February 20, 2018

The Honorable Orrin Hatch
Chairman
Committee on Finance
219 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Hatch:

On behalf of the 52 state bankers associations from every state in the country, thank you for your leadership in shepherding the Tax Cuts and Jobs Act into law. We believe the significant reforms will help grow the economy, increase wages, and create jobs. Closing loopholes, eliminating many special-interest carve-outs, and lowering rates will allow businesses large and small to grow the economy.

While there is much to like in this landmark bill, lawmakers missed an opportunity to reform the outdated and increasingly wasteful tax advantages enjoyed by the most aggressive credit unions. We are therefore appreciative of the letter you recently sent to the National Credit Union Administration, which asks appropriate questions that will demonstrate that the public policy purposes of the Depression Era-tax exemption do not match the facts on the ground. Purchasing taxpaying entities, engaging in unrelated businesses lines, and outrageous compensation packages should not be tolerated by entities that are supposedly "not-for-profit."

The tax code should not pick winners and losers, and should treat similarly situated businesses alike, but that is not what happens today. There is no reason why the largest credit unions, which act and look just like the taxpaying banks they compete with, should be completely free of income taxation. This creates a market distortion where the tax code effectively subsidizes one financial services entity (the largest credit unions) over another (the smaller community bank). If Congress were to resolve this special tax treatment, it should not result in a net tax increase on the American people. Rather, any tax revenue raised by the reform should be immediately and simultaneously dedicated to tax cuts of equal or greater size, dollar for dollar. Congress should do so this year.

Although the credit union industry works to paint a picture of small financial institutions struggling to get by—and the overwhelming majority of credit unions fit into this category and should maintain their tax status—there is a separate class of credit unions that have moved from church basements to conglomerates. They hide behind the goodwill others create to operate free of significant oversight of the tax policy consequences of their actions. The number of credit unions with more than $1 billion in assets has more than doubled in the past decade. **These nearly 300 credit unions represent just 5 percent of America's nearly 6,000 credit unions, but enjoy 75 percent of the tax subsidy.**

As you review the responses from NCUA and credit union lobbyists, we encourage you to remember why Congress exempted credit unions from federal income taxes in the first place: a targeted mission to provide small-dollar loans to consumers of modest means, with access limited to small groups of people with a "common bond." Credit unions today are a sophisticated and rapidly expanding $1.4 trillion industry. Aided by an amenable regulator, common bond limitations for top credit unions are effectively nonexistent. Individual federal credit unions are now able to serve anyone in large multistate regions – for example, in the Washington region, land stretching from West Virginia to Pennsylvania to the Delaware border to nearly Richmond, VA is now called a single "local" community. The NCUA also recently permitted a significant expansion into commercial lending, and has even proposed to allow investors to profit from the credit union industry through capital investments.

A decade ago, the Government Accountability Office found that the historic distinction between banks and credit unions "has continued to blur" – an obvious conclusion even truer today.

Who benefits? Affluent people, credit union industry executives, and even the National Basketball Association. Consider this:

- While credit unions were created to serve people of modest means, the benefits of the tax subsidy skew to affluent consumers; the Prochnow Foundation found that 61% of the consumer benefits go to households with incomes over $95,000, while the National Community Reinvestment Coalition found credit unions lag banks in making loans to low- and moderate-income communities.
- Many of the benefits are never seen by consumers at all. A study by the Tax Foundation concluded that very little of the benefits from the credit union tax exemption are passed through to customers. Most of the tax benefit was retained by credit unions themselves. Indeed, credit unions have leveraged their tax subsidy to:
    - Pay their CEOs millions, such as the $9.3 million paid to Eastman Credit Union of Kingsport, TN, a community whose median household income is $37,465.
    - Build or buy large headquarters buildings, such as PenFed Credit Union's $164 million building in Tysons Corner, VA.
    - Buy naming rights to stadiums and bowl games, such as Golden 1 Credit Union's $120 million spent to get its banner on the arena housing the Sacramento Kings.

Do they really need help from taxpayers? Even some credit union industry leaders say no. As Ed Speed, former CEO of the large Texas Dow Employees Credit Union (TDECU), has written: "The only impact taxation would have on TDECU is that we will double in size every seven years instead of every five years." Thus, eliminating the tax subsidy does not have to impact credit union customers.

Is there a rationale, economic or otherwise? While credit unions tout numbers of how tax-exempt lending stimulates the economy, these studies have been discredited by a number of serious independent economists, including from the Tax Foundation and American Enterprise Institute. Of course, a tax subsidy can make it easier for an industry to expand—the question is whether that is good policy? Credit unions also say that because they are customer-owned, they deserve their tax status. However, other financial institutions with cooperative, customer-owned structures have been subject to federal income taxes for decades, including mutual insurance companies and mutual banks, and still have thrived.

Credit unions still maintain their tax status because, as Senator Tom Coburn pointed out in 2014, of "the momentum of the status quo." The status quo must change. The public policy justification disappeared long ago. Previous administrations, both Democratic and Republican, have long recommended ending the credit union industry's tax exemption. Taxpayers should no longer subsidize these large, aggressive entities that are called not-for-profit, but don't act that way.

Thank you for your leadership exploring this issue. We urge you not to let the status quo stop your committee from ending this outdated tax exemption.

Sincerely,

Alabama Bankers Association
Alaska Bankers Association
Arizona Bankers Association
Arkansas Bankers Association
California Bankers Association
Colorado Bankers Association
Connecticut Bankers Association
Delaware Bankers Association
Florida Bankers Association
Georgia Bankers Association
Hawaii Bankers Association
Idaho Bankers Association
Illinois Bankers Association
Illinois League of Financial Institutions
Indiana Bankers Association
Iowa Bankers Association
Kansas Bankers Association
Kentucky Bankers Association
Louisiana Bankers Association
Maine Bankers Association
Maryland Bankers Association
Massachusetts Bankers Association
Michigan Bankers Association
Minnesota Bankers Association
Mississippi Bankers Association
Missouri Bankers Association
Montana Bankers Association
Nebraska Bankers Association
Nevada Bankers Association
New Hampshire Bankers Association
New Jersey Bankers Association
New Mexico Bankers Association
New York Bankers Association
North Carolina Bankers Association

North Dakota Bankers Association
Ohio Bankers League
Oklahoma Bankers Association
Oregon Bankers Association
Pennsylvania Bankers Association
Puerto Rico Bankers Association
Rhode Island Bankers Association
South Carolina Bankers Association
South Dakota Bankers Association
Tennessee Bankers Association
Texas Bankers Association
Utah Bankers Association
Vermont Bankers Association
Virginia Bankers Association
Washington Bankers Association
West Virginia Bankers Association
Wisconsin Bankers Association
Wyoming Bankers Association

cc: Members of the United States Senate