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National Association of Federally-Insured Credit Unions

March 16, 2020

The Honorable Larry Kudlow
Director
United States National Economic Council
1650 Pennsylvania Avenue NW
Washington, D.C. 20502

Dear Director Kudlow:

I write to you today on behalf of the National Association of Federally-Insured Credit Unions (NAFCU) to ask for your support for measures that would help credit unions help consumers during this time of economic uncertainty. As you are aware, NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve nearly 120 million consumers with personal and small business financial service products.

As the Administration prepares measures to help various industries and the economy, we urge your support for the following steps for credit unions.

Provide Relief from the Outdated Credit Union Member Business Lending Cap

Credit unions face arbitrary restrictions in the *Federal Credit Union Act* (FCU Act) on the ability to offer member business loans (MBLs). In 1998, Congress codified the definition of an MBL and limited a credit union's member business lending to the lesser of either 1.75 times the net worth of a well-capitalized credit union or 12.25 percent of its total assets. As part of S. 2155 in 2018, Congress clarified that one-to-four family non-owner occupied homes should not be counted as business loans toward the cap.

As the country faces recovery from the impact of the coronavirus on the economy, many credit unions have capital to help small businesses create jobs. However, due to the outdated and arbitrary MBL cap, their ability to help stimulate the economy is hampered. Removing or modifying the cap would help provide economic stimulus and create jobs without using taxpayer funds to do so.

There are a number of possible approaches to provide this relief. One approach is to raise the cap to 20 percent of the credit union's assets. Such an approach has received bipartisan support in previous Congresses. Another approach is to raise the threshold for what counts as a business loan toward to the cap (currently $50,000) to a higher level (such as $250,000), which could open up additional lines of credit to small and micro businesses, as they would now be exempt from the cap.

We also support exempting loans to our nation's veterans from the cap. Bipartisan legislation is pending in the House (H.R. 2305) and the Senate (S. 2834) that would provide this relief. Relief can also be provided by exempting all government-backed loans (such as SBA loans) from the cap. Currently, only the guaranteed portion of the loan is exempt from the cap.

Provide Capital Relief to Credit Unions

Credit unions remain well-capitalized as an industry and stand ready to help in the economic recovery. However, pending new capital requirements from regulators could stymie these efforts. Even though the Financial Accounting Standards Board has delayed its new Current Expected Credit Loss standard for credit unions until the first quarter of 2023, credit unions will have to start bringing their portfolios in line now. This could cause constraints on lending just as the nation is seeking to recover. Further delaying implementation of this standard could help provide additional clarity and relief for credit unions.

General regulatory flexibility for well-capitalized credit unions can also help these institutions work with their members to provide much-needed relief without additional "red-tape" getting in the way. Such an "off-ramp" for community banks that meet a certain leverage ratio was enacted as part of S. 2155. Enacting a similar provision now for credit unions can go a long way to giving them greater flexibility to meet the needs of their members while ensuring safety and soundness.

NCUA can also help in this area by permanently grandfathering "excluded goodwill" and "excluded other intangible assets" in the Risk-Based Capital (RBC) calculation for credit unions. Currently, these amounts may be included in a credit union's RBC ratio calculation until January 1, 2029, at which point the 2015 NCUA RBC final rule requires that both goodwill and other intangible assets be deducted from the numerator of a credit union's RBC ratio. Permanently grandfathering goodwill and other tangible assets would result in several benefits to the credit union industry and make it easier for healthy credit unions to merge with credit unions that may be negatively impacted by the emerging economic downturn. This is an important step to help ensure smooth credit union consolidations as the economy recovers.

Have Federal Financial Regulators Provide Immediate Regulatory Relief

Federal financial regulators have the ability to act immediately in a number of areas to help credit unions. These steps include:

- Moving to extended examination cycles for all credit unions in good standing. Currently credit unions below $1 billion in good standing are eligible for extended exam cycles. Extending this to all credit unions could provide relief. With so many credit unions now having employees telework and limiting person-to-person interaction, at the very least, on-site examinations by all regulators should be put on hold until the crisis has passed.
- Extending all upcoming mandatory compliance deadlines for at least 18 months, unless the regulation is in response to the current situation or includes regulatory flexibility.
- Allowing credit unions to conduct all board meetings or member meetings virtually. In-person meetings would likely violate the current 10-person limit recommended by the CDC. With comments that this crisis could extend into the summer, a simple delay of required business is not always an option. Immediate action to allow virtual meetings would provide relief.
- Requiring the CFPB and NCUA provide flexibility to credit unions who work with their members to assist with COVID-19 relief. This includes capital level forbearance, waiving

certain timing requirements at the request of the consumer, and not penalizing credit unions who make good faith efforts to help their members.

Allow Credit Unions to Do More to Help Underserved Populations

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. Allowing all credit unions to add underserved areas to their field of membership is one way to help those who need it most have access to capital without burdening the federal government.

Modernize Outdated Governance Provisions Found in the Federal Credit Union Act

A number of provisions relating to the governance of federal credit unions are outdated and need modernizing. For example, provisions requiring an in-person member meeting are particularly concerning during these times of COVID-19 uncertainty. At a time when few people may want to congregate in large groups, an outdated provision requiring a group meeting for actions that can be handled by a board or virtually only serves to put credit union volunteers and leadership at risk. A number of credit unions are already trying to change plans for annual member meetings in light of COVID-19. There is already bipartisan legislation pending in the Senate, S. 3323, that would remove the requirement for a special in-person meeting of the members of a credit union and replace it with board action to expel a member for threats or criminal acts against the credit union, its employees or its members. Such a measure is a common-sense step Congress can take to help credit unions in the current environment.

Raise the 15-Year Maturity Limit on Certain Credit Union Loans

Credit unions have a long track record of providing provident credit to members during times of uncertainty. However, as noted above, outdated provisions in the FCU Act sometimes hamper those efforts. This is the case with the 15-year general maturity limit found in the FCU Act for most credit union loans (with certain exceptions, such as owner-occupied mortgage loans). This limit hampers credit unions' ability to provide certain products, such as student loans and mortgage loans to those who may be looking to take advantage of great rates and purchase a future home, such as members of the military who may be stationed outside of an area. Bipartisan legislation to help on this issue has been introduced in both the House (H.R. 1661) and the Senate (S. 3389).

Provide Emergency Funding for CDFI Institutions and the CDRLF

The Community Development Financial Institutions (CDFI) Fund and the Community Development Revolving Loan Fund (CDRLF) are important tools for credit unions to access to funds to help those underserved and lower-income areas. An increase in funding of these programs would allow more credit unions to access monies to provide specific programs to help their members.

Assist Associations in Relief Efforts

Finally, as you consider measures to help various industries and small businesses, such as potential payroll tax relief, NAFCU also urges you to ensure such steps cover not only credit unions, but also associations. Many industry conferences and trainings stand to be impacted by COVID-19 and face cancellation or decreased attendance. Insurance plans for travel and events often do not cover cancellations for pandemics, which increases the cost of COVID-19 on the industry as a whole. Any relief package should address this important topic.

As the Administration considers measures to help stimulate the economy and respond to COVID-19, we strongly urge you to include these provisions to help our nation's credit unions and the 120 million Americans that they serve. During times of economic crisis, credit unions always focus on their members and doing all that they can to help.

Thank you for your attention to this matter. We look forward to continuing to work with you on this important issue. Should you have any questions or require any additional information please contact me or Brad Thaler, NAFCU's Vice President of Legislative Affairs, at 703-842-2204 or bthaler@nafcu.org.

Sincerely,

B. Dan Berger
President and CEO