



National Association of Federal Credit Unions
3138 10th Street North • Arlington, Virginia • 22201-2149
703-522-4770 • 800-336-4644 • 703-522-0594

B. Dan Berger
Executive Vice President
Government Affairs

June 15, 2011

The Honorable Harry Reid
Majority Leader
United States Senate
Washington, D.C. 20510

The Honorable Mitch McConnell
Minority Leader
United States Senate
Washington, D.C. 20510

Re: Create Jobs:

Dear Leader Reid and Leader McConnell:

On behalf of the National Association of Federal Credit Unions (NAFCU), the only trade association that exclusively represents the interests of our nation's federal credit unions, I write today in advance of the scheduled Banking, Housing, and Urban Affairs Committee hearing on credit union member business lending and in direct response to a letter you received yesterday from various banking trade associations.

As you may know, Senator Mark Udall (D-CO) has introduced bipartisan legislation, the *Small Business Lending Enhancement Act* (S. 509), which would raise the arbitrary credit union member business lending cap to 27.5% of total assets, up from 12.25%, and help stimulate the nation's struggling economy by increasing access to credit for small business owners. This bill is about helping small businesses and creating jobs.

Contrary to what the banking trade groups want you to believe, this legislation represents a carefully crafted compromise tailored to address concerns that raising the current cap could somehow create safety and soundness issues. Any participating credit union must be well capitalized; have 5 years of member business lending experience; be at or above 80% of the current cap for at least one year prior to applying; and must be able to demonstrate sound underwriting and servicing based on historical performance and strong management. In other words, this bill was designed to refute the banking industries desperate arguments that raising the cap would harm taxpayers.

The level of hypocrisy being displayed by the banks in opposing this legislation is remarkable. As you may remember, Independent Community Bankers of America supported legislation last Congress to create a \$30 billion “Small Business Lending Fund (SBLF)” for their member banks, calling this effort a “fresh idea that should be given the opportunity to work.” In late April, it was reported that the number of community bank applicants was a mere 626 out of the 7000 eligible. For comparison’s sake, the FDIC’s recently updated list of troubled banks stands at 888 institutions with 202 banks failing since the beginning of last year. Perhaps even more disconcerting, Congressional oversight hearings brought to light that over 60% of the taxpayer money requested from the SBLF was at the hands of TARP recipients. Ironically, this \$30 billion taxpayer slush fund idea was supported by the banking trades at the same time they were opposing efforts by credit unions that didn’t require a taxpayer fund to help small businesses. Unfortunately, the evidence is that this fund has done nothing to lower unemployment or create jobs and has become just another in a long line of bank failures.

The banking industry’s errant claims for imposing and maintaining the arbitrary credit union cap were refuted as far back as 2001, when the Treasury Department released a study entitled “Credit Union Member Business Lending” and found that “...credit union’s business lending currently has no effect on the viability and profitability of other insured depository institutions.” (p. 41). Additionally, when examining the issue of whether modifying the arbitrary cap would help increase loans to businesses, the study found that “...relaxation of membership restrictions in the Act should serve to further increase member business lending...” (p. 41). Furthermore, while the banking industry—in their shameless opposition to this proposal—mistakenly claims that credit union business loans are more risky, *the Treasury study concluded just the opposite* and stated that “We found that member business loans are generally less risky than commercial loans made by banks and thrifts...” (p. 41).

Lastly, while attacking the credit union tax exemption, the banking industry conveniently forgets to mention that a large number of banks do not pay corporate federal income tax because of their Subchapter S status. There are a total of 2,377 Subchapter S banks that avoid federal income taxes today. **What the banking trades don’t want you to know, is that the estimated value of the Subchapter S tax break for banks is \$2.05 billion for 2010, which is actually greater than the estimated value of the entire credit union tax expenditure (\$1.27 billion) for FY2010 as included in the President’s FY2012 budget message.** Perhaps the real issue should be the unfair advantage over credit unions that our nation’s banks get with their Subchapter S tax breaks.

Further, while they argue for the elimination of the credit union federal tax exemption, it is worth noting that even Americans for Tax Reform (ATR) has said that, “...any tax imposed on credit unions would have a direct impact on Americans’ pocketbooks. Credit unions often charge lower loan rates than banks, distribute billions of dollars in dividends to their members and, by virtue

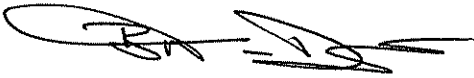
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of their competitive position, reduce costs for people who do not do any direct business with them.” With respect to the prospect of taxes on credit union, ATR notes that, “There’s simply no reason to impose them.”

It is with the above concerns in mind, on behalf of the nearly 93 million credit union members across the country, that we ask Congress to stand up for small business owners and allow credit unions with solid safety and soundness records to expand member business lending efforts. Lifting the arbitrary member business lending cap would be a positive step in creating more jobs and in turn, ensuring the country’s fragile economic recovery stays on course.

Should you have any questions or require additional information please do not hesitate to contact myself or NAFCU’s Vice President of Legislative Affairs, Brad Thaler, at (703) 842-2204.

Sincerely,

A handwritten signature in black ink, appearing to read "B. Dan Berger", with a large, sweeping flourish extending to the left.

B. Dan Berger
Executive Vice President, Government Affairs

cc: Members of the United States Senate