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National Association of Federally-Insured Credit Unions

March 10, 2020

The Honorable Donald Trump
President of the United States
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

Re: Credit Union Response to COVID-19

Dear Mr. President:

I write to you today on behalf of the National Association of Federally-Insured Credit Unions (NAFCU) 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 nearly 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 its 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.

What Credit Unions Are Doing

Credit unions are keenly aware of the hardships that some of their members may face from the COVID-19 outbreak and stand ready to work with them on their personal needs. Similar to the immediate response we saw when credit unions stepped 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 that are being 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.

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 assistance they provide during government shutdowns, such as skipping payments without penalty, waiving of fees, low or no-interest loans, loan modifications,

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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.

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 do 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, 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.

What Policymakers Can Do

Unfortunately, while credit unions continue to do good work, a number of outdated provisions in the *Federal Credit Union Act* (FCU Act) 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:

Raise the Outdated Limit on Federal Reserve Regulation D Transfers

Regulation D limits a credit union member's ability to transfer their money between savings and checking accounts to six transactions per month. This includes any transfers to cover overdrafts in a checking account. Once a transaction is made beyond that limit, a member could be charged a fee, or their savings account might be re-classified as a "transaction account." Under Regulation D's current rules, savings accounts are not subject to reserve requirements, while transaction accounts are. Attempts to explain to credit union members why this distinction necessitates limits on their withdrawals from savings accounts often leads to confusion.

For members, exceeding the transaction limit could mean paying an unexpected overdraft fee that might otherwise be covered by their savings account. Fortunately, credit unions are willing to work with their members to move funds to appropriate accounts if exceeding the limit becomes a persistent problem. However, if public health exigencies were to result in unexpected movement of funds out of savings accounts by a large number of credit union members at the same time, compliance resources could be overwhelmed and members experiencing financial strain might not realize that the protection of a linked savings account is limited to six transfers. The Government Accountability Office (GAO) has reported that the steps taken to enforce the transaction limit have contributed to various operational burdens at depository institutions: mailing disclosures, closing or converting accounts, and responding to complaints about the limit itself.¹ These burdens could

¹ See GAO, Observations on Regulation D and the Use of Reserve Requirements, GAO-17-117, 35-36 (October 2016), available at <https://www.gao.gov/assets/690/680361.pdf>.

be greatly magnified depending on how COVID-19 affects local communities and businesses. Some credit unions, due to their unique field of membership, may be highly dependent on the continued operation of small, regional employers. For these employee-based credit unions, the transaction limit would only impair their ability to help members caught in a local outbreak.

More generally, when financial institutions comply with Regulation D by locking the transfer capabilities of savings accounts after the limit has been exceeded repeatedly, customers of these institutions might find that paying for necessary healthcare expenses, once transaction account funds have been depleted, is more difficult.² Furthermore, evidence suggests that consumers rarely take the time to read Regulation D disclosures, which could contribute to frustration during times of crisis.³ Any public perception that funds are not available in such a scenario would pose serious reputational risk, not only to individual financial institutions but to the larger financial sector.

NAFCU wrote to the Federal Reserve Board to urge them to raise the transaction limit on Regulation D transfers on March 6, 2020. If the Fed does not do so in a timely manner, Congress should act expeditiously to remove this outdated limit.

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 while not costing 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. One area that is having an impact during these times of COVID-19 uncertainty are provisions requiring a member meeting. 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 would only serve 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 credit union members (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.

² See 12 CFR 204.2(d) fn. 4 (“For customers who continue to violate those limits after they have been contacted by the depository institution, the depository institution must either close the account and place the funds in another account that the depositor is eligible to maintain or take away the transfer and draft capacities of the account.”).

³ See GAO at 36. “[C]redit unions and banks (84 percent versus 80 percent) cited getting customers to read Regulation D notices as a challenge.”

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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 above, 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 out of an area. Bipartisan legislation on this issue has been introduced in both the House (H.R. 1661) and the Senate (S. 3389).

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 also cover not only credit unions, but also associations. Many conferences and trainings for the industry 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 industry as a whole. Any relief package should address this important topic.

As you consider measures to help stimulate the economy and 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 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