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National Association of Federally-Insured Credit Unions

March 10, 2021

The Honorable Ed Perlmutter
Chairman
Subcommittee on Consumer Protection and Financial Institutions
Committee on Financial Services
United States House of Representatives
Washington, DC 20515

The Honorable Blaine Luetkemeyer
Ranking Member
Subcommittee on Consumer Protection and Financial Institutions
Committee on Financial Services
United States House of Representatives
Washington, DC 20515

Re: Tomorrow's Hearing on "Slipping through the Cracks: Policy Options to Help America's Consumers during the Pandemic"

Dear Chairman Perlmutter and Ranking Member Luetkemeyer:

I am writing on behalf of the National Association of Federally-Insured Credit Unions (NAFCU) to share our thoughts ahead of tomorrow's virtual hearing, "Slipping through the Cracks: Policy Options to Help America's Consumers during the Pandemic." 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. NAFCU is supportive of the Subcommittee's efforts to examine ways that consumers can be helped during the COVID-19 pandemic.

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 – consumers and small businesses – through this crisis.

Proposals that Can Help Credit Unions Serve Their Members

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 Paycheck Protection Program (PPP). While increasing the scope of other Small Business Administration (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 should consider legislation to exclude business loans made in response to COVID-19 relief from the credit union member business lending (MBL) cap, such as H.R. 1471, the *Access to Credit for Small Businesses Impacted by the COVID–19 Crisis Act of 2021*, introduced last week by Representatives Brad Sherman (D-CA) and Brian Fitzpatrick (R-PA). 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 also introduced in the Senate. On April 16, 2020, a bipartisan group of 65 representatives wrote to House leadership to urge this issue be included in future pandemic relief. Moreover, National Credit Union Administration (NCUA) Board Chairman Todd Harper and Board Member Rodney Hood have 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 legislation to 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. 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, which would address this issue, had 21 cosponsors during the 116th Congress.

Modernize the E-SIGN Act

The *Electronic Signatures in Global and National Commerce Act* (E-SIGN Act) was passed nearly 20 years ago and generally allows electronic signatures and documents to carry the same legal weight as hard copy or paper documents. At a time when social distancing has become paramount to the health and safety of credit union members, employees, and their families, credit unions are discovering that some of the E-SIGN Act's outdated provisions have become a burden. Over 90 percent of NAFCU members responding to a survey noted challenges in getting documents signed in light of the pandemic. Congress needs to modernize provisions in the E-SIGN Act to help credit unions better meet the needs of members, while respecting social distancing requirements.

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.

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

As we communicated to the Committee in our letter 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. Enacting provisions now that harm community financial institutions could further exacerbate the current health and economic crisis.

<u>Legislatively Mandated Blanket Loan Forbearance Is Problematic</u>

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.

<u>Restrictions on First Party Debt Collection Must Only Target Abuses</u>

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.

However, as we communicated to Congress in a group letter earlier this week, we do support efforts to protect the latest round of Economic Impact Payments (EIPs) from the *American Rescue Plan Act of 2021* from assignment and garnishment, similar to the protection for EIPs from the *Coronavirus Response and Relief Supplemental Appropriations Act of 2021*. We would urge swift Congressional action to protect these payments prior to them going out to consumers.

<u>Reject Efforts That Could Lead to Elimination of Courtesy Pay Programs</u>

We are concerned that some have called for a moratorium on courtesy pay fees, which could lead to an elimination of this important option for consumers. Such a blanket moratorium may end up denying credit union members a service they have indicated they want, and to which have affirmatively consented. A number of institutions are already waiving fees and helping members with alternative options, including short-term, low- or no-interest loans. The courtesy pay program allows credit unions to pay a transaction even when the consumer has insufficient or unavailable funds in the account. This can be a faster way to help consumers in need make necessary payments or get needed supplies. A blanket effort to eliminate courtesy pay fees may force institutions to stop many of these programs due to concerns about abuse and the financial impact on the institution. Consumers could then lose out on this immediate assistance option, which, again, is something they have already opted to have. We urge you to oppose any moratorium on courtesy pay fees that would threaten this important service and cause more harm than benefit to consumers.

<u>The Integrity of the Credit Reporting System Must Be Maintained</u>
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.

<u>Oppose Any Effort to Extend Interchange Price Caps</u>
When the price cap was set on debit interchange rates in the *Dodd-Frank Wall Street Reform and Consumer Protection Act*, the retail industry did not follow through on their promise to pass on interchange fee savings to their customers. Now they are asking for the same failed price controls to be extended to credit card transactions in response to the pandemic. This would cause irreparable harm to credit unions and could reduce the availability of credit to consumers.

The electronic payments system is a two-sided market, with consumers on one side and merchants on the other. Both sides benefit from the arrangement, with card networks setting interchange rates based on the cost of doing business, and the benefit to consumers and merchants. The credit card system allows consumers to purchase goods and services from merchants that they may not be able to otherwise. In the wake of the pandemic, many merchants are requesting cashless payments for employee safety. This is evidence that the electronic payments system offers real value to merchants and consumers alike. Ultimately, merchants receive far more value from accepting electronic payments than they pay in interchange fees. Any new caps on interchange fees would only hurt community institutions such as credit unions and the American consumer. NAFCU opposes these efforts and we urge you to reject proposals to extend interchange price caps.

We thank you for your leadership and ongoing efforts to help American consumers during the ongoing pandemic. We appreciate the opportunity to share our input and look forward to continuing to work with the Subcommittee on these issues. Should you have any questions or require any additional information, please contact me or Janelle Relfe, NAFCU's Associate Director of Legislative Affairs, at jrelfe@nafcu.org.

Sincerely,

Brad Thaler

Brad Thaler
Vice President of Legislative Affairs

cc: Members of the Subcommittee on Consumer Protection and Financial Institutions