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National Association of Federally-Insured Credit Unions

March 25, 2020

The Honorable Rodney E. Hood, Chairman
The Honorable Todd M. Harper, Board Member
The Honorable J. Mark McWatters, Board Member
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314

RE: Capital Relief Amid COVID-19 Pandemic

Dear Chairman Hood and Board Members Harper and McWatters:

On behalf of the National Association of Federally-Insured Credit Unions (NAFCU), I write to request the urgent assistance of the National Credit Union Administration (NCUA) in granting credit unions additional capital flexibility to address the economic crisis that is unfolding alongside the COVID-19 pandemic. 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 Congress prepares to reach a historic agreement to provide economic assistance and regulatory relief across multiple sectors of the economy, the NCUA should complement these efforts by using the full extent of its regulatory powers to provide credit unions with additional options to meet capital requirements and reduce reporting burdens. Taking such action will help credit unions prioritize helping members and their families survive the financial hardship that attends the pandemic.

Regulatory Capital Relief

To the maximum extent permitted by the *Federal Credit Union Act*, the NCUA should seek to provide capital relief that is equal or equivalent to what is being offered to banks by the federal banking agencies and Congress. For example, the *Coronavirus Aid, Relief, and Economic Security Act* (CARES Act) affords community banks additional relief by reducing the community bank leverage ratio (CBLR) from nine percent to eight percent. Eligible community banks that use the CBLR framework and maintain this new leverage ratio would be considered to have satisfied the risk-based and leverage capital requirements in the banking agencies' generally applicable capital rule.¹ Additionally, these banks would be considered to have met the well-capitalized ratio requirements for purposes of section 38 of the *Federal Deposit Insurance Act*.

The NCUA Board (Board) has indicated that it intends propose a CBLR analog for credit unions that could be used to satisfy new requirements in the NCUA's risk-based capital rules, which will go into effect in January 2022. For the risk based net worth requirement currently in effect, the

¹ Community Bank Leverage Ratio Framework, Community Bank Compliance Guide, 1 (October 2019), available at <https://www.federalreserve.gov/newsevents/pressreleases/files/bcreg20191029a3.pdf>

NCUA should adopt any changes necessary to ensure that the standard calculation of the risk-based net worth requirement is not more onerous than what a community bank would calculate using the CARES Act's CBLR adjustments.

The NCUA should also seek to maintain parity with regulatory efforts to ease leverage and liquidity requirements for banks during the present emergency. For example, the Federal Reserve recently issued an interim rule to amend the treatment of global systemically important banks' total loss absorbing capacity (TLAC). TLAC consists of a minimum amount of long-term debt and tier 1 capital and operates as a buffer against financial instability.² It also serves as a complement to the regulatory capital requirements in the Federal Reserve's capital rule. Although TLAC is not a stability measure directly analogous to credit unions, the intent behind the change is one that the NCUA should follow with respect to its own capital regulations.

In addition, the current crisis may lead to temporary deterioration in net worth ratios at a small number of credit unions.³ In such circumstances, the Board should recognize the unique externalities caused by the pandemic (particularly how business closures might interact with employer-based fields of membership) and provide for greater flexibility in meeting capital restoration and other prompt corrective action (PCA) requirements; namely, the deadlines and criteria for restoration plans which the Board may modify by regulation. While the vast majority of credit unions will encounter no difficulties meeting PCA requirements, the Board should still consider adjustments to reduce administrative burdens during a period of high operational stress.

Relief from the Current Expected Credit Losses (CECL) Standard

The NCUA should request, similar to other federal financial regulators, delayed implementation of the CECL standard.⁴ While the CARES Act provides temporary relief from CECL until December 31, 2020, the NCUA should seek to postpone CECL's mandatory effective date for credit unions until at least 2024. Although the Financial Accounting Standards Board (FASB) has already delayed CECL's effective date for credit unions to 2023, this extension is insufficient based on the dramatic economic disruption that has already occurred and whose aftereffects could persist for years. Credit unions that are directing staff resources to managing the crisis do not have time to model new forecasts in support of a highly complex accounting change that was deemed by many, even prior to the crisis, unnecessary for ensuring the stability of the credit union industry. Furthermore, transitioning to CECL during a period of recovery could have unintended consequences by reducing affordable access to credit.

² See Interim Rule, Board of Governors of the Federal Reserve System, Total Loss-Absorbing Capacity, Long-Term Debt, and Clean Holding Company Requirements for Systemically Important U.S. Bank Holding Companies and Intermediate Holding Companies of Systemically Important Foreign Banking Organizations: Eligible Retained Income (March 23, 2020), available at

<https://www.federalreserve.gov/newsevents/pressreleases/files/bcreg20200323a1.pdf>.

³ During the worst period of the Great Financial Crisis for credit unions (2010), the share of credit unions with net worth ratios less than 7 percent was 5.5 percent, compared with 1.5 percent in Q4 2019.

⁴ FDIC, "FDIC Chairman Urges FASB to Delay Certain Accounting Rules Amid Pandemic" (March 19, 2020), available at <https://www.fdic.gov/news/news/press/2020/pr20036.html>.

The NCUA should also write to the FASB to seek greater interpretive control over the standard itself to mitigate CECL's day one adverse impact to credit union capital and any negative, procyclical effects it might have on credit availability. Absent Congressional action to clarify CECL's applicability to federally-insured credit unions, the NCUA must follow the standard as written by a private standards-setting organization that has no prudential regulatory experience. This poses safety and soundness risks, particularly at a time when additional credit and liquidity is needed to bolster the economy during this unprecedented crisis. Accordingly, the NCUA should demand greater control over how the standard is applied to credit unions.

Subordinated Debt

To provide additional stability for credit unions both during and after the present crisis, the Board should consider fast-tracking a streamlined iteration of its subordinated debt proposal to grant all credit unions the option to issue subordinated debt. To develop the proposal quickly, the Board should borrow the framework currently used for low-income designated credit unions (LICUs) that issue secondary capital. Not only are these regulations already familiar to many credit unions and potential investors, they are far less complex than those that have been proposed by the Board in connection with its subordinated debt proposal.

The NCUA should also grant LICUs additional flexibility to tap relief programs under the CARES Act by fast-tracking secondary capital applications. Allowing LICUs to access secondary capital in the years to come will greatly enhance the efficacy of the specializing lending programs introduced in the CARES Act and contribute to faster economic recovery and direct relief to members. It would be counterintuitive to delay these applications and concede that retained earnings will place artificial restraints on necessary economic stimulus.

Stress Testing and Capital Planning Relief

The NCUA's rules for stress testing and capital planning impose significant operational burdens on covered credit unions. The NCUA should relax some of these rules to alleviate administrative pressure on credit unions as resources are directed toward helping members secure emergency credit, modify or defer payments, and seek forbearances. Furthermore, it is unlikely that the stress testing scenarios due this year will provide any useful information; credit unions are undergoing an actual period of stress right now—there is no need to model additional scenarios based on outdated assumptions.

NAFCU also recommends that credit unions that have a net worth ratio of at least ten percent should be given an off-ramp from stress testing and capital planning requirements. Such an accommodation for strong credit unions would accord with the Treasury's recommendations regarding Dodd-Frank Act Stress Test and Comprehensive Capital Analysis and Review off-ramps for banks.⁵

⁵ See United States Department of the Treasury, A Financial System That Creates Economic Opportunities at 12.

Furthermore, the NCUA should consider adjusting the Part 702 covered credit union tiers to grant all healthy, well capitalized credit unions the ability to have capital plans reviewed through supervisory processes every two years. NAFCU appreciates the NCUA's recent clarification that the deadline for submitting capital plans will be moved to August 2020. We encourage the NCUA to explore a further delay if the crisis lasts longer than expected or creates unforeseen operational burdens, particularly in conjunction with the enactment of the CARES Act. Given the unique stresses introduced by the pandemic, the NCUA should also adopt flexible criteria for evaluating and seeking revisions in capital plans reviewed through the supervisory process by modifying the requirements in 12 CFR § 702.505.

Conclusion

The NCUA must act quickly to implement capital relief for credit unions that is, at the very least, equivalent to what is being offered to banks during this time of crisis. The NCUA should also use the full extent of its regulatory powers to promote additional capital flexibility and reduce operational stress on credit unions so that they can prioritize assistance for their members. 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, please don't hesitate to contact me or Andrew Morris, Senior Counsel for Research and Policy, at amorris@nafcu.org or 703-842-2266.

Sincerely,

A handwritten signature in black ink, appearing to read 'B. Dan Berger', with a stylized flourish at the end.

B. Dan Berger
President and CEO