NAFCU
3138 10th Street North
Arlington, VA 22201-2149
703.522.4770 | 800.336.4644
f: 703.524.1082
nafcu@nafcu.org | nafcu.org

National Association of Federally-Insured Credit Unions

March 22, 2020

The Honorable Mitch McConnell Majority Leader United States Senate Washington, D.C. 20510	The Honorable Charles E. Schumer Minority Leader United States Senate Washington, D.C. 20510
The Honorable Nancy Pelosi Speaker U.S. House of Representatives Washington, D.C. 20515	The Honorable Kevin McCarthy Minority Leader U.S. House of Representatives Washington, D.C. 20515

Re: Help Credit Unions Respond to COVID-19

Dear Leader McConnell, Leader Schumer, Speaker Pelosi, and Leader McCarthy:

I write to you today on behalf of the National Association of Federally-Insured Credit Unions (NAFCU) to ask for your support for measures as part of the Congressional COVID-19 response that would help credit unions help consumers during these times of economic uncertainty. As you are aware, NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve 120 million consumers with personal and small business financial service products.

We thank you for your leadership as you work on economic stimulus measures to respond to the COVID-19 crisis. We appreciate that your efforts provide relief to the American consumer and multiple industries that credit unions serve. Credit unions stand ready to help, and we thank you for your work to consider our industry in this relief effort. We also want to ensure that any forms of relief provided for banks are also provided for credit unions and the 120 million Americans who are credit union members. To that end, we are concerned that several measures in the current draft of the CARES Act provide resources for banks to respond to this crisis while excluding credit unions. This letter will outline areas where we have identified that credit unions need parity in the current Senate draft CARES Act text and additional measures we urge you to consider as you tackle COVID-19 economic relief.

First and foremost, we want to be clear that as Congress takes steps to ensure liquidity for banks, similar steps should be taken for credit unions, such as giving the National Credit Union Administration (NCUA) the access to necessary liquidity solutions. An important part of this effort is to make technical amendments to modernize the Central Liquidity Facility (CLF) at the NCUA so that credit unions can quickly access liquidity should they need to do so.

As you continue to update the text of the CARES Act, we also urge you to address the following discrepancies between banks and credit unions in today's draft:

- **Sec. 1102. Paycheck Protection Program:** The draft appears to cover banks but not credit unions due to using a definition of financial institution that does not include credit unions.
- **Sec. 1109. United States Treasury Program Management Authority:** The draft appears to cover banks but not credit unions, again due to using a definition of financial institution that does not include credit unions.
- **Section 1112. Subsidy for Certain Loan Payments:** The draft covers banks and banking regulators but not credit unions and the National Credit Union Administration (NCUA).

- **Section 4012. Temporary Relief for Community Banks:** This capital flexibility covers banks but not credit unions.

NAFCU also believes that as Congress responds to the pandemic, it is important that policymakers recognize that this is not a crisis caused by the financial services industry. Measures to address the current crisis should not harm credit unions, nor threaten the safety and soundness of financial institutions. While it is important to help consumers and small businesses during this time of crisis, it is critical that policy decisions do not threaten the ability of credit unions to operate in a safe and sound manner as they work to serve their members. We want to ensure that a national health crisis does not become a national financial crisis. NAFCU cannot support measures that unnecessarily threaten credit unions from receiving the income they need to operate and meet the needs of their members, such as an extension of interchange price caps, blanket loan forbearance for those unimpacted by the pandemic, and broad measures that could threaten the integrity of our nation's credit reporting system.

Furthermore, while credit unions continue to do good work, a number of outdated provisions hamper some of these efforts. There are important policy changes that the government can take to help credit unions serve consumers during these uncertain times. We would urge you to support the following measures:

- **Provide Relief from the Outdated Credit Union Member Business Lending Cap:** Remove or modify the cap to help provide economic stimulus and create jobs without using taxpayer funds by:
    - Raising the cap from 12.25 percent to 20 percent of the credit union's assets.
    - Raising the threshold for what counts as a business loan toward to the cap (currently $50,000) to a higher level (such as $250,000).
    - Exempting loans to our nation's veterans from the cap (bipartisan legislation to do this is pending in the House (H.R. 2305) and the Senate (S. 2834)).
    - 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:** Provide relief to credit unions, which remain well-capitalized as an industry, by:
    - Providing credit unions temporary relief from Troubled Debt Restructurings (TDR).
    - Further delaying the Current Expected Credit Losses (CECL) standard.
    - Enacting a provision similar to the community bank leverage ratio (CBLR) for well-capitalized credit unions.
    - Asking the NCUA to permanently grandfather "excluded goodwill" and "excluded other intangible assets" in the Risk-Based Capital (RBC) calculation.

- **Allow Credit Unions to Do More to Help Underserved Populations:** Allow all credit unions to add underserved areas to their field of membership 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:** Please consider the following:
    - Modernizing provisions requiring an in-person member meeting, which are particularly concerning during these times of COVID-19 uncertainty.
    - Supporting S. 3323, bipartisan legislation 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.

- **Raise the 15-Year Maturity Limit on Certain Credit Union Loans:** Please support bipartisan legislation to help on this issue (H.R. 1661 in the House and S. 3389 in the Senate).

- **Modernize the E-SIGN Act:** Please modernize the *Electronic Signatures in Global and National Commerce Act* (E-SIGN Act), which was passed nearly 20 years ago. Some of the E-SIGN Act's outdated provisions have become a burden.

- **Provide Emergency Funding for CDFI Institutions and the CDRLF:** Please increase funding for the Community Development Financial Institutions (CDFI) Fund and the Community Development Revolving Loan Fund (CDRLF) to allow more credit unions to access monies to provide specific programs to help their members.

- **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. Please encourage them to:
    - Extend examination cycles for all credit unions in good standing. Currently credit unions below $1 billion in good standing are eligible for extended exam cycles.
    - Extend all upcoming mandatory compliance deadlines for at least 18 months, unless the regulation is in response to the current situation or includes regulatory flexibility.
    - Allow 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.
    - Require the CFPB and the 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.

As you continue your vital work to respond to COVID-19, we strongly urge you to include these provisions to help our nation's credit unions and the 120 million Americans than they serve. During times of economic crisis, credit unions always focus on their members and doing all that they can to help. We are pleased that the NCUA has expressed flexibility during these difficult times, and we would urge you to support steps outlined in this letter to help credit unions.

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

cc: Members of the United States House of Representatives
Members of the United States Senate