Congress of the United States
House of Representatives
Washington, DC 20515

May 12, 2020

The Honorable Steve Mnuchin
Secretary of the Treasury
Department of the Treasury
1500 Pennsylvania Ave. NW
Washington, DC 20220

Dear Secretary Mnuchin,

First, we would like to thank you for actions taken by the Financial Stability Oversight Council (FSOC) and financial regulators during this trying time. While much work remains to be done, Congress and the Administration have acted swiftly to stem the economic impact of the COVID-19 pandemic. FSOC is in a unique position to monitor and ensure stability and resilience of the financial services industry, ensuring it remains able to serve American families and companies across the country, and help speed up the economic recovery.

In fulfilling its mission, FSOC should bring consensus and clarity to the regulatory treatment of the Current Expected Credit Loss (CECL) accounting standard across the financial sector. For years, numerous entities, including bank and non-bank lenders, credit unions, credit card issuers, insurance companies, consumer groups, and numerous others, have voiced concerns over the procyclical effects of CECL, particularly in a time of economic stress like the one we are currently living through. Despite warnings, no action was taken by the Financial Accounting Standards Board (FASB) or Financial Accounting Foundation (FAF) to acknowledge the amplifying effect CECL implementation will have on an economic downturn, or attempt to remedy CECL's expected negative impact on the financial services industry. Now, as predicted, COVID-19 has created an unparalleled economic climate where CECL is wreaking havoc on the balance sheets of any financial institution that extends credit.

Congress and regulators have correctly taken a series of measures to understand and mitigate the negative effects of CECL on the economy and access to credit. In November 2019, FSOC took action to require a literary review from the Office of Financial Research to further understand the macroeconomic impact of CECL. A month later, in December 2019, Congress passed a spending package for FY 2020 that included a provision requiring Treasury to conduct a study on the effect of CECL on the regulatory capital of financial institutions. In response to the economic impact of COVID-19 and to provide relief for financial institutions, Congress included a provision in the Coronavirus Aid, Relief, and Economic Security (CARES) Act, signed into law on March 27, 2020, allowing depository institutions to delay implementation of CECL until the end of the year or until the end of the declared emergency. The same day, the Federal Reserve, the Federal Deposit Insurance Corporation (FDIC), and Office of the Comptroller of the Currency (OCC) issued an interim final rule delaying the effect of CECL on regulatory capital until January 1, 2022, with a three-year phase in.

However, as Congress and regulators worked to mitigate the damage CECL may cause, the Securities and Exchange Commission (SEC) communicated to accounting firms that any banks electing to take the relief from CECL provided in the CARES Act would still be required to apply the new accounting standards retroactively for all loans made since the adoption of CECL on January 1, 2020. This interpretation from the SEC not only goes against the intent of Congress but also requires depositories to keep two sets of accounting books throughout the year, unnecessarily utilizing resources at a time when their focus should be on helping our communities ravaged by the crisis. Furthermore, this interpretation is counter to the actions of the primary prudential regulators on FSOC that are acting to delay the implementation of CECL, and its expected procyclical negative outcomes for access to credit and the broader economy.

The SEC's communication risks not only confusion and wasted resources, but creates an unequal playing field as a result of inconsistent regulatory and accounting standards across nonbank lenders and depository institutions. The study Treasury is charged with completing should take into account the real-world impact of CECL during the economic downturn associated with COVID-19 . Actions by Congress, regulators, and industry stakeholders have shown a clear concern over CECL. As the body charged with overseeing financial stability, FSOC must ensure any changes to the financial system will not negatively affect the stability and resilience of our financial system, or undermine our economic climate.

We urge FSOC to work with the SEC and FASB to provide a full and complete moratorium on CECL for all regulated entities until January 1, 2022. This date would align with the prudential regulator's interim final rule on regulatory capital, follow Congressional intent by providing significant relief from CECL, allow the necessary time for Treasury to understand the real-life impacts of CECL in a downturn, and harmonize implementation of this accounting standard across all financial entities.

It is our belief that this problem can and should be solved through the regulators and FASB. Failure of adequate coordination has been a source of financial instability and deepening financial crisis. FSOC was created with an explicit goal of bridging such divides and ensuring coherence and harmonization across regulators. As Congress has shown in the CARES Act, inaction by the parties involved as it relates to CECL will only force Congress's hand to step in further and legislate statutory changes that must be made to protect the American economy.

We look forward to continuing to work with you on this and other urgent matters in this time of crisis, as we all seek to ensure the health of the American economy and the safety and well-being of the American people. We look forward to your response.

Sincerely,

Blaine Luetkemeyer
Member of Congress

Gregory Meeks
Member of Congress

Bill Huizenga
Member of Congress

Brad Sherman
Member of Congress

Andy Barr
Member of Congress

Josh Gottheimer
Member of Congress

Ted Budd
Member of Congress

Vicente Gonzalez
Member of Congress

CC: The Hon. Jay Clayton, Chairman, Securities and Exchange Commission

The Hon. Russell Golden, Chairman, Financial Accounting Standards Board