Credit Union National Association
CUNA

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The Honorable Ed Perlmutter
Chairman
Subcommittee on Consumer Protection and Financial Institutions
House Committee on Financial Services
U.S. House of Representatives
Washington, DC 20515

The Honorable Blaine Luetkemeyer
Ranking Member
Subcommittee on Consumer Protection and Financial Institutions
House Committee on Financial Services
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Perlmutter and Ranking Member Luetkemeyer,

On behalf of America's credit unions, I am writing regarding the hearing entitled, "Slipping Through the Cracks: Policy Options to Help America's Consumers During the Pandemic." The Credit Union National Association (CUNA) represents America's credit unions and their more than 120 million members.

<u>Implement COVID-19 Policies that Protect Both Consumers and Financial Institutions</u>

Throughout the COVID-19 pandemic and ensuing economic disruption, credit unions have tailored their services to meet immediate and long-term needs of their members by providing 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.

As Congress considers further policy options related to the public health and economic crisis we urge you to avoid implementing certain well-intentioned protections such as suspension of negative credit reporting, a debt collection moratorium, and extended forbearance periods that, could put the safety and soundness of all financial institutions at risk while providing little help to consumers.

Debt Collection Proposals

Credit unions have significant concerns with legislation that would prohibit the collection of debt related to past due consumer and small business loans or expand the scope of the Fair Debt Collection Practices Act (FDCPA).

Debt collection is a critical function that supports the safety and soundness of all lending institutions. A blanket suspension of the debt collection process—even for a temporary period—could disrupt creditors' ability to actively manage their loan portfolios, increase the cost of credit for all borrowers, and reduce access to credit from reputable lenders when Americans need it most. While we understand the desire to insulate borrowers significantly impacted by the economic consequences of the pandemic, this type of relief should be focused to those who are truly in need as opposed to applying broadly to all consumers.

We note with concern the bills that in various ways would expand the scope of the FDCPA. Credit unions use third party collectors to assist in making credit union membership whole when borrowers are delinquent on debt; so, expansion of the FDPCA as it relates to third party collectors is of concern to us because it will have an impact on credit unions and their members. Congress should carefully consider potential unintended consequences of these bills including impact on access to safe and affordable credit.

We must reiterate in the strongest terms that regulation of this function as it pertains to creditors collecting their own debts must remain a part of safety and soundness regulation under the supervision of the prudential regulators. Congress purposely limited the scope of the FDCPA to third-party collectors, recognizing that the relationship that exists between creditors and borrowers incentivizes creditors to maintain goodwill with their customers or members in order to maintain an ongoing banking relationship with the consumer long after the collections process has been concluded.

Expanding the scope of the FDCPA to creditors or first-party collectors would disrupt the management of lending portfolios, increase the cost of and reduce access to credit. Therefore, credit unions strongly oppose any bill that would expand the scope of the FDCPA to cover creditors collecting their own debts, and we urge the committee to reject any such legislation.

Throughout this crisis credit unions have been working with financially distressed members to develop customized solutions that secure their financial well-being during this pandemic and beyond —this is what credit unions do regularly to support their members' financial well-being. Relying on credit unions to do what they do best is preferable to an environment where credit unions are unable to assist members because of diminished resources or rigid public policy.

Suspension of Negative Credit Reporting

Credit unions have significant concerns with legislation affecting credit reporting during the pandemic, including suspending most negative credit reporting and requiring adverse information be excluded from consumer credit reports. Credit unions are concerned a blanket suspension of negative credit reporting will undermine the confidence lenders have in credit reports by impairing the accuracy and completeness of the reports. This could ultimately result in reduced access to credit for consumers.

In addition, uniformly reducing relevant information on credit reports – negative or otherwise – could create challenges for lenders making lending or pricing decisions post-crisis, which would in turn threaten safety and soundness. Suspending negative credit reporting may be introduce unnecessary risks to the lending system as procedures already exist to account for delinquent or missed payments resulting from economic hardships, including the current pandemic. Credit unions are using these proven processes and have been since the start of the crisis to guard their members' financial well-being and creditworthiness.

Aiding Distressed Borrowers via Mortgage Forbearance

While we support initiatives to aid distressed mortgage borrowers, credit unions are concerned about the impact the large volume of mortgage forbearances will have on the liquidity of mortgage servicers. The longer mortgage servicers 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. Given Federal Housing Finance Agency (FHFA) and Federal Housing Administration's (FHA) forbearance period extensions, financial institutions may need aid themselves in order to accommodate this large volume of mortgage forbearances. That said, Congress should consider creating 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 the pandemic.

Further Congressional Action on COVID-19 is Needed

CUNA appreciates the steps taken in the 116th Congress that helped credit unions remain in a position to serve their members, including the passage and enactment 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.

That said, we urge Congress to take further legislative action to ensure that credit unions remain in a position to serve America's consumers including:

Exempt Member Business Loans During and 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 business lending cap which limits credit union business 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 member business loan (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 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].

Small businesses and communities around the country are suffering and need access to relief. Providing credit unions flexibility to temporarily exceed the MBL cap would not only provide small businesses and consumers with the assistance they need immediately, but also stimulate the economy in the long term. As such, we urge swift passage of H.R. 1471, a bill introduced by Representatives Brad Sherman and Brian Fitzpatrick, that would exempt COVID-related lending from the MBL cap for up to one year after the pandemic.

Provide 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 the National Credit Union Administration (NCUA) in its ability to provide accommodations to otherwise healthy credit unions impacted by natural disaster, pandemic and other crises.

As Congress considers additional policy options, we encourage you to include language that provides temporary flexibility to NCUA to offer forbearance from prompt corrective action to 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 believe that this would require a statutory change and we would be happy to work with you on a remedy.

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[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).

[2] SBA research specifically shows that roughly 80% of credit union business loans are loans that banks would not make. Wilcox, James A., The Increasing Importance of Credit Unions in Small Business Lending. Small Business Administration Office of Advocacy (2011).

Increase the Arbitrary Credit Union Loan Maturity Limit

Credit unions have worked around the clock to meet members ever shifting financial needs during this pandemic. However, the 15-year loan maturity limit has hampered credit union's abilities to offer more affordable loan terms to those in need. Except for mortgage lending, federally chartered credit unions are prohibited by statute from making loans with maturity limits in excess of 15 years, while no such constraint exists for banks. The ability to set a longer loan term would provide more affordable options and opportunities for consumers in this economic recovery.

In closing, 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 partnering with Congress on the road to recovery ahead.

Sincerely,

Jim Nussle
President & CEO