

January 19, 2010

The Honorable Harry Reid
Majority Leader
U.S. Senate
S-221, The Capitol
Washington, D.C. 20510

The Honorable Mitch McConnell
Minority Leader
U.S. Senate
S-230, The Capitol
Washington, D.C. 20510

Dear Majority Leader Reid and Minority Leader McConnell:

Recently, Senator Mark Udall (D-CO) introduced S. 2919, legislation to increase the credit union member business lending cap from 12.25 percent of a credit union's total assets to 25 percent, raise the *de minimus* level of a credit union business loan to \$250,000, and exclude other loans from the cap. The American Bankers Association (ABA) and the undersigned trade associations strongly urge the Senate to oppose this unnecessary legislation and to oppose any efforts to include this legislation in any jobs creation package that comes before the Senate.

Eliminating the business lending cap and expanding credit unions' already broad authority would substantially increase the risk exposure of credit unions and result in credit unions straying further from their traditional mission of serving consumers, especially those of modest means. Most importantly, efforts sought by Sen. Udall and the credit union industry would only impact a handful of credit unions. *In fact, only 37 of the nearly 7,600 credit unions, or about one-half of one percent of all credit unions, would be directly impacted because they are at or near their Congressionally mandated 12.25 percent lending cap.*

Furthermore, the National Credit Union Administration reported that the number of credit unions offering any business loans fell by 14.3 percent since the beginning of the year, to 1,674 credit unions. Therefore, raising the cap would have very little impact on lending to businesses.

When Congress passed the Credit Union Membership Access Act of 1998 (CUMAA) to protect consumers served by credit unions, it imposed a limit of 12.25 percent of total assets on business lending. Congress made its intent clear. The legislative history for CUMAA explained that the business lending restrictions:

...are intended to ensure that credit unions continue to fulfill their specified mission of meeting the credit and savings needs of consumers, especially persons of modest means, through the emphasis on consumer rather than business loans. The Committee action will prevent significant amounts of credit union resources from being allocated to large commercial loans that may present additional safety and soundness concerns for credit unions and that could potentially increase the risk of taxpayer losses through the National Credit Union Share Insurance Fund. (Senate Report 105-193, May 21, 1998, pp. 9-10)

The substantial tax and regulatory statutory benefits that credit unions currently enjoy are meant to be an incentive for credit unions to make credit available to consumers of modest means. Instead of furthering this goal, an increase in the business lending cap will simply allow credit unions to stray further from their traditional mission. In recent years, a series of studies by the Government Accountability Office (GAO), the Woodstock Institute in Chicago, and the National Community Reinvestment Coalition show large credit unions are failing in their mission to serve people of

modest means. As the GAO reported in November 2006, credit unions lag banks in their service to low- and moderate-income customers.

Additionally, Congress recognized that business lending is fundamentally different from consumer lending. The restrictions Congress placed on the ability of credit unions to make business loans reflect the reality that business lending poses greater risks than secured lending to individuals. Hence, removing the business lending cap will only increase the risk exposure of credit unions.

Credit unions and their regulators, at both the state and federal levels, have demonstrated a weak track record of evaluating and managing the type of risks involved in commercial lending. The GAO warned about this in 2003: “[S]ince member business loans constitute only a small percentage of credit union lending, most NCUA examiners will not have significant experience looking at this type of lending activity. In contrast, banks and thrifts offer these loans to a much greater extent than credit unions and their regulators do have experience in this area.” The GAO was skeptical that NCUA was up to “the challenge to ensuring that it is adequately prepared to monitor” the expansion of credit union business lending.

While the credit union industry would argue expansion of business lending would immediately impact all credit unions, the fact is that the primary beneficiaries of such expanded authority are large, aggressive, growth-oriented credit unions that have abandoned their mission of serving people of small means. *Again, only 41 of the nearly 7,600 credit unions, or about one-half of one percent of all credit unions, would directly benefit from increased business lending authority since only these 41 are at or within one percent of the current business lending cap.*

Moreover, under current law, the aggregate business loan limitation helps to prevent the tax-subsidy from being used to support large business loans. Business loans that are less than \$50,000 or have a governmental guarantee are excluded from this calculation of the aggregated business loan limit. Raising the threshold to \$250,000 would exempt even more credit union business loans from the aggregate business loan cap and reduce transparency. These loans would no longer be classified as member business loans, therefore NCUA’s member business loan regulations would not apply despite the fact that NCUA recognizes that business lending is fundamentally more risky than consumer lending. This would effectively impair the prudent supervision over credit union business lending and increases the likelihood of a loss to the National Credit Union Share Insurance Fund and a potential taxpayer bailout of credit unions. Credit unions currently have sufficient authority to meet the credit needs of small businesses without causing them to further stray from their mission of serving people of small means.

ABA and the undersigned associations urge you to oppose S. 2919 and its inclusion in any jobs bill.

Sincerely,

American Bankers Association
Alabama Bankers Association
Alaska Bankers Association
Arizona Bankers Association
Arkansas Bankers Association
California Bankers Association

Colorado Bankers Association
Community Bankers Association of Ohio
Connecticut Bankers Association
Delaware Bankers Association
Florida Bankers Association
Georgia Bankers Association

Hawaii Bankers Association
Heartland Community Bankers Association
Idaho Bankers Association
Illinois Bankers Association
Illinois League of Financial Institutions
Indiana Bankers Association
Iowa Bankers Association
Kansas Bankers Association
Kentucky Bankers Association
Louisiana Bankers Association
Maine Association of Community Banks
Maryland Bankers Association
Massachusetts Bankers Association
Michigan Bankers Association
Minnesota Bankers Association
Mississippi Bankers Association
Missouri Bankers Association
Montana Bankers Association
Nebraska Bankers Association
Nevada Bankers Association
New Hampshire Bankers Association
New Jersey Bankers Association

New Mexico Bankers Association
New York Bankers Association
North Carolina Bankers Association
North Dakota Bankers Association
Ohio Bankers League
Oklahoma Bankers Association
Oregon Bankers Association
Pennsylvania Bankers Association
Puerto Rico Bankers Association
Rhode Island Bankers Association
South Carolina Bankers Association
South Dakota Bankers Association
Tennessee Bankers Association
Texas Bankers Association
Utah Bankers Association
Vermont Bankers Association
Virginia Bankers Association
Washington Bankers Association
Washington Financial League
West Virginia Bankers Association
Wisconsin Bankers Association
Wyoming Bankers Association

Cc: Banking Committee Chairman Christopher Dodd
Banking Committee Ranking Member Richard Shelby
Members of the U.S. Senate