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National Association of Federally-Insured Credit Unions

June 19, 2019

The Honorable Richard Neal
Chairman
Committee on Ways and Means
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Kevin Brady
Ranking Member
Committee on Ways and Means
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Neal and Ranking Member Brady:

On behalf of the National Association of Federally-Insured Credit Unions (NAFCU), I write in conjunction with tomorrow's markup. NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve over 117 million consumers with personal and small business financial service products. NAFCU urges support for Title IV of H.R. 3300, the *Economic Mobility Act of 2019*, which would repeal the 21 percent excise tax imposed on certain not-for-profits for providing certain fringe benefits under the *Tax Cuts and Jobs Act* (TCJA). NAFCU also would urge the Committee to make efforts to fix the TCJA regarding grandfathering of not-for-profit executive compensation retirement plans through a technical correction.

We were pleased that the TCJA protected and maintained the exemption for credit unions from federal income tax. Credit unions provide checks and balances in the marketplace and share your goal in creating a vibrant American economy. As member-owned cooperatives providing local communities with basic financial service products, credit unions are proud of their track record in serving Main Street throughout the financial crisis. While meeting the needs of roughly 117 million members, credit unions also provide an important source of capital to our nation's small businesses.

While credit unions are exempt from federal income tax, credit unions, their employees, and their members are subject to a number of other taxes and thus are impacted by tax reform. One area where the TCJA impacted not only credit unions, but a number of not-for-profit employers, is the provision imposing a new 21 percent excise tax on certain executive compensation retirement plans provided by tax-exempt organizations. The TCJA "grandfathered" for-profit executive compensation contracts that were in effect prior to November 2, 2017, exempting them from deductibility limits. However, no grandfathering provision was included in the section dealing with not-for-profit executive compensation contracts.

As a result, tax-exempt not-for-profit employers with existing compensation contracts or plans are unfairly subject to a retroactive tax that does not apply to for-profit employers. Unlike for-profits, credit unions and other not-for-profits are unable to offer prospective employees stock options and other benefits – making retirement and retention benefits all the more important for acquiring and retaining talent. We do not believe it was the intent of the TCJA to disadvantage the not-for-profit sector vis-à-vis the for-profit sector in such a way, and would urge a fix to the TCJA to provide

not-for-profits a similar grandfather clause to what is enjoyed by for-profits. We hope such a provision can be added as a technical correction and urge the Committee's support for this fix.

Thank you for this opportunity to share our thoughts on this important issue. If my colleagues or I can be of assistance to you, or if you have any questions regarding this issue, please feel free to contact me or Janelle Relfe, NAFCU's Associate Director of Legislative Affairs, at 703-842-2237.

Sincerely,

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

Brad Thaler
Vice President of Legislative Affairs

cc: Members of the Committee on Ways and Means