American Bankers Association
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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," tentatively scheduled for the March 16 House Financial Services Committee markup. Although we will be sending thoughts on other bills scheduled for this markup in the coming days, we wanted to highlight our opposition to this legislation now.

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 tangible results in reducing the number of unbanked people in this country. This proposal, however, is simply a backdoor effort by the credit union industry to expand its membership rolls under the guise of financial inclusion. 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.

If credit unions want to serve underserved areas, they can make it a priority to do so without legislation. 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.

Credit unions are meant to be based on a simple concept—a common bond—where members all come from the same employer, church, school, or well-defined local community. Consequently, 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.

Critically, this legislation also does not contain any requirements comparable to the Community Reinvestment Act that would require credit unions to prove their service to low-income communities. 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, 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.

As evidenced by the growing trend of credit unions buying taxpaying banks (four deals announced in just the last two weeks), credit unions are leveraging their tax exemption to expand into more affluent markets. 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. 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. Although the legislation does require credit unions to offer business and marketing plans, that is hardly the same thing as the accountability provided by CRA.

This legislation would also inject the unrelated and highly controversial issue of the credit union industry's desire for additional business lending authority into the discussion over how to best serve underbanked communities. Most credit unions are nowhere near the 12.25% of assets statutory business-lending cap—over half of the industry is exempt completely, and only 12 credit unions subject to the cap hold 11% or more of Member Business Loans on their balance sheet, or roughly two-tenths of one percent of the industry. Likewise, 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 vigorously opposed to efforts to change them.

In sum, this legislation purports to be about expanding service to at-risk communities, but in reality it only enables unaccountable out-of-market expansion for credit unions. Congress should reject this legislation, and demand credit unions provide service metrics that demonstrate their service to at-risk communities under their existing authority.

Sincerely,

Bob Nichols

cc: Members of the House Committee on Financial Services