



Credit Union National Association

cuna.org

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January 13, 2009

The Honorable Barney Frank
Chairman
Committee on Financial Services
United States House of Representatives
Washington, DC 20515

The Honorable Spencer Bachus
Ranking Member
Committee on Financial Services
United States House of Representatives
Washington, DC 20515

Dear Chairman Frank and Ranking Member Bachus,

On behalf of the Credit Union National Association (CUNA), I am writing regarding today's hearing entitled, "Priorities for the Next Administration: Use of TARP (Troubled Assets Relief Program) Funds under EESA (Emergency Economic Stabilization Act)" and H.R. 384. CUNA represents approximately 90% of America's 8,200 state and federally chartered credit unions and their 90 million members.

We have been very concerned that the implementation of the TARP program has excluded the participation of credit unions. We note that H.R. 384 does not specifically reference credit unions, with the exception of the permanent increase in deposit insurance coverage, which we greatly appreciate. Like community banks, credit unions continue to lend in the face of the economic crisis. Also like some community banks, some credit unions may need access to TARP. In that regard, we respectfully ask that you ensure that H.R. 384 includes credit unions as appropriate, and that the National Credit Union Share Insurance Fund (NCUSIF) lending authority be expanded as the bill would do for the Federal Deposit Insurance Corporation (FDIC).

We hope as Congress considers the conditions under which the administration may be able to use the second installment of funds, that Congress will encourage Treasury to include credit unions in additional programs it may develop for mutual institutions, support credit union participation in TARP by reconsidering the decision not to purchase troubled assets from financial institutions and use some of the available funds to back-up loan modifications.

Loan Modification and Foreclosure Mitigation

We share your concern regarding the number of borrowers facing foreclosure. While credit unions did not generally make the types of loans that caused the crisis, credit unions continue to assist borrowers facing foreclosure; in many cases, these borrowers obtained loans from other lenders.

As the economy worsens, one phenomenon that we are seeing in loan modification is a significant number of re-defaults, as recently reported by the Office of the Comptroller of the Currency. Part of the reason for these re-defaults may be the fact that the initial loan modifications were not significant enough. We believe that with some support and backup from TARP, more substantial modifications, especially those that reduce loan balances, would be more effective. Therefore, we support the provisions of H.R. 384 that require between \$40 billion and \$100 billion to be set aside



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for foreclosure mitigation. We hope that Treasury will follow the directions described in Title II of this legislation.

Credit Union Participation in TARP

Section 101 of the Emergency Economic Stabilization Act (EESA) authorizes the Secretary of Treasury, “to establish the Troubled Asset Relief Program (or ‘TARP’) to purchase, and to make and fund commitments to purchase, troubled assets from any financial institution, on such terms and conditions as are determined by the Secretary, and in accordance with this Act and the policies and procedures developed and published by the Secretary.”

Credit unions are included among the institutions defined in Section 3 of the Act as financial institutions. However, the implementation of the TARP by Treasury has not even attempted to include credit unions. More specifically, TARP has not been focused on the purchase of troubled assets; rather, Treasury decided to inject capital into financial institutions. As a result, credit unions, including corporate credit unions, that may need access to TARP funds are shut out because the Federal Credit Union Act does not generally permit credit unions to obtain capital from outside sources (there is an exception for low-income credit unions). Section 1790d(o)(2) of the Federal Credit Union Act defines credit union net worth as the retained earnings balance of the credit union, as determined under generally accepted accounting principles. While Congress intended for credit unions to be eligible to participate in the TARP, the current implementation of TARP effectively blocks credit union participation.

In order for credit unions to access TARP funds, we encourage Congress to consider a statutory change to the definition of Net Worth [added language in *italics*]:

(2) **Net worth.**—The term ‘net worth’—

(A) with respect to any insured credit union, means (i) the retained earnings balance of the credit union, as determined under generally accepted accounting principles, together with any amounts that were previously *the net worth* of any other credit union with which the credit union has combined *and (ii) any deposit, loan, investment, purchase of assets, account or guarantee by the federal government (including but not limited to special assistance from the Board under Section 208(a)) or any state government;* and

(B) with respect to a low-income credit union, includes secondary capital accounts that are--

- (i) unsecured; and
- (ii) subordinate to all other claims against the credit union, including the claims of creditors, shareholders, and the Fund.

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The Board shall implement Section 1790d(o)(2)(A)(ii) by Regulation within thirty (30) days of enactment.

This amendment to the Federal Credit Union Act would permit those credit unions in need of participating in TARP to have access to the funds, just as other depository institutions do. While we anticipate that demand for this provision will be measured, and the dollar amount of funds required will be substantially smaller than the assistance required by other sectors of the financial services industry, there are a number of credit unions located in areas of the country which have been particularly hard-hit by the financial crisis that could use this authority in order to continue providing high-quality financial services to their members.

Systemic Risk Authority

We also respectfully request that you consider providing systemic risk authority to the National Credit Union Administration Board (NCUA), on a similar basis to what the Federal Deposit Insurance Corporation enjoys. While we cannot imagine that Congress intended NCUA would not have such authority, the FDIC was able to point to specific provisions in its act to provide unlimited deposit insurance coverage for non-interest bearing transaction accounts. Without a specific systemic risk provision, NCUA has been reluctant to take this action. We believe that given the uncertainty of the economic crisis, parallel authority for NCUA to address systematic risk issues in a timely fashion is reasonable.

We recognize that the challenges that our economy is facing are extraordinary, and that credit unions, as an industry, remain relatively healthy. While there is rightly a tendency to deal with the largest problems first, the legislative changes described herein would provide avenues to assistance for which Congress intended credit unions to be eligible, and which some credit unions may need in the near future.

On behalf of the Credit Union National Association, we appreciate your consideration of these proposals. We also appreciate your efforts to make Treasury and the banks that received assistance accountable to the American people and hope you will continue to take action to ensure TARP funds are utilized in the manner Congress intended.

Sincerely,



President & CEO