Credit Union National Association
CUNA

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The Honorable Maxine Waters
Chairwoman
House Committee on Financial Services
U.S. House of Representatives
Washington, DC 20515

The Honorable Patrick McHenry
Ranking Member
House Committee on Financial Services
U.S. House of Representatives
Washington, DC 20515

Dear Chairwoman Waters and Ranking Member McHenry,

On behalf of the Credit Union National Association (CUNA), I am writing in regard to the markup of Reconciliation Pursuant to S. Con. Res. 5, the Concurrent Resolution on the Budget for Fiscal Year 2021. CUNA represents America's credit unions and their more than 120 million members.

Credit unions have been and continue to be America's financial first responders during the COVID-19 pandemic and the ensuing economic fallout. CUNA, Congress, and the National Credit Union Administration (NCUA) have worked together to empower credit unions to effectively respond to the unique financial challenges of Americans in 2020.

To that end, we appreciate the work of Congress in crafting this legislative package to ensure that credit unions can continue helping Americans and small business to meet the challenges in 2021 and beyond.

<u>COVID-19 Reconciliation Legislation:</u>

Mortgage and Rental Assistance Programs

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 Congress works to ensure that they can stay in their homes as the economy recovers. It is also of the utmost importance that all stakeholders throughout the mortgage and rental pipelines are supported as well.

CUNA appreciates the inclusion of $9.961 billion to be allocated to states, territories, and tribes for direct assistance with mortgage payments, property taxes, utilities, and other housing costs. And that those entitles also have access to $19.05 billion for emergency rental and utility assistance.

While we support initiatives to aid distressed mortgage borrowers, CUNA is increasingly concerned about the impact the large volume of mortgage forbearances will have on the liquidity of mortgage servicers. The longer 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. With FHFA's recent forbearance period extension and the pandemic becomes prolonged, 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.

Community Development Financial Institutions and Minority Depository Institutions

Minority Deposit Institutions (MDI) and Community Development Financial Institution (CDFI) credit unions represent an important way in which credit unions are fulfilling their mission by advancing financial inclusion and well-being for minority and underserved communities. As such CUNA appreciates the inclusion of provisions to ensure CDFI and MDI participation in the Treasury Department's State Small Business Credit Initiative (SSBCI) to aid in small business financing through state government programs. Under the program, federal funding is made available to state programs that partner with private lenders and investors in order to help small businesses across the country.

That said, we must express concern over the process by which the Secretary would establish definitions under the program. Under this legislation, the Secretary is directed to disapprove programs that "would result in predatory lending" and, by implication, to establish a definition of "predatory lending" for that purpose. We have concerns that the process used to carry out this provision may not be subject to a meaningful notice and comment period and could be used in further legislation not necessarily related to the SSBIC.

Further Congressional Action on COVID-19 is Needed:

While we understand that this COVID-19 relief legislation is being moved through Congress under the Budget Reconciliation process, which limits the inclusion of certain policies, we urge you to consider not just the immediate needs of Americans, but the long-term economic recovery.

That said, we urge Congress to take further legislative action to ensure that credit unions remain in a position to serve their more than 120 million members including:

Providing Temporary Flexibility to NCUA to Offer Forbearance from Prompt Corrective Action Requirements

Credit union capital requirements are different than bank requirements in several respects, including that only retained earnings count as Tier I capital for credit unions and thresholds for credit union capital levels are hardwired into statute. These limitations restrict NCUA in its ability to provide accommodations to otherwise healthy credit unions impacted by natural disaster, pandemic and other crises.

As Congress considers additional pandemic recovery legislation, we encourage you to include language that provides temporary flexibility to NCUA to offer forbearance from Prompt Corrective Action (PCA) for credit unions impacted by the pandemic and which were otherwise healthy prior to the onset of the crisis. While credit unions entered the crisis extremely well-capitalized, the impact of the ensuring economic crisis has and will put stress on capital and, given credit unions' limited ability to raise capital, the regulator could use additional tools.

We urge you to provide NCUA temporary flexibility.

Exempting Member Business Loans During for One Year After the National Emergency

As the COVID-19 pandemic persists, small businesses across the country will continue to need capital and credit unions are able to pump billions into the economy—at no cost to the government. However, an obstacle impedes credit unions from fully assisting these businesses: the arbitrary credit union Member Business Lending (MBL) cap which limits some credit union lending activity to 12.25% of assets.

Given the financial needs of so many small businesses, now is the time to provide credit unions with additional flexibility to serve their business members by lifting the cap.

While credit union business lending has increased greatly since the Great Recession, many credit unions are now approaching the 12.25% of asset cap. We conservatively estimate that even temporarily removing the MBL cap will provide over $5.5 billion in capital to small and informal business ventures, creating nearly 50,000 jobs just over the course of the next year[1].

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 a majority of credit union business

[1] CUNA estimate assumptions: 1. Grandfathered CUs, Non-Federally Insured and/or Low-Income designated do not increase lending; 2. Non-Commercial lenders lend in amount equal to 1% of assets on average under the new authority; 3. All other Commercial CUs lend in amount equal to 60% of their current use rate; 4. Estimates produced using assumptions 1-3 are further adjusted as follows: * CUs with net worth/assets <=6% are assumed to have no Commercial Loan growth* CUs with net worth/assets between 6% and 7% remain at the current 12.25% cap. * CUs with Comm Lns/assets >= 10% are limited to a 30% increase in Commercial Loans in the 1st year. 5. First year increases: baseline estimate = 50% of new use rate; adjusted/conservative estimate = 40% of new use rate. 6. Employment increase is based on Council of Economic Advisors 5/09 ARRA job creation estimates ($92,000 in spending creates 1 job / $109,633 in 2019 dollars).

lending is for loans that banks will not originate. This means a majority of credit union lending does not replace lending that would otherwise be done by banks—it is lending that otherwise would not occur[2]. SBA research specifically shows that roughly 80% of credit union business loans are loans that banks would not make.

Small businesses and communities around the country are suffering and need access to relief. Lifting the MBL cap would not only provide small businesses with the assistance they need immediately, but also stimulate the economy in the long term. As such, we urge the inclusion of a provision to lift the credit union MBL cap in the next COVID-19 stimulus bill.

On behalf of America's credit unions and their more than 120 million members, thank you for the opportunity to share our views and look forward to working with you on these important issues.

Sincerely,

Jim Nussle
President & CEO

[2] Wilcox, James A., The Increasing Importance of Credit Unions in Small Business Lending. Small Business Administration Office of Advocacy (2011).