding for economic development activities in underserved communities. The program's authorization lapsed in 2014, but it has been extended on a year-by-year basis in annual appropriations bills. It would be a huge improvement and provide certainty to make this program permanent.

We are also supportive of provisions found in Title III, Subtitle C—*Promoting and Advancing Communities of Color Through Inclusive Lending.* This includes the establishment of an Office of Diverse and Mission-Driven Community Financial Institutions at the Treasury Department (Section 331) to aid CDFIs and Minority Depository Institutions (MDIs) in gaining access to programs, including the CDFI Fund. Credit unions have seen challenges with the CDFI Fund in the last year, including a backlog of applications, poor communication, a lack of a "cure period" to resolve issues, and changes to the certification process making it more cumbersome. In addition to supporting Sections 332, 333, and 334, we also support Section 336, which would have the CDFI Fund work with functional regulators in an attempt to lower burdens on CDFIs.

NAFCU Concerns with New Burdens Placed on Community Institutions

While there are a number of sections we support, we are concerned about several sections of the package in Title II and Title III that increase data reporting burdens and disclosure requirements on credit unions. While they may be well-intentioned, we must caution against the burden they stand to place on community financial institutions. We believe that these provisions may prove counterproductive to the goal of increasing access to capital as institutions spend resources to comply, rather than use them to aid members.

We are also wary of language in Title IV, Subtitle B that would tie diversity and inclusion rankings to safety and soundness examinations and CAMELS scores. While we believe that examining diversity and inclusion is important and the issue should be looked at, we do not believe that tying diversity and inclusion ratings to safety and soundness and CAMELS scores is the proper approach to address this issue.

NAFCU Concerns with Expansion of CFPB Authority

NAFCU is also concerned about provisions under Title III that would expand the authority of the Consumer Financial Protection Bureau (CFPB). NAFCU supports access to housing and lending and believes in a strong *Equal Credit Opportunity Act* (ECOA). We are concerned, however, that the new expansion of CFPB powers under this title, such as those found in Sections 321 and 324, could create new compliance burdens for community financial institutions. The CFPB has failed to adequately use the exemption authority granted to the Bureau under Section 1022 of the *Dodd-Frank Wall Street Reform and Consumer Protection Act* that was designed to help limit the burdens on smaller community financial institutions. The ongoing failure to us this authority to limit new burdens by the Bureau means we must oppose the expansion of CFPB power proposed in Title III.

MDIs and De Novo Chartering

NAFCU strongly supports Title IV, Subtitle A—*Promoting New and Diverse Depository Institutions*, which would require the NCUA and other banking regulators to study challenges faced by banks and credit unions, including MDIs, seeking de novo charters.

While we support efforts to help MDIs, we would urge changes to Title IV, Subtitle D, Section 444—*Inclusion of women's banks in the definition of minority depository institution*, to add credit unions to this updated definition of MDIs. We believe that if the definition of MDI is updated for banks, it should also be updated for credit unions. We hope that this change can be made as this legislation moves forward.

In conclusion, we thank you for the opportunity to share our thoughts on the provisions of H.R. 2543, the *Financial Services Racial Equity, Inclusion, and Economic Justice Act*, as you prepare to consider this package on the House floor. We appreciate your leadership and ongoing focus on issues important to credit unions, including diversity, equity and inclusion. Should you have any questions or require any additional information, please do not hesitate to contact me or Jake Plevelich, NAFCU's Associate Director of Legislative Affairs, at jplevelich@nafcu.org.

Sincerely,

Brad Thaler

Brad Thaler
Vice President of Legislative Affairs

cc: Members of the House of Representatives