April 14, 2020

The Honorable Maxine Waters
Chairwoman
Committee on Financial Services
United States House of Representatives
Washington DC, 20515

Dear Chairwoman Waters,

On behalf of America’s credit unions and their 115 million members, I am writing regarding your “Proposed Package 4 Related to COVID-19.”

Background
America’s credit unions are a critical part of the financial sector. There are 5,506 credit unions with $1.6 trillion in assets. While the credit union sector has grown over the last thirty years, it has consistently represented between 6% and 8% of the total depository institution market.

Credit unions have a history of service through disasters, emergencies and disruptions, providing direct assistance to their members in the form of low- and no-interest loans, payment forbearance, fee waivers, payroll advances, loan modifications, and other services that help meet the needs of their members in crisis. The credit union “People Helping People” philosophy is alive every day, but during uncertain times credit union members feel its impact greatest.

The COVID-19 pandemic has presented small businesses, consumers, and community-based financial institutions with an unprecedented challenge. With median size $36 million and half with ten or fewer employees, many credit unions are small businesses themselves. As such, blanket mandatory bans or requirements on certain activities and product pricing practices will unnecessarily and significantly stress some of these institutions. Nonetheless, CUNA is confident that credit unions will be able to continue delivering critical financial services to members throughout the duration of the pandemic.

Proposed “Package 4” Legislation
America’s credit unions appreciate the proposed “Package 4” legislative responses to the COVID-19 pandemic that the committee has put forward, and we offer the following perspectives to this proposal.

Community Development Financial Institution Fund
We support the additional authorization to the Community Development Financial Institutions (CDFI) Fund proposed in this legislation. Increasing funding to the CDFIF will help community-based financial institutions, including credit unions, support small businesses and low-income communities. CDFIs are perfectly positioned to help their communities recover from the economic disruption caused by the COVID-19 pandemic. They should be able to efficiently utilize these funds and provide emergency financial assistance to the people and small businesses that need it the most.
Additionally, credit unions are supportive of the proposal to extend the Government Sponsored Enterprise (GSE) Qualified Mortgage (QM) Patch which has played a critical role in ensuring access to affordable, responsible mortgage credit for credit union members, many of which are traditionally underserved. CUNA is also supportive of directing the Federal Reserve to provide zero-percent interest rate loans to community financial institutions to ensure they can continue to serve their communities and staff members.

**Regulatory Burden**

We appreciate the swift action that Congress and the administration have taken to ensure that the economic disruption caused by the COVID-19 pandemic does not turn into a full-blown financial crisis that cripples the economy for a long period of time. In that spirit, we offer that the prohibitions on overdraft services and debt collection processes included in your bill could amplify the hardship and do more harm than good at this time.

In times of crisis, consumers need access to their funds to purchase critical goods and services. Effectively banning overdraft protection services during this crisis could result in consumers not being able to purchase necessities to weather this storm. In good times and bad, credit unions work with their members to make sure fees are fair and affordable; they take into consideration exigent circumstances; and many are proactively waiving these types of fees. However, a broad-based ban on assessing these types of fees would have a damaging effect on consumers, which in the short term, could result in additional non-sufficient fund (NSF) fees and in the long term, impact the widespread availability of affordable checking accounts.

We are also concerned with the provisions of your bill which would limit steps lenders and collectors could take to collect debts. The safety and soundness of any financial institutions depends on the continuation of their income streams and includes the responsible collection of debts from borrowers. Credit unions have a history of working with their members who encounter financial hardship or economic disruption. It is in the best interest of both the credit union member and the credit union to work out payment plans and other accommodations. Public policy that takes a broad stroke, limiting the ability of lenders and collectors to continue normal operating procedures with borrowers who have not experienced significant economic disruption as a result of this pandemic and who can afford to continue payments, complicates the safety and soundness of lenders and could ultimately result in higher costs of credit for consumers.

Every day – and certainly during times like these -- consumers rely on financial first responders to help them and their families. Effectively and arbitrarily shutting down the normal operations of financial institutions, even temporarily, would limit credit unions’ ability to assist their members in need. The best and least disruptive path forward would be for Congress to encourage affected consumers to contact and work with their local credit unions, and to provide credit unions the tools needed to meet consumers’ needs.

Across the country, credit unions are actively working with their financially distressed members during this pandemic to suspend or reduce loan payments, reduce or waive fees, originate low or no cost loans, and search for creative solutions to help members make ends meet. We urge you to allow credit unions to continue working with members affected by the COVID-19 pandemic to develop customized solutions to secure members’ financial well-being.
**Credit Union Priorities and Concerns**

We also urge Congress to take steps that will provide credit unions and other lenders additional tools to help consumers in need. The following changes would ensure that consumers have uninterrupted access to their savings, that small businesses have additional credit availability from credit unions, and that homebuyers can navigate a regulatory maze too often dependent on in-person or face-to-face interaction. As you proceed with your proposals, we urge you to address the following matters.

**Federal Reserve’s Regulation D**

In many ways, our financial institution system is built on an assumption that the consumer will interact with the financial institution in person. Even as remote deposit access has matured and online banking has become more prevalent, several laws and regulations require those using banking services to present themselves in person. Clearly, the present crisis prevents many of these interactions.

One area where this is impacting consumers is the Federal Reserve’s (the Fed) Regulation D, which establishes a limit of six transfers per month from a consumer’s savings (or money market) account when made by various “convenient” methods. Once a consumer has reached their Regulation D withdrawal or transfer limit, funds can no longer be electronically transferred from their affected savings account. The Regulation D transfer limit can affect a consumer’s ability to move funds. After the sixth withdrawal or transfer, the only way to access funds is in person or by using an ATM.

Providing relief from the Regulation D transfer limit would make it easier – and safer – for consumers to access their funds deposited in credit unions, community banks, and other financial institutions.

The Fed recently released a Frequently Asked Questions (FAQ) document that offers a path to eliminate the transfer limit. We are grateful for the Fed’s concern for the financial well-being of consumers affected by the COVID-19 pandemic; however, the method detailed of re-designating accounts as transaction accounts and updating reporting to the Fed is not necessarily a simple one that credit unions and other small financial institutions can easily make, especially with constrained resources from the COVID-19 pandemic. Therefore, these FAQs do not adequately address our previous request because they maintain the Regulation D in its current form and could lead to inconsistent application by each Reserve Bank.

In light of Americans being asked to stay home for their own protection and that of others, we have recommended that the Federal Reserve eliminate, either temporarily or permanently, the Regulation D transfer limit to make it easier for credit unions, community banks, and other financial institutions to give members access to their funds. CUNA wrote to the Federal Reserve on March 30, 2020 seeking this relief.

If the Fed is unwilling to make this change on their own, we urge Congress to direct them to do so.

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Member Business Lending Cap
For many small businesses and their employees, the economic disruption caused by the COVID-19 pandemic means financial catastrophe. As the economy recovers, all available small business credit needs to be deployable. Unfortunately, federal law restricts credit unions’ ability to fully deploy credit to small businesses, capping the amount any individual credit union can lend to small businesses at 12.25 percent of the credit union’s assets. This cap makes little sense during normal economic times, but at a time when every available dollar will be crucial to reviving Main Street, it makes no sense.

More than 800 credit unions serving 50 million members offer business loans subject to this restriction. Nearly 150 of these credit unions, serving 10 million members, have loaned more than 8% of assets to small businesses, making them actively constrained by the cap.

Congress should enact legislation that exempts credit union business loans made during federally declared disasters and emergencies from the arbitrary credit union business lending restriction. Failure to do so would represent a decision to leave critical assistance on the sidelines when small businesses, Main Street, and the nation’s economy need it the most.

Remote Online Notarization
Financial transactions are complicated and rely on the trust of both parties. Notarization requirements help ensure that these transactions are properly executed and validate the individuals presenting themselves as parties to the transaction. While several federal regulations require documents to be notarized, notary laws and regulations are generally governed at the state level.

The COVID-19 pandemic has complicated person-to-person contact and made it difficult, if not impossible in some cases, to secure in-person notary services. Some states have remote notarization laws in effect; other states governors have issued temporary executive orders permitting remote notarization. However, given the fact this crisis is affecting every state and county in the country and that many of the notary requirements emanate from Federal law, we believe it would be in the interest of public policy to have a Federal law permitting remote notarization, and we encourage Congress to enact such legislation.

Current Expected Credit Loss (CECL)
We appreciate the Federal Accounting Standards Board (FASB’s) decision in October 2019 to move the effective date for CECL compliance until January 2023. At the time the FASB proposed moving the date, we supported 2023 as an appropriate timeframe for credit unions. However, in light of the current crisis, we urge the FASB to provide additional time for CECL compliance. While some credit unions are in the final stages of preparation, the vast majority are in the very early stages of gathering necessary data and beginning to make the numerous changes required under CECL. A one-year delay will help ensure our nation’s credit unions—the median of which is well under $50 million in assets—are prepared to comply. Therefore, we urge the committee to delay the effective date of CECL as it applies to credit unions until at least January 2024.

Central Liquidity Facility
We anticipate that as the COVID-19 crisis persists, credit unions will need to be able to efficiently access additional liquidity sources. Thus, we appreciate the establishment through 2020, however it may be necessary to extend it into 2021 and beyond.
Community Development Revolving Loan Fund (CDRLF)
CDRLF assists credit unions serving low-income communities to provide financial services to their communities; stimulate economic activities in their communities, resulting in increased income and employment; and operate more efficiently. No Congressionally-appropriated funds are used to fund the CDRLF’s administrative or overhead costs. These costs are paid by credit unions insured by the NCUA. Therefore, every dollar appropriated by Congress to the CDRLF is passed on directly to underserved communities and the credit unions that serve them. Thus, we urge Congress to include an emergency infusion of $3 million for the CDRLF.

Credit unions have a long history of providing low-interest loans and other types of financial assistance to individuals and small businesses during government shutdowns and natural disasters. This emergency funding request is a good investment and fiscally prudent.

Conclusion
On behalf of America’s credit unions, thank you very much for your work to sustain the economy and the financial system during this crisis. We stand ready to work with you to ensure that our members can continue to meet the financial services needs of those impacted by the COVID-19 pandemic. Thank you for the opportunity to share our views.

Sincerely,

Jim Nussle
President & CEO