Credit Union National Association
CUNA

Jim Nussle
President & CEO
Phone: 202-508-6745
jnussle@cuna.coop

99 M Street SE
Suite 300
Washington, D.C. 20003-3799

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The Honorable Mitch McConnell
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Chuck Schumer
Democratic Leader
United States Senate
Washington, DC 20510

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

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

Dear Majority Leader McConnell, Speaker Pelosi, Leader Schumer, and Leader McCarthy,

On behalf of America's credit unions, I am writing to highlight the needs of credit unions, their members, and member small businesses as you continue your work to provide resources to address the COVID-19 pandemic. The Credit Union National Association (CUNA) represents America's credit unions and their 115 million members.

As the pandemic persists in the United States, the American economy has been shaken. In these uncertain times, credit union's top priority is keeping their members, volunteers and employees safe while remaining in a position to serve members and the community during and after the crisis.

That said, as you continue your work to provide resources to American families and small businesses, we encourage you to remove barriers and address issues in order to ensure credit unions can fully serve and support their communities.

Extend Troubled Debt Restructuring (TDR)
Align Section 4013 and 4022 so that lenders are not required to declare modified loans as Troubled Debt Restructure (TDRs) after the forbearance period ends and extend that same protection to portfolio loans for COVID-related forbearances through December 2021.

The Troubled Debt Restructuring (TDR) exemption, created by the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), will expire at the end of 2020, or 60 days after the end of the national emergency, whichever is earlier. We believe the current situation warrants that this deadline be extended. Under the CARES Act § 4013 and interagency guidance, if a loan was current either on December 31, 2019, or at the time of modification, COVID-related modifications to the loan are exempt from TDR treatment. However, under CARES Act § 4022, borrowers of federally-backed mortgage loans (Fannie, Freddie, VA, FHA) may request and obtain forbearance of up to 12 months during the national emergency. The TDR exemption lasts only until the end of 2020, but most forbearances will not end until 2021 (at which time credit unions will likely need to modify the loan).

As a result of the unintentional provision misalignment, lenders will need to account for many loans modified due to COVID-19 as TDRs. The financial impact on credit unions will be significant. The economic impact of the COVID-19 pandemic on borrowers and financial institutions will likely last well beyond the conclusion of this calendar year.

We encourage Congress to extend the CARES Act's temporary TDR relief for an additional year, until the end of 2021, and to continue working with the financial regulators to ensure the interagency guidance on TDRs remains in effect for the duration of the crisis and its aftershocks. Such action is necessary to provide credit unions enough time to meaningfully and effectively help financially distressed members.

Extend Central Liquidity Facility (CLF) expansion
Extend the CLF expanded borrowing authority and corporate credit union provisions through December 2021 in Section 4016.

The Central Liquidity Facility (CLF) is a quasi-government corporation created to improve the financial stability of credit unions. This is accomplished by serving as a lender to credit unions experiencing unexpected liquidity shortfalls. The CLF exists within the NCUA and member credit unions own the facility.

America is in the middle of what might be the greatest economic disruption since the Great Depression, and we appreciate the enhancements to the CLF provided in the CARES Act. These enhancements extend through 2020 in order to aid credit unions experiencing unusual or unexpected liquidity shortfalls. Prior to the enactment of the CARES Act, the CLF had the authority to borrow at twelve times the subscribed capital stock and surplus of the CLF.

We are appreciative that the CARES Act increased the multiplier from twelve to sixteen, meaning that, for every $1 of capital and surplus, the CLF can now borrow $16. Additionally, we appreciate temporary access for corporate credit unions to the CLF under the CARES Act. Currently, credit unions have ample liquidity and that liquidity is increasing in the face of declining loan demand and increasing deposits. Economic impact payments were a significant source of this increased liquidity.

As the economy opens and improves, however, loan demand will rise very quickly. At the same time, deposits are apt to decline as spending increases and consumers begin to seek out investment opportunities. We anticipate this to begin in 2020, but it will likely extend into 2021 and beyond because unemployment lags economic recovery. We also anticipate the biggest demand for liquidity will almost certainly occur later in 2021. Thus, we encourage Congress to extend the enhancements to the CLF through 2021 and increase the borrowing authority multiplier from sixteen to twenty-five.

Mortgage and Rental Assistance Programs
Establish Housing Assistance Fund to provide resources directly to state Housing Finance Agencies helping prevent mortgage defaults, foreclosures, and displacements of those Americans experiencing financial hardship caused by the pandemic.

Millions of renters and homeowners face financial risks because of the pandemic. We know this because many of them are credit union members. It is imperative we work to ensure that they can stay in their homes as the economy recovers. We must also ensure that all stakeholders throughout the mortgage and rental pipelines are supported as well. That is why we support H.R. 6820, the Emergency Rental Assistance and Rental Market Stabilization Act of 2020 which would establish a $100 billion emergency rental assistance program that is directed to the states and S. 3620, which would establish a $75 billion Housing Assistance Fund which would provide those resources directly to state Housing Finance Agencies. These are models that we believe can and should be expanded.

While we support initiatives to aid distressed mortgage borrowers, CUNA is increasingly concerned about the impact a large volume of mortgage forbearances will have on the liquidity of mortgage servicers. The longer that mortgage servicers, especially non-bank servicing companies like credit union service organizations (CUSOs), are expected to deliver scheduled payments while the borrowers themselves are in deferment, the greater the likelihood that servicers will start to experience liquidity issues. We recommend policymakers act to provide a funding source accessible to mortgage servicers as the financial disruption becomes prolonged. We believe Congress should create a financing program, or liquidity facility, for mortgage servicers in need of assistance in order to preserve their ability to respond to the unprecedented levels of payment forbearance required to help families affected by COVID-19.

Provide liability protection

Provide a reasonable liability shield to businesses acting in good faith to comply with established best practices to protect credit unions reopening branches.

The significant costs associated with the litigation process often threatens to drain the finite resources of impacted credit unions. These costs force credit unions to divert critical resources away from their core mission which can affect member service and, in extreme cases, safety and soundness.

Paycheck Protection Program (PPP)

Streamline the forgiveness process by simplifying paperwork for all borrowers and consider making forgiveness automatic for the smallest borrowers. Pass legislation that protects PPP lenders from litigation, fines and penalties for acting in good faith with SBA guidance and policies throughout the PPP process.

America's credit unions have issued thousands of PPP loans to help small business owners recover from the impact of the pandemic. For the country's smallest credit unions, that amounts to over 60,000 loans averaging just $49,000—a true measure of just how crucial this program has been to the mom and pop organizations that keep Main Street resilient.

The Paycheck Protection Program Small Business Forgiveness Act will allow America's small business owners and Main Street financial institutions to remain focused on serving their communities rather than jumping through burdensome regulatory hurdles.

Specifically, this bill would provide forgiveness for PPP loans of $150,000 or less if the borrower submits an attestation form to the lender. It also ensures that the lender will be held harmless from any enforcement action if the borrower's attestation contained falsehoods.

Remote Notary

Allow remote notary and remove face-to-face requirement and permit notary requirements to be completed over the internet through the use of two-way audio-visual technological communication methods.

As credit unions continue to serve members' needs by using online, mobile, and other electronic means, it has become clear that our state notarial laws and regulations are inadequate to support this shift in technology. Notarial acts are a necessary component of the residential loan closing process. The limitations with our existing laws may result in increased risk to credit unions and their members by hampering our ability to serve our members.

Moreover, the health emergency created by COVID-19 has created an even greater need for resources that allow members to complete real estate financial transactions remotely in light of stay-at-home orders and mandated social distancing. The financial stimulus measures implemented by state and federal governments, including significant cuts to interest rates, have stimulated mortgage lending, particularly refinances. Remote online notarization capabilities are essential to credit unions' ability to process these loan requests.

Provide Member Business Lending (MBL) flexibility

Support H.R. 6789 and S. 3676 to temporarily remove the Member Business Lending (MBL) cap for credit unions.

Current law restricts most credit unions' business lending authority at 12.25% of assets. But credit unions are well capitalized, safe and sound; credit unions for which this cap is limiting have significant business lending experience and additional capital to lend. Keeping this business credit on the sidelines during and after this crisis would make absolutely no sense.

As we proceed through the pandemic and hopefully enter recovery soon, it will be imperative that all available small business credit is deployable so that Main Street can get back to work and thrive again.

H.R. 6789 and S. 3676 are targeted to the crisis at hand and will make a difference for America's small businesses and those they employ.

Conclusion

Communities and small businesses across the country are suffering and need access to relief. As you continue your work, we would encourage you to support and include these legislative items to ensure credit unions and their members have the necessary resources to weather the storm of COVID-19.

On behalf of America's credit unions and their 115 million members, thank you for your leadership of this important legislation.

Sincerely,

Jim Nussle
President & CEO

CC:
The Honorable Mike Crapo
The Honorable Sherrod Brown
The Honorable Maxine Waters
The Honorable Patrick McHenry