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The Honorable Nancy Pelosi
Speaker
United States House of Representatives
Washington, D.C. 20515

The Honorable Kevin McCarthy
Minority Leader
United States House of Representatives
Washington, D.C. 20515

Dear Speaker Pelosi and Minority Leader McCarthy,

On behalf of the Credit Union National Association (CUNA), I am writing regarding H.R. 2543, the Federal Reserve Racial and Economic Equity Act. CUNA represents America's credit unions and their more than 130 million members. We strongly support the Expanding Financial Access for Underserved Communities Act and thank you for its inclusion.

Expanding Financial Access for Underserved Communities Act

Today, the statutory and regulatory regime to which credit unions are subject is the greatest barrier to credit unions fulfilling their mission to improve their members' financial well-being and advance the communities they serve. Indeed, the archaic field of membership scheme limits whom credit union may serve and reflects a modern-day form of federally sanctioned financial discrimination.

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. But 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. We cannot imagine a modern-day Congress enacting legislation permitting businesses to choose the groups that they serve at the exclusion of all others. And so, it is time to modernize these laws and regulations.

With a laser focus on the people and small businesses in banking deserts and other underserved areas, the Expanding Financial Access for Underserved Communities Act (Sections 521 through 523 of H.R. 2543) is a wholly appropriate component of a broader package to address racial equity and inclusion in the financial services sector.

Simply put, this legislation would give communities, small businesses and individuals who have lost access to affordable financial services—or perhaps have never had sufficient access to such—easier access to Federal credit unions. It addresses an unquestionable need in so many areas across the country.

By our count, between January 2005 and March 2021, banks closed a net of 7,812 bank branches while credit unions opened a net of 1,439 credit union branches.¹ The trend of bank branch closures over the last two decades demonstrates bankers' profit over people approach to financial services. The increase in credit union branches demonstrates that credit unions are not only committed to providing services to communities but are also committed to being physically present in those communities as well.

¹ Source: NCUA and Federal Deposit Insurance Corporation (FDIC) data.

The Expanding Financial Access for Underserved Communities Act is a market-based solution that would make three changes to the Federal Credit Union Act.² 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, these provisions 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.³ Community credit unions and single sponsor credit unions cannot add underserved areas. In this regard, these sections convey no new powers to credit unions; the change simply allows more Federal credit unions to add these areas.

Second, these provisions exempt 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. Again, credit unions have, since their inception, engaged in business lending; so, this legislation would not be conveying new powers to credit unions as much as it would be providing encouragement to lend to areas and businesses that are underserved.

Finally, these provisions define an underserved area as any area that meets one of three criteria: (1) Community Development Financial Institution (CDFI) Area; (2) New Markets Tax Credit Area; or any other area that is not within 10 miles of a branch of a depository institution. These areas ensure that the focus is on areas in most need, whether they are urban, suburban, or rural.

We are aware that some in Congress believe that the best way to address the problems of financial access and inequity is through greater competition and enabling fintech companies to do more in this space. Credit unions work closely with fin-tech companies to provide solutions to members' financial needs every day. Fin-tech may be part of the solution, but it is not a substitute for the type of community, relationship banking services credit unions and other lenders provide. Therefore, 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.

Government-imposed restrictions like credit unions' field of membership restrictions, and the member business lending cap,⁴ shut out those that need access to mainstream financial services. The Expanding Financial Access for Underserved Communities Act would modestly relax some of these restrictions. The 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.

As such, **we oppose the Timmons Amendment #24 that would repeal this legislation from the broader bill.** Furthermore, since our goal is to provide financial access to banking deserts and underserved communities, **we support the Gonzalez Amendment #50** that would state that nothing in the Expanding Financial Access for Underserved Communities Act would prevent a community bank from opening a branch in underserved communities.

By all means, banks should be working to reduce banking deserts and underserved areas in this country, as opposed to creating them. They should be working to expand service to those who do not have access to affordable financial services, as opposed to blocking access by closing branches and perpetually opposing legislation and regulation that makes it easier for underserved communities, individuals, and

² 12 U.S.C. § 1759.

³ 12 U.S.C. § 1759(c)(2). Note that of the 5,043 credit unions, just 1,101 are multiple common bond credit unions that can add underserved areas to their fields of membership. Source: NCUA data (Dec. 2021).

⁴ See 12 U.S.C. § 1757a.

small business to get access from credit unions. If the banks are not interested in seriously addressing this problem, they should stand aside and allow credit unions to do so. As Representative Gonzalez's amendment states, there is nothing in this bill that keeps them from being a part of the solution.

Credit unions will never apologize for our dedication and commitment to provide financial services to the most vulnerable Americans. The Expanding Financial Access for Underserved Communities Act is a strong step toward enhancing financial equity, inclusion, and access. We are proud of and appreciate the inclusion of these provisions in this bill, and we look forward to working with Congress to enact them into law.

Section 211 – OMWI Data Collection

Section 211 would require the Directors of the various Offices of Minority and Women Inclusion (OMWI) to collect certain data from entities with more than 100 employees subject to their agency's regulation. We are concerned that this provision would place unnecessary regulatory burden on credit unions because they already provide similar disclosures either voluntarily or by mandate to other government entities, such as the Equal Employment Opportunity Commission.

Instead of filling out another set of forms, it would be beneficial if credit unions could file a single form which multiple agencies could utilize. This would cut down on needless duplicate staff and regulatory expenses that distract credit unions from doing the important work of serving their members.

A better approach would be to permit the OMWI offices to obtain relevant data from the Equal Employment Opportunity Commission.

Williams Amendment #6 – Alternative Credit Information

The Williams Amendment would require mortgage lenders to take into consideration alternative credit information if the borrower requests that such information be taken into consideration, provides such information to the lender, and states that they believe the credit information reported through a credit reporting agency is not an accurate reflection of the applicant's creditworthiness.

Credit unions have a long history of considering alternative credit score information in underwriting to help their members, and they are required to state that in policy and adhere to the requirements of Section 701.21 of the National Credit Union Administration's (NCUA) regulations.⁵ Credit unions must maintain control over their own underwriting process, which must be determined in accordance with the credit union's own risk tolerances and strategic plan. We are concerned with the potential impact a requirement such as the Williams Amendment would have on safety and soundness, and therefore, we recommend members oppose this amendment.

Davis Amendment #14 – Small Business Loan Data Collection

The Davis Amendment repeals section 1071 of the Dodd-Frank Act, the Small Business Loan Data Collection requirement under the Equal Credit Opportunity Act. Section 1071 requires financial institutions to collect and report certain data regarding applications for credit for women-owned, minority-owned, and small businesses.

Credit unions support the intent of section 1071 and seek to provide all members with fair and equitable financial opportunities. However, it was critical for this data collection to be as manageable and tailored as possible to avoid creating unintended barriers for small business borrowers seeking credit. There is widespread concern that the CFPB's implementation of section 1071 added substantial complexity to

⁵ 12 C.F.R. 701.21(c)(2).

compliance which will weigh disproportionately on credit unions in ways that ultimately lead to fewer and less favorable outcomes for all small business borrowers.

The overly broad scope of the CFPB's proposed rule will significantly raise the cost of small business borrowing and require covered financial institutions to collect data on businesses that are not "small businesses" by any traditional metric. The Bureau's rulemaking should have been appropriately scoped to ensure the financial needs of truly small businesses could continue to be met. Furthermore, the 18-month mandatory compliance schedule proposed by the CFPB is unnecessarily aggressive even for the largest, most technologically savvy credit unions. Due to the administrative and compliance burden the CFPB's rulemaking would place on credit unions, we urge Congress to repeal Section 1071.

Bowman Amendment #49 – CDFI Report

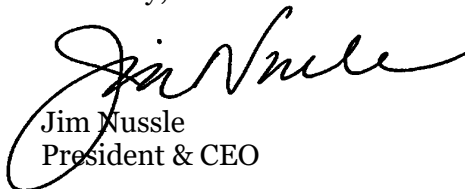
Nearly one in three CDFI-certified financial institutions and loan funds are credit unions. The mission of CDFI financial institutions is vital to reaching and meeting the financial services needs in traditionally underserved areas and populations in both rural and urban America. CUNA would welcome a report from Treasury and the Department of Housing and Urban Development that examines how CDFIs can affirmatively further fair housing and expand wealth building opportunities in low-income and minority communities through collective ownership models. CUNA recommends Members support this bill.

Conclusion

America's credit unions work every day to improve their members' financial well-being and advance the communities that they serve. We appreciate the opportunity to be included in legislation that addresses financial equity and inclusion, and the encouragement that this legislation, through the inclusion of the Expanding Financial Access for Underserved Communities Act, gives credit unions to do more to address the critical needs of underserved communities, individuals, and small businesses.

On behalf of America's credit unions and their more than 130 million members, thank you for your leadership on these issues.

Sincerely,



Jim Nussle
President & CEO