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The Honorable Maxine Waters
Chairwoman
Committee on Financial Services
United States House of Representatives
Washington, D.C. 20515

The Honorable Patrick McHenry
Ranking Member
Committee on Financial Services
United States House of Representatives
Washington, D.C. 20515

Dear Chairwoman Waters and Ranking Member McHenry:

We write to oppose the tax-exempt credit union industry's latest attempt at charter enhancement, the "Expanding Financial Access for Underserved Communities Act," discussed at the July 21st committee hearing.

We share your interest in expanding financial access for the underserved and have previously outlined our support for important initiatives such as Bank On-certified accounts, which have produced real results in reducing the number of unbanked in the country. We cannot support this proposal, however, because growth-oriented credit unions with already expansive fields of membership have failed to demonstrate a commitment to serve the underserved despite a congressional mandate and federal tax exemption to do so. Instead, we view this proposal as yet another backdoor effort by the credit union industry to expand its membership rolls at the expense of tax-paying banks.

As credit union acquisitions of banks continue at an increasing pace, with more than 50 transactions announced since 2013 (and five acquisitions announced so far during August recess), the marketplace is demonstrating that credit unions have ample opportunity to serve additional communities under their existing authority. While credit unions, which are not subject to the same strict data reporting as banks, regularly tout their commitment to serving low- and moderate-income (LMI) communities, they have not stepped up to prove this service—and in fact evidence points to the contrary.

- Data indicates a general pattern of credit unions opening more branches (on net) in upper- and middle-income census tracts and closing more branches (on net) in LMI census tracts.
- Moreover, credit unions are asking for the additional authority provided by this proposed legislation without providing Community Reinvestment Act (CRA)-like metrics demonstrating their service to at-risk communities.
- This legislation would also inject the unrelated issue of the credit union industry's desire for additional business lending authority into the discussion over how to best serve underbanked communities. The disappointing effort by the credit union industry to stand by small businesses during their recent time of need makes this legislation even more inapt. Many credit unions chose not to participate in the Paycheck Protection Program despite a hope and expectation lenders would step up.

Rather than expand credit union authority, Congress should hold these institutions accountable through bank-equivalent CRA requirements that would require demonstrable data of the extent to which they currently serve people of modest means.

Tools Exist to Enable Community Credit Unions to Serve the Underserved
Credit unions are based on a simple concept—a common bond—where members all come from the same employer, church, school, or local community. As evidenced by the growing trend of credit unions buying taxpaying banks, that concept is no longer relevant at many credit unions, where, literally, anyone can join. This legislation would expand community charters just a few years after the National Credit Union Administration (NCUA) did the same. Given this permissive NCUA regulation, there is no justifiable need to go further.

Tools exist for credit unions to serve underserved areas if they have the will to do so.

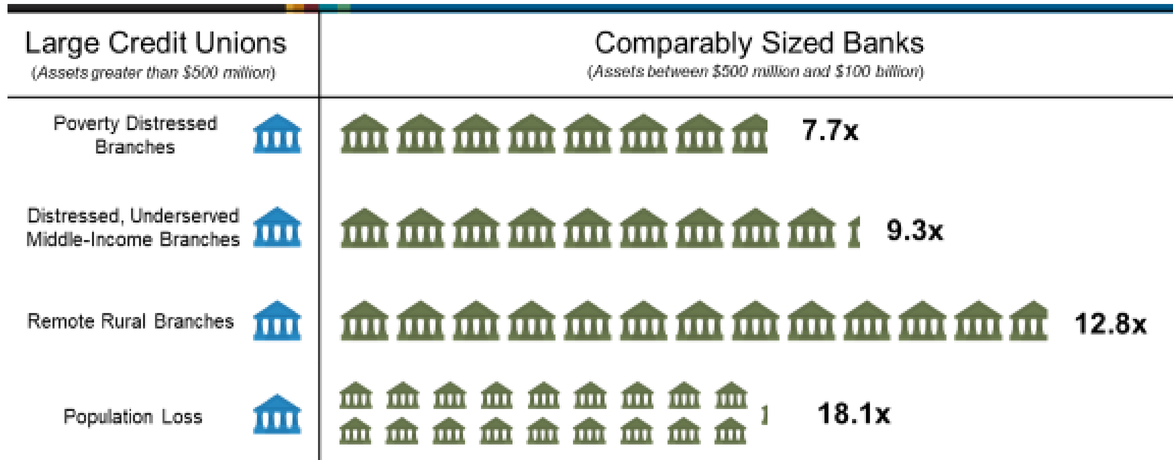
- For example, in urban areas, NCUA now allows large, multi-state regions called "combined statistical areas" (CSAs) to be considered "local communities" that meet the statutory test for credit union service. These 172 expansive regions across the country can be added to credit union service areas without regard to whether specific areas are underserved. For perspective, in the Washington area, land from West Virginia to Pennsylvania to the Delaware border to nearly Richmond can be labeled a single, local community: Washington, D.C. If they want to do so, credit unions can elect to focus their attention on underserved areas within a CSA; they do not need legislation to do so.
- In rural America, the rules already allow geographically enormous areas—any area with a population of up to 1 million and an average population density of fewer than 100 persons per square mile—to qualify as a "rural district." These new rules permit entire states, as well as multi-state regions, to be added as areas of credit union service. A credit union serving a rural district can elect to focus its attention on underserved areas without legislation.

Thus, community credit unions already have the ability to serve underserved areas if they identify a local need and choose to do so. NCUA rules require communities added to a credit union's field of membership to be geographically contiguous to a credit union's existing footprint, a condition that does not appear to be required by this legislation. This could suggest that the real motivation for this legislation is to enable credit unions to establish out-of-market footprints, rather than to serve low-income people close to home.

Congress Should Require Credit Unions to Demonstrate Service to Underserved Communities
Congress should require bank equivalent metrics for credit unions to demonstrate they are meeting their mission to serve the underserved <u>before</u> granting any expansion of powers. Credit unions are exempt from the Community Reinvestment Act, which results in a major regulatory blind spot. To ensure the substantial tax and regulatory preferences awarded to the credit union industry are appropriately targeted, service metrics to low-income communities should be required.

CRA reporting metrics demonstrate that banks are serving underserved communities. Congress should be aware that although credit unions' tax exemption is provided so they can serve people of "small means," large credit unions fail to locate branches in underserved areas, as compared with similarly sized banks.

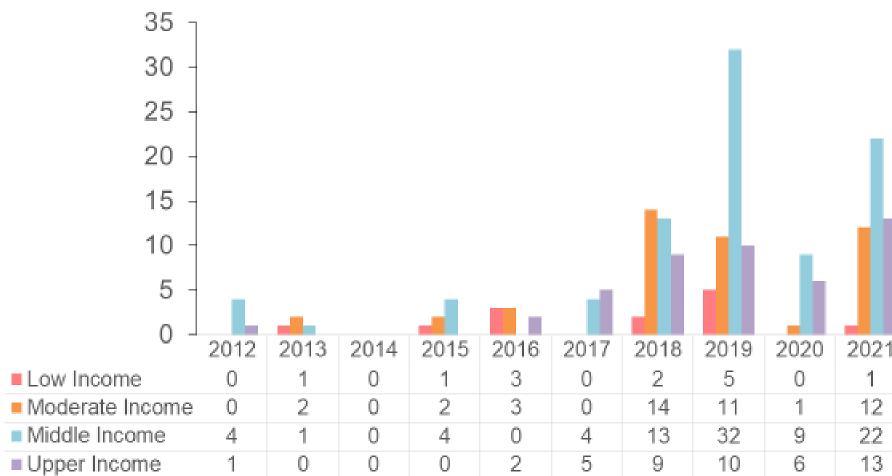
Banks Devote More Branches to Distressed Communities



Source: S&P Global Market Intelligence, 2020
Poverty Distressed – indicates that the census tract meets the current year's CRA poverty criterion
Distressed, Underserved Middle Income – indicates that the census tract is designated under CRA as a non-metro, middle-income, distressed or underserved geography
Remote Rural – indicates that the census tract meets the current year's CRA remote rural criterion
Population Loss – Indicates that the census tract meets the current year's CRA population loss criterion

More generally, analysis shows that credit unions are increasingly targeting wealthy communities, serving wealthy consumers, and are actually a contributing factor to *widening* economic inequality, particularly as they continue to buy banks and expand into commercial lending. Between 2012 and 2021, more than 70% of the branches of banks targeted for acquisition by credit unions were in an upper- or middle-income census tracts, and *only 13 branches out of almost 200* were in low-income tracts.

Branches of Banks Acquired by Credit Unions by Census Tract Income Designation



	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Low Income	0	1	0	1	3	0	2	5	0	1
Moderate Income	0	2	0	2	3	0	14	11	1	12
Middle Income	4	1	0	4	0	4	13	32	9	22
Upper Income	1	0	0	0	2	5	9	10	6	13

Source: S&P Global Market Intelligence and ABA Analysis

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Congress Already Structured the Credit Union Business Lending Cap to Enable Commercial Lending in Low-Income Communities

In 1998, Congress imposed a statutory cap on credit union business lending "to ensure that credit unions continue to fulfill their specified mission of meeting the credit and savings needs of *consumers*… through an emphasis on *consumer rather than business loans*."[1] At the same time, Congress provided an exemption to the business lending cap intended to help credit unions focused on serving low-income communities.[2] Moreover, government guaranteed loans, such as Small Business Administration loans and COVID-specific programs like the Paycheck Protection Program (PPP), also do not count against the cap, nor do business loans that are less than $50,000. These exemptions thus reduce impediments to serving underserved communities.

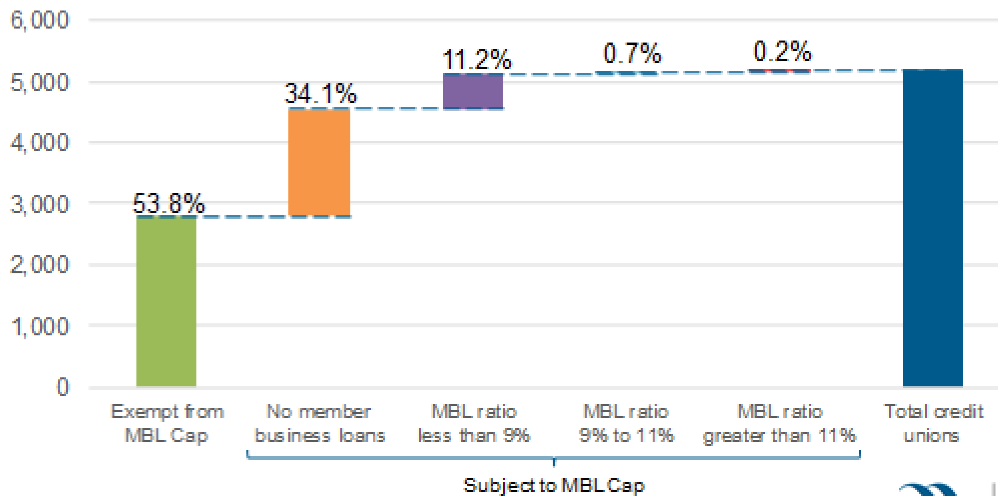
Nevertheless, recent actions by the NCUA have further eroded the restrictions, arguably making them meaningless in the real world.

- NCUA made it easier to be designated as a LICU, instead of raising standards to create an incentive for credit unions to broadly serve low-income communities. *Half* of all credit unions now enjoy this exemption, which exempts them from business lending limitations.
- In 2017, NCUA also implemented a rule enabling loan syndication to facilitate credit unions managing their compliance with the cap; pieces of loans traded to other credit unions do not count against the cap for the seller *or* buyer. Indeed, the largest credit union trade association boasted in an op-ed that NCUA's changes contribute to "more cap space than we had been seeking in the old Royce-Udall legislation that aimed to raise the cap to 27.5%," enabling credit unions to "officially declare final victory" on the issue.

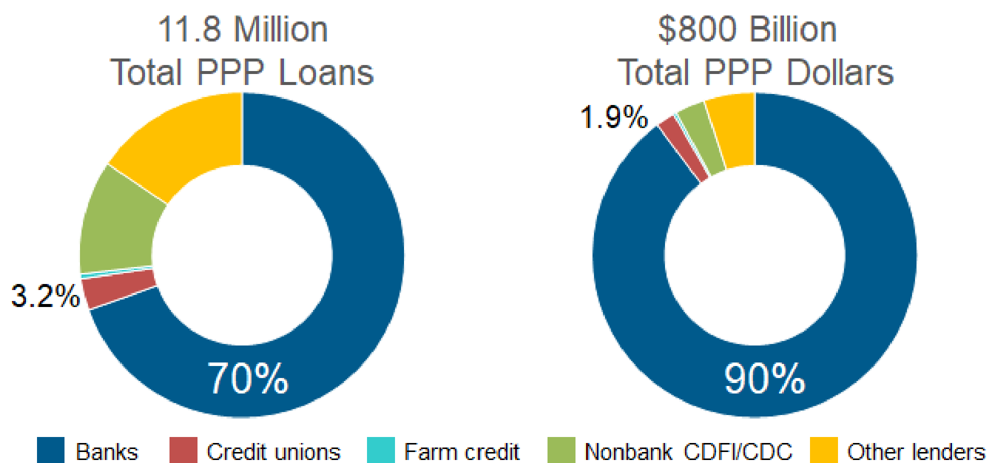
Today, most credit unions are nowhere near the cap. For those subject to it, only 12 credit unions hold 11% or more of Member Business Loans on their balance sheet, or roughly two-tenths of one percent of the industry.

[1] Senate Banking Committee Report 105-193. (emphasis added.)

[2] NCUA is authorized to designate certain credit unions as "Low Income Credit Unions (LICUs)," relieving these credit unions from the business lending cap (in addition to permitting acceptance of deposits from non-members and capital from outside investors). NCUA has designated *greater than 50% of all credit unions as LICUs* without requiring those designated to document service to low-income, leaving policymakers to question whether NCUA's actions truly support service to such communities.



Policymakers should likewise examine whether credit unions are truly committed to engaging in the activities they now seek authorization to do. 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 cap. The credit union industry made only 3% of all PPP loans and deployed less than 2% of all funds.



Credit union lending limits are not a constraint to meeting business credit needs, and America's banks remain opposed to efforts to change them.

In sum, this legislation appears to be misplaced, purporting to be about expanding service to at-risk communities, but actually enabling out-of-market expansion for credit unions. Congress should reject this legislation, and instead focus on service metrics that would demonstrate service to at-risk communities under their existing authority.

Sincerely,

cc: Members of the House Committee on Financial Services