

January 28, 2021

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

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

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

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

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

On behalf of America's credit unions and their more than 120 million members, I am writing to outline several of the Credit Union National Association's (CUNA) priorities during the 117th Congress and the economic recovery ahead.

Credit Unions Improve Their Members' Financial Well-Being and Advance the Communities They Serve

As you know, credit unions are not-for-profit, financial cooperatives owned by and operating for the benefit of their members. Congress has conveyed onto credit unions a statutory mission to promote thrift and provide access to credit for provident purposes. It is this structure and this mission that forms the basis for credit unions' tax treatment. Today, America's 5,300 credit unions fulfill that mission, by improving the financial well-being of their more than 120 million member and to advance the communities that they serve.

As has been demonstrated in every economic crisis since their founding more than a century ago, the importance of having not-for-profit credit unions as vibrant and viable alternatives in the financial services marketplace is as significant today as it has ever been.

Credit unions provide accessible and affordable basic financial services to people of all means and encourage the equitable distribution of capital across all individuals, families, communities and small businesses. Credit unions infuse financial market competition with multiple and differentiated competitive business models. They help keep financial services accessible – and affordable – for all consumers, whether they are members of a credit union or not. And, credit unions provide significant financial benefits to both their members as well as nonmembers: \$18.9 billion in total financial benefit to consumers across the country through higher savings and returns, lower loan rates, and fewer fees.

Since the 2008 financial crisis, Americans have chosen credit unions as their best financial partner in record numbers. Some joined during the crisis because their bank failed, and others joined because they grew frustrated with the policies and fees of the for-profit sector. The pace of increased credit union membership has continued for the past decade because more and more consumers have opened their eyes to the value of belonging to a financial institution that treats them like they are an owner – because that is exactly what credit union members are. When consumers and small businesses have needed access to safe and affordable financial services, a healthy credit union system with the capacity to grow has been ready to serve them.

As we look at the issues facing our country and the 117th Congress, we will work to advance policy that furthers credit unions' mission and enables them to continue the work of improving their members' financial well-being and advancing the communities they serve. And, we will strongly resist proposals that would impair the same.

Below, we describe ways in which Congress can:

- Ensure credit unions can support members during and after the COVID-19 Pandemic;
- Protect consumers' data;
- Leverage credit unions to bring about greater financial equity and inclusion;
- Modernize the Federal Credit Union Act;
- Provide safe banking access for cannabis businesses.

Ensure Credit Unions Can Support Members During and After the COVID-19 Pandemic

Credit unions have a long history of service through disasters, emergencies and disruptions, tailoring services to meet immediate and long-term needs and 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.

We appreciate the steps taken by the 116th Congress that helped credit unions remain in a position to serve their members, including the enactment and extension of legislation to accommodate troubled debt restructuring, to extend the borrowing authority of the Central Liquidity Facility (CLF), to include credit unions as lenders in the Paycheck Protection Program (PPP), to simplify the PPP loan forgiveness process and to leverage the power of Community Development Financial Institutions (CDFI) to assist communities in need. As Congress considers addition relief and recovery legislation, we encourage consideration of the following concerns:

Community Development Financial Institutions

Many credit unions are a Community Development Financial Institution (CDFI). CDFIs serve people and small businesses that are the first to feel the real-world effects of a missed paycheck or a cancelled order or contract. These small businesses and individuals were the first Americans in this current COVID-19 crisis to need access to emergency credit and other assistance available from their credit unions and other small community financial institutions. Credit union CDFIs were and remain well positioned to help underserved areas recover from the COVID-19 pandemic and future crises and natural disasters.

The Community Development Financial Institution (CDFI) Fund and the Community Development Revolving Loan Fund (CDRLF) are important programs that facilitate credit unions' improving their members' financial well-being and advancing their communities. In FY 2021, Congress appropriated \$270 million and \$1.5 million, respectively, for these two important funds. In addition, CUNA supports the emergency appropriation of \$3 billion included in the Consolidated Appropriations Act (H.R. 133) for direct CDFI Fund loans and grants to combat the economic impact of the COVID-19 epidemic.

Forbear Impact of Economic Impact Payments on Credit Union Capital Levels and Regulatory Thresholds

Because of how credit union capital requirements are structured under the Federal Credit Union Act, influx of deposits reduces credit union capital. While the credit union system is very well capitalized, for some credit unions, the deposit of Economic Impact Payments has the potential to reduce their capital to a level that would increase – and in some cases requires additional – supervisory scrutiny. But for these deposits of government stimulus, the credit union would not face this added scrutiny. Therefore, we ask Congress to encourage the NCUA to take into consideration the impact these payments have on otherwise very healthy credit unions, and to provide NCUA with any statutory flexibility it may need to forbear corrective action that may be required under the Federal Credit Union Act.

Similarly, deposit of large sums of Economic Impact Payments has caused some credit unions to approach regulatory thresholds more quickly than they have anticipated. Banking regulators have said that they will look at December 2019 data when considering whether a bank has crossed a regulatory threshold that might set different supervisory expectations;

however, the NCUA has not taken this similar action for credit unions.¹ We ask Congress to encourage the NCUA to take steps similar those taken by the banking regulators.

We are all in this together. Congress and regulators have taken many steps to address the adverse impact of this crisis on consumers and small businesses. These steps would do the same for credit unions.

Enable Credit Unions to Help Meet Small Business Needs as the Economic Restarts

Congress has appropriate focused efforts on helping small business impacted by closure, shut down and slow down survive the pandemic, but America's small businesses are going to need capital to restart the economy once things get back to normal. It is critical that all available capital be put on the table to help surviving businesses continue and new businesses to start.

We appreciate the steps Congress and the NCUA have taken over the last six years to restore credit unions' ability to serve small businesses. Congress exempted 1-4 family nonowner occupied residential loans from the member business lending cap; and NCUA exempted loan participations from the cap. Taken together, these two steps provide credit unions significant legal capacity to serve small businesses. However, they still operate under the cap and the cap can be constraining in an environment in which the participation market is slow or cautious. Therefore, we ask Congress to consider enacting legislation that would exempt loans made by credit unions to small businesses until one year after then end of the pandemic emergency declaration from the member business lending cap, and to further provide for a national emergency exemption from the member business lending cap so that in future crisis credit unions can more efficiently fulfill their role a financial first responders.

Congress Must Take Steps to Protect Consumers' Data

The Solar Winds data breach last year is yet another reminder of the fragility of the security and privacy regime protecting Americans' personal data.

Credit unions strongly support the enactment of a national data security and data privacy law that includes robust security standards that apply to all who collect or hold personal data and is preemptive of state laws. We firmly believe that there can be no data privacy until there is strong data security.

With that in mind, credit unions call on Congress to pass a robust national data security standard that would cover all entities that collect consumer information and hold those who jeopardize that data accountable through regulatory enforcement. Securing and protecting consumer data is important not only for their individual financial health but as a further safeguard against rogue international agents and interference by foreign governments.

Credit Unions Are Committed to Serving Diverse and Historically Underserved Communities

Credit unions are committed to increasing diversity and inclusion in the financial services sector. In line with that commitment, CUNA's Board of Directors voted to add diversity, equity, and inclusion (DEI) to the core set of cooperative principles that guide the work of America's credit unions. That decision was based on acknowledgement of the fact that DEI, while an integral part of each cooperative principle, is so important that it deserves to have separate recognition and a commitment on the part of the credit union movement.

There is still more work to be done. And the nation's 5,300 credit unions are committed to enhancing diversity, equity, and inclusion in our member-owned, democratically controlled, not-for-profit financial cooperatives. This commitment manifests itself in several ways, including breaking down barriers to accessing credit and ensuring financial services remain affordable, including:

Reducing outdated restrictions on lending maturity limits

Except for mortgage lending, federally-chartered credit unions are prohibited by statute from making loans with maturity

¹ Interim Final Rule, request for public comment, 85 Fed. Reg. 77,345 (Dec. 2, 2020).

limits in excess of 15 years. Only Oklahoma has a similar on state-chartered credit unions and no such constraint exists for banks.

We support legislation introduced last Congress that would amend the Federal Credit Union Act to provide the National Credit Union Administration (NCUA) with additional flexibility to increase loan maturity limits for federal credit unions. NCUA would have authority to increase maturity limits to 20 years. In addition, the NCUA would have the authority to increase maturity limits of 1-4 non owner-occupied loans to 30 years.

One area that this change may impact is student lending, the ability to set a longer loan maturity for federal credit union loans would provide student borrowers across the country with more opportunities for education that is more affordable both in the short and long term. Credit unions would also be able to better service loans for the agricultural sector and other businesses.

Expanding consumers' access to more banking options

Credit unions adamantly support and are diligently working towards the goal of expanding banking access, but we have grave reservations about proposals to leverage the United States Postal Service or create a public bank to achieve this goal. Instead, we encourage Congress to explore ways to leverage the credit union system to bring about greater and more equitable financial inclusion.

With our financial infrastructure already in place and given our long history of serving communities, credit unions could proudly and swiftly offer banking services to all -- if they were not limited by archaic field of membership restrictions. While credit unions already offer affordable products as well as broad access to banking services through their Shared Branching Network, they are constrained to only accept new members that qualify under a common bond – like their employer or geographic location. Stated more bluntly, credit unions are currently *required* to refuse banking services to many underbanked individuals and underserved communities who are not in their field of membership.

When it was first adopted as an industry practice more than a century ago, field of membership was a tool that credit unions used to determine a member's credit worthiness. The idea was that if a member worked on a factory line or lived in the same neighborhood as other credit union members that the membership could better assess whether the member was a worthy credit risk. Today, not only do more sophisticated credit underwriting tools exist, we believe it is unlikely Congress would create a system that allows a financial institution to only serve a limited self-selected group of people at the exclusion of all other groups. Such a concept certainly is oppositional to the goals of expanding access and equity in the financial services sector.

Congress should explore taking a more inclusive approach to credit union membership which would give credit unions the ability to expand offerings if they have the ability to do so. There is a great deal of data that show expanded field of membership enhances safety and soundness. We are eager work with Congress on this.

Modernizing the Federal Credit Union Act

In addition to considering changes to credit unions' field of membership restrictions, Congress should consider other changes to the Federal Credit Union Act, which was last substantially updated in 1998. Since then, the financial services sector has changed significantly, but the Federal Credit Union Act and its implementing regulations have not kept pace with technology and how consumers access financial services.

In the 116th Congress, we supported and to continue to support legislation that would:

Permit credit unions to establish their own fiscal year - Federal credit unions, like other corporations, should have the choice to establish a fiscal year that makes sense as it relates to the members it serves. For example, a credit union may conduct a significant amount of business with members that have seasonal operations. Thus, that credit union may want to have their fiscal year end when that large wave of financial activity is completed. Or if a

credit union does business with government related entities, they may want to have their fiscal year end on September 30th.

Enhance flexibility of federal credit unions to schedule board meetings – Under current law a credit union board of directors is required to meet monthly. Federal credit unions should have the authority, as do other corporations, to set meetings through their bylaws.

Remove outdated responsibilities of boards of directors - The Federal Credit Union Act requires its board of directors to review membership applications as well as the hiring of loan officers and employees. These responsibilities are undertaken in the daily operation of the credit union by management staff and are unnecessary and burdensome for a board of directors.

Eliminate the requirement to file certain information regarding loan officers - Federal credit unions are required to file with NCUA the names and addresses of executive officers, supervisory committee members, credit committee members, and loan officers. That information should be accessible through the credit union management and is unnecessary.

We look forward to the reintroduction of this legislation and to working with Congress to enact it.

Providing Safe Banking Services for the Cannabis Industry

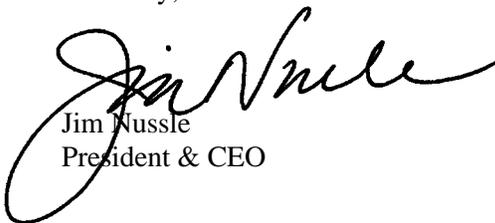
Finally, we continue to support effort to ensure that cannabis related businesses operating in states where such activity is legal can access mainstream financial services. While CUNA and our members take no position on the legalization of cannabis, we recognize that the inability of cannabis businesses to access banking services presents a significant public safety concern in many communities. That is why we supported passage of federal legislation, such as the Secure and Fair Enforcement Banking Act of 2019 (SAFE Banking Act) that gives explicit legal clearance for financial institutions to grant banking services to state-sanctioned cannabis businesses and related business entities.

Enactment of this bill would offer much-needed, narrowly targeted federal protections for credit unions and other financial institutions who accept deposits from, extend credit to, or provide payment services for an individual or business engaged in cannabis-related commerce in states where the activity is legal – as long as the activity is compliant with all other applicable laws and regulations. Federal legislation providing these protections is essential to bringing revenue from state-sanctioned cannabis entities and hemp businesses into the financial services mainstream and, as a result, keeping communities safe by removing vast amounts of cash off the streets. Enactment will increase the reporting and transparency of information about the cannabis industry to the benefit of law enforcement, tax revenue officials, and other regulators.

Conclusion

On behalf of America's credit unions and their more than 120 million members, thank you for the opportunity to share our priorities and we look forward to working with this new Congress on the road to recovery.

Sincerely,



Jim Nussle
President & CEO