April 16, 2012

The Honorable John A. Boehner                  The Honorable Nancy Pelosi
Speaker                                           Democratic Leader
U.S. House of Representatives  U.S. House of Representatives
Washington, DC 20515                             Washington, DC 20515

Dear Speaker Boehner and Democratic Leader Pelosi:

On behalf of the over 7,000 community banks which ICBA represents, I write to express our resolute opposition to the “Restore Main Street’s Credit Act of 2012” (H.R. 4293). This controversial legislation is a deeply misguided attempt to undermine the cap on member business lending by tax-exempt credit unions and would have no impact on credit availability or job creation. Taxpaying community banks are meeting the credit needs of credit worthy small businesses and will continue to do so.\(^1\) H.R. 4293 is a solution without a problem. Credit unions can only expand credit to qualifying businesses by displacing loans made by tax-paying community banks, at a significant cost to the revenue base of federal, state and local governments.

As you may know from the credit unions’ aggressive campaign to advance H.R. 1418, credit union member business loans (MBL) are statutorily capped at 12.25 percent of assets. This cap was not set arbitrarily but was intended to keep credit unions focused on consumer loans to individuals of modest means, consistent with their tax-exempt mission. The MBL cap contains a number of exemptions, including Small Business Administration loans up to $5.5 million, any loan up to $50,000, and any loan secured by the borrower’s primary residence. These exemptions do not fit the needs of a handful of large, aggressive credit unions looking to expand into larger commercial lending.

H.R. 4293 would further undermine the MBL cap by adding a new exemption for any loan to a business with 20 or fewer employees and that “possesses, occupies, or leases a physical property” (i.e., “brick and mortar” businesses). These limitations are ineffective and poorly conceived. Many online businesses occupy a physical property. Similarly, employee size is an arbitrary and misguided metric that would exempt nearly all small businesses in the U.S. H.R. 4293 would not account for multi-million dollar loans to borrowers with tens or hundreds of millions of dollars in revenue.

\(^1\) According to a January 2012 survey by the National Federation of Independent Businesses (“Small Business Economic Trends”) 93 percent of small business owners reported that their credit needs were met or that they were not interested in borrowing.
While the bill sponsors clearly intend to call to mind staple Main Street businesses, such as bakeries or flower shops, their legislation would create a gaping loophole in the MBL cap.

Consider an example that made headlines recently in Georgia. First Center, Inc. is a Marietta, Georgia firm controlled by a real estate developer with a net worth of approximately $100 million. In 2008, Delta Community Credit Union (DCCU), a $4 billion credit union, created a $30 million Master Credit Facility for First Center for the purpose of buying up discounted properties on the Gulf Coast of Florida. Because First Center, like many real estate development firms, has few employees, under H.R. 4293 this $30 million loan would not count toward Delta Community Credit Union’s MBL cap.2 It’s bad enough, in our view, that a credit union could make such a loan under current law. How could such a $30 million loan possibly serve credit unions’ original tax-exempt mission? H.R. 4293 would only exacerbate the inequity of current law and take credit unions further from their original mission by facilitating more such loans and undermining the MBL cap.

I urge you to oppose H.R. 4293. This highly controversial and unwarranted bill is harmful to community banks already serving their local markets, would not expand credit availability, and would widen budget deficits at the federal, state, and local levels by displacing lending done by tax-paying community banks.

Thank you for your consideration.

Sincerely,

/s/
Camden R. Fine
President & CEO

cc: U.S. House of Representatives

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2 As it turns out, DCCU failed to perform on its loan commitment, and was successfully sued by First Center for a breach of contract which caused First Center to miss an investment opportunity. First Center was awarded $75 million judgment by a Cobb County Judge.