AUGUST 28, 2020

NAFCU

ISSUE BRIEF

# Pandemic Relief

## Background

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.

## Legislative Developments

Congress has already passed three major pandemic relief measures in addition to several other smaller bills. A number of additional proposals have been introduced that would provide additional relief to credit unions. As Congress weighs the next round of coronavirus relief, we would like to share our views on areas where Congress could provide much needed relief for credit unions.

## Support measures to aid credit unions

### *Paycheck Protection Program*

The successful Paycheck Protection Program (PPP) has enabled credit unions to step up and ensure small businesses in their communities are taken care of during these uncertain times. Their response through the PPP has been tremendous. We were pleased to see Congress extend this program through August 8th, and NAFCU also supports additional funding for this successful program and PPP forgiveness for smaller loans. The *Paycheck Protection Small Business Forgiveness Act* has been introduced in the House as H.R. 7777 by Representatives Chrissy Houlahan (D-PA) and Fred Upton (R-MI) and in the Senate as S.4117 by Senators Kevin Cramer (R-ND) and Bob Menendez (D-NJ). By automatically forgiving loans under $150,000, Congress will provide relief to many of the smallest lenders who have been most impacted by the pandemic.

### *Extension of CLF and TDR Relief Provisions*

We support, and ask that you make permanent, the changes to the Central Liquidity Facility (CLF) in section 4016 of the CARES Act. We would note that National Credit Union Administration (NCUA) Chairman Rodney Hood and Board Member Todd 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 currently set to expire. NAFCU believes strong liquidity is vital to ensuring loans to struggling families and small businesses continue to flow within the credit union system. NAFCU also supports the troubled debt restructuring provisions in the CARES Act and is supportive of Chairman Crapo's amendment #2542 to the HEALS Act to extend this provision and the CLF changes.

### *Credit Union MBL Cap Relief*

Credit unions are currently restricted by an arbitrary cap on business loans – they are limited to the lesser of either 1.75 times the net worth of a well-capitalized credit union or 12.25 percent of total assets. This restriction has hampered the amount of loans that credit unions can extend to businesses during the pandemic. NAFCU supports the *Access to Credit for Small Businesses Impacted by the COVID-19 Crisis Act of 2020*, introduced in the Senate as S. 3676 by Senator Ron Wyden (D-OR) and in the House as H.R. 6789 by Representatives Brad Sherman (D-CA) and Brian Fitzpatrick (R-PA), which would provide temporary relief from the credit union member business lending (MBL) cap for loans to help small businesses recover from the COVID-19 crisis.

### *Additional CDFI and CDRLF Funding*

The Community Development Financial Institutions (CDFI) Fund and the NCUA's Community Development Revolving Loan Fund (CDRLF) are important tools for credit unions helping underserved and lower-income communities. These programs can assist CDFI-certified and low-income designated credit unions in establishing specific programs to assist the most financially vulnerable consumers and ensure their own resiliency and survival during our current economic and public health emergency. NAFCU urges Congress to increase funding for the CDFI and CDRLF programs. Providing $1 billion in emergency funding for the CDFI Fund would allow more credit unions to access monies for specific programs to help members who need it most. NAFCU appreciates that this funding was included in the House's Phase IV relief bill, the *Health and Economic Recovery Omnibus Emergency Solutions Act* (HEROES Act), and that 37 Senators signed a letter urging this level of funding. We would also urge you to consider measures to make it easier for credit unions to become a CDFI.

### *E-SIGN Relief*

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. We urge inclusion of S. 4159, the *E-SIGN Modernization Act of 2020*, introduced by Senator John Thune (R-SD), in the next relief package.

## Oppose Harmful Provisions to Credit Unions

We would urge Congress to reject any idea, even if well-meaning, that 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 and economic crisis.

### *Oppose Any Effort to Extend Interchange Price Caps*

We are dismayed to learn that some groups have proposed extending debit interchange price caps to credit cards as a response to the crisis. 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.

### *Reject Efforts That Could Lead to Elimination of Courtesy Pay Programs*

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 they have affirmatively consented.

### *Legislatively Mandated Blanket Loan Forbearance Is Problematic*

We are concerned about proposals for mandated blanket loan forbearances as a response to the pandemic. The forbearance provisions in sections 4022 and 4023 of the CARES Act raised a number of issues and concerns for credit unions that were not addressed in the bill. Broad mandated loan forbearance could create both operational questions and safety and soundness issues for financial institutions without providing regulators the flexibility to address these concerns. Credit unions are already working with members to ensure they get the relief they need, including providing forbearance and skip payments options. Blanket mandated loan forbearance, regardless of actual need, can strain income to a financial institution, making it harder to operate and provide additional credit to members.

### *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.

### *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 disrupt consumer access to credit. Blanket suppression of adverse information could lead to significant changes in how lenders use credit information to make loans. 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.

### *Consider Ramifications of Changes to Bankruptcy Provisions*

We caution Congress 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.

### *Ensure Big Tech Entrants to Financial Services Follow the Rules of the Road*

Finally, we are concerned about the continued expansion of Big Tech into the financial services sphere. This includes recent actions by the Federal Deposit Insurance Corporation (FDIC) to approve new Industrial Loan Company (ILC) charters and the possibility that more may be on the way. We support calls for a moratorium on ILC charter approvals at this time, so that this issue can be properly examined by Congress and regulators outside of the pandemic and would support such a moratorium being included in the next phase of relief.

## Outlook and Ask

NAFCU believes that Congress needs to act to provide critical relief to credit unions so that they can fully serve their local communities. As Phase IV negotiations continue, we would urge that measures to help credit unions be included in the final bill. We also ask Congress to reject any measures that could harm credit union efforts to serve their members during these challenging times.