AACUC AFRICAN-AMERICAN CREDIT UNION COALITION | NLCUP National Association of Latino Credit Unions & Professionals | Hope credit union enterprise corporation policy institute

October 1, 2021

The Honorable Todd M. Harper
The Honorable Kyle S. Hauptman
The Honorable Rodney E. Hood
1775 Duke Street
Alexandria, VA 22314

Dear NCUA Board Members:

As representatives of Black and Latino credit unions and their member-owners, we write concerning the detrimental consequences of the National Credit Union Administration's recent interpretation that limits the term of Emergency Capital Investment Program (ECIP) investments in credit unions to 15 years.

The African-American Credit Union Coalition, National Association of Latino Credit Unions & Professionals, and Hope Policy Institute joined with community development financial institutions, social justice organizations and other representatives of financially underserved communities to inform and successfully advocate for passage of the $9 billion Emergency Capital Investment Program (ECIP) in the December 2020 Consolidated Appropriations Act. In enacting this legislation, Congressional leadership made clear that a primary objective of ECIP was to close financial service gaps in communities of color, and others hit hardest by the far-reaching impact of COVID-19 by providing vital capital infusions to Minority Depository Institutions (MDIs) and other financial first responders in the nation's most vulnerable communities. Upon the passage of the December 2020 bill, Chairwoman Waters noted the importance of ECIP part of an overall strategy to "ensure the financial system is more inclusive," and supporting CDFIs and MDIs "meeting the financial needs of communities that are disproportionately underserved by traditional financial institution and are primary lenders to LMI and communities of color, including during the COVID-19 pandemic". Similarly, Senator Mark Warner noted, "Even before the pandemic, low-income communities and communities of color faced significant barriers in accessing credit and economic opportunity. The economic crisis caused by COVID-19 has only exacerbated those inequalities. Today's announcement by the Treasury Department is a historic step in helping underserved communities recover and emerge from this unprecedented economic downturn with more opportunities than before."

Unfortunately, by limiting ECIP investments in credit unions to 15 years, NCUA's action has the unintended consequence of undermining the intent of Congress that the appropriated funds promote financial inclusion and reduce longstanding racial and economic disparities.

NCUA's ruling stands in sharp contrast to the Treasury Department's determination that ECIP funds may have a 30-year term. Notably, bank recipients of ECIP funds do not face a similar constraint, and certain banks have the option to utilize these funds in perpetuity.

The disparate treatment of credit unions relative to banks will exacerbate massive racial disparities within the financial sector. There are currently 402 Black and Hispanic owned credit unions compared to 50 such banks. Given their comparative prevalence in communities of color, the NCUA ruling significantly disadvantages MDI credit unions and the people we serve relative to our banking peers. The harm is intensified due to the relative impact of MDIs in underserved communities. This point was underscored in April testimony before the Senate Committee on Banking, Housing and Urban Affairs, that cited an analysis of mortgage lending in Mississippi, where 36% of the population is Black, showing that only 11% of HMDA reported loans made by the state's CDFI banks were made to Black borrowers, compared to 17% of all Mississippi HMDA reported loans. By contrast, 83% of mortgages in the state made by Hope Credit Union, a local MDI, were made to Black homebuyers. Similarly, MDIs and minority CDFIs played an outsized role in making SBA Paycheck Protection Program loans to minority businesses, most notably sole proprietors, which comprise roughly 95% of all Black businesses.

Limiting credit unions' ability to maximize the benefit of ECIP will have dire consequences, perpetuating disparate access to capital for businesses and homeowners of color, and widening a racial opportunity gap that undermines America's economy and overall stability. Left unresolved, we estimate that limiting the length of credit unions ECIP investment to 15 years will crater the impact of this program to 1/3 to 1/5 of what would be achieved with a 30-year investment.

NCUA's restriction on the ECIP term is neither authorized nor mandated in federal statute, nor does it have basis in legislative history, including the Federal Credit Union Act or the 1998 Credit Union Membership Act that codified the use of secondary capital as "net worth" for low-income servicing credit unions. Moreover, there are several instances that support federal legislation override. For example, NCUA rule requirements on business loan prepayment penalties, loan maturity, interest rates and collateral are over-ridden by credit union participation in federal SBA loan guarantee programs that permit more flexible terms (See NCUA opinion on SBA loans originated by Federal Credit Unions)**.** Many of these over-ridden restrictions are directly set forth in the Federal Credit Union Act, unlike the ECIP term limitation, which is implemented at the discretion of NCUA.

We are confident that NCUA is committed to maximizing the ability of MDI credit unions to help America's most financially-neglected communities recover from this debilitating economic, health and social justice crisis. As you execute your duties with regard to implementing ECIP, a historic injection of capital into underserved communities, we want to make sure that you are keenly aware of the destructive impact of NCUA's recent actions on MDI credit unions and the communities we serve, and urge you to rectify this harmful rulemaking by implementing ECIP in a manner consistent with Congressional intent, and in a way that closes, rather than widens centuries-old opportunity gaps that limit the potential of an emerging majority of Americans.

Sincerely,

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