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National Association of Federally-Insured Credit Unions

February 17, 2021

The Honorable Sherrod Brown
Chairman
Committee on Banking, Housing
and Urban Affairs
United States Senate
Washington, D.C. 20515

The Honorable Pat Toomey
Ranking Member
Committee on Banking, Housing
and Urban Affairs
United States Senate
Washington, D.C. 20515

Re: Tomorrow's Hearing, "The Coronavirus Crisis: Paving the Way to An Equitable Recovery"

Dear Chairman Brown and Ranking Member Toomey:

I write to you today on behalf of the National Association of Federally-Insured Credit Unions (NAFCU) to share our thoughts ahead of tomorrow's hearing, "The Coronavirus Crisis: Paving the Way to An Equitable Recovery." As you are aware, 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. We share your concerns about the disproportionate impact of this pandemic on low income and minority communities, and the troubling implications of a "k-shaped" recovery that exacerbates existing inequalities. Credit unions are committed to the financial wellbeing of their members, and to that end, we think that credit unions can play a key role in helping their communities recover from this pandemic. We thank you for providing credit unions with important tools to help their members in previous relief packages. Still, as you are aware, more needs to be done to help our nation recover. We would like to take this opportunity to provide input on how credit unions are continuing to address the pandemic and share areas where further help is needed.

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 through this crisis.

Credit unions want to help the American consumer, especially in turbulent times. 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 field of membership. Currently, only multiple common bond federal credit unions are permitted to add underserved areas to their fields of membership. Congress should amend the *Federal Credit Union Act* (FCU Act) to allow all credit unions to add underserved areas to their fields of membership. This is one way to help those who need it most have access to capital at no cost to the federal government. For example, many credit unions are limited on who they can serve with the Paycheck Protection Program (PPP). Small businesses in rural and underserved areas may have limited access to lenders. Allowing all credit unions to add underserved areas will open the door to more lenders being able to help those in rural and underserved markets. This request has bipartisan National Credit Union Administration (NCUA) Board support and has had bipartisan support in past Congresses.

We are also supportive of targeted efforts to help small businesses in these trying times, especially minority- and women-owned businesses that have struggled to access funding. As you know, 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 first two rounds of the PPP was tremendous. Despite the uncertainty surrounding the PPP as it launched and the associated risks, credit unions did all they could to ensure their existing and new small business members were taken care of. According to a NAFCU survey, 87 percent of NAFCU members reported providing PPP loans to new members and businesses that were turned away by other lenders and came to their credit union to apply for a PPP loan. Moreover, compared to other types of lenders, credit unions disproportionately helped the smallest of small businesses. An analysis of the Small Business Administration's (SBA) PPP data from the first two rounds shows that credit unions made loans in amounts much lower than the national average, with the credit union average PPP loan approximately $50,000.

We all know 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. With that in mind, we need to ensure that small businesses have access to as many potential sources of capital as possible. We believe that Congress should consider legislation to exclude credit union member business loans made in response to COVID-19 relief from the credit union member business lending (MBL) cap. 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*, which was introduced in the Senate as S. 3676 by Senator Ron Wyden (D-OR). 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, 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.

Furthermore, this pandemic has underlined the fact that housing is healthcare, and it is vital that Congress helps Americans impacted by the pandemic stay in their homes. We were pleased to see that Senators Jack Reed (D-RI) and Patrick Leahy (D-VT) along with Chairman Brown reintroduced the $75 billion Homeowner Assistance Fund bill to provide funds to state housing finance agencies to help individuals impacted by the pandemic make home-related payments. We are also pleased that the COVID-19 relief legislation under consideration by the House takes steps to provide struggling renters and homeowners with financial assistance to stay in their homes. Rental assistance not only enables financially struggling Americans to stay in their homes during this pandemic, but it also helps small landlords continue to make their mortgage payments. Considering the toll this pandemic has taken on many vulnerable families, we strongly support this additional assistance, which helps ensure this health crisis does not become another housing crisis. While credit unions have worked with their members to provide forbearance, that relief over time can strain a financial institution, making it harder to operate and provide additional credit to members. This assistance is necessary to help struggling Americans stay in their homes, while ensuring that financial institutions such as credit unions have the liquidity to continue to serve their members.

Next, we would like to take this opportunity to share additional areas that we believe should be addressed by Congress and the Administration in future relief efforts. We outlined these areas in detail in a letter to Congress on January 21, 2021. For your reference, these additional asks are summarized below:

- *Capital and Prompt Corrective Action Flexibility:* Provide temporary capital flexibility for the NCUA and credit unions, such as a reduction in the level at which credit unions are considered well capitalized and adequately capitalized on par with relief provided to community banks by section 4012 of the *Coronavirus Aid, Relief, and Economic Security Act* (CARES Act).
- *Credit Union Investment Authorities:* Authorize additional investment authorities for federal credit unions similar to what is allowed for some state-chartered credit unions so they can better manage the influx of deposits during the pandemic and earn a better return, allowing them to provide more products and services to their members.
- *Loan Maturity Extension:* Provide credit unions with relief from the outdated 15-year general maturity limit found in the FCU Act for most credit union loans, as proposed by legislation from last Congress in the House (H.R. 1661) and Senate (S. 3389). 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.
- *Modernize the E-SIGN Act:* Modernize provisions in the *Electronic Signatures in Global and National Commerce Act* (E-SIGN Act) to help credit unions better meet the needs of members, while respecting social distancing requirements. We urge you to consider legislation such as S. 4159, the *E-SIGN Modernization Act of 2020*, that was introduced last Congress.
- *Limit Liability for Essential Businesses:* Ensure that there is a liability shield for businesses that follow the law, protect their employees, and serve as "good actors" to the public by providing important services, so that these businesses are not targets of demand letters and lawsuits because of it.

Additionally, we urge you to help credit unions and their members by extending and expanding several key provisions from past relief efforts:

- *NCUA's Central Liquidity Facility (CLF):* Make permanent the changes to the CLF in section 4016 of the CARES Act that were subsequently extended through the end of 2021 by the year-end COVID-19 stimulus package.
- *Deposit Insurance:* Provide the NCUA with the same powers as the FDIC under section 4008 of the CARES Act, extending their ability to establish a maximum guarantee to all shares or deposits held in a federally-insured credit union.
- *Current Expected Credit Loss (CECL):* Exempt credit unions from the CECL standard, or further delay implementation to provide additional clarity and relief for credit unions.

- *<u>Changes to SBA Loan Programs:</u>* Extend provisions to make SBA loan programs more appealing, such as increasing the loan guarantee on SBA 7(a) loans to 100 percent, which helps credit unions continue to serve their small business members through the recovery ahead.

Finally, as we also outlined in our letter on January 21, 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. These problematic provisions include legislatively mandated blanket loan forbearance, overbroad restrictions on first party debt collection, the elimination of courtesy pay programs, major changes to bankruptcy provisions, and blanket suppression of adverse information in credit reports. Enacting provisions now that harm community financial institutions could further exacerbate the current health and economic crisis.

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 me or Sarah Jacobs, NAFCU's Associate Director of Legislative Affairs, at (571) 289-7550.

Sincerely,

Brad Thaler

Brad Thaler
Vice President of Legislative Affairs

cc: Members of the U.S. Senate Committee on Banking, Housing and Urban Affairs