



TRANSFORMATION OF CREDIT UNIONS AND FARM CREDIT DRIVEN BY OUTDATED TAX CODE

THE EMERGENCE OF MEGA CREDIT UNIONS AND A SURGE IN CREDIT UNION-BANK ACQUISITIONS

Federal credit unions are exempt from federal, state, and local taxes. This tax subsidy, which has outlived its original purpose, has created a wave of credit union purchases of community banks in recent years. A decade ago, there were only two to three such deals a year. In 2019, there were more than 20, and there is every indication that the pace will continue to increase in the post-pandemic recovery and beyond. *Just weeks ago, a \$10 billion asset Florida credit union announced a deal to purchase a \$1.6 billion Georgia community bank, the largest credit union-bank acquisition to date.* Credit union industry supporters as well as critics should be concerned about the impact of these deals on the American financial landscape and the erosion of the tax base as taxable activity in community banks is transformed into tax-exempt activity at credit unions.

An outdated tax code has transformed a credit union industry which once consisted of small institutions serving limited fields of membership and offering basic financial products. Today, the industry is dominated by multi-billion-dollar institutions, national in scope, with broad commercial-lending powers and no effective check on their fields of membership. They fund shopping malls, real-estate developments, and other commercial ventures. They seek naming rights to large sports stadiums, state fairgrounds, performing arts centers and other expensive public venues rather than serving members of “modest means.”

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 \$130 billion in assets. Credit unions with more than \$1 billion in assets account for the largest share of the industry’s tax subsidy, over 75 percent.

NEW, PERMISSIVE RULES WILL FURTHER TRANSFORM CREDIT UNIONS

The evolution of the credit union industry is the result not only of the tax code, but of permissive oversight and regulation from the National Credit Union Administration (NCUA), which has virtually dissolved field of membership limitations, expanded commercial lending powers, and, more recently, given credit unions authority to raise capital through the sale of subordinated debt securities to venture funds and other outside investors. The NCUA has thwarted the intent of Congress. For years, Congress has debated these issues and decided not to make these changes. The NCUA’s actions are transforming credit unions and causing irreparable harm to community banks, and their customers and communities. Enough is enough! The NCUA is an industry advocate and cheerleader, not a regulator.

SUPERVISION HAS SHORTCHANGED CREDIT UNION CONSUMERS

The NCUA’s consumer compliance examination and supervision program has failed to keep pace with a changing industry or prioritize the protection of consumers in the way the federal banking regulators do. This is evident by a sharp rise in consumer complaints received by the NCUA, the reduction in fair lending exams, and a trend of sinking consumer satisfaction with credit unions in recent surveys.

FARM CREDIT SYSTEM CHARTERED BY CONGRESS FOR A NARROW PURPOSE

The Farm Credit System (FCS) is a government sponsored enterprise (GSE) chartered by Congress primarily to serve bona fide farmers and ranchers and a narrow group of farm-related businesses that provide on-farm services. FCS lenders leverage their tax and funding advantages as government sponsored





enterprises (GSEs) to siphon the best loans away from community banks and disrupt rural communities. The FCS is the only GSE that competes directly against private sector, tax-paying lenders at the retail level. FCS was chartered by Congress with a narrowly defined mission in exchange for its GSE tax and funding advantages.

However, in recent years FCS has sought numerous non-farm lending powers to compete directly with commercial banks for non-farm customers.

FARM CREDIT REGULATOR FLOUTING CONGRESSIONAL AUTHORIZATION

FCS's compliant regulator, the Farm Credit Administration, has also sought to expand FCS activities through regulatory initiatives such as "investment bonds" and the "Rural Community Investments" regulation finalized in 2018. These initiatives provide authority for non-farm lending under the guise of "investments," though such lending goes beyond the constraints of the Farm Credit Act. Additionally, the Farm Credit Council has proposed replacing the FCA's approval of these "investments" with blanket FCS authority to finance any investment. ICBA opposes the Farm Credit Council's proposal.

Additionally, FCS has misused its "similar entity" authority to lend to the world's largest corporations headquartered in urban, not rural, areas, including CyrusOne, Verizon, Vodafone, U.S. Cellular, Constellation Brands, AT&T, and Frontier. This authority should focus exclusively on rural America.

Recent proposals to allow the FCS to become the equivalent of rural commercial banks would devastate thousands of rural community banks that serve rural and remote areas of the U.S. Such proposals are another FCS-initiated effort to utilize GSE tax and funding advantages to expand beyond statutory lending constraints, ignore FCS's GSE mission of serving actual farmers and ranchers, and dramatically increase FCS institutions' profits at the expense of the private sector.

REFORM AND REFOCUS THE FARM CREDIT SYSTEM

Congress should, among other actions, reform and refocus the FCS by equalizing tax treatment between community banks and FCS lenders; prohibiting FCS non-farm lending including "similar entity" and other types of loans to large corporations; prohibiting FCS predatory, below-market pricing of loans; and enforcing prohibitions against FCS deposit-taking schemes.

