CUNA
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December 8, 2008

The Honorable Henry M. Paulson
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Dear Secretary Paulson:

As the Treasury, with the Internal Revenue Service, has attempted to be helpful in addressing the current crisis in the financial markets, a disturbing disparity has emerged in the tax treatment of different kinds of federally insured depository institutions. I am writing to ask for an opportunity to meet with you, the IRS Commissioner, or other senior official about this matter.

Recently, the IRS issued Revenue Procedure 2008-63, greatly enhancing the ability of banks to shelter income by using losses incurred by other banks with which they merge. According to press reports, the enhanced ability of banks to utilize and accelerate their losses has the potential to shelter billions of dollars of income to such institutions as Wells Fargo and JP Morgan Chase, which have announced major acquisitions of troubled banks.

Revenue Procedure 2008-63 coincides, of course, with the massive financial bailout being made available to banks and certain lending institutions treated as banks. Because the needs of mutual institutions have not yet been addressed, credit unions have been excluded from this bailout to date, although they are engaged in exactly what the program is designed to promote—making credit available to the economy. Credit union borrowers have particular need of credit, and they should not be disfavored by IRS policies or interpretations of existing law.

Yet this is precisely the current situation. Even as it has reinterpreted existing law to favor banks, the IRS has been aggressively reinterpreting existing law to *increase* the tax liabilities of state-chartered credit unions, leaving less funds for them to lend. After years of indecision, the IRS has issued nineteen Technical Advice Memoranda overruling prior informal rulings that revenues from certain financial products offered by credit unions were substantially related to their tax exempt purpose, and thus exempt from tax. This harsh position has imposed substantial burdens on credit unions, diverting funds which might better be used to provide loans to consumers for homes, cars, and education

Credit unions do not oppose needed benefits for other kinds of institutions, but they do object to increased burdens upon themselves at a time when their funds are needed more than ever to serve as a vital source of cooperative consumer finance.

We request that, in light of the urgent circumstances described above, the IRS halt its current efforts to enlarge the tax burden of credit unions. We request a meeting to discuss this significant issue.

Sincerely,

Daniel A. Mica
President & CEO

cc: The Honorable Anthony Ryan
Acting Under Secretary for Domestic Finance
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

cc: The Honorable Douglas Shulman
Commissioner
Internal Revenue Service
1111 Constitution Avenue, N.W.
Washington, D.C. 20224