

June 30, 2020

The Honorable Maxine Waters
Chairwoman
Committee on Financial Services
Washington, DC 20515

The Honorable Patrick McHenry
Ranking Member
Committee on Financial Services
Washington, DC 20515

Dear Chairwoman Waters and Ranking Member McHenry,

On behalf of American's credit unions, I am writing to express our views ahead of the hearing titled "Oversight of the Treasury Department's and Federal Reserve's Pandemic Response." The Credit Union National Association (CUNA) represents America's credit unions and their 115 million members.

Under Chairman Powell and Secretary Mnuchin's leadership, the Board of Governors of the Federal Reserve System (the Board) and the Department of the Treasury have taken unprecedented actions to stabilize the economy during the COVID-19 pandemic. The unprecedented shutdown of the American and world economies has led to economic uncertainty for individuals and businesses of all types. Changes to regulations and the creation of new lending programs have and will continue to help individuals and business weather the storm.

Regulation D

Credit unions fully supports the changes the Board made to reserve requirements of transaction accounts. The changes announced on March 15th reduced reserve requirement ratios to zero percent, eliminating the requirements for all depository institutions. After eliminating the reserve requirements, the Board announced on April 24th an interim final rule to amend Regulation D (Reserve Requirements of Depository Institutions) to delete the six-per-month limit on convenient transfers from the "savings deposit" definition. This interim final rule made it clear that credit unions and other depository institutions could immediately suspend the six-transfer limit. This change to Regulation D allows consumers to make an unlimited number of convenient transfers and withdrawals from their savings deposits.

The amendment to Regulation D is a change that credit unions have long sought and CUNA thanks the Board for simplifying the operation of accounts and eliminating a requirement that can confuse credit union members. Removing the transfer limit also gives consumers more access to their money, which is especially important during the pandemic when consumers have more limited access to their accounts.

Paycheck Protection Program

We appreciate Congressional efforts to establish the Paycheck Protection Program (PPP) created by the Coronavirus Aid, Relief, and Economic Security (CARES) Act. PPP has provided loans to many small businesses in need across the United States during these challenging times.

Credit unions welcomed the opportunity to help Americans by making PPP loans to small businesses that desperately needed help. We understand that rolling out this unique lending program was challenging for the Small Business Administration (SBA) and clearly the product was still being developed as credit unions and other lenders were originating loans.

Unfortunately, the compressed timeframe in which the PPP was enacted and implemented resulted in many challenges for our member credit unions in making, processing, and disbursing loans. Although money did flow

to small businesses through the PPP, the launch and relaunch of the PPP after the second round of funding was difficult for both borrowers and financial institutions, as there were many problems with the process. We remind the Committee and Treasury Department that credit unions are a vital component to the delivery of financial services to many Americans and that credit union members should have equal access to the PPP just as those that choose to borrow from large banks. At times during the initial phase and start of the second phase of the PPP, access was not uniform across all financial institutions, which may have frustrated Americans that accessed PPP loans through smaller financial institutions.

Paycheck Protection Program Liquidity Facility

We also note the Board quickly created the Paycheck Protection Program Liquidity Facility to provide liquidity to eligible financial institutions that made PPP loans. This facility provided a source of liquidity to financial institutions that may have needed flexibility after making PPP loans. This program made it easier for credit unions and other financial institutions to make PPP loans without causing anxiety about liquidity from the loans.

Liability concerns

Credit unions expressed concern with liability stemming from the PPP at the outset of the program. Nevertheless, credit unions charged ahead and made loans to desperate small businesses before many aspects of the PPP were developed. Now, partially as a consequence of this planned concurrence, lawsuits are being filed to remedy perceived issues with aspects of the PPP. The interim final rules provided little guidance on critical aspects of the program, such as the documentation required to determine eligibility, the process for submission and approval of the loans by the SBA, the collection of servicing fees, and the determination of funds to be forgiven. Historically, collection of SBA guarantees has proved challenging and, at times, frustrating. This lack of guidance shifts too much liability to the lender and, despite the guarantee, creates too much process risk relative to the limited interest rate.

Lawsuits have recently been filed over agent compensation and the denial of loans to certain types of business. It remains to be seen whether financial institutions even had impact over these and many other issues, but as the lenders, many will be dragged into lawsuits with little ability to address risk prior to making PPP loans. The SBA must address lender liability or it will risk losing lenders willing to make PPP loans.

Easing process for loan forgiveness is imperative

As you know, the key to PPP is loan forgiveness. This unique feature effectively turns a PPP loan into a grant if specific conditions are met for the use of the borrowed funds. Loan forgiveness helps support businesses by providing them funding to pay employees and certain other expenses that will not have to be repaid, allowing businesses to stay solvent in a time of decreased revenues. The size and sophistication of borrowers varies widely from large public corporations to the self-employed. In fact, some credit unions made PPP loans to members for less than \$1,000. Although borrower size and sophistication varies widely, we suspect that nearly all borrowers envision applying for and receiving forgiveness for these loans. Credit unions are concerned that the recently published application for loan forgiveness is overly complex for most businesses.

We ask Congress to ensure Treasury and the SBA simplify the forgiveness application process for loans under \$350,000. This threshold would capture the vast majority of loans and is the amount at which the CARES Act makes the lowest cutoff in determining lender processing fees. Additionally, the agencies should consider making forgiveness of these loans automatic or simply require a good faith certification that the funds were spent on forgivable expenses.

Ongoing Concerns with the Paycheck Protection Program

CUNA recently submitted a comment letter to the SBA outlining ongoing challenges and concerns with the PPP, some of which are included briefly in this letter.

Although the pace of PPP lending has slowed operational challenges remain and should be addressed if additional funding is provided. These include:

- Lack of support from the SBA to provide timely feedback on issues;

- Lack of updating guidance and forms to reflect privately insured state-chartered credit unions are eligible to be PPP lenders;
- Lender prioritization guidance;
- Official guidance formalizing the use of SBA forms; and
- Lack of guidance on the purchasing process of loans.

Central Liquidity Facility (CLF)

The CARES Act included a much-needed expansion of the National Credit Union Administration'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 are currently scheduled to sunset at the end of 2020.

Given the unprecedented nature and the depth of this pandemic and the subsequent economic crisis, we urge Congress to:

- Expand the CLF's borrowing authority to 25 times the paid in capital;
- Extend the expanded borrowing authority until December 31, 2021; and to
- Make permanent the ability of corporate credit unions to act as agents for credit unions.

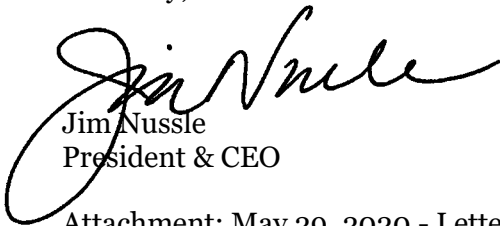
The consequence of not having these provisions in place prior to this crisis is that NCUA has had to engage in a membership campaign for the CLF, asking credit unions to contribute capital to the facility at the very time credit unions are most reluctant to give up capital. Congress should take steps to ensure the long-term viability of the CLF so that it can be prepared to help credit unions in future crises.

Economic Impact Payments (EIP)

We understand the vast majority of eligible Americans have received their Economic Impact Payments (EIP). There were many challenges in rolling out these payments, but believe the process could have been handled better. The Internal Revenue Service (IRS) and Treasury provided little information to our members through this process. Furthermore, the IRS was unable to provide our members real-time information on checks, which would have helped mitigate fraud. Although most payments have been sent, the IRS and Treasury should study errors made and fix problems to prepare for any future additional payments. Congress should also act to adopt legislation that protects stimulus payments from garnishment. This is a complex issue but we understand Congress is working on legislation that would mostly remedy this problem. Senators Grassley and Brown have introduced legislation, S. 3841 which would protect EIP payments from garnishment.

On behalf of America's credit unions, thank you for the opportunity to share our views.

Sincerely,



Jim Nussle
President & CEO

Attachment: May 29, 2020 - Letter to Secretary Mnuchin and Administrator Carranza



May 29, 2020

The Honorable Steven Mnuchin
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

The Honorable Jovita Carranza
Administrator
U.S. Small Business Administration
409 Third Street, SW
Washington, DC 20416

Dear Secretary Mnuchin and Administrator Carranza:

We, the undersigned state credit union associations and leagues (Leagues), which comprise the American Association of Credit Union Leagues (AACUL), and the Credit Union National Association (CUNA), thank you for your hard work and ongoing leadership during this crisis. State credit union leagues, AACUL, and CUNA represent credit unions across the nation and their 115 million members.

We appreciate the Department of Treasury and Small Business Administration's (SBA) diligent efforts to facilitate the Paycheck Protection Program (PPP) created by the Coronavirus Aid, Relief, and Economic Security (CARES) Act. PPP has provided loans to many small businesses in need across the United States during these challenging times. Credit unions have used this program to help their member small businesses meet important financial needs.

As you know, the linchpin of PPP is loan forgiveness. This unique feature effectively turns a PPP loan into a grant if specific conditions are met for the use of the borrowed funds. Loan forgiveness helps support businesses by providing them funding to pay employees and certain other expenses that will not have to be repaid, allowing businesses to stay solvent in a time of decreased revenues.

As the PPP transitions from lending money to small businesses to the loan forgiveness phase, lenders and borrowers are starting to wrestle with the requirements for loan forgiveness. The size and sophistication of borrowers varies widely from large public corporations to the self-employed. In fact, some credit unions made PPP loans to members for less than \$1,000. Although borrower size and sophistication varies widely, we suspect that nearly all borrowers envision applying for and receiving forgiveness for these loans.

Credit unions are concerned that the recently published application for loan forgiveness is overly complex for most businesses. The complexity of the forgiveness process presents an even greater challenge for small business as they have fewer resources to deploy on an overly complex application process. Moreover, feedback from our members indicates that the forms will likely require help from outside accountants and even attorneys for most businesses. This is an expense many of the smallest businesses cannot afford. Creating an overly complex forgiveness process would seem to be the antithesis to the spirit of a program designed to rapidly deploy resources to small business especially when the expectation is that the funds appropriated to PPP were never expected to be repaid.

Particularly troubling for small businesses is calculating covered expenses. The process requires that business make several calculations to determine the highest covered expenses. This requires borrowers to determine if it is better to use the traditional covered period, or the alternative covered period. Payroll costs

can include items as far ranging as salary, wages, commission, and cash tips to parental, family, medical or sick leave, and payment for the provision of employee benefits consisting of group health care coverage, insurance premiums, and retirement among many other items. For an independent contractor or sole proprietor, wages, commissions, income, or net earnings from self-employment, or similar compensation must be determined. The process becomes even more complex if a small business has to consider pension costs. These are cumbersome calculations to make without assistance.

Credit unions are concerned borrowers may rely on them for assistance in checking whether business have properly calculated forgiveness amounts. Although credit unions are required to review a forgiveness application and supporting documentation to make a forgiveness decision, this review process should not be relied on by borrowers to help complete applications. The calculation worksheet provided in the guidance is very helpful, but this is a serious undertaking for any borrower to calculate correctly.

We recommend that Treasury and the SBA revamp the forgiveness application process for loans under \$350,000. This threshold captures the vast majority of loans and is the amount at which the CARES Act makes the lowest cutoff in determining lender processing fees. Furthermore, the process could be simplified even more or made automatic for the smallest of borrowers requiring nothing more than a good faith certification that the funds were spent on forgivable expenses. This threshold could be set much lower, for example at \$50,000.

Credit unions are committed to providing financial services to Americans through this crisis and recovery. On behalf of the state credit union leagues, AACUL, CUNA and our 115 million members, thank you for your leadership during this crisis and the consideration of our views.

Sincerely,



Jim Nussle, President and CEO
Credit Union National Association



Diana Dykstra, AACUL Chair
President and CEO
California & Nevada Credit Union League



Daniel McCue, President and CEO
Alaska Credit Union League



Bruce Adams, President & CEO
Credit Union League of Connecticut



Dan Schline, President and CEO
Carolinas Credit Union League



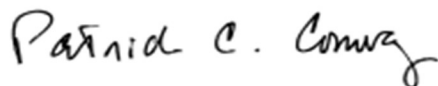
Ron McLean, President and CEO
Cooperative Credit Union Association



Caroline Willard, President and CEO
Cornerstone Credit Union League



John McKenzie, President and CEO
Indiana Credit Union League



Patrick Conway, President and CEO
CrossState Credit Union Association



Murray Williams, President and CEO
Iowa Credit Union League



Jeff Olson, President and CEO
Credit Union Association of the Dakotas



Debbie Painter, President and CEO
Kentucky Credit Union League



Dennis Tanimoto, President and CEO
Hawaii Credit Union League



Patrick La Pine, President and CEO
League of Southeastern Credit Unions



Brad Douglas, President and CEO
Heartland Credit Union Association



Bob Gallman, President and CEO
Louisiana Credit Union League



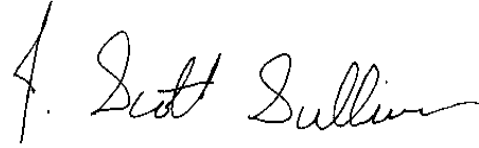
Tom Kane, President and CEO
Illinois Credit Union System



Todd Mason, President and CEO
Maine Credit Union League



John Bratsakis, President and CEO
Maryland | DC Credit Union Association



J. Scott Sullivan, President and CEO
Nebraska Credit Union League & Affiliates



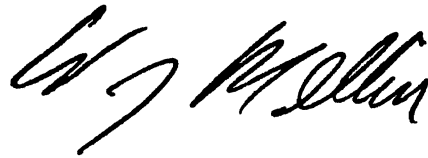
Dave Adams, President and CEO
Michigan Credit Union League & Affiliates



Paul Stull, President and CEO
Credit Union Association of New Mexico



Mark Cummins, President and CEO
Minnesota Credit Union Network



William Mellin, President and CEO
New York Credit Union Association



Charles Elliott, President and CEO
Mississippi Credit Union Association



Troy Stang, President and CEO
Northwest Credit Union Association



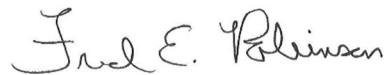
Tracie Kenyon, President and CEO
Montana's Credit Unions



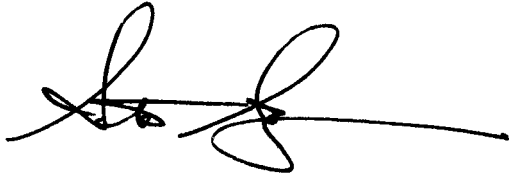
Paul Mercer, President and CEO
Ohio Credit Union League



Scott Earl, President and CEO
Mountain West Credit Union Association



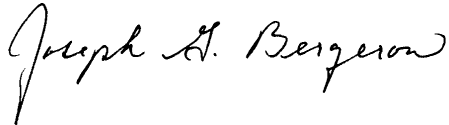
Fred Robinson, President and CEO
Tennessee Credit Union League



Scott Simpson, President and CEO
Utah Credit Union Association



Ken Watts, President and CEO
West Virginia Credit Union League



Joe Bergeron, President and CEO
Association of Vermont Credit Unions



Brett Thompson, President and CEO
Wisconsin Credit Union League



Rick Pillow, President and CEO
Virginia Credit Union League