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United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

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January 31, 2018

The Honorable J. Mark McWatters
Chairman
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314

Dear Chairman McWatters:

Federal credit unions were first established under the Federal Credit Union Act of 1934 for the purpose of promoting thrift among members with a common bond and providing them with a low-cost source of credit, especially to members who were unable to obtain bank credit. The statute made clear that “a meaningful affinity and bond among members, manifested by a commonality of routine interaction, shared and related work experiences, interests, or activities, or the maintenance of an otherwise well-understood sense of cohesion or identity is essential to the fulfillment of the public mission of credit unions.” For their work toward this public mission, they are specifically exempted from federal corporate income tax.

Congress reaffirmed its support for tax-exempt credit unions in the Credit Union Membership Access Act of 1998 (CUMAA), which established criteria for credit union membership. The law’s preamble states that, “The credit union movement began as a cooperative effort to serve the productive and provident credit needs of individuals of modest means,” and that “credit unions continue to fulfill this public purpose.” For fulfilling this purpose, credit unions will receive a tax exemption that is valued at approximately \$2.9 billion this year, according to the Joint Committee on Taxation.¹ This foregone revenue requires that the government closely oversee the credit union industry to ensure that it continues to fulfill its intended purpose.

I am concerned that the credit union industry is evolving in ways that take many credit unions further from their original tax-exempt purpose. Recent actions by the National Credit Union Administration (NCUA) have further relaxed field of membership constraints, opened the door to the use of alternative capital, and lifted limits on other activity, such as business lending, which has traditionally been less associated with the mission of tax-exempt credit unions. While these may be worthwhile pursuits, they should give us pause and cause a reflection on the core mission of credit unions and their tax-exempt purpose.

¹ Joint Committee on Taxation, Estimates of Federal Tax Expenditures for Fiscal Years 2016-2020 (JCX-3-17), January 30, 2017.

Furthermore, federal credit unions' common bond requirement seems to have been significantly watered down through regulatory interpretations and a dearth of enforcement in recent decades. Many credit unions now advertise that joining a related "association" by paying a nominal fee confers eligibility to join a credit union. In some cases, these associations are operated by the credit union itself. Other credit unions have geographic fields of membership that cover entire states, or consist of disparate non-contiguous areas. In other cases, credit unions have been established to serve the banking needs of otherwise highly-paid individuals with easy access to banking services. This is not the "well-understood sense of cohesion" that CUMAA envisaged credit union members sharing.

Credit unions are now offering a variety of services that some argue are beyond the scope of their original mission, including insurance products, real estate brokering and wealth management. Many of the larger credit unions appear to operate in the same manner as taxable banks. These activities include purchasing previously for-profit banks and buying the naming rights to sports stadiums. While state credit unions and nearly all other tax-exempt organizations pay Unrelated Business Income Tax on income from activities unrelated to their tax-exempt purpose, federal credit unions do not.

It is also worth noting that, unlike most non-profit organizations, federal credit unions are not required to file an IRS Form 990 which would provide the public with information on executive compensation. NCUA did not implement a 2006 GAO recommendation that they require federal credit unions to publicly disclose executive compensation for the sake of transparency.² Such transparency is vitally important to ensure that credit unions are honest stewards of the tax benefits that they receive.

To assist the Committees in better understanding NCUA's role and policy with respect to overseeing credit unions, please provide the following information:

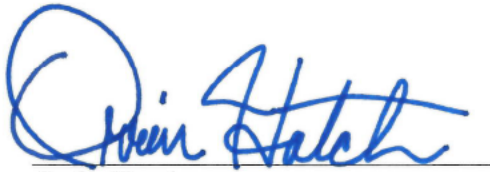
1. How does the NCUA examine associations that form a part of a credit union's field of membership to verify that they promote a meaningful affinity and bond among members, and to ensure that they don't exist solely to expand a credit union's field of membership?
2. What data does the NCUA retain on associational charters that have been rejected for not meeting NCUA's associational common bond policies?
3. What data does the NCUA retain on community charters that have been rejected for having too broad of a geographic field of membership?
4. What recommendations does the NCUA make and what policies do they enforce regarding credit unions offering services outside of their tax-exempt purpose?
5. What data does the NCUA collect on executive compensation at credit unions?

² Government Accountability Office, Greater Transparency Needed on Who Credit Unions Serve and on Senior Executive Compensation Arrangements (GAO-07-29), November 30, 2006.

6. How has the NCUA considered the issue of public disclosure of executive compensation since the GAO recommendation in 2006?
7. What recommendations does the NCUA make and what policies do they enforce regarding marketing expenditures such as corporate sponsorships?

Thank you in advance for your prompt response to this request. We ask that you provide this information to the Committee no later than April 6, 2018. If you have any questions or concerns, please contact [REDACTED]

Sincerely,

A handwritten signature in blue ink, appearing to read "Orrin Hatch", is written over a horizontal line.

Orrin Hatch
Chairman