Credit Union National Association
CUNA

Jim Nussle
President & CEO

Phone: 202-508-6745
jnussle@cuna.coop

99 M Street SE
Suite 300
Washington, DC 20003-3799

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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

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 120 million members.

We commend the steps taken by the National Credit Union Administration (NCUA) under the leadership of Chairman Todd Harper, former Chairman Rodney Hood and Vice Chairman Kyle Hauptmann to implement policies during the COVID-19 pandemic that enabled credit unions to work to improve their members' financial well-being and advance the communities that they serve.

As the Committee exercises its critical oversight function of NCUA, we offer perspective on a number of pending issues and concerns, including the legislation described in the Committee memorandum for this hearing, NCUA's continued work on COVID-19 related policy accommodations, the need for NCUA to have flexibility with respect to prompt corrective action (PCA) requirements, the state of credit unions' diversity, equity and inclusion (DEI) journey, our concern with proposals to adjust the National Credit Union Share Insurance Fund (NCUSIF), our support for additional charter enhancement legislation that will further enable credit unions to focus on their members' financial well-being, and concerns raised by banking trade associations regarding the small number of bank sales to credit unions.

Pending Legislation

The hearing memo includes an appendix listing several legislative proposals under consideration. We offer our views on four of these bills that impact credit unions.

H.R. ___, Expanding Financial Access for Underserved Communities Act

The Expanding Financial Access for Underserved Communities Act would make three changes to the Federal Credit Union Act to enable and encourage credit unions to serve underserved and abandoned communities and promote financial inclusion.

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 can add underserved communities. Second, the legislation exempts business loans made by credit unions to businesses in underserved areas from the credit union member business lending cap. Finally, the legislation expands the definition of an underserved area to include any area that is more than 10 miles from the nearest branch of a financial institution. Currently, there are two other ways that an area can qualify as underserved: (1) 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.

Any serious discussion of policy remedies to address access to financial services to underserved or unbanked persons, businesses and communities must include breaking down barriers in law and regulation that keep credit unions from being part of the solution. 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 step forward toward financial inclusion. We strongly support this legislation and appreciate its consideration.

H.R. ____, Central Liquidity Facility Enhancement Act
The Central Liquidity Facility Enhancement Act would make permanent changes made to the NCUA's Central Liquidity Facility (CLF) by the CARES Act in 2020. These changes expanded the CLF's borrowing authority and made it easier for credit unions to join the CLF through their corporate credit union. CUNA has previously advocated for Congress to make these changes permanent and, therefore, we support this legislation.

H.R. ____, NCUA Oversight of Third Party Vendors Act
The NCUA Oversight of Third Party Vendors Act would restore the authority that NCUA enjoyed leading up to the Year 2000 transition (Y2K) to examine credit union service organizations (CUSOs) and other third party vendors used by credit unions. This authority, which was targeted to the specific circumstances surrounding Y2K, expired in 2001.

We are naturally skeptical of legislation that conveys new power, authority, or expectation on NCUA, particularly in areas where they have minimal or no expertise. Nevertheless, we recognize that threats such as cybersecurity breaches and money laundering impact credit unions and the credit union system. Credit unions often rely on CUSOs and/or third-party vendors to deliver products and services to their members and expect limited exposure to these threats. Therefore, we understand that there may be instances where NCUA's involvement is warranted for supervising critical CUSOs and vendors that present material risks to the credit union system. Further, we acknowledge that such authority, appropriately and measuredly applied, could benefit credit unions, especially small credit unions, by satisfying part of their due diligence responsibilities when contracting with third party vendors.

That said, we are unable to support legislation that would provide the agency with unfettered authority to supervise all CUSOs and vendors. We would like to work with the Committee to tailor this legislation so that it targets high risk areas such as cyber security and anti-money laundering relationships and ensures that credit unions do no pay higher direct or indirect costs as a result of the agency exercising this new authority.

H.J. Res. 35, Resolution of Disapproval on the OCC's National Banks and Federal Savings Associations as Lenders Final Rule
In what appears to be a blatant attempt by an unelected regulatory agency to weaken state laws, in July 2020, the OCC issued a Notice of Proposed Rulemaking (NPRM) related to determining the "true lender" in partnerships between national banks and third parties, including marketplace lenders. Under the proposal, a national bank would be considered the true lender of the loan if, as of the date of origination, it is named as the lender in the loan agreement or funds the loan.

CUNA has significant concerns with the "true lender" rule as it could be exploited to promote "rent-a-charter" arrangements between payday lenders and national banks, which can be used to evade state restrictions on high interest rates or loan terms. We believe the OCC's final rule is not in the best interest of consumers and should be withdrawn. Instead, the OCC, in coordination with its sister banking regulators, should focus its relief efforts on facilitating and promoting the fair and reasonable loan options that are offered by local-community based lenders like credit unions.

CUNA has long held the position that similar products and services should be regulated similarly so that consumer protection runs with a product or service, not with the entity providing the product or service. Credit unions and banks are subject to most of the same consumer protection laws. While not perfect, these requirements help protect consumers. Unfortunately, clever fin-techs and other institutions can use partnerships with banks and possibly a banking charter to avoid consumer protections with the approval of the OCC.

CUNA supports the Congressional Review Act resolution and believes it is the right course of action. A reversal by the OCC could be challenged in court and divert resources from the OCC. Furthermore, it is unclear if the next Comptroller would even be willing to reverse the rule.

NCUA Should Continue Its COVID-19 Policy Accommodations

We appreciate the steps the agency has taken the past year to address pressures on credit unions in connection with the ongoing COVID-19 pandemic. These include several interim final rules, including a recently adopted interim final rule that continues relief provided in a 2020 rule related to prompt corrective action (PCA).[1] We are hopeful that the agency will remain responsive and open to the needs of credit unions and their members during this global crisis.

In particular, the NCUA can provide additional regulatory relief by finalizing two outstanding rulemakings: the Capitalization of Interest in Connection with Loan Workouts and Modifications proposal,[2] and the Transition to the Current Expected Credit Loss Methodology proposal.[3] Given the urgency of the pandemic, the ensuing economic crisis, and the adverse impact these events are having on consumers' financial well-being, we strongly urge the Board to approve these proposals as soon as possible.

Existing regulation prohibits capitalization of interest, complicating loan modifications and workouts for members facing financial distress. The Capitalization of Interest in Connection with Loan Workouts and Modifications proposal issued by the NCUA Board in November 2020, would remove the existing prohibition on credit unions' capitalizing interest in connection with loan workouts and modifications.

In January, we filed a letter with the NCUA in support of the capitalization of interest proposal.[4] The current prohibition on capitalization of interest is overly burdensome and, in some cases, may hamper a credit union's good-faith efforts to engage in loan workouts with borrowers facing difficulty because of the economic disruption caused by the ongoing pandemic. Once adopted (and upon becoming effective), credit unions and their members will be able to begin taking advantage of the benefits of this rulemaking.

Proposed by the Board in July 2020, the Transition to the Current Expected Credit Loss Methodology rulemaking would provide that, for purposes of determining a credit union's net worth classification under PCA, the NCUA will phase-in over a three-year period the day-one adverse effects on regulatory capital that may result from adoption of the Financial Accounting Standards Board's (FASB) current expected credit losses (CECL) standard. Last October, we filed a letter with the NCUA in support of the CECL phase-in proposal.[5] We believe a three-year phase-in is appropriate. Not only does it conform with the flexibility provided by the federal banking agencies, it

[1] 86 Fed. Reg. 73 (Apr. 19, 2021).
[2] 85 Fed. Reg. 78,269 (Dec. 4, 2020).
[3] 85 Fed. Reg. 50,963 (Aug. 19, 2020).
[4] CUNA Letter to NCUA re Capitalization of Interest NPR (Jan. 26, 2021), *available at* https://www.cuna.org/uploadedFiles/Advocacy/Actions/Comment_Calls,_Letters_and_Testimonies/2021/Letters/012621_Capitalization%20of%20Interest_final.pdf.
[5] CUNA Letter to NCUA re Transition to CECL NPR (Oct. 19, 2020), *available at* https://www.cuna.org/uploadedFiles/Advocacy/Actions/Comment_Calls,_Letters_and_Testimonies/2020/Comment_Letters/CL%20-%20NCUA%20-%20NPR%20-%20Transition%20to%20CECL%20Methodology_final.pdf.

also provides a sufficient amount of time for credit unions to spread out the effect of the day-one adjustment. While a phase-in would not apply until the CECL standard goes into effect in January 2023, the assurance that a phase-in will occur will be helpful as credit unions continue to prepare for CECL implementation.

We appreciate the Board's support of these rulemakings, and we are encouraged by its interest in pursuing such positive regulatory measures. We urge the NCUA to finalize these rules as soon as possible.

PCA Flexibility

While regulators across government took swift and appropriate action to implement accommodations to help regulated entities navigate the pandemic and ensuring economic crisis, in some cases, the COVID-19 pandemic exposed areas of law that do not provide sufficient crisis flexibility. Credit union prompt corrective action (PCA) requirements are one such area.

Credit union capital requirements are different than bank requirements in several respects, including that only retained earnings count as Tier I capital for credit unions and thresholds for credit union capital levels are hardwired into statute. Having these requirements in the statutory text restricts NCUA's ability to provide accommodations to otherwise healthy credit unions impacted by natural disasters, pandemics, and other crises. This has been an issue of concern for us since the PCA standards were enacted into law in 1998; and, in the aftermath of Hurricane Katrina, we first urged the Committee to address the issue.

Credit unions entered the pandemic very well capitalized; as a system, average credit union capital stood at 11.4% at the beginning of 2020. As the pandemic took hold and the economy shut down, lending slowed, and deposits increased dramatically, particularly after economic impact payments were made to help consumers during the crisis. Deposits are a liability on the books of credit unions which means an increase in deposits puts downward pressure on capital ratios. Lower capital ratios draw supervisory scrutiny. As a credit union approaches the 7% statutory benchmark to be considered well-capitalized, it must take action to slow the decline – perhaps by disincentivizing deposits – because if the credit union falls below 6%, it must develop a net worth restoration plan.

During this crisis, as with most natural disaster related economic events, the decline in the capital ratio was not an indicator of an unhealthy credit union but rather an indicator of the impact of an event that was widely considered to be temporary. As such, NCUA took some steps – which we commend – to provide flexibility to credit unions impacted by economic impact payments and other deposit influxes. However, the law did not permit the agency flexibility to forbear net worth restoration plans in the event a credit union dropped below 6% net worth. The consequence for members of these credit unions is that their credit union is forced to put more resources in reserve which makes fewer resources available to credit union members as we emerge from the crisis. This hampers the credit unions' ability to improve their members' financial well-being and advance the communities they serve.

Times of crisis are when credit union members need their credit union the most. Otherwise healthy credit unions should not be forced to reserve extra to accommodate rigid statutory and regulatory capital requirements when their capital declines as a result of natural disaster, pandemic or other external crisis; they should be able to continue to serve their members and help them weather the storm. Therefore, we encourage Congress to enact legislation that provides temporary flexibility to NCUA to offer forbearance from prompt corrective action to otherwise healthy credit unions impacted by federally declared emergencies or disasters.

State of Credit Unions' Diversity, Equity, and Inclusion Journey

CUNA and our member credit unions are committed to diversity, equity, and inclusion (DEI) in the financial services sector. In line with that commitment, nearly two years ago CUNA's Board of Directors added DEI to the core set of cooperative principles that guide the work of America's credit unions. While DEI is an integral component of the original cooperative principles, which date back to the mid-19th century, it was deemed so important that it deserves to have separate recognition and a commitment on the part of the credit union movement. The action by CUNA's board elevated DEI as a priority for the movement.

There is still more work to be done. America's credit unions are committed to enhancing DEI in our member-owned, democratically controlled, not-for-profit financial cooperatives. This commitment manifests itself in several ways, including the establishment of the Credit Union DEI Collective[6]—a network of leading credit unions and credit union system partners, including the National Credit Union Administration (NCUA)—which is dedicated to deepening DEI in the credit union movement through networking, and sharing DEI resources and learning opportunities; a large and growing number of educational opportunities to support credit unions on their DEI journey such as CUNA's annual DEI eSchool, frequent, webinars and conferences focused on DEI in financial services and DEI keynotes and breakout sessions at significant credit union conferences and events. Significantly, the NCUA held its first DEI summit, which was attended by approximately 150 credit unions in 2019 and is planning a second (virtual) summit this year.

In the vein of "you can't improve what you don't measure," credit unions have undertaken research efforts to establish a baseline and measure the impact of changes in diversity, equity, and inclusion at credit unions. Specifically, CUNA recently released research that examines gender diversity in credit union leadership[7]. We are encouraged that our research finds that credit unions lead the way when it comes to women in leadership. We find that 51% of credit union CEOs are women (compared to 3% at banks) and 33% of credit union board members are women (compared to 16% at banks).

In addition, CUNA conducted research examining branch location because it is critical for financial access and inclusion for underserved and historically marginalized groups. We find that 75% of credit union branches are in middle, moderate, and low-income communities (compared to 70% of banks) and 76% of credit union branches are in racially and ethnically diverse areas (compared to 71% of banks).

CUNA's 2019 Annual Member Survey asked credit union CEOs whether they agree that the race and ethnicity of their staff reflects their field of membership. The large majority (64%) agree that their staff reflects their field of membership. Representation matters when it comes to serving an increasingly diverse membership. We acknowledge that we must do better.

Finally, the Filene Research Institute recently launched an important survey focused on credit unions' DEI policies.[8] The goal is to measure the baseline and use this data to help enhance their credit union's DEI efforts and performance.

There is undeniable momentum and energy around our DEI journey in the credit union movement. Credit unions understand that deepening DEI aligns with our mission and makes good business sense. Credit unions are committed to doing more to advance DEI and enhance the financial well-being of our employees, our members, and our communities.

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[6] *CU DEI Collective*, https://www.cudeicollective.org/
[7] CUNA, "Women in credit union leadership," Available at: https://www.cuna.org/uploadedFiles/Global/About_Credit_Unions/WomenInLeadership_IssueBrief.pdf
[8] Filene Research Institute, "DEI Practices and Policies Survey," available at: https://filene.org/deisurvey-landing

National Credit Union Share Insurance Fund

The National Credit Union Share Insurance Fund (NCUSIF) remains strong. The fund's pre-pandemic equity ratio stood at 1.35% and finished 2020 at a historically robust 1.26% reading despite massive fiscal stimulus that led to an enormous 20% surge in insured shares during the year.[9] The credit union 1% deposit true-up in the first quarter of 2021 appears to have pushed the fund ratio back above 1.30%.

There was only one credit union failure in 2020 – and the system's asset quality metrics – both loan delinquency and net charge-off rates – remain near modern-day lows.

Given the health of the fund and its historically favorable performance, we are troubled by the remarks of several NCUA officials, including Chairman Harper, suggesting that NCUA may need to charge a NCUSIF premium in the near future and advocating for statutory changes to the NCUSIF funding guidelines and normal operating level. The Federal Credit Union (FCU) Act currently provides that the NCUA Board may assess a premium charge only if the NCUSIF's equity ratio is less than 1.30 percent and the premium charge does not exceed the amount necessary to restore the equity ratio to 1.30 percent.[10] This process has served the NCUSIF and the credit union industry well. While there is a statutory process in place to ensure the Fund is restored if it drops below 1.20 percent, the boards over the years have been able to actively manage the Fund to maintain it near or above 1.30 percent.[11]

In a letter to Senate Banking Committee Ranking Member Pat Toomey, Chairman Harper called on Congress to enact legislation that:

- Increases the NCUSIF's capacity by removing the 1.5 percent statutory ceiling on the normal operating level.
- Removes the interim limitation on assessing premiums when the equity ratio exceeds 1.3 percent, granting the NCUA Board discretion on the assessment of premiums.
- Provides the NCUA Board with the option to use risk-based premiums and use total assets as the assessment basis, not insured shares.[12]

This is truly a solution in search of a problem. Such a drastic, unnecessary approach is wholly inappropriate because there is no apparent problem with the NCUSIF that is begging to be fixed, the historical performance of the NCUSIF relative to the bank insurance fund is very favorable, and the NCUA Board has at its disposal the tools it needs to properly maintain the NCUSIF.

The NCUSIF is maintained in a relatively straightforward manner: as prescribed by the FCU Act, the NCUA Board has the authority to assess a premium on insured credit unions if, and only if, the equity ratio of the Fund drops below 1.30 percent. This is the tool the NCUA has used to maintain the equity ratio of the Fund at least 1.30 percent. This tool has consistently proven effective in ensuring the equity ratio does not drop, or remain below, the statutorily established 1.30 percent mark.

History shows that the incentives faced by credit union management—generally uncompensated volunteer boards, the absence of stock options for senior management and board members, the absence of pressure from stockholders to maximize profits, and "low-powered" compensation packages— induce management to eschew higher-risk,

[9] https://www.ncua.gov/files/agenda-items/AG20210218Item1a.pdf
[10] 12 CFR § 741.4(d)(2)(i).
[11] 12 CFR § 741.4(d)(2)(ii).
[12] Letter from NCUA Chairman Todd Harper to Senate Banking Committee Ranking Member Pat Toomey, at 4 (Mar. 19, 2021).

higher-return strategies.[13] As a result, credit union operations are less risky and subject to far less volatility over the business cycle. Compared to credit unions, more and substantially larger banks fail during significant economic dislocations. Twice in recent history, the bank insurance fund has operated in the red – while the credit union insurance fund has maintained a steady balance – above 1.20% even in difficult economic times.

While it is true that the NCUSIF has charged premiums to maintain that record, it is also true that since 1990 the FDIC has charged premiums in 21 years – while the NCUSIF has charged premiums in just four years. The NCUSIF has had comparatively little trouble collecting those premiums.

Similarly, it is true that the Great Recession provided significant challenges, but it is also true that those challenges were dominated by corporate credit union failures. The corporate system has been completely and forever changed to ensure that the fund has virtually no exposure to those institutions in the future. The agency must resist the temptation to manage to the last crisis.

Speaking of the Great Recession and its aftermath, it's important to recall that FDIC performance would have been immeasurably worse were in not for nearly $250 billion in direct taxpayer subsidies funneled to the banking industry.

The NCUSIF, of course, is funded by credit union member deposits, so every dollar over-insuring the fund is a dollar that is not being used to the benefit of credit union members. Which means that an over-insured fund idles enormous credit union member benefits. Every ten-basis point increase in the fund ratio represents $1.1 billion taken out of members' pockets—resulting in fewer financial benefits, reduced access (including branching), and a disincentive to encourage and cultivate consultative behaviors that improve consumer financial well-being. Of course, policy makers outside the agency are increasingly demanding more of—not less of—these activities and behaviors.

For these reasons, we find Chairman Harper's advocacy of changes to the NCUSIF unwarranted and counterproductive. Credit union members need their credit unions in the market working to improve their financial well-being and advancing the communities that they serve. Making the changes Chairman Harper proposes would take money out of credit union members' accounts to over-insure a fund that historically has performed its function very well.

Charter Enhancement Legislation

In addition to the legislation identified in the appendix of the hearing memo, Congress should consider other changes to the Federal Credit Union Act, which was last substantially updated in 1998. Since then, the financial services sector has changed significantly, but the Federal Credit Union Act and its implementing regulations have not kept pace with technology and how consumers access financial services.

In addition to the enhancements being considered by the Committee today, we support and continue to advocate for:

Eliminating outdated restrictions on lending maturity limits

Except for mortgage lending, federally-chartered credit unions are prohibited by statute from making loans with maturity limits in excess of 15 years. Only Oklahoma has a similar constraint on state-chartered credit unions and no such constraint exists for banks. That said, CUNA strongly supports S. 762, the Expanding Access to Lending

[13] Edward Kane, *The Federal Deposit Insurance Fund That Didn't Put A Bite on U.S. Tax Payers*, NBER Working Papers From National Bureau of Econ. Research, Inc. *available here:* https://econpapers.repec.org/paper/nbrnberwo/4648.htm

Options Act, authored by Senators Scott (R-SC) and Cortez Masto (D-NV) which would raise federal credit union loan maturity limits on non-mortgage loans from 15 to 20 years.

One area that this change may impact is student lending, the ability to set a longer loan maturity for federal credit union loans would provide student borrowers across the country with more opportunities for education that is more affordable both in the short and long term. Credit unions would also be able to better service loans for the agricultural sector and other businesses.

Permitting credit unions to establish their own fiscal year
Federal credit unions, like other corporations, should have the choice to establish a fiscal year that makes sense as it relates to the members it serves. For example, a credit union may conduct a significant amount of business with members that have seasonal operations. Thus, that credit union may want to have their fiscal year end when that large wave of financial activity is completed.

Enhancing flexibility of federal credit unions to schedule board meetings
Under current law a credit union board of directors is required to meet monthly. Federal credit unions should have the authority, as do other corporations, to set meetings through their bylaws.

Removing outdated responsibilities of boards of directors
The Federal Credit Union Act requires its board of directors to review membership applications as well as the hiring of loan officers and employees. These responsibilities are undertaken in the daily operation of the credit union by management staff and are unnecessary and burdensome for a board of directors.

Eliminating the requirement to file certain information regarding loan officers
Federal credit unions are required to file with NCUA the names and addresses of executive officers, supervisory committee members, credit committee members, and loan officers. That information should be accessible through the credit union management and is unnecessary.

Ensure credit unions the ability to better protect members and employees
Although extremely rare, some credit union members may engage in sometimes dangerous or illegal conduct. This can include physical damage to property, harassment, threats, or fraud. Under current law, a 2/3rds vote of the full credit union membership is required to expel a member. In these cases, the time and resources required for a full vote are simply not practically effective. As such, CUNA supports H.R. 2311, the Credit Union Governance Modernization Act, authored by Reps. Emmer (R-MN) and Perlmutter (D-CO), which would amend the Federal Credit Union Act to afford a more efficient process by requiring a majority vote of the board of directors of a credit union while at the same time providing a robust appeal process for the credit union member.

Banks Selling to Credit Unions
Recently, the American Bankers Association (ABA) and other bank groups have become concerned with the relatively rare phenomenon of their member-banks choosing to sell assets to credit unions when they make a business decision to leave a market. The position that these organizations have taken is perplexing on many levels.

In the first place, we question the long-term viability of membership organizations that openly oppose the ability of their members to make business decisions in the interest of their stakeholders. When a for-profit bank is ready to exit a market, its management has a fiduciary duty to seek the best deal for their shareholders. The opposition by the bank trade groups to their member banks selling to credit unions undermines that fiduciary responsibility.

Secondly, we don't quite know what to make of the bank groups' objection to these transactions given the relative size of this activity. Since 2012, there have been 39 bank sales to credit unions (totaling $6.2 billion) compared to more than 2,000 bank to bank merger and acquisitions (totaling $2.0 trillion); market-based sales to credit unions represent roughly 0.3% of the total asset volume of all bank merger activity during this time period.[14] To say they are making a mountain out of a molehill would be grossly exaggerating the size of a molehill.

Nevertheless, if the bank trades want to shine light on bank consolidation, the abandonment of communities and the creation of banking deserts in the interest of shareholder profit, who are we stop them? We welcome that conversation.

The bank groups say that these deals are a bad deal for taxpayers, a bad deal for low-income communities, a bad deal for consumers, and a bad deal for credit unions and "the credit union idea." We respectfully and strenuously disagree, and we will address their concerns in order.

The bank trade groups are very concerned about the government getting tax revenue, but they conveniently leave out the part where they saw their federal tax burden reduced by roughly $30 billion annually a few years ago.

They also leave out the part about the large percentage of these banks often pay no taxes in the year prior to their sale to a credit union, according to call report filings. Among the 39 bank sales to credit unions since 2012, at least 16 banks reported no applicable income taxes in the calendar year prior to the deal, with a zero percent median effective tax rate (federal and state) for all bank sales transactions in the year prior to sale.

Further, the bank groups conveniently ignore the fact that when a bank sells to a credit union, the bank is subject to capital gains taxes for all of the shareholders, and the credit union is subject to the same employment and state taxes that all credit unions pay. In 2020, banks involved in sales to credit unions reported $267,000 in applicable taxes in the previous year while more than $65 million was paid in taxes on capital gains associated with these transactions.

The second concern the bank groups raise involves the effect these transactions have on communities. While it is well established that bank consolidation can adversely impact communities, these transactions are good for the local communities.

Since 2004, banks have shuttered a net of more than 6,000 branches, creating at least 86 banking deserts. In the same period, credit unions have opened a net 1,600 branches. Regardless of whether it is another credit union or a bank selling its assets, commitment to the community remains the core of the credit union mission; branches stay open.

Furthermore, 80% of these bank-to-credit union transactions have involved low-income designated credit unions – which means that, generally speaking, these are credit unions with more than half of their members having incomes below 80% of the local median income. When a bank sells to a credit union, it is very likely that the bank facilities will continue to serve the community and that the credit union is one that has a particular focus on low-income individuals and families.

A report published by Federal Reserve Bank of St. Louis notes that credit unions can be seen as "preferable suitors" for many banks because: "small community banks tend to have deep ties to their customers and take pride in fostering their communities' growth and financial security. Other things equal, the owners of these banks might

[14] CUNA, "Bank Sales to Credit Unions," February 2021, *available here:* https://www.cuna.org/uploadedFiles/Global/About_Credit_Unions/Bank%20Sales%20Issue%20Brief%202021.02.20.pdf

prefer to sell to an organization that has similar customer-oriented values. That is, they might feel that they have more in common with the culture at a neighborhood credit union than with the culture of a distant large bank."[15] When a bank sells to a credit union, the community is the winner: a potential banking desert is prevented, and the community continues to receive locally provided financial services but now in the form of a member-owned credit union.

Third, the bank groups claim this is a bad deal for consumers. This is a claim that is hard to believe both in general and with respect to the bank-to-credit union transactions.

In general, consumers – both credit union members and bank customers – routinely say that credit unions are more consumer-friendly, more trustworthy and an overall better value than banks. For example:

- A recent Morning Consult study found consumers are twice as likely to "agree strongly" that credit unions "act in consumers' best interests and are good corporate citizens" compared to the same answer about banks.[16]
- Gallup research finds that "credit unions have built strong member relationships by using a personal approach, thoughtful products and member-centric service models to help members manage their finances." Nearly half — 46% of members — "strongly agree" with this statement about their credit union, while less than one-third (only 31%) of bank customers feel similarly.[17]
- Consumer Reports states: "Credit unions are among the highest-rated services we've ever evaluated, with 96 percent of our members highly satisfied…that satisfaction is driven by good customer service, not surprising when you consider that credit unions are owned and managed by their members."[18]
- CFI Group reported their Credit Union Satisfaction Index stood at 86 in 2018 — well above the Bank Satisfaction Index which finished the year at 80.[19]

Bank-to-credit union transactions provide a terrific example of the differential impact of credit unions versus banks. We estimate that since 2012, there have been 211,000 new members added to credit unions through bank sales. In the last calendar year alone, these members have accrued a financial benefit of roughly $31 million because they are credit union members, not bank customers. This is accomplished through profits being returned to credit union members in the form of higher savings yields, lower fees, and lower loan interest charges, and the retention of the money in local economies.

Contrast that outcome to what happens when a big bank acquires a community bank. In those cases – which sadly represent the vast majority of merger and acquisition activity – the profits are often syphoned to the mothership in San Francisco, New York and Charlotte. Recent literature is replete with references to big banks purchasing smaller institutions, cherry-picking the branch networks and then closing those that don't meet stringent profit criteria.[20] Without question, when a bank sells to a credit union, its customers are the big winners.

It is amusing that the bank trade groups feign concern for the impact these transactions have on credit unions. Rest assured: just as bank sales to credit unions are good for the bankers who are selling, the community that retains

[15] Meyer, Andrew P. St. Louis Federal Reserve. "Why Are More Credit Unions Buying Community Banks?" Regional Economist. April 2019.
[16] CUNA-commission Morning Consult National Tracking Poll of 2,200 U.S. adults. January 2020.
[17] Gallup. https://www.gallup.com/workplace/268220/credit-unions-banks-financial-wellbeing-proposition.aspx
[18] Consumer Reports. March 23, 2018. https://www.consumerreports.org/banks/best-and-worst-banks-and-credit-unions/
[19] CFI Group. 2018. www.cfigroup.com.
[20] See for example: Ensign, Rexrode, Jones. "Banks Shutter 1,700 Branches in Fastest Decline on Record," Wall Street Journal. February 5, 2018.

local-service, and the customers who get access to the benefits of credit union membership, so too are these transactions good for credit unions. When a bank sells to a credit union, it gives the credit union an opportunity to grow, expand service offerings and leverage synergies like cultural alignment. Further, research conducted by the Filene Research Institute shows that since 2012, credit unions involved in bank sale transactions have reflected greater financial stability and thus higher safety and soundness than other institutions.[21]

Finally, we would be remiss if we did not point out the bank groups' disingenuous concern for the impact these transactions have on the "credit union idea." For nearly 100 years, no group has more fiercely opposed the "credit union idea" than the American Bankers Association. But, their propaganda and talking points have not changed since the 1930s, when Congress entrusted credit unions to help earners rebuild amid the Great Depression.

The bank trades would have Congress forget what they conveniently ignore: credit unions exist for a purpose spelled out in statute – to promote thrift and provide access to credit for provident purposes. Credit unions were established as not-for-profit financial cooperatives to meet the needs of consumers, small businesses and communities that were not being served by commercial banks and that were being taken advantage of by usurious payday lenders. These problems continue today, but to a smaller extent than they otherwise would because credit unions compete in the market and consumers choose credit unions. When a bank sells to a credit union, it doesn't undermine the "credit union idea," it reinforces it – to almost everyone's benefit.

It is important to recognize there is one group that doesn't benefit from these transactions: bank groups, like the ABA and its cohorts. When a bank sells to a credit union, these groups lose a member. On balance, however, that seems inconsequential when you consider that these transactions are good for the bank shareholders; they are good for the bank customers; they are good for the credit unions; they are good for the community; they enhance credit union safety and soundness; and they are consistent with credit unions' Congressional mandate.

We encourage Congress to dismiss the bank groups' concern over their member-banks selling to credit unions.

Conclusion

On behalf of America's credit unions and their more than 120 million members, thank you for holding this hearing and considering our views.

Sincerely,

Jim Nussle
President & CEO

[21] Walker, David A. and Largay, John A. Credit Unions' Acquisitions of Banks and Thrifts. Filene Research Institute. June 2018. Also see: https://podcasts.apple.com/us/podcast/filene-research-institute/id1124551986?i=1000413067117