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National Association of Federally-Insured Credit Unions

May 14, 2020

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

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

Re: H.R. 6800, the *Health and Economic Recovery Omnibus Emergency Solutions Act*

Dear Speaker Pelosi and Leader McCarthy:

I write to you today on behalf of the National Association of Federally-Insured Credit Unions (NAFCU) to share with you our thoughts on H.R. 6800, the *Health and Economic Recovery Omnibus Emergency Solutions Act* (HEROES Act). We thank you for your leadership on these measures in response to the COVID-19 pandemic. As you are aware, NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve 120 million consumers with personal and small business financial service products.

As we have shared with you previously, credit unions are keenly aware of the hardships their members are facing due to the COVID-19 pandemic and are working around the clock to proactively assist them. 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 as well as drive through windows, if available. Furthermore, many credit unions have 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.

Credit Unions Play an Important Role in Helping Small Business with the PPP

Credit unions have also stepped up to ensure small businesses in their communities are taken care of during these uncertain times. Credit unions greatly appreciate that they were included as lenders under the Paycheck Protection Program (PPP), and their response through this program has been tremendous. According to a recent National Bureau of Economic Research study, over 600 credit unions made PPP loans in the first round of funding. As a point of comparison, just over 400 credit unions had an outstanding Small Business Administration (SBA) loan at the end of 2019. The study found that credit unions accounted for 3.3 percent of total loans by number of loans, but only 1.4 percent by dollar volume, indicating that credit unions' average loan size was smaller than the overall average loan size.

Recent NAFCU survey results have found that credit unions participating in the PPP have made, on average, over 200 loans in the first two phases, though we have heard from some credit unions that have made over 1,000 loans. While there is variation, the average loan size made by credit unions is well under $75,000. Many credit unions report that small businesses turned to them after being turned away from other lenders for a PPP loan. Even more strikingly, NAFCU's survey also found that over 75 percent of credit unions' approved PPP loans went to self-employed/gig workers or businesses with under 10 employees.

All of this goes to show that credit unions are providing small dollar loans to smaller businesses, some of which have no other financial institution to turn to. While credit unions are already committed to serving these businesses, we appreciate that H.R. 6800 would set aside at least 25 percent of appropriations for loans made to eligible recipients with 10 or fewer employees, as well as require any amounts returned due to cancellation of PPP loans to go to covered loans made to recipients with 10 or fewer employees. This set aside will help ensure small businesses can benefit from this program. Credit unions continue to see interest in this program from small business members, many of which have just gotten the necessary paperwork together and were not able to get an application in earlier. The expansion in coverage period, the loan term increase and providing relief on the payroll requirement are all positive steps for the PPP. Above all, credit unions do not want their members to lose this opportunity if funding runs out with their application pending. When the second round of funding is exhausted, we encourage Congress to add additional funds to this program as it remains a lifeline for many small businesses in these times of uncertainty.

We also appreciate the steps the HEROES Act takes to set aside PPP funds for community financial institutions, as this will further help ensure smaller businesses have access to these loans. Moreover, we support the $1 billion allocated for technical assistance for community financial institutions with less than $10 billion in assets to update their systems and efficiently provide loans to these businesses. However, we would urge you to also consider a dedicated processing window for small lenders, such as the SBA employed during the second round of funding. Small institutions face constraints including limited staffing and resources, which means they often manually input information into E-Tran to process these loans. As you know, credit unions have experienced significant difficulties with E-Tran due to high volume traffic. While technical assistance grants will help these institutions in the long run, small businesses need their loans approved now, and a dedicated window is essential to ensure they have access.

Other HEROES Act Measures that Will Help Credit Unions Serve Their Members

Changes to SBA Loan Programs

NAFCU also supports many of the changes that the HEROES Act would make to SBA loan programs other than the PPP. For example, the Act proposes increasing the guaranteed portion of existing SBA loans to 90 percent, effective until September 30, 2021. As you know, credit unions face arbitrary restrictions in the *Federal Credit Union Act* (FCU Act) on the ability to offer member business loans (MBL). The guaranteed portion of government-back loans is exempt from the MBL cap; hence these changes would free up additional capital for credit unions to serve small businesses. The Act would also increase the maximum loan amount for 7(a) and 504 loans to $10 million until September 30, 2021, allowing credit unions to do more to help small businesses in the months ahead as they seek to recover from this crisis.

Additional CDFI Funding
We are pleased to see the inclusion of $1 billion in emergency funding for the Community Development Financial Institutions (CDFI) Fund, which is an important tool for credit unions to have access to funds to help those in underserved and low- and moderate-income areas. This additional funding will allow more credit unions to access monies to provide specific programs to help their members. We also urge you to consider measures to make it easier for credit unions to become certified as a CDFI, including streamlining the application and certification process, which has not been overhauled in many years.

Currently, there are more than 300 CDFI credit unions serving over 10 million Americans, and there are currently 522 minority designated credit unions. CDFI credit unions are diverse institutions ranging in asset size from under $2 million to over $10 billion in assets, with a focus on addressing local needs and building local economies. Credit unions have a strong record of being engaged in underserved areas and can help to stabilize these communities during this difficult time.

Other Proposals that Can Help Credit Unions Serve Their Members

In addition to the proposals included in the HEROES Act that are mentioned above, there are additional measures that we believe must be included in any final "Phase 4" pandemic relief bill:

MBL Cap Relief
Looking ahead, most experts agree that 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 PPP. While increasing the scope of other SBA programs will help with the recovery, we need to ensure that small businesses have access to as many potential sources of capital as possible. With that in mind, we believe that you must expand your proposal to include legislation to exclude business loans made in response to COVID-19 relief from the credit union member business lending (MBL) cap. This proposal has bipartisan support in the House in the form of H.R. 6789, the *Access to Credit for Small Businesses Impacted by the COVID-19 Crisis Act of 2020*. On April 16, 2020, a bipartisan group of 65 representatives wrote to you to urge you to address this issue in "Phase 4." Moreover, National Credit Union Administration (NCUA) Chairman Rodney Hood, and Board Members Todd Harper and J. Mark McWatters have all voiced their support for MBL cap relief as a step to make it easier for credit unions to do more to help small businesses in light of the pandemic.

Loan Maturity Extension
When it comes to lending, we ask that you consider expanding your proposal to include legislation to provide credit unions with relief from the outdated 15-year general maturity limit found in the FCU Act for most credit union loans. 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. However, with credit likely to be constrained for the foreseeable future, these loans will be harder to get. We ask that you give credit unions this flexibility so they can work with their members and provide them with the funds they need as we face the recovery ahead. H.R. 1661 would address this issue and has demonstrated support in the House with 21 bipartisan cosponsors.

Capital and Prompt Corrective Action (PCA) Flexibility
NAFCU is supportive of the NCUA's request to provide more capital relief to credit unions during COVID-19. A temporary reduction in capital standards by reducing the level at which credit unions are considered well capitalized from a net-worth ratio of seven percent to six percent and adequately capitalized from six percent to five percent during the pandemic would provide relief for credit unions on par to what community banks received in changes to the Community Bank Leverage Ratio in the *Coronavirus Aid, Relief, and Economic Security Act* (CARES Act).

Additionally, we support NCUA's request to grant the NCUA Board the authority to waive the requirements of a net-worth restoration plan for credit unions that are less than adequately capitalized for up to 180 days. The current pandemic may lead to temporary deterioration in net worth ratios at a small number of credit unions. We appreciate NCUA Chairman Hood's recognition that providing greater flexibility in meeting capital restoration requirements could reduce administrative burdens during a time of high operational stress.

Additional CDRLF Funding
As you consider additional relief efforts, we encourage you to consider increased funding for NCUA's Community Development Revolving Loan Fund (CDRLF). In addition to the CDFI Fund, the CDRLF is an important tool for credit unions to serve low income areas. NCUA Board Member Harper has specifically called for at least $10 million more for grants in 2020 to help low-income credit unions.

Liquidity for Credit Unions
We ask that you consider making the changes to the Central Liquidity Facility (CLF) in the CARES Act permanent. We would note that NCUA Chairman Hood and Board Member Harper 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 the end of 2020 when the changes are set to expire.

Additionally, we support a statutory change to grant temporary authority to the NCUA Board to allow federally chartered credit unions the ability to lend to other credit unions. NAFCU believes strong liquidity is vital to ensuring loans to struggling families and small businesses continue to flow within the credit union system.

Underserved Areas
NAFCU asks that you allow credit unions to do more to help underserved populations. 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 fields of membership. Allowing all credit unions to add underserved areas to their fields of membership is one way to help those who need it most have access to capital without burdening the federal government. This request has bipartisan NCUA Board support.

HEROES Act Should Be Balanced to Not Harm Credit Unions' Ability to Serve Their Members

Finally, we would like to raise concerns with some of the provisions in the HEROES Act that, although well-meaning, may have unintended consequences, could place new hardships on credit unions, and hamper their ability to help members get access to credit. Enacting provisions now that harm community financial institutions could exacerbate the current health crisis and economic downturn into a new financial crisis.

Legislatively Mandated Blanket Loan Forbearance Is Problematic

We would caution against any additional mandated blanket loan forbearance as a response to the pandemic. The forbearance provisions in sections 4022 and 4023 of the CARES Act have raised a number of issues and concerns for credit unions, as many of the consequences of these provisions were not addressed in the Act. We are concerned that broad mandated loan forbearance that does not balance the perspectives of financial institutions could create both operational questions and safety and soundness issues without providing regulators the flexibility to address them.

Credit unions are already working with members to ensure they get the relief they need, including providing forbearance and skip payments options on many types of loans based on need. Blanket mandated loan forbearance, regardless of actual need, can strain a financial institution's liquidity, making it harder to operate and provide additional credit to members. Financial institutions continue to face payment obligations on mortgage loans during a forbearance period, which compound these issues. Legislatively mandated blanket forbearance programs would cause credit unions to lose the ability to work with a member to achieve a mutually agreeable solution that protects both the member and the institution.

Overbroad Restrictions on First Party Debt Collection Are Problematic

We would also caution against overly broad restrictions on credit unions' ability to collect on consumer debt during the pandemic. Credit unions do not engage in harmful debt collection tactics and, as outlined above, credit unions are working with their members to ensure they get the relief they need during this crisis, including waiving late fees and offering payment deferrals. We are concerned that a blanket restriction on first party debt collection during a national emergency could put unnecessary stress on credit unions. As you know, credit unions are already under significant pressure due to this crisis. While the credit union system is well-capitalized and can weather this pandemic, we are concerned that compounding this stress could strain their liquidity and impact their ability to provide credit to members in need.

Consider Ramifications of Changes to Bankruptcy Provisions
We caution you against making major changes to bankruptcy law that have not been fully and properly vetted for their impact. While it is important to ensure consumers are adequately protected and able to access financial products and services, it is also important to examine the potential considerable impacts that changes to underwriting requirements could have on financial institutions and how these changes could impact the future availability of credit.

The Integrity of the Credit Reporting System Must Be Maintained
The nation's credit reporting system is an important tool for financial institutions. Blanket suppression of adverse information in credit reports could lead to significant changes in how lenders use credit information to make loans and disrupt consumer access to credit. We urge Congress to reject efforts aimed at blanket suppression of adverse credit reporting information. A better step would be to encourage efforts to allow credit reporting to reflect loans where payments are deferred or in forbearance, so these loans do not negatively affect a consumer's credit score.

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 Brad Thaler, NAFCU's Vice President of Legislative Affairs, at 703-842-2204 or bthaler@nafcu.org.

Sincerely,

B. Dan Berger
President and CEO

cc: Members of the House of Representatives