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National Association of Federally-Insured Credit Unions

December 1, 2020

The Honorable Maxine Waters
Chairwoman
Committee on Financial Services
United States House of Representatives
Washington, D.C. 20515

The Honorable Patrick McHenry
Ranking Member
Committee on Financial Services
United States House of Representatives
Washington, D.C. 20515

Re: Tomorrow's Hearing: "Oversight of the Treasury Department's and Federal Reserve's Pandemic Response"

Dear Chairwoman Waters and Ranking Member McHenry:

I write to you today on behalf of the National Association of Federally-Insured Credit Unions (NAFCU) to share our thoughts on issues of importance to credit unions ahead of tomorrow's hearing, "Oversight of the Treasury Department's and Federal Reserve's Pandemic Response," with Treasury Secretary Steven T. Mnuchin and Federal Reserve Chairman Jerome H. Powell. 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 would like to thank you for this opportunity to provide input on how credit unions are addressing the pandemic and share areas where further help is needed.

Credit unions are keenly aware of the hardships their members are facing due to the COVID-19 pandemic and are working with them during these times of economic uncertainty. As we have shared with you before, 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. While there were important steps to help credit unions and their members in the *Coronavirus Aid, Relief, and Economic Security Act* (CARES Act), there remain a number of areas that we believe must be addressed by Congress and the Administration in any additional relief legislation to ensure that credit unions have the necessary tools to continue to support their members through this crisis. Key among these are the inclusion of H.R. 7777, the *Paycheck Protection Small Business Forgiveness Act*, and the extensions of the changes to the National Credit Union Administration's (NCUA) Central Liquidity Facility (CLF) and Troubled Debt Restructuring (TDR) provisions from the CARES Act. These and other issues for consideration are outlined in more detail below.

CARES Act Relief Measures That Should Be Extended and/or Modified

Section 1102: Paycheck Protection Program

Credit unions have stepped up to ensure small businesses in their communities are taken care of during these uncertain times, and their response through the Paycheck Protection Program (PPP), the Small Business Administration (SBA) lending program created by section 1102 of the CARES

Act, was tremendous. However, NAFCU believes it is important to simplify the loan forgiveness process and application for smaller PPP loans. While credit unions are working with their members to assist them with the current loan form, the complexity of the forgiveness rules and application is posing challenges for many small businesses who may not have the staff or expertise for such a complex application, especially with the current economic challenges. As such, NAFCU is supportive of a simplified loan forgiveness process for PPP loans under a \$150,000 threshold, such as proposed in H.R. 7777, the *Paycheck Protection Small Business Forgiveness Act*, and we urge you to enact this important measure by passing it on its own or by adding this language to any pandemic relief legislation.

With the authorization of the PPP having now expired, more must be done to help our nation's small businesses. Any reauthorization of the PPP must ensure community institutions such as credit unions can continue to play an important role in helping their member small businesses. Congress must also look beyond the PPP to help our nation's businesses, and can take an important step by passing H.R. 6789, the *Access to Credit for Small Businesses Impacted by the COVID-19 Crisis Act of 2020*, which would provide relief from the arbitrary credit union member business lending (MBL) cap for loans to small businesses recovering from the impacts of the pandemic.

Section 1110: Economic Injury Disaster Loan (EIDL) Program

As you are aware, section 1110 of the CARES Act expanded the SBA's EIDL Program and permitted EIDL applicants to request an advance 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 such as H.R. 8361, the *EIDL Forgiveness Act*.

Section 4016: NCUA's Central Liquidity Facility (CLF)

We support, and ask that you make permanent, the changes to the CLF in section 4016 of the CARES Act. We would note that 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. An extension of this provision through the end of 2021 is also included in the aforementioned H.R. 6789.

Section 4013: Troubled Debt Restructuring (TDR)

NAFCU appreciates the provisions in section 4013 of the CARES Act giving the NCUA broad authority to suspend Generally Accepted Accounting Principles (GAAP) requirements with respect to loan modifications related to COVID-19 that would otherwise be categorized as TDRs. We urge extension of this flexibility to at least December 31, 2021, to allow any post-forbearance workouts to be included in the applicable period. NAFCU also supports H.R. 7913, the *Financial Institution Forbearance Act*. This legislation extends and expands the TDR relief provisions put into effect by the CARES Act.

Section 4008: Deposit Insurance

NAFCU would like to highlight the lack of parity between credit unions and community banks in section 4008 of the CARES Act. This section appears to allow the Federal Deposit Insurance Corporation (FDIC) to establish an unlimited maximum guarantee, whereas the “equivalent” provision for the NCUA appears to only apply to noninterest bearing transaction accounts. Should you opt to extend this coverage, we ask that you consider providing the NCUA with the same powers as the FDIC, extending their ability to establish a maximum guarantee to all shares or deposits held in a federally-insured credit union.

Section 4014: Current Expected Credit Loss (CECL)

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 Current Expected Credit Loss (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 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 Chairman 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.”

Section 4012: Community Bank Leverage Ratio

Section 4012 of the CARES Act provides 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 Chairman 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.”

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Any extension of the CBLR must also include this temporary capital flexibility for credit unions, so that credit unions may loan more to their members who need it.

As the Committee hears from Administration officials, we urge you to encourage them to take any action in their power to address these issues until such time as Congress can enact additional relief.

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,

A handwritten signature in cursive script that reads "Brad Thaler".

Brad Thaler
Vice President of Legislative Affairs

cc: Members of the U.S. House Committee on Financial Services