Credit Union National Association
CUNA

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The Honorable Nancy Pelosi
Speaker of the House
House of Representatives
Washington, DC 20515

The Honorable Kevin McCarthy
Minority Leader
House of Representatives
Washington, DC 20515

Dear Speaker Pelosi and Leader McCarthy,

On behalf of America's credit unions and their more than 115 million members, I am writing regarding the House CARES 2 Act. Thank you for considering our views on this legislation as you prepare for its consideration in the House of Representatives.

The novel Coronavirus (COVID-19) is a global pandemic. The public health crisis created by the virus has caused a historic economic disruption and crisis which has resulted in the closure of millions of businesses and the unemployment of tens of millions of Americans. We appreciate the swift response that Congress and the administration have undertaken to address the economic consequences of the pandemic. More needs to be done, and still more will need to be accomplished in the months and years ahead. As financial first responders, America's credit unions stand willing and able to help consumers and small businesses during the crisis and into recovery.

Overview

Since the beginning of the pandemic, credit unions have been working to ensure they remain in a position to serve their members during and after the crisis. The good news is that credit unions entered the crisis very strong, with capital, liquidity and asset quality levels at post-financial crisis highs. This puts credit unions in a good position to flex their *people helping people* muscle to help their members weather financial challenges presented by the current economic disruption.

We appreciate the steps the government has taken in preparation for the pandemic and in the weeks since to ensure that credit unions remain in a position to serve their members. Inclusion in the Department of Homeland Security's Critical Functions Set ensures that credit unions are considered essential services that will remain open during the crisis; the National Credit Union Share Insurance Fund (NCUSIF) is backed by the full faith and credit of the Federal Government, assuring credit union members that their deposits in credit unions are safe; and accommodations made by Congress, the National Credit Union Administration (NCUA), and other regulators give credit unions flexibility to tailor solutions to the financial needs of members impacted by this crisis.

Credit unions proudly participated in the Paycheck Protection Program (PPP) which Congress established in the Coronavirus Aid, Relief, and Economic Security (CARES) Act. Hundreds of credit unions loaned PPP funds to tens of thousands of businesses, focusing their efforts on Main Street, not Wall Street. In the first round of PPP funding, the average credit union PPP loan was estimated to be $64,000. While credit unions continue to lend in the second round of PPP funding, early estimates suggest that the average loan amount is even lower now. While there have been tremendous challenges to accessing these funds and significant questions remain regarding how loans will be forgiven and how lenders will be compensated for the service they have provided, we hope you will recognize what credit unions did through this program as one of the keys to the program successfully keeping employees of small businesses connected to their jobs.

We also appreciate the other provisions of the CARES Act that facilitate credit union service during this crisis, including the temporary expansion of the Central Liquidity Facility (CLF), the authority conveyed to the NCUA and the Federal Deposit Insurance Corporation (FDIC) to guarantee deposits in non-interest bearing accounts, and language regarding troubled debt restructuring among other provisions. These are important tools during this crisis.

As we hopefully enter a new phase in this crisis, it is important that all who are helping the economy recover have the tools they need to do that critical job. Further, it will be critical that we bring to the table all available resources to help get our communities, their small business, and consumers across the country back on their feet.

From that perspective and in the interest of being constructive partners to economic recovery, we offer feedback on your proposal, the Health and Economic Recovery Omnibus Emergency Solutions (HEROES) Act of 2020. Credit unions' interest in the legislation falls into essentially three buckets: provisions that would help credit unions do more for their members, small businesses, and communities; provisions that would make economic recovery more difficult; and suggestions for additional policy changes that would assist credit unions in doing more to solve the problems we face in the coming months and years.

HEROES Act Provisions Credit Unions Support

Appropriations

We appreciate that this legislation responds to CUNA's call for an emergency appropriation of $1 billion for the Community Development Financial Institutions (CDFI) Fund. Also, this bill provides an additional $10 billion for Economic Injury Disaster Loan (EIDL) grants. However, we feel the HEROES Act misses an opportunity to provide emergency funding for the Community Development Revolving Loan Fund (CDRLF).

Administered by the NCUA, the CDRLF assists credit unions serving low-income communities to: 1) provide financial services to their communities; 2) stimulate economic activities in their communities, resulting in increased income and employment; and 3) 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.

This fund supports smaller credit unions that serve people and small businesses that will likely be the first to feel the real-world effects of a missed paycheck or a cancelled order or contract. These small businesses and individuals will also likely be the first Americans in this current crisis to need access to emergency credit and other assistance available from their credit unions.

CARES Act Improvements and Other Revenue Provisions

CUNA and its member credit unions appreciate that this legislation makes needed clarifications to past COVID-19 recovery laws. In line with Congressional intent, this bill exempts the Economic Impact Payments in the CARES Act from reduction or offset with respect to past-due child support or garnishment. In addition, the HEROES Act clarifies that businesses receiving PPP loan forgiveness can defer payment of payroll taxes under Section 2302 of the CARES Act.

The HEROES Act also makes enhancements to the Employee Retention Payroll Tax Credit in the CARES Act and clarifies ambiguity that led Federal credit unions to doubt that they were eligible to claim the credit. This bill further clarifies the same problem in the Families First Coronavirus Response Act by making clear that Federal credit unions are eligible to participate in that law's paid sick and family leave payroll tax credits. Those provisions are also extended and enhanced in this bill.

Finally, this bill provides two new payroll tax credits that will benefit credit unions hard hit by pandemic-related costs. One credit (Section 20212) provides relief for businesses and their fixed costs and another (Section 20204) helps these businesses with employee benefit expenses.

SAFE Banking Act

CUNA has supported the Secure and Fair Enforcement (SAFE) Banking Act since it was first introduced in the House in March 2019 and was the first financial services trade organization to testify before Congress on the matter. The SAFE Banking Act will help ensure access for state-sanctioned businesses in the mainstream financial system. Credit unions that choose to provide cannabis banking use rigorous screening and compliance protocols to appropriately monitor and maintain high-risk accounts. This legislation provides narrowly targeted Federal protections for credit unions and other financial institutions accepting deposits, extending credit, or providing payment services to an individual or business engaged in cannabis-related commerce in states where such activity is legal, if they are compliant with all other applicable laws and regulations.

We appreciate that this legislation is included in the HEROES Act. The inability to access mainstream financial services has exacerbated the adverse impacts of the global pandemic on many businesses in the cannabis sector, preventing them from accessing some of the programs designed to keep employees connected to their employer. While it has been important for Congress to enact the SAFE Act for some time, the current crisis makes it that much more important.

Credit Union HEROES Act Concerns

Moratorium on Debt Collection Activities: The HEROES Act would prohibit, during the pandemic (and for 120 days after the end of the presidential declaration), certain actions used in the collection of debt related to past due consumer and small business loans. While this restriction may be well-intentioned, credit unions have significant concerns about the impact this policy may have on community financial service providers and the consumers they serve. The responsible collection of debt payments from borrowers is critical to the safety and soundness of all lending institutions. A blanket suspension of the debt collection process—even for a temporary period—will disrupt creditors' ability to actively manage their loan portfolios, increase the cost of credit for all borrowers, and reduce access to credit from reputable lenders when Americans need it most.

In contrast to banks or other for-profit lenders beholden to external shareholders, credit unions' stakeholders are their member-owners. As financial cooperatives, it's the membership of the credit union that have the ultimate interest in ensuring the credit union can take appropriate steps to collect debts owed by their fellow members. In fact, as a result of their cooperative structure and member-focused mission, many credit unions are already working with financially distressed members to develop customized solutions that secure their financial well-being during this pandemic and beyond. Relying on credit unions to do what they do best is preferable to an environment where credit unions are unable to assist members because of diminished resources or rigid public policy.

Suspension of Negative Credit Reporting & Adverse Information: The HEROES Act includes several provisions affecting credit reporting during the pandemic, including suspending most negative credit reporting and requiring adverse information be excluded from consumer credit reports. The Act would also prohibit credit scoring models from treating the absence of information during a covered period on consumers' credit report as a negative factor.

Credit unions are concerned a blanket suspension of negative credit reporting could undermine confidence in and the usability of credit reports, and ultimately result in reduced access to credit for consumers. In addition, uniformly reducing relevant information on credit reports – negative or otherwise – could create challenges for lenders making lending or pricing decisions post-crisis which would in turn threaten safety and soundness. We also believe suspending negative credit reporting may be introducing unnecessary risk to the lending ecosystem as procedures already exist to account for delinquent or missed payments resulting from economic hardships, including pandemics or other national disasters. Credit unions are already using these proven processes and have been since the start of the crisis to guard their members' financial well-being and creditworthiness.

Central Liquidity Facility: As discussed above, the CARES Act included a much-needed expansion of the NCUA's Central Liquidity Facility (CLF), allowing corporate credit unions to act as agents for natural person credit unions and expanding the CLF's borrowing authority from 12 times the paid in capital to 16 times. These changes make the CLF more accessible to credit unions and expand the amount of liquidity NCUA could provide credit unions. These measures sunset at the end of 2020. Given the unprecedented nature and the depth of this pandemic and the subsequent economic crisis, expanding the CLF's borrowing authority to 25 times the paid in capital, extending the expanded borrowing authority until December 31, 2021, and making permanent the ability of corporate credit unions to act as agents for credit unions is necessary. The consequence of not having these provisions in place prior to this crisis is that NCUA has had to engage in a membership campaign for the CLF, asking credit unions to contribute capital to the facility at the very time credit unions are most reluctant to give up capital.

Credit Union Member Business Lending: 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% 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, this cap makes even less sense.

Credit union business lending has increased greatly since the Great Recession and some credit unions are now approaching the 12.25% of assets cap. We conservatively estimate that temporarily removing the MBL cap will provide over $5 billion in capital to small and informal business ventures, creating nearly 50,000 jobs over the course of the next year—***at no expense to the Federal Government***.

Additional credit union lending will not impede bank lending activity. Small Business Administration (SBA) research shows that growth in credit unions' small business lending is apparent in many respects, but most credit union business lending is for loans that banks would not originate. That means most credit union lending does not replace lending that would otherwise be done by banks. It is lending that otherwise would not occur. SBA research specifically shows that roughly 80% of credit union business loans are loans that banks would not make.

The fact that this legislation has not been included in the HEROES Act is a disservice to the American people and their small businesses.

Conclusion

There is much work left to do to ensure that consumers, small businesses and the economy get through this crisis and enter recovery. Credit unions are financial first responders actively helping their members and communities during this time. We appreciate the work that Congress and the administration have undertaken during this time and we are eager to work with you further to ensure that credit unions remain in a position to serve their members and communities. On behalf of America's credit unions and their more than 115 million members, thank you for your consideration of our views.

Sincerely,

Jim Nussle
President & CEO