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President and CEO

March 11, 2013

U.S. House of Representatives
Washington, D.C. 20515

Dear Representative:

On behalf of the 7,000 community banks represented by ICBA, I write to express our categorical opposition to the credit unions' latest effort to expand and redefine their tax-exempt charter. H.R. 719, the so-called "Capital Access for Small Business Act", would allow credit unions to raise capital from outside investors, discarding their longstanding reliance on retained earnings. This would fundamentally change the limited, member-focused character of credit unions. It would make credit unions beholden to outside investors without ceding their expensive tax subsidy. ICBA urges you to oppose H.R. 719 for the following reasons:

H.R. 719 undermines the cooperative character of credit unions

Under the Federal Credit Union Act, an essential feature of the "cooperative character of credit unions" is that they "must rely on retained earnings to build net worth."ⁱ This feature, one of only three enumerated in the statute, isn't accidental; it ensures that credit unions are operated exclusively for the benefit of members – the purpose for which they were created and granted a tax exemption. H.R. 719 would, under the very terms of the Federal Credit Union Act, undermine the cooperative character of credit unions by allowing them to issue supplemental capital to be included in regulatory net worth. Credit union management would be forced to answer to outside investors whether or not they have formal voting rights. Dividends or interest paid to these investors would reduce funds available for the payment of member dividends or funding lower borrowing rates or higher rates paid on deposits.

H.R. 719 is a blatant abuse of the credit union tax subsidy

H.R. 719 would allow profit-seeking investors to exploit the tax-exempt status of credit unions, which was created to benefit credit union members of modest means, not outside investors. Unlike for-profit, taxpaying corporations, credit unions would pay dividends out of untaxed net earnings, boosting dividend yields at the expense of taxpayers. Funds that would otherwise be invested in taxpaying corporations would be redirected to tax-subsidized credit unions. H.R. 719 should be scored by the Congressional Budget Office for its full budgetary cost before any further consideration.

H.R. 719 would benefit only the largest credit unions

According to a white paper prepared by the National Credit Union Administration's Supplemental Capital Working Group, "To a large degree, benefits (of supplemental capital) are dependent upon a credit union's asset size as utilization of all the supplemental capital options will require retention of expertise in securities regulation along with robust capital measurement and planning."ⁱⁱ The same white paper noted that: "Some credit unions have expressed concern

that supplemental capital could take a lot of political capital to achieve and come with other risks to all credit unions (e.g., taxation), while only benefiting a small number of primarily larger credit unions". H.R. 719 is principally designed to fuel the aggressive growth of multi-billion dollar tax-exempt institutions that have outstripped their retained earnings, the same credit unions pushing legislation to expand into prohibited business lending.

H.R. 719 ignores the many red flags raised by the NCUA's Supplemental Capital Working Group

The Supplemental Capital Working Group's white paper raised numerous red flags with regard to supplemental capital proposals based on the experience of classes of credit unions currently authorized to issue supplemental capital. Corporate credit unions' supplemental capital accounts were depleted during the recent financial crisis as they faced extraordinary losses on mortgage-backed securities. Low-income designated credit unions, due to negligence in their management of secondary capital accounts and the additional leverage they provide, have experienced high losses from loan defaults. The Working Group recommended a number of statutory restrictions and conditions to be included in any supplemental capital legislation (which they declined to endorse). Unaccountably, H.R. 719 fails to address many of these restrictions and conditions.

Congress exempted federal credit unions from federal, state, and local tax because they are not-for-profit, member-owned cooperatives with a specified purpose of serving the credit and savings needs of consumers, especially people of modest means.ⁱⁱⁱ ICBA urges you to reject H.R. 719 as another in a series of efforts by the credit unions to flout the boundaries and purpose of their charter. The legislation is an ill-conceived effort to benefit multi-billion dollar credit unions and would harm credit union members; federal, state, and local budgets; and taxpayers.

Thank you for your consideration.

Sincerely,
/s/
Camden R. Fine
President and CEO

ⁱ Federal Credit Union Act, Section 216(b)1(B). The other enumerated features that comprise "cooperative character" are that they "do not issue capital stock" and "have boards for directors that consist primarily of volunteers."

ⁱⁱ "Supplemental Capital White Paper." Supplemental Capital Working Group, National Credit Union Administration. April 12, 2010.

ⁱⁱⁱ Credit Union Membership Access Act of 1998.