American Bankers Association®

# Memo

Date: March 1, 2022

To: Members of the United States House of Representatives
Members of the United States Senate

From: American Bankers Association

Re: Six Questions to Ask Credit Unions during this Week's fly-in

This week, you may be meeting with credit union representatives who are in Washington for the tax-exempt industry's annual government affairs conference. We thought it would be helpful to provide you with context and a few questions that you may want to ask of industry representatives while they are visiting your office.

The credit union industry was born at the height of the Great Depression with a purpose of providing financial services to those of "small means." However, there is no actual requirement that credit unions serve consumers that are most in need. Because they now provide services broadly, **today credit unions are a *$2 trillion* industry.** The 420 credit unions above $1 billion in assets, just 8% of all credit unions, enjoy 76% of the industry's profits and tax benefit. These credit unions have been empowered by their federal regulator to breach traditional limits on their membership. From humble beginnings, they have grown into regional and even national financial institutions, promoting extravagant business lines like condo projects and aircraft finance. Moreover, often unchecked and always subsidized, many credit unions are buying unrelated businesses, such as commercial advertising agencies, real estate brokerages, and increasingly, even tax-paying banks. Some are using their tax subsidy to pay for Super Bowl ads and NBA stadium-naming rights. These credit unions have strayed beyond the narrow purpose Congress created for them. They've graduated, and are essentially banks that don't pay taxes.

The $25 billion tax subsidy credit unions receive makes it imperative that Congress exercise its oversight authority to ensure credit unions fulfill their intended purpose.

**Here are the six questions you should ask credit unions this week.**

1. **How do you track and quantify your success in meeting the needs of your community? How can the public get access to this information?**

   Context: *Credit unions were created to serve consumers of "small means"—they receive a tax advantage on this basis—yet there is limited evidence they actually do this, and instead are targeting more affluent customers. Credit unions are exempt from the Community Reinvestment Act, which results in a major regulatory blind spot. CRA reporting metrics demonstrate that banks are serving underserved communities.*

Follow up question: To ensure the substantial tax and regulatory preferences awarded to the credit union industry are appropriately targeted, would you support service metrics to low-income communities? If not, why not?

**2. How do you define your membership?**

Context: *Credit unions were based on a simple concept—a common bond—where members all came from the same employer, church, school, or local community. Following recent NCUA rulemakings, that idea is fiction. At most of the largest credit unions, literally anyone can join—a point they state directly in their advertising. Large, multi-state areas can now be added for credit union service in both urban and rural America with ease. Groups can enable anyone to join some credit unions—for example, at NASA Federal Credit Union, anyone can join by joining the "National Space Society" for free. By approving these membership expansions, credit union regulators are determining the size and scope of the tax exemption, not tax policymakers. Any request for a statutory change to expand credit union membership should be met with skepticism.*

Follow up questions: What is a common bond? When anyone in an entire state can join a credit union, or when credit unions advertise that "anyone can join," or when credit unions can sign up customers through a website, is the "bond" a meaningful requirement? Does this undercut the purpose of the credit union tax exemption?

How has your membership changed in response to recent NCUA rulemakings? In recent years, the industry has asked for legislation to add underserved communities. Given multi-state areas can be added to a credit union's charter with ease, can't you do this under your existing authority?

**3. What was your experience with the PPP program? If you did not participate in the PPP program, why not?**

Context: *When the needs of small business were greatest during the COVID-19 shutdowns, fewer than one-in-five credit unions participated in the Paycheck Protection Program, despite those loans being exempt from the industry's business lending cap. The credit union industry made only 3% of all PPP loans and deployed less than 2% of all funds. Meanwhile, credit unions aggressively pursue more lucrative commercial lending opportunities. The total commercial lending portfolio of credit unions has doubled since 2015, and grew by 19% last year. Credit unions advocate for lifting the statutory cap on commercial lending under the guise of serving the small businesses in their communities, but they failed to show up when those businesses needed them the most.*

Follow up question: If you didn't participate in the PPP program, why not? Given the substantial tax and regulatory preferences Congress has given to the credit union industry, do you think it was reasonable for us to assume you would participate?

4. **Are there some segments of the credit union industry that have drifted from their mission and no longer justify a tax exemption?**

   Context: *While other financial institutions with cooperative, customer-owned structures have been subject to federal income taxes for decades, including mutual insurance companies, mutual savings banks, and mutual savings and loan associations, credit unions still maintain preferential tax status. Previous administrations – both Democratic and Republican – have long recommended ending the credit union industry's tax exemption.*

5. **Why are tax-exempt credit unions buying taxpaying banks? Doesn't that erode the income tax base at all levels—federal, state, and local?**

   Context: *Credit unions are increasingly buying taxpaying banks—more than 50 such deals have been announced over the past decade. When each deal closes, all subsequent growth is tax-exempt, and the former bank's services no longer fund the nation's schools, roads, and infrastructure. As credit unions are also exempt from most state and local income taxes, the increasing frequency of these acquisitions also becomes an expanding problem for local communities, at a time when state and local government financing is a major public concern.*

   Follow up question: If the purpose of these deals is to promote growth or new business lines for the institution, doesn't that suggest there really is a profit motive in the credit union industry's "not-for-profit" purpose?

6. **Do you have outside investors?**

   Context: *The National Credit Union Administration (NCUA) has created a mechanism to allow outside, for-profit investors—including institutional investors like hedge funds—to invest in tax-exempt "not-for-profit" credit unions. This allows the largest, most profitable credit unions to tap corporate debt markets. This subordinated debt counts as part of an institution's capital requirements for credit unions over $500 million in assets.*

   Follow up question: How do you protect against outside, for-profit investors changing the incentives of a credit union, which by law are supposed to be "not-for-profit?"

***Given the recent policy changes from the NCUA, including additional business lending authority, the ability to accept capital from outside investors, and effectively opening membership to all, many credit unions don't resemble the institutions they once were. Policymakers should ask tough questions of the industry and view their legislative requests with skepticism.***