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February 28, 2022

The Honorable Richard Neal
Chairman
Committee on Ways and Means
United States House of Representatives
Washington, D.C. 20515

The Honorable Kevin Brady
Ranking Member
Committee on Ways and Means
United States House of Representatives
Washington, D.C. 20515

The Honorable Ron Wyden
Chairman
Committee on Finance
United States Senate
Washington, D.C. 20510

The Honorable Mike Crapo
Ranking Member
Committee on Finance
United States Senate
Washington, D.C. 20510

Re: Require Federal Credit Unions to File IRS Form 990 to Provide Transparency Into Their Tax-Exempt Expenditures

Dear Chairmen Neal and Wyden and Ranking Members Brady and Crapo:

As representatives of the community banking industry, the Independent Community Bankers of America[1] writes to highlight a disparity in the tax code that allows tax-exempt federal credit unions (FCUs) to avoid filing Internal Revenue Service (IRS) Form 990 (Return of Organization Exempt from Income Tax).This form is required of all but the smallest, non-religiously affiliated non-profits. The Form 990 exemption allows FCUs to benefit from tax-exempt status without providing transparency into their expenditures. Congress and American taxpayers are entitled to such transparency.

Requiring FCUs to file a Form 990 like other non-profit organizations would provide insight into the revenues and expenses of federal credit unions, including disclosures of their contributions to other charities, the compensation of executives, unrelated business income, money spent on travel, lobbying, advertising, and benefits paid to or for members. Disclosure of this information would not be a more significant burden on FCUs than it is on any other tax-exempt organizations. Additional transparency would allow the public to better distinguish among FCUs and to make an informed decision about whether the benefits FCUs provide to their members warrant their tax-exempt status.

Providing transparency into the finances of FCUs is especially important because, like all credit unions, FCUs are not subject to the Community Reinvestment Act (CRA). This means that, while credit unions were historically granted their tax-exemption for the purpose of serving people of modest means who could not access financial services at traditional banks, they are not evaluated on their record of lending to low- and moderate-income (LMI) individuals or in LMI census tracts. Community banks, by contrast, are subject to public disclosure of their CRA performance evaluations.

[1] The Independent Community Bankers of America (ICBA) creates and promotes an environment where community banks flourish. ICBA is dedicated exclusively to representing the interests of the community banking industry and its membership through effective advocacy, best-in-class education, and high-quality products and services. With nearly 50,000 locations nationwide, community banks constitute 99 percent of all banks, employ more than 700,000 Americans and are the only physical banking presence in one in three U.S. counties.

This lack of transparency or a statutory framework to evaluate their record of serving low-income individuals is in contrast with the federal government's treatment of other non-profit entities. For example, non-profit hospitals are subject to Section 501(r), which requires that they meet community health needs assessments and provide financial assistance to low-income patients. Section 501(r) also provides limitations on charges, billing, and collections. Credit unions are subject to no similar requirements.

FCUs have become full-service financial institutions that directly compete with community banks and other taxpaying financial services companies. Among the ranks of federal credit unions are Navy Federal Credit Union and Pentagon Federal Credit Union (with over $147 billion and $27 billion in assets respectively). Thirty-four of the largest 100 credit union in America are FCUs, and all have assets of at least $3.5 billion. These large and sophisticated institutions should not be exempt from providing transparency into how they spend their federal tax exemption. This transparency would allow policymakers to make an informed decision about whether the exemption remains justified.

Many state-chartered credit unions, which *are* required to file Form 990, are smaller than their federally-chartered counterparts. **Requiring FCUs to file IRS Form 990 would not unduly burden FCUs, it would bring them into parity with other non-profit entities, including other credit unions.**

Form 990 is an important enforcement mechanism to ensure compliance with Section 13602 of the Tax Cuts and Jobs Act, which levies a 21 percent excise tax on not-for-profit executive compensation above $1 million.[2] Congress has a compelling interested in making sure all non-profit entities operate under the same rules.

ICBA calls on the appropriate Congressional committees of jurisdiction to promptly hold hearings on the appropriateness of the federal credit union exemption from filing IRS Form 990 and urges the Congress to advance legislation to eliminate the exemption. Eliminating FCUs' exemption from 990 filing requirements will promote transparency for tax-exempt entities and allow public oversight of FCUs. Ultimately, it will help Congress to evaluate whether FCUs are adequately carrying out their mission of serving people of modest means.

Sincerely,

/s/

Rebeca Romero Rainey
President & CEO

[2] 26 USC § 4960.