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 regarding the hearing entitled, *Oversight of Prudential Regulators: Ensuring the Safety, Soundness, Diversity, and Accountability of Depository Institutions*. CUNA represents America's credit unions and their more than 130 million members.

Central Liquidity Facility

CUNA supports extension for one year the provisions in the Coronavirus Aid, Relief and Economic Security (CARES) Act related to the National Credit Union Administration's (NCUA) Central Liquidity Facility (CLF). Such language was added as an amendment to the House-passed National Defense Authorization Act (NDAA), and we support its extension as our economy faces record inflation and possible recession, both of which have already started to impact the liquidity of America's credit unions.

The 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.

Most importantly, the CARES Act made it easier for credit unions to join the CLF through their corporate credit union. These enhancements were originally set to expire in December 2020 but were extended through the end of 2021 through the Consolidated Appropriations Act of 2021. They are now set to expire again at the end of 2022 unless Congress acts.

The CARES Act provisions represent a recognition that existing law does not afford credit unions sufficient access to emergency liquidity during times of crisis. It is inefficient and could prove unsafe to allow the CLF to return to its previous level of borrowing authority and credit union access, which will happen if this legislation is not enacted. Upon expiration of these enhancements, the over 3,600 credit unions with CLF memberships through their corporate credit unions will no longer have access to the emergency liquidity backstop provided by the CLF. Extension of these enhancements will better protect credit unions from unexpected liquidity issues now and in the future as our economy faces recession and record inflation.

Field of Membership

H.R. 7003 and S. 4879, the Expanding Financial Access for Underserved Communities Act, would enable credit unions to provide financial services to more communities, which are often areas banks have abandoned or show little interest in serving. CUNA applauds the Chairwoman for her efforts in helping to pass this legislation through the House of Representatives.

The greatest impediment to credit unions doing more for underserved consumers, small businesses and communities is the field of membership restrictions to which credit unions are subject. As a concept, field of membership was originally established as a credit-worthiness tool at a time when modern and sophisticated tools like credit reports and credit scores did not exist. The concept was that when all the members of a credit union worked together or lived in the same neighborhood, members had more confidence in lending to each other because they knew each other, and community relationships had been established.

However, field of membership has gone the way of the horse and buggy when it comes to assessing whether a borrower has the wherewithal to pay his or her debt, and it is time to modernize our laws and regulations. The Expanding Financial Access for Underserved Communities Act is a market-based solution that would make three changes to the Federal Credit Union Act. These changes will enable and encourage credit unions to serve underserved and abandoned communities and promote financial inclusion, all at no cost to the taxpayer.

First, the legislation would allow all federal credit unions to add underserved areas to their field of membership. Under current law, only multiple common bond credit unions—which serve multiple groups—can add underserved communities. Community credit unions and single sponsor credit unions cannot add underserved areas.

Second, the legislation exempts business loans made by credit unions to businesses in underserved areas from the credit union member business lending cap. This change will help foster reinvestment in abandoned communities and encourage job growth.

Finally, the legislation expands the definition of an underserved area to include any area that is more than ten miles from the nearest branch of a financial institution. Currently, there are two other ways that an area can qualify as underserved: (1) Community Development Financial Institution (CDFI) Area or (2) New Markets Tax Credit Area. Adding this third path for an area to be designated underserved is designed to address the epidemic of rural banking deserts and ensure the availability of cooperative financial services for all. This change is designed to ensure credit unions can help rural communities that are currently without access to mainstream financial services.

Any serious discussion of policy remedies to address access to financial services to underserved or unbanked persons, businesses and communities must include modernizing laws and regulations which hinder credit unions from serving those the banks have left behind. Credit unions' field of membership restrictions, and the member business lending cap, shut out those that need access to mainstream financial services. This legislation is not a panacea to these exclusionary policies, but it does represent a solid free-market step forward toward financial inclusion and serving those who have been unable to access our nation's financial institutions.

Negative Tangible Equity

The Federal Housing Finance Agency's (FHFA) regulations currently require FHLBanks to consider a credit union's tangible capital in assessing its credit worthiness when considering a new advance to that credit union. The regulation currently prohibits making new advances to members with negative tangible capital unless the member's federal banking agency or insurer makes a written request that the FHLBank do so.

The unique effects of the pandemic on the housing market and financial institutions' balance sheets in combination with a rising rate environment, has increased the likelihood that many financial institutions may have negative tangible capital under this definition. However, this is not truly an indicator that these financial institutions are not creditworthy. The FHLBanks already engage in a rigorous credit review process, but, unfortunately, this bright line regulatory requirement puts the onus on the NCUA to verify, in writing, that the credit union is safe and sound and request that the advance be issued.

The FHFA's requirement that the primary banking regulator request in writing that the FHLBank make an advance is a significant regulatory huddle that threatens to increase liquidity pressures across the system. We urge the NCUA to ensure that the process to obtain a written request from the NCUA is transparent, efficient, and as fast as possible. Otherwise, this regulatory bottleneck may contribute to tightening liquidity across the system. Further, we ask the NCUA to communicate about this process with credit unions quickly to ensure that fact-finding about how to obtain a request does not contribute to unnecessary bottlenecks.

If possible, the NCUA should make a preemptive written request that the FHLBanks make advances to credit unions that can demonstrate their safety and soundness through reported metrics, such as their capitalization category. This would ensure that the NCUA could spend time considering issuing written requests only for those credit unions that might be actual borderline cases.

Going forward, we also would encourage the NCUA to work with the FHFA to waive the regulatory requirement for the FHLBanks to treat negative tangible equity as a disqualifying metric of credit worthiness when considering new advances to members. This will reduce the burden on the FHLBanks and the NCUA. It will also ensure that credit unions maintain timely and reliable access to liquidity to serve the housing needs of their members and community, as is the mission of the FHLBank System.

National Credit Union Share Insurance Fund

The NCUA's National Credit Union Share Insurance Fund (NCUSIF or Fund) remains strong, with an equity ratio of 1.26%, which is projected by agency staff to climb to 1.30% by year-end. This is, of course, despite a massive fiscal stimulus that led to an enormous surge in insured shares over the past two years.

Given the overall health of credit unions, the health of the Fund and its historically favorable performance, we strongly object to any suggestion that the NCUA may need to charge a premium in the near future and/or that statutory changes to the NCUSIF funding guidelines are needed.

Every dollar spent over-insuring the Fund is a dollar that is not being used to the benefit of credit union members. We believe any changes to the NCUSIF are unwarranted and counterproductive. Credit union members need their credit unions in the market working to improve their financial well-being and advancing the communities they serve. Please do not take money out of credit union members' accounts to over-insure a Fund that historically has performed exceedingly well.

NCUA Draft Budget

The NCUA is in the process of finalizing its 2023-2024 budget. We commend the agency for continuing to provide comprehensive budget information as well as rationalization of the budget and agency expenditures in the context of a well communicated strategic plan. Providing budget items in advance, holding an open briefing where stakeholders are invited to present, and soliciting written comment is good public policy and reflects the agency's commitment to government transparency. The NCUA is the only Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) agency that has embraced this level of transparency and engagement.

The NCUA's proposed 2023 budget reflects an 8.1% increase in expenditures overall compared to the 2022 budget. Although the requested Capital Budget and Share Insurance Fund Administrative Budget reflect declines, the Operating Budget (which accounts for 94% of total agency expenditures) reflects an increase of 9.6%. While an increase is unsurprising in today's economic environment, CUNA is concerned with the extent of this proposed increase.

The increases are proposed against a backdrop of elevated financial pressure at the nation's credit unions—with operating expenses and funding costs rising rapidly and a variety of income sources under increasing pressure (most especially non-interest income). Net income is on track to decline by 30 basis points in 2022. Most economists believe the Federal Reserve's aggressive policy moves are likely to put the nation into recession—which would only serve to magnify these current financial challenges. These trends suggest the agency should be laser-focused on budgetary discipline, just as credit unions are in an environment where costs are increasing across the board.

Of particular concern is the proposed increase to the Operating Budget associated with 25 new positions compared to 2022 staffing levels. We support the addition of certain positions, such as the proposed new position for the Office of Minority and Women Inclusion to support the agency's special emphasis programs. However, we question the need for other new proposed positions, such as eight new regional consumer compliance specialists.

Further, the travel expenses category of the Operating Budget includes a proposed increase of 27.5%. While an increase is expected given the return to normal as we emerge from pandemic-related restrictions, as was evidenced over the past two years, cost savings in the area of travel is certainly possible, and does not generally result in any increase in risk to the credit union system. This is particularly true in the area of remote examination; while there was a learning curve for some credit unions and examiners alike, credit unions and the agency established systems and procedures that ultimately resulted in very effective offsite examination. Thus, we urge the agency to continue to seek to contain travel costs by use of offsite examination procedures where appropriate and virtual options for training.

Credit Union Lending Study

Finally, CUNA has serious concern over recent comments by NCUA leadership around credit union fair lending performance—based on flawed interpretation of a recent Agency study of credit union mortgage lending.

The study finds small differences in credit union mortgage pricing to minority borrowers—but uses Home Mortgage Disclosure Act (HMDA) data that ignores key factors used in either pricing or underwriting by individual lenders (including residency and employment stability requirements, bankruptcies, and previous foreclosures). Further, the data does not account for the fact that minorities may be selecting systemically different types of institutions when applying for loans and/or may be engaged in less "price shopping" for favorable interest rates.

We fear that misguided initiatives based on this analysis may compel less rather than more progress on equity and equality issues we all care deeply about and, if broadly socialized, is quite likely to drive credit union members, especially minority members, away from consumer-friendly credit unions, producing far less favorable outcomes for many borrowers.

Credit unions are living up to their statutory mission of meeting the credit and savings needs of members, especially those of modest means. Flawed policies—most especially around additional fair lending oversight and the supposed need for more resources in this arena—are unfounded.

On behalf of America's credit unions and their more than 130 million members, thank you for holding this important hearing and considering our views.

Sincerely,

Jim Nussle
President & CEO