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National Association of Federally-Insured Credit Unions

October 20, 2020

The Honorable Mitch McConnell
Majority Leader
United States Senate
Washington, D.C. 20510

The Honorable Chuck Schumer
Minority Leader
United States Senate
Washington, D.C. 20510

Re: Next Phase of Coronavirus Response Legislation

Dear Leader McConnell and Leader Schumer:

I write to you today on behalf of the National Association of Federally-Insured Credit Unions (NAFCU) to ask for your support for our nation's credit unions as the Senate considers new coronavirus relief legislation. We would like to take this opportunity to comment on various aspects of the measure. As you are aware, NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve 122 million consumers with personal and small business financial service products.

We are pleased to see that the *Delivering Immediate Relief to America's Families, Schools and Small Businesses Act* contains important support for our nation's small businesses by extending aspects of the Paycheck Protection Program (PPP) and including important language from S.4117 to simplify the forgiveness process for PPP loans under $150,000. We also support efforts to provide liability protection for essential businesses that have acted in a responsible manner.

As you consider this round of relief legislation, we urge you to consider expanding it to include proposals offered by Senate Banking Committee Chairman Mike Crapo to extend the changes to the National Credit Union Administration's (NCUA) Central Liquidity Facility (CLF) that were enacted in section 4016 of the CARES Act and to extend the provisions from section 4013 of the CARES Act dealing with Troubled Debt Restructuring (TDR).

Credit unions are working with their members as they face difficulties related to the pandemic. At the same time, credit unions are facing significant challenges themselves as they balance stay-at-home orders with being an essential service for their members. There are several other measures that have been introduced or have received broad support in the Senate that can be enacted to help credit unions do more to serve the American consumer and small businesses during these uncertain times and the economic recovery ahead. We would urge their inclusion in the final package.

Allow Credit Unions to Do More to Help Small Businesses

NAFCU supports legislation pending in the Senate, S.3676, the *Access to Credit for Small Businesses Impacted by the COVID–19 Crisis Act of 2020*, 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. We urge you to include this legislation in the next coronavirus relief package.

<u>Provide Emergency Funding for CDFIs and the CDRLF</u>
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.

<u>Modernize the E-SIGN Act</u>
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*, in the relief package.

<u>Current Expected Credit Loss (CECL) Relief</u>
Credit unions remain well-capitalized as an industry and stand ready to help in the economic recovery. However, new accounting requirements could stymie these efforts. Even though the Financial Accounting Standards Board (FASB) has delayed its new CECL standard for credit unions until the first quarter of 2023, credit unions will have to start bringing their portfolios in line in 2021 and 2022. The temporary relief for 2020 provided in section 4014 of the CARES Act is a good first step. Still, CECL will remain a burden on credit unions as the economy recovers. This could cause constraints on lending and delay our nation's economic recovery. NAFCU believes that credit unions, as not-for-profit cooperative institutions, should not be subject to the CECL standard as they did not engage in the irresponsible practices that precipitated the Great Recession. If credit unions are not exempted, further delaying implementation of this standard could help provide additional clarity and relief for credit unions. We would note that NCUA Board Chairman Rodney Hood called for a credit union exemption to the CECL Standard in an April 30, 2020 letter to FASB, stating that "…the compliance costs associated with implementing CECL overwhelmingly exceed the benefits."

<u>Capital and Prompt Corrective Action Flexibility</u>
Section 4012 of the CARES Act provided banking regulators with the authority to temporarily lower the Community Bank Leverage Ratio (CBLR) from nine percent to eight percent. Before the pandemic, the NCUA Board had expressed interest in adopting an analog to the CBLR in conjunction with its risk-based capital rule; however, the more immediate constraint on credit union capital takes the form of statutorily prescribed net worth levels under the *Federal Credit*

Union Act's (FCU Act) prompt corrective action (PCA) provisions. In his April 29, 2020 letter to Senate Banking Committee Chairman Mike Crapo, NCUA Board Chairman Rodney Hood requested temporary capital flexibility for the NCUA and credit unions. Specifically, he asked for "a reduction in 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."

Economic Injury Disaster Loan (EIDL) Advance Forgiveness
As you are aware, Small Business Administration (SBA) EIDL advances provided businesses with a grant of up to $10,000 to help them survive the sudden revenue shock due to COVID-19. With the tremendous uncertainty during the early days of the pandemic, many small businesses applied for both an EIDL advance and PPP loan, uncertain if they would receive either one. Lenders processing PPP applications were often unaware that the small business sought or received an EIDL advance. Moreover, small businesses relied on early SBA guidance that indicated EIDL advances would be treated as grants. However, later guidance made clear that if a borrower receives an EIDL advance and PPP loan, the amount of the advance must be reduced from the loan forgiveness amount. As small businesses apply for PPP loan forgiveness, many have been shocked to learn about this unexpected debt burden. For small businesses, this debt burden is both shocking and a devastating blow at a time when they are already struggling to survive. For lenders such as credit unions, who were often unaware of a business's EIDL advance when underwriting a PPP loan, this means an unexpected burden on their balance sheets, which ties up capital that could be better used to serve their communities. We urge you to act swiftly to address this issue and exclude EIDL advances from the PPP forgiveness calculation, as proposed by bipartisan legislation in the House, HR.8361, the *EIDL Forgiveness Act*.

Finally, it is important that any final relief measure does not harm the ability of credit unions to continue to serve their members. 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.

We thank you for the opportunity to share our thoughts and 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 me or Lewis Plush, NAFCU's Associate Director of Legislative Affairs, at (703) 258-4981 or lplush@nafcu.org.

Sincerely,

Brad Thaler

Brad Thaler
Vice President of Legislative Affairs

cc: Members of the United States Senate