

President Biden's Executive Order Should Focus Congress on Credit Union-Driven Financial Consolidation

The Independent Community Bankers of America, representing community banks across the nation with nearly 50,000 locations, appreciates the opportunity to provide this statement for the record for today's hearing titled: "Oversight of Regulators: Does our Financial System Work for Everyone?"

In light of President Biden's recent Executive Order, "Promoting Competition in the American Economy," we ask the Senate Banking Committee to turn its attention to the anti-competitive effect of an emerging trend and abuse of the tax code: A surge in credit unions purchasing community banks – effectively leveraging their tax exemption to exacerbate consolidation among financial institutions. Just last month, a Michigan state-chartered purportedly "low-income" credit union announced the purchase at twice book value of a Florida bank specializing in aircraft financing for high-net-worth individuals. We believe such transactions flout the original purpose of the credit union tax exemption: to serve people of modest means.

As the President's Executive Order notes: "Excessive consolidation raises costs for consumers, restricts credit for small businesses, and harms low-income communities." ICBA requests that the Senate Banking Committee convene a hearing at the earliest opportunity to examine how the National Credit Union Administration's (NCUA's) permissive oversight of the credit union industry has allowed it to evolve far beyond its original mission. The agency has virtually dissolved field of membership limitations and, more recently, given credit unions authority to raise capital through the sale of subordinated debt securities to venture funds and other outside investors.

As large credit unions have prioritized rapid growth and non-traditional financial product offerings, the NCUA has failed to keep pace with the evolving character of the industry. A hearing is needed to update Congress's understanding of the industry and its impact on the American financial services landscape.

An NCUA that is truly independent of the industry it oversees, exercises robust supervision, and issues rules that are consistent with statutory authority is in the best interest of consumers, small businesses, and the American economy. A hearing would provide an opportunity to explore these issues and chart a course forward. Below we provide background to support this hearing request.

Today's credit unions: unrestrained growth and consolidation has created fewer, larger institutions

In the last five years alone, the total assets of federally insured credit unions have grown by more than \$610 billion, about 52 percent, and membership has grown by 21.7 million, over 21 percent, while the total number of credit unions has declined by 957, or 16 percent. Today there are over 364 credit unions with assets of more than \$1 billion and 14 credit unions with assets of more than \$10 billion, the largest of which has more than \$131.6 billion in assets, dwarfing the size of the community banks with which they compete. The largest credit unions are experiencing the fastest growth. The nation's largest credit union, Navy Federal in Vienna, Va., increased its assets by 137 percent between 2013 and 2020. What's more, credit unions with more than \$1 billion in assets account for the largest share of the industry's tax subsidy, over 75 percent.

Bank acquisitions: the next phase of the industry's aggressive growth

For decades, credit unions have used their tax subsidy and a permissive regulatory environment to expand their market share. What's happening today – credit union "weaponization" of their tax subsidy and lax regulatory environment to purchase whole community banks – is an order of magnitude more significant and warrants

Congressional scrutiny. These deals transform taxable business activity at community banks into tax-exempt activity at credit unions, thereby shrinking the tax base, not only at the federal level but at the state and local level as well.

The trend has sharply increased in recent years. Before 2012, credit union acquisitions of banks or bank assets were limited to two or three a year. They have steadily ramped up since then, accelerating rapidly in 2018, which saw 13 acquisitions, and in 2019, which saw 21, seven times as many as occurred just six years ago.

The acquisition targets have also grown larger. Most recently, in March 2021, VyStar Credit Union, a \$10 billion credit union headquartered in Jacksonville, Florida announced the acquisition of \$1.6 billion Heritage Southeast Bank, headquartered in Georgia, the largest bank to be acquired by a credit union to date. As noted above, in June 2021, Lake Michigan Credit Union, a \$10 billion low-income credit union based in Grand Rapids, Michigan agreed to buy Pilot Bank, a \$656 million community bank based in Tampa Bay, Florida which specializes in the financing of private aircraft, for twice its book value. The credit union tax exemption must not be used to subsidize the financing of private aircraft, an unconscionable departure from its original purpose.

These deals have received significant media attention and public interest. Prominent examples include a September 2019 Wall Street Journal article headlined, “Credit Unions Go on Bank Buying Spree,” and the December 2019 American Banker article, “Credit Unions’ Bank Buyout Spree Snags Biggest Fish Yet.”¹

All indications are that the credit union-bank acquisition trajectory will continue – unless Congress exercises needed oversight.

Credit union-bank acquisitions promote harmful consolidation

The purchase of community banks by multi-billion credit unions is a policy concern for the same reason that all financial industry consolidation is a concern: Larger, out-of-market institutions – be they banks or credit unions – displace locally based community banks. A market dominated by large institutions is less competitive, creates systemic risk, and will result in fewer choices for consumers and small businesses and ultimately less favorable rates and pricing. Institution size should be dictated by the marketplace and economies of scale, not by regulatory compliance burden, nor by a distorted tax code or captured regulator that favors one type of financial institution over another and promotes growth-obsessed credit unions.

Legislative and regulatory solutions

Finally, we urge you to use a committee hearing and your jurisdiction over the Federal Credit Union Act and the NCUA to explore available options for curbing the credit union-bank acquisition trend.

These options include requiring the NCUA to create more rigorous standards for the approval of acquisitions. In

¹ Clozel, Lalita. “Credit Unions Go On Bank Buying Spree.” Wall Street Journal, September 3, 2019. <https://www.wsj.com/articles/credit-unions-go-on-bank-buying-spree-11567515601?mod=searchresults&page=1&pos=3> McCarthy, Ken. “Credit unions’ bank buyout spree snags biggest fish yet.” American Banker, December 3, 2019. <https://www.americanbanker.com/news/credit-unions-bank-buyout-spree-snags-biggest-fish-yet>

addition, current NCUA rules impose numerous and daunting hurdles that make it nearly impossible for a bank to buy a credit union or for a credit union to convert to a bank. This explains why there have been so few of these transactions in recent decades. Congress should ensure that it is no more difficult for a bank to acquire a credit union than for a credit union to buy a bank. A level playing field in this regard would go a long way toward addressing the concerns outlined in this statement.

Closing

To conclude, the American financial services landscape is shifting rapidly and irreversibly as a result of the rapid growth of credit unions and credit union-bank acquisitions. This is a matter of significant public concern and Congress should exercise its oversight authority to examine these trends. The change in leadership at the NCUA should be viewed as an opportunity to prompt a course correction at an agency with increasing impact over American consumers and the economy at large.

Thank you for your consideration.