Credit Union National Association
CUNA

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President-elect Joseph R. Biden Jr.
Biden-Harris Transition
1401 Constitution Avenue, NW
Washington, DC 20230

Dear Mr. President-elect:

On behalf of the Credit Union National Association (CUNA), I am writing to express our interest in working with you and members of your transition effort, and to provide policy recommendations for 2021. CUNA represents America's credit unions and their more than 120 million members.

Credit unions are not-for-profit financial cooperatives with a statutory mission to promote thrift and provide access to credit for provident purposes. Unlike other financial institutions, credit unions do not issue stock or pay dividends to outside stockholders. Instead, earnings are returned to members in the form of lower interest rates on loans, higher interest on deposits, and lower fees. Each credit union member has equal ownership in the credit union and one vote—regardless of how much money a member has on deposit. Therefore, credit unions exist only to serve their members, and the relationship between credit unions and their members is fundamentally stronger than the relationship other financial services companies have with their customers.

As a result, credit unions' interest in their members' financial well-being and advancing the communities they serve takes on paramount importance. As you consider policy changes impacting credit unions and their members, we urge you to consider the impact any changes would have on credit unions' ability to improve their members' financial well-being and advance the communities they serve. We often find that well-intentioned policy proposals have the unintended consequence of making credit union services less available and more expensive to those who need them the most. We pledge to work with your administration to identify proposals that would have this result and offer constructive suggestions to mitigate any adverse impacts. And, we hope your administration will work with us to ensure credit unions can continue to be there for their members and communities.

Credit Unions Remain Well-Positioned to Serve their Members During and After the COVID-19 Pandemic

Credit unions are financial first responders, a fact that has been amplified during the COVID-19 pandemic. Credit unions entered the COVID-19 crisis well-positioned to serve their members, and throughout the crisis have provided significant assistance including making loan modifications, offering emergency small dollar loans, and participating in the Small Business Administration's (SBA) Paycheck Protection Program (PPP).

As we enter the second calendar year of this pandemic, credit unions remain in a strong position. Collectively, the nation's 5,300 credit unions have ample liquidity, reflected in a 76% loan-to-savings ratio and surplus funds equal to 31% of assets (with 60% of those surplus funds in liquid assets). Asset quality is high with the credit union delinquency ratio sitting at 0.54% in September according to National Credit Union Administration (NCUA) regulatory call report data. That essentially puts delinquencies at their lowest level in over 30 years. The system's capital ratio has stabilized at 10.4% (well above Prompt Corrective Action's "well capitalized" level of 7%).

Nevertheless, the significant looming stress reflected in the Census Bureau Household and Small Business Pulse Surveys[1] suggests a new administration and Congress should remain vigilant and be prepared to act to head off a deeper and longer lasting crisis—and to ensure that credit unions maintain their ability to effectively intervene and help members navigate through the mounting near-term risks.

CUNA strongly encourages this new administration to support and implement further COVID-recovery legislation and policies in 2021 and beyond to ensure credit unions remain in a position to serve their members throughout and after the COVID-19 pandemic.

NCUA Should Take Further Steps to Assist Credit Unions as They Serve Members During and After the Pandemic

Throughout the pandemic, the NCUA, under the leadership of Chairman Rodney Hood, has been responsive to the needs of credit unions. With few exceptions, the agency has moved swiftly to remove barriers keeping credit unions from serving their members as a result of the public health and economic crisis.[2] CUNA welcomes the addition of NCUA's new Board Member, Kyle Hauptman, who was confirmed in December. We look forward to working with NCUA's new Board as credit unions continue to help their members during this challenging time.

CUNA continues to encourage the NCUA to:

- Refrain from National Credit Union Share Insurance Fund (NCUSIF) premium assessments;
- Temporarily exclude certain low-risk assets from the net worth ratio;
- Remove obstacles to consumers accessing the Payday Alternative Loans I Program;
- Allow the use of temporary asset thresholds; and
- Quickly review pending rulemakings.

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[1] The most recent Census Bureau **Household Pulse Survey** shows that 20.5 million adults live in households that are behind in rent or mortgage payments. Overall, 35% of these say they are somewhat to very likely to face eviction or foreclosure in the next two months.
The most recent Census Bureau **Small Business Pulse Survey** shows that nearly half—46%—of small business owners say they expect it will be at least six months before their business returns to normal operating levels. Overall, nearly 7% say they expect that their business will never return to "normal" pre-crisis levels.

[2] *E.g.*, Interim Final Rule - Central Liquidity Facility (Apr. 29, 2020), *available at* https://www.regulations.gov/document?D=NCUA-2020-0044-0001; Interim Final Rule - Temporary Regulatory Relief in Response to COVID–19–Prompt Corrective Action (May 28, 2020), *available at* https://www.regulations.gov/document?D=NCUA-2020-0054-0001; Interim Final Rule - Real Estate Appraisals (Oct. 14, 2020), *available at* https://www.regulations.gov/document?D=NCUA_FRDOC_0001-0159; Proposed Rule - Capitalization of Interest in Connection with Loan Workouts and Modifications (Dec. 4, 2020), *available at* https://www.regulations.gov/document?D=NCUA-2020-0114-0001; and Temporary Final Rule - Temporary Regulatory Relief in Response to COVID–19–Extension (Dec. 17, 2020), *available at* https://www.ncua.gov/files/agenda-items/AG20201217Item2b.pdf.

The NCUA Should Refrain from National Credit Union Share Insurance Fund Premium Assessments

As a result of an influx of deposits following a substantial government stimulus to consumers impacted by COVID-19, credit union deposits have swelled and the NCUSIF equity ratio temporarily declined. At its September Board meeting, NCUA reported that the NCUSIF equity ratio had dropped to 1.22% at mid-year 2020 from where it was in December 2019 at 1.35%. This is an understandable and temporary change reflecting the historically unprecedented deposit growth driven by members depositing COVID-19 economic impact payments.

NCUA announced the reasonable and appropriate step of having credit unions "top off" their deposit in the NCUSIF to account for these new deposits. This is expected to return the equity ratio to approximately 1.34%, which is above the statutory guideline for the normal operating level, 1.30%.

NCUA is prohibited from assessing premiums to fund the NCUSIF if the equity ratio is above 1.30%; and the agency is required to report to Congress a restoration plan if the equity ratio drops below 1.20%. In setting these parameters, Congress sent a clear message that a safe and sound equity ratio for the NCUSIF lays somewhere between 1.20% and 1.30%.

We are concerned that NCUA may take the unnecessary step of assessing credit unions a premium charge if the fund drops below 1.30% during this crisis. We urge the NCUA to forebear on any assessments, consistent with the forbearance toward distressed members the agency has urged credit unions to embrace. A temporary forbearance approach to the existing NCUSIF equity ratio policy on levying insurance premiums is consistent with the stated approach of the Federal Deposit Insurance Corporation (FDIC).

The NCUA Should Temporarily Exclude Certain Low-Risk Assets from the Net Worth Ratio

As noted above, deposits in credit unions have swelled during the crisis, largely as a result of government stimulus and changes in consumer spending and savings habits. Credit unions are increasingly investing these funds in zero- and low-risk assets, such as shorter-term Treasury securities. These deposits and resulting investments, however, have caused a decrease in the net worth ratio for many credit unions. Therefore, we have asked the NCUA to follow the lead of other Federal banking regulators and exclude such investments from the net worth ratio calculation.

The NCUA has broad authority in defining "total assets," which comprises the denominator of the net worth ratio. The NCUA Board acknowledged this authority in its interim final rule issued in Spring 2020 that amended section 702.2(k) to allow credit unions to exclude from "total assets" loans pledged as collateral for PPP loans. Specifically, in that rule, the Board stated:

> The Board has broad authority to define the term "total assets." While 12 U.S.C. 1790d defines "net worth"—the numerator for determining the net worth ratio—it does not define the term "total assets," which comprises the denominator of the equation. However, the Board has elected to define the term in part 702. In addition to the Board's broad authority to define the term "total assets," the Board finds that given the unique and unprecedented nature of the COVID-19 pandemic, encouraging use of the PPP Facility by excluding pledged PPP loans from total assets would further the

> purpose of § 1790d. Pledged covered PPP loans present less risk and would potentially facilitate resolving the problems of credit unions at the least possible long-term cost to the NCUSIF compared to non-pledged covered PPP loans.[3]

CUNA supported that NCUA interim final rule, as we think it is important to encourage credit union participation in PPP lending. After further review, we believe the NCUA can extend this treatment to all PPP loans.

We believe it is equally important to amend the definition of "total assets" to exclude certain zero- and low-risk assets. Since we continue to find ourselves in a "unique and unprecedented" situation given the ongoing pandemic, it is imperative the agency provide additional flexibility regarding credit union capital. Thus, we have asked the NCUA to explore ways to reduce the denominator of the net worth ratio—including by excluding certain assets from the calculation—given that the savings growth is a result of the current environment as opposed to something credit unions are actively encouraging. Credit unions are not in the business of turning away members or their deposits, but this is a possible though unfortunate alternative that could stem declining net worth ratios.

The NCUA Should Remove Obstacles to Consumers Accessing the Payday Alternative Loans I Program

We have also encouraged the NCUA to consider issuing an interim final rule amending section 701.21 of the agency's regulations to eliminate the requirement that a borrower "be a member of the credit union for at least one month"[4] before receiving a Payday Alternative Loan I (PAL I). This change would ensure credit unions have the flexibility necessary to meet the emergency credit needs of new credit union members.

In the current environment, economically distressed new members should not have to wait a month to be eligible for a PAL I loan. This requirement drives borrowers to more costly and potentially predatory lending sources, which produces the precise outcome policymakers sought to avoid through the PAL I program.

We have also asked the NCUA to provide additional guidance for credit unions assisting financially distressed borrowers with outstanding PALs. In some instances, members borrowed PALs at the maximum term permitted and now, as a result of a change in their financial situation, are seeking options to amend or extend their loans. We recommend the NCUA provide credit unions the flexibility to refinance these outstanding loans into other low-cost emergency credit products or to potentially extend the loan terms.

The NCUA Should Allow the Use of Temporary Asset Thresholds

The NCUA should follow the lead of the Office of the Comptroller of the Currency, Federal Reserve Board, and FDIC by issuing an interim final rule to provide temporary relief to credit unions as it relates to regulatory compliance based on asset thresholds.

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[3] 85 Fed. Reg. 23,212, 23,214 n.18 (Apr. 27, 2020).
[4] 12 C.F.R. § 701.21(c)(7)(iii)(A)(6).

Specifically, as issued by the banking regulators,[5] the NCUA should pursue an interim final rule to allow credit unions, through December 31, 2021, to determine applicability of certain asset-based regulatory thresholds using asset data as of December 31, 2019, if the credit union's assets as of that date were less than its assets on the date as of which the applicability of a given threshold would normally be determined. This regulatory relief would apply to asset-based regulatory thresholds for a number of requirements, such as eligibility for 18-month examinations.

Credit unions have been instrumental in providing products and services to consumers and communities in response to COVID-19, and like banks, have experienced balance-sheet growth as a result of the pandemic and the government's response. Also, credit unions are subject to a wide range of statutory requirements, regulations, and reporting requirements based on their risk profile and asset size. Due to the COVID-19 pandemic and balance sheet growth as a result of new COVID-related policies, there are credit unions that could be subject to additional regulatory or reporting requirements in 2021 because they are temporarily pushed over an asset-size threshold for compliance.

Therefore, as detailed in a December 2020 letter to the NCUA,[6] CUNA strongly supports an interim final rule for credit unions that will allow them to use 2019 asset-size data for regulatory requirements through the end of 2021, so they will not be required to comply with new regulatory or reporting requirements until the beginning of 2022, at the earliest.

The NCUA Should Quickly Review Pending Rulemakings

The NCUA Board discussed several important issues during its December 2020 and January 2021 open meetings. Lack of Board consensus in late 2020, which has since been resolved, led to loaded December and January dockets. Moving forward, we support the NCUA Board's expeditious review of all pending issues including five recently proposed rulemakings. Credit unions must have streamlined and flexible regulations so they can effectively serve members during and after this critical time.

Specifically, the agency issued the following proposals:

- *Field of Membership Shared Facility Requirements (Part 701, Appendix B):* This proposal would amend the chartering and field of membership (FOM) rules to modernize requirements related to service facilities for multiple common bond federal credit unions (FCU). The proposal would amend the rules to include any shared branch, shared ATM, or shared electronic facility in the definition of "service facility" for an FCU that participates in a shared branching network.
- *Mortgage Servicing Rights (Parts 703 & 721):* This proposal would amend the NCUA's investment regulation to permit FCUs to purchase mortgage servicing rights from other federally insured credit unions under certain conditions.
- *Overdraft Policy (Part 701):* This proposal would amend one of the requirements that an FCU must adopt as a part of its written overdraft policy. Specifically, the proposal would replace

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[5] 85 Fed. Reg. 77,345 (Dec. 2, 2020).

[6] CUNA Letter to the NCUA Board (Dec. 22, 2020), *available at* https://www.cuna.org/uploadedFiles/Advocacy/Actions/Comment_Calls,_Letters_and_Testimonies/2020/Comment_Letters/Letter%20to%20NCUA%20re%20Temporary%20Asset%20Thresholds%2012.22.2020.pdf.

the 45-day limit within which a member must rectify an overdraft with a more flexible approach, permitting such action be taken within a reasonable period of time.

- *CAMELS Rating System (Parts 700, 701, 703, 704, & 713):* This proposal would add the "S" (Sensitivity to Market Risk) component to the existing CAMEL rating system and redefine the "L" (Liquidity Risk) component. The proposed addition of the "S" component is intended to enhance transparency and allow the NCUA, state regulators, and credit unions to better distinguish between liquidity risk and sensitivity to market risk.
- *Risk-Based Net Worth, Complex Threshold (Part 702):* This proposal would temporarily raise the asset threshold for defining a credit union as "complex" for purposes of being subject to any risk-based net worth requirement. Specifically, the proposed rule would amend NCUA's regulations to provide that any risk-based net worth requirement would apply only to credit unions with more than $500 million in assets (currently $50 million) and a risk-based net worth requirement that exceeds 6%.

Credit Unions Need Continued Flexibility from the CFPB to Assist Consumers Affected by the COVID-19 Pandemic and the Associated Economic Turmoil

CUNA and credit unions look forward to working closely with the Consumer Financial Protection Bureau (CFPB or Bureau) as we help consumers manage their finances during the COVID-19 crisis and its aftermath. We appreciate the regulatory amendments and supervisory flexibility that the CFPB has provided in the last few months, but more is needed for consumers during and after the crisis.

Since the beginning of the pandemic, the Bureau has been proactive in issuing policy statements and acting on several key consumer finance issues, including credit reporting, mortgage servicing, small dollar lending, remittances, and reporting deadline extensions. Credit unions have found these activities helpful in clarifying the CFPB's expectations and providing much-needed flexibility.

Pursuant to local orders and public health best practices, credit unions and third-party service providers are often operating short-staffed, on enterprise-wide telework, or with skeleton crews. These staffing challenges, coupled with an increasing demand for assistance, have caused standard processes and procedures to slow. As a result, CUNA continues to recommend the CFPB provide credit unions flexibility for the duration of the pandemic.

We urge the CFPB to:

- Avoid implementing new rules that would unnecessarily tie-up compliance resources or add to regulatory burden. If a new rule must be finalized, we ask that the compliance date be set far enough into the future as not to distract from the immediate focus: **helping members**;
- Suspend *unnecessary* onsite examination activities and reduce the frequency of requests for examination-related information so credit union employees can dedicate their time to focusing on members;
- Expand "good faith efforts to comply" supervision policies to additional areas where credit unions are acting swiftly to assist members in need; and
- Coordinate with other federal banking regulators, especially the NCUA, to issue up-to-date guidance on mortgage servicing as more borrowers seek forbearance and other means of assistance during the pandemic.

In addition, the Bureau has made several regulatory changes over the last three years that have right-sized the regulatory burden on credit unions in the interest of improving the financial well-being of credit union members. These changes, such as rules increasing the "normal course of business" threshold for the Remittance Rule or increasing the reporting threshold for closed-end mortgage loans for the Home Mortgage Disclosure Act (HMDA) Rule, have provided targeted relief to some of the smallest entities operating in the consumer financial services market.[7] The reduction in compliance costs associated with these regulatory changes has likely corresponded to an increase in low-cost services available to consumers served by community-based financial institutions. We urge the CFPB to resist the temptation offered by some groups to rescind these changes in wholesale fashion, as doing so could ultimately reverse the progress credit unions have made in reaching vulnerable populations, including people with modest means, underserved communities, servicemembers, minority groups, older Americans, and others.

Outlined below are additional recommendations credit unions have provided to the CFPB regarding its regulatory approach and several specific rules.

The Bureau Should Coordinate Credit Union Supervision and Transfer Supervision of Large Credit Unions to NCUA

Throughout their history, credit unions have been supervised by several different federal agencies. The lesson that comes through clearly, based on these different supervisory arrangements, is that credit unions are best positioned to succeed when supervised and examined by a regulatory agency that has familiarity with the characteristics that differentiate them from other financial services providers. For that reason, the CFPB should work with the NCUA throughout the rulemaking process and use its statutory authority to transfer consumer protection regulation supervision of the largest credit unions to NCUA. The NCUA understands the credit union model and is best equipped to examine and supervise credit unions for regulatory compliance.

The Bureau Must Effectively Use its Statutory Authority

CUNA has strongly urged the Bureau to closely monitor the impact its rules have had on credit unions and their members and appropriately tailor regulations to reduce burden or exempt credit unions entirely, as appropriate.

In the wake of the 2008 financial crisis, Congress contemplated the need for exceptions to certain regulations and crafted the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) to authorize the Bureau to tailor its rules so those acting responsibly in the financial services marketplace are not needlessly hampered by those rules.[8] Congress expressly provided this authority in Section 1022 of the Dodd-Frank Act:

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[7] *See* Home Mortgage Disclosure (Regulation C), 85 Fed. Reg. 28,364 (May 12, 2020) *and* Remittance Transfers Under the Electronic Fund Transfer Act (Regulation E), 85 Fed. Reg. 34,870 (June 5, 2020).

[8] Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank), Pub. L. No. 111-203, 124 Stat. 1376 (codified in scattered sections of the U.S.C. (2012)).

The Bureau, by rule, may conditionally or unconditionally exempt ***any class of covered persons****, service providers or consumer financial products or services from any provision of this title, or from any rule issued under this title . . . . (Emphasis added)*[9]

Congress' words are unambiguous and clearly grant the CFPB the authority to exempt any class of covered entities from its rules. CUNA strongly supports the Bureau's use of this authority to help protect consumers from the problems associated with creating one-size-fits-all rules that are inappropriate for the different not-for-profit structure of credit unions. Credit unions and credit union service organizations (CUSOs) should receive appropriate exemptions from the Bureau's regulatory requirements. However, it is critically important for the Bureau to understand that credit unions are not asking to be exempt from all its rules; instead, we have asked the Bureau to consider, in the course of promulgating new rules or changing existing rules, whether the regulations credit unions are presently following need to be changed. In short, if credit unions are not contributing to the problems the Bureau is trying to address, then they should not be subject to new rules targeting those problems.

The Bureau Should Revise its Remittances Requirements

CUNA is supportive of appropriate safeguards for consumers initiating remittance transfers, including clear and understandable disclosures. Historically, remittances have been a significant and, depending on a credit union's FOM, popular service offered to members.

In 2020, the Bureau finalized its rulemaking increasing the "normal course of business" threshold from 100 to 500 transfers providing regulatory relief to several hundred credit unions.[10] This change should be merely the first step toward restoring the market after providers exited due to the high cost of compliance with the Remittance Rule. We encourage the CFPB to maintain the threshold increase and continue to evaluate the need for additional substantive amendments to the Remittance Rule. In particular, the Bureau should consider these additional revisions:

- Increase the "normal course of business" safe harbor threshold from 500, as finalized, to 1,000 remittance transfers; and
- Eliminate the 30-minute cancellation requirement or provide consumers the ability to opt-out of the mandated waiting period.

The Bureau Should Revise its HMDA Requirements

The Bureau has repeatedly acknowledged that credit unions maintained sound credit practices through the 2008 economic crisis and did not engage in the practices that led to the crash of the housing market. Nevertheless, in 2015, the CFPB chose to adopt a HMDA Final Rule that disproportionately burdened credit unions with finite resources despite no evidence of past wrongful conduct.[11] This overly broad treatment makes little sense, especially considering credit unions' FOM requirements that can impact where and to whom they lend.

While both the CFPB and Congress have provided HMDA relief for smaller lenders through rulemaking and passage of the Economic Growth, Regulatory Relief, and Consumer Protection Act,[12]

[9] 12 U.S.C. § 5512(b)(3)(a).
[10] Remittance Transfers Under the Electronic Fund Transfer Act (Regulation E), 85 Fed. Reg. 34,870 (June 5, 2020).
[11] Home Mortgage Disclosure (Regulation C), 80 Fed. Reg. 66127 (Oct. 28, 2015).
[12] Economic Growth, Regulatory Relief and Consumer Protection Act, Pub. L. 115–174, 132 Stat. 1296 (May 24, 2018).

respectively, CUNA recommends the Bureau continue to evaluate Regulation C for areas where reasonable accommodations could be provided to credit unions currently required to report HMDA data. We support changes that would:

- Allow reporting for Home Equity Lines of Credit (HELOCs) to once again be voluntary;
- Reduce the HMDA data set for credit unions to only data points specifically required by current statute;
- Increase further the open-end line of credit and closed-end mortgage loan reporting thresholds to exempt credit unions with smaller mortgage lending portfolios from HMDA reporting; and
- Alter the approach to the privacy balancing test used to determine which HMDA data points will be made available to the public in favor of consumer privacy.

The Bureau Should Be Transparent Regarding its Approach to UDAAP and Avoid "Regulation by Enforcement"

In the past, the Bureau engaged in the practice of "regulation by enforcement," in regard to the "abusiveness" standard under the Unfair, Deceptive, or Abusive Acts or Practices (UDAAP) law. The Bureau's "I know it when I see it" approach resulted in uncertainty to the financial services marketplace and presented due process concerns. CUNA is supportive of the Bureau's recent steps toward establishing clear standards for and transparency in what is considered "abusive" behavior. However, the Bureau's policy statement on abusive should be merely the first step on the path toward greater clarity.[13]

Regarding future action on the use of UDAAP authority, CUNA supports efforts by the Bureau to:

- Solicit stakeholder feedback on an ongoing basis to determine whether the "abusiveness" standard being applied is clear and whether a rulemaking is necessary;
- Clarify that previous enforcement actions or consent orders that conflict with statutory or judicial precedent create no new expectations for compliance; and
- Clarify its authority under the Dodd-Frank Act in regulating the business of insurance and reaffirm that UDAAP is not a backdoor to regulate insurance activities.

The Bureau Should Be Cautious as it Develops its Small Business Data Collection

Section 1071 of The Dodd-Frank Act amended the Equal Credit Opportunity Act (ECOA) to require financial institutions to compile, maintain, and submit to the Bureau certain data on credit applications by women-owned, minority-owned, and small businesses.[14] This amendment was intended to facilitate enforcement of fair lending laws and enable communities, governmental entities, and creditors to identify business and community development needs and opportunities for women-owned, minority-owned, and small businesses.

Credit unions support the goals of Section 1071 and seek to provide all members with fair and equitable financial opportunities. That said, we are concerned about the potential for unintended

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[13] CFPB Announces Policy Regarding Prohibition on Abusive Acts or Practices (Jan. 24, 2020), *available at* https://www.consumerfinance.gov/about-us/newsroom/cfpb-announces-policy-regarding-prohibition-abusive-acts-practices.

[14] Public Law 111-203, section 1071, 124 Stat. 1376, 2056 (2010) (section 704B of ECOA was added by section 1071 of the Dodd-Frank Act) (codified at 15 U.S.C. 1691c-2).

consequences and substantial compliance costs associated with the creation of a broad data collection where one does not currently exist. In addition, as credit unions are bound to serve a specific field of membership and comply with member business lending (MBL) requirements, the data collected from them would likely be incomparable to other lenders legally permitted to serve anyone walking through their door or accessing their website.

Therefore, we support efforts by the Bureau to carefully tailor its rule to have a minimal impact on credit unions, to avoid creating unintended barriers for small business borrowers seeking credit.

The Bureau Should Engage in Industry Outreach & Consumer Education

CUNA values the CFPB's outreach with the credit union industry. While COVID-19 has precluded the possibility of traditional in-person meetings, we appreciate the Bureau's efforts to facilitate virtual discussions, symposiums, and roundtables, and we encourage the CFPB to continue this stakeholder engagement. These efforts bolster the agency's understanding of the credit union business model and how regulations and additional requirements affect operations and service to consumers.

Furthermore, CUNA strongly recommends the Bureau utilize financial education efforts to guide consumer behavior. This approach, rather than additional rulemakings to guide consumer choices, provides the foundation for solid consumer financial health. Consumer education is proactive, not reactive, and should be the Bureau's default when addressing consumer financial protection and industry practices. CUNA, credit unions, and the National Credit Union Foundation are able and willing partners in consumer education initiatives implemented by the Bureau.

The Bureau Must Provide Guidance and Implementation Support

The past several years has seen a massive increase in the volume and complexity of consumer financial services regulations. This increase is particularly burdensome for credit unions which, unlike big banks, do not have dozens of legal experts in house to assist with compliance. CUNA encourages the Bureau to continue providing helpful compliance resources to the industry to assist credit unions in understanding regulatory expectations.

The Bureau's recent finalization of its advisory opinion program is a positive development.[15] While this program is intended to provide additional regulatory clarity, we urge the Bureau to use advisory opinions carefully and avoid issuing opinions that would stifle innovation or paint regulated entities into an unreasonable corner.

Credit Unions Are Critical to the Housing Market

The vibrant housing market has been one of the few bright spots in the economy during the COVID-related economic downturn. Spurred by the historic lows in interest rates, credit unions have continued to punch above their weight by providing a record-breaking number of mortgage loans. These numbers include loan refinances that are reducing members' monthly mortgage bills and purchase money mortgages as credit unions continue their mission of providing credit access to members who may not be able to receive financing from banks or other lenders. Credit unions are

[15] Advisory Opinions Policy, 85 Fed. Reg. 77,987 (Dec. 3, 2020).

also continuing their historic role in financial education, informing members of significant mortgage relief available to those negatively impacted by the COVID-19 crisis.

Pursuant to our shared desire of ensuring that credit unions can continue to provide mortgage credit at existing or higher levels in 2021 and beyond, we suggest the following housing priorities for consideration:

- Include mortgage payment assistance to borrowers impacted by the COVID-19 crisis in any stimulus package to ensure that we do not have a foreclosure crisis when current or new COVID forbearance programs and eviction moratoria expire;
- Include temporary liquidity assistance for mortgage servicers in any stimulus package to increase the economic stability of credit unions and CUSOs that must front principal and interest payments for any investor-held mortgages in their servicing portfolio;
- Ensure the Federal Housing Finance Agency's (FHFA) recapitalization plans for Fannie Mae and Freddie Mac are phased in on a schedule that prevents disruption of the secondary mortgage market, which credit unions have utilized at increasing rates in recent years; and
- Any amendments to existing housing finance reform plans should ensure that the secondary market remains open to lenders of all sizes on an equitable basis, without allowing Fannie and Freddie to provide discounts based on volume or otherwise charge higher fees to smaller lenders such as credit unions.

Diversity, Equity, and Inclusion Must be Intentional

Finally, we cannot submit this letter without emphasizing the commitment of CUNA and its members to ensuring that diversity, equity, and inclusion continue to play a meaningful role throughout every aspect of the financial services sector. Credit unions and all in the financial services sector, including our regulators, must be intentional about increasing diversity and inclusion at leadership, board, and staff levels to continue to reach and better serve an increasingly diverse population and enhance financial inclusion for all. We look forward to working with the new administration, Congress and federal regulators as we continue to make diversity, equity, and inclusion an industry top priority.

Conclusion

On behalf of America's credit unions and their more than 120 million members, we look forward to working with you in the coming years, and encourage you to utilize CUNA, state credit union leagues, and credit unions as resources moving forward.

Sincerely,

Jim Nussle
President & CEO