

September 10, 2019

The Honorable Al Green  
Chairman  
Oversight and Investigations Subcommittee  
Washington, D.C. 20515

The Honorable Andy Barr  
Ranking Member  
Oversight and Investigations Subcommittee  
Washington, D.C. 20515

Dear Chairman Green and Ranking Member Barr:

In 1934, Congress granted charter status (and soon thereafter codified a federal income tax exemption) to the credit union industry to help them meet the financial needs of consumers of small means that lacked access to mainstream financial services. Today, this \$1.5 trillion industry continues to enjoy tax and regulatory preferences, even though many no longer resemble the mission-focused institutions that emerged out of the Great Depression. While the industry has transformed fundamentally over the past several decades, the rules of the road have not. We urge Congress to take a fresh look at whether tax and regulatory changes are needed.

While many small credit unions do, in fact, meet their statutory mission and serve their communities admirably, Congress should examine: (1) whether all credit unions achieve the purposes that underlie their special tax and regulatory treatment; and (2) which credit unions benefit most from their tax exemption. A growing body of research shows that disproportionate benefits flow to a small subset of the industry that no longer meets the criteria necessary to justify this continued preferential treatment: the largest 5% of credit unions, which enjoy 75% of credit union industry profits, and are each larger than nearly 90% of the banks in this country. Moreover, analysts have raised serious questions about whether the National Credit Union Administration (NCUA), the prudential regulator for credit unions, is up to the task of overseeing this increasingly complex segment of the industry. Policymakers should take a closer look.

It is no secret that community banks, which compete directly with credit unions, have long believed that the credit union industry holds unfair and unwarranted tax and regulatory advantages. For years, community bankers have seen the *waste* (such as the [\\$120 million sponsorship](#) of an NBA arena by a tax-exempt credit union), *fraud* (such as the [\\$40 million stolen](#) by a former NCUA examiner from a credit union, undetected by NCUA for two decades), and *abuse* (such as the credit unions that [pushed predatory business loans](#) on New York City taxi drivers, later [denied the opportunity by NCUA](#) to renegotiate the loans) at credit unions. However, as the industry continues to expand, there is more to this story.

As noted, the credit union industry was formalized at the height of the Depression to serve a higher purpose of providing financial services to those of “small means.” Most credit unions perform this mission well; however, a subset of credit unions hide behind these good actors, yet are not held to account because credit unions are not required to demonstrate that they are, as required, actually serving people of “small means.” Indeed, [recent research](#) shows that modern credit unions are a contributing factor to the *widening* of economic inequality. The largest credit unions in particular are expanding services to [high-income customers](#), promoting

lucrative business lines (including [commercial real estate development](#) and [aircraft finance](#)), and making high-risk loans without adequate capital. Moreover, credit unions are increasingly [buying up tax-paying banks](#), leveraging their tax-free status to strip communities of much-needed tax revenue – as well as laying bare the myth that credit unions represent a coherent field of membership. More of these deals were announced in the first half of 2019 than all of last year, and the pace is increasing.

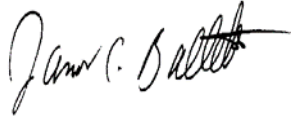
As credit unions engage in riskier behavior, Congress should conduct oversight into whether the NCUA has met the moment. Policymakers concerned with regulatory arbitrage might focus on the following issues as a starting point:

- **Substandard Capital Requirements.** NCUA is currently proposing yet another delay to its risk-based capital rule, which applies only to the largest roughly 500 credit unions, until 2022, even though every single bank in the country has been subject to similar rules for nearly a decade.
- **Hedge Fund Investments in Credit Unions.** Even though credit unions are supposed to be not-for-profit, NCUA has announced that later this year it will unlock the corporate debt markets and allow profit-seeking investors, potentially including institutional investors like hedge funds, to invest in the largest credit unions.
- **Weaker Commercial Appraisal Rules.** This summer, NCUA approved a new rule to facilitate additional credit union involvement in commercial real estate, exempting transactions below \$1 million from appraisals—an exemption level twice that permitted by every other federal financial regulator, after those regulators studied the issue just last year. This mismatch in appraisal thresholds creates immediate opportunities for system gaming.
- **Further Erosion of the Common Bond.** NCUA has proposed increasing authority for outside deposits, further diluting the idea of a common bond.

All of these actions (and inactions) raise serious policy concerns. Astonishingly, NCUA has made these decisions after [repeated findings by](#) NCUA’s Inspector General that the credit union supervisory process lacks a timely and aggressive approach. This regulatory weakness raises troubling parallels to the 1980s Savings & Loan crisis, whereby a captive regulator lost sight of its supervisory responsibilities, to the cost of tens of billions of dollars to the American taxpayer.

We appreciate that policymakers would prefer not to insert themselves in what can seem like a perennial community bank vs. credit union squabble. But, given the expansion of large credit unions and the impact they are having, we urge Congress to take an in-depth and nuanced look at whether all credit unions continue to merit their tax and regulatory advantages. Congressional oversight and serious reforms of the credit union industry should be urgent priorities. In the meantime, ABA will continue to educate the public on abuses of the credit union charter and tax preference, and we invite you to learn more about these issues at [www.explorecreditunions.com](http://www.explorecreditunions.com).

Sincerely,

A handwritten signature in black ink, appearing to read "James C. Ballentine". The signature is written in a cursive style with a horizontal line extending from the end.

James C. Ballentine

cc: Members of the Subcommittee on Oversight and Investigations  
The Honorable Maxine Waters  
The Honorable Patrick McHenry  
The Honorable Richard Neal  
The Honorable Kevin Brady