CCUA | ACCF

Canadian Credit Union Association

Association canadienne des coopératives financières

Submission to the 2020 Pre-Budget Consultations

House of Commons Standing Committee on Finance

August 2, 2019

RECOMMENDATIONS

1) That disclosure rules for credit unions using "banking" terminology only be triggered by the use of a short list of terms, and not by vital terms such as "online banking" for which there is no substitute. We also recommend that disclosure take place during the credit union membership onboarding process, and that the prohibition on "banking" terms in credit union domain names be eliminated.

2) That the outstanding recommendations in our red tape reduction plan for federally-regulated credit unions be implemented, as recommended by the All-Party Credit Union Caucus.

3) ***That the government legislate an updated definition for credit unions in the Income Tax Act to account for changes to our business model since the existing definition was written nearly fifty years ago.***

4) That the government to adopt the recommendation of the Senate Committee on Banking with regards to a highly-anticipated open banking framework, expected in 2020:

> ***"That the federal government, provinces and territories work together to modernize and harmonize their respective laws and standards in order that an open banking framework be inclusive and enable the participation of credit unions, caisses populaires and other provincially and territorially regulated financial institutions."***

Senate Banking Committee Report on Open Banking, June 2019

INTRODUCTION

The Canadian Credit Union Association (CCUA) is the national trade association for over 240 credit unions and *caisses populaires* outside Quebec. Credit unions are full-service financial institutions that are 100 per cent Canadian-owned. Our members are the only real competitors to the banks, and the only financial institutions located in nearly 400 Canadian communities. Credit unions contribute $6.5 billion to Canada's economy by providing deposit, loan and wealth management services to 5.7 million Canadians. Collectively, credit unions and regional centrals employ close to 29,000 people, and manage over $225 billion in sector assets, representing approximately 7 per cent share of domestic assets held by all Canadian deposit-taking institutions. By market segment, excluding Québec, credit unions occupy roughly 8 per cent of the mortgage lending market, 11 per cent of the small business market, and 10.7 per cent of lending to the agricultural market.

As co-operatives owned by the members they serve, credit unions are a different kind of financial institution. Unlike publicly-traded banks, credit unions are motivated not by profit maximization but by providing the very best service to our members and small businesses. Credit unions frequently give expression to this through preferential rates to members, enhanced customer service, or maintaining branches and service outlets in underserved communities. However, this structure also makes it challenging for credit unions to compete in a low-rate, low-return environment, particularly in the area of raising much-needed capital for business growth, and competing with much larger and better-capitalized banks, while providing enhanced member service.

Credit unions truly champion their members and the communities they operate in. In 2018, credit unions returned $174 million to their members and local economies in profit-sharing, and contributed another $62.3 million back into their communities. This is equal to four per cent of after-tax income, a much larger share than the less than the approximately one per cent of income donated by large banks.

Credit unions are owned by their members. For us, shareholder interests and customer interests are one-and-the-same: they are the same people. This makes us a fundamentally different kind of financial institution with different regulatory and legislative needs.

CREDIT UNIONS AND BANKING TERMINOLOGY

We would like to thank the members of this committee for their instrumental role in achieving an exemption for provincially-regulated credit unions from Section 983 of the *Bank Act.* This exemption enables provincially-regulated credit unions to remain competitive with domestic alternatives in the financial services industry by allowing them to continue to use generic terms such as "bank," and "banking," as they have done for decades.

Budget 2018 included the following line item: "providing prudentially regulated deposit-taking institutions, such as credit unions, flexibility to use generic bank terms, subject to disclosure…"

Currently, the *Bank Act* is written in a very broad manner with regards to these disclosure requirements for the use of bank terms. Any iteration of "bank" would trigger the disclosure, even for terms such as "online banking", which for our members are everyday terms and for which there exists no alternative.

There are also no clear rules on when or how disclosure should take place. In keeping with their customer service orientation, credit unions strongly prefer an approach that is informed disclosure, not a disclaimer. Marketing materials must not be made to include paragraphs of fine print, and ads should not contain prescriptive disclaimers at the end. Rather, disclosure should take place when a new credit union member joins the organization.

1) We recommend that disclosure rules for credit unions using "banking" terminology only be triggered by the use of a short list of terms and not by vital terms such as "online banking". We also recommend that disclosure take place during the credit union member onboarding process.

Inexplicably, credit unions continue to be prohibited from using bank terms in their domain names. This requirement, which will be enforced at the end of August by the Office of the Superintendent of Financial Institutions, makes no sense given the broader exemption to the prohibition on bank terms our members fought so hard for. Preserving the prohibition on domain names when it does not exist elsewhere makes no sense

2) We recommend that the prohibition on "bank" terms in credit union domain names be eliminated.

SUPPORTING COMPETITION: AMENDING THE *BANK ACT*

While regulation of credit unions historically resided at the provincial level, in 2010 the Government of Canada enacted amendments to the *Bank Act* to provide a national framework for credit unions.

Since the 2010 amendments, we have become aware of several areas of the *Bank Act* that were developed for shareholder-owned financial institutions and are not suited to the cooperative model of credit unions, which are owned by members of the credit union.

In December 2018, CCUA released a red tape reduction plan that included four easy and cost-effective recommended amendments to the *Bank Act* to address outdated regulation that imposes unnecessary burden on federal credit unions. These recommendations have been endorsed by the All-Party Credit Union Caucus.

1) The *Bank Act* permits members to vote electronically at the time of a meeting, but not in advance. We would like an amendment to enable advance electronic voting, which would improve accessibility and enable greater member participation. **This amendment was included in the *Budget Implementation Act, 2019.***
2) The *Bank Act* requires federal credit unions to physically mail hard copies of credit unions' detailed annual financial statements to every member, which imposes significant financial and environmental costs. We have proposed the provision be updated to allow for electronic provision of these documents. This was included in last year's budget but not in its implementing legislation.
3) Under the *Bank Act*, a single member can propose a special resolution for consideration of the members at an AGM. We recommend a minimum signature threshold of one per cent of total members or 500 members, whichever is greatest. to bring forward a special resolution.
4) Under the Bank *Act*, any member, shareholder and creditor of a federal credit union, and their personal representatives, may examine and make copies of the members register during usual business hours, which raises concerns around privacy. We believe this is more suited to shareholder institutions and should not be applied to credit unions.

Credit unions were encouraged to see the first two of these recommendations in Budget 2019 and one of the items (voting in advance of AGMs) included in the *Budget Implementation Act*. We have been engaged in productive discussions with members of all parties about these priorities, as well as with the civil service, and urge that the remaining amendments be endorsed by this Committee and implemented at the earliest opportunity.

3) We recommend that the government implement the remaining three of recommended amendments to the Bank Act to increase competitiveness and lessen the environmental impact of regulations on federally-regulated credit unions.

COMPETITIVE TAX POLICY FOR CREDIT UNIONS

The definition of credit union in the *Income Tax Act* is nearly 50 years old, dating from an era when credit unions' business practises and revenue sources were very different than they are today. However, CRA continues to interpret credit union revenue in the same manner as those long-passed days, when our members mostly engaged in plain-vanilla deposits and loans. Today, no financial institution could survive on the deposit-loan model alone, and so in order to continue to provide Canadians with some level of choice in financial services, credit unions have evolved. The *Income Tax Act* – and CRA – have not, to detrimental effects for our members.

The challenge with this is that modern credit unions do not fit within the tight guidelines of the definition. This is important as it may result in both significant issues for corporate income taxes as well as GST/HST taxes (where the *Excise Tax Act* draws upon definitions within the *Income Tax Act*).

While definitions of federally-regulated credit unions and banks are broad and tie back to the *Bank Act*, the *Income Tax Act* includes a specific series of tests to determine if a credit union meets the requirements for tax purposes. This is a narrow test, largely dependent on revenue sources, and quite stringent in comparison to the requirements for banks and federally-regulated credit unions.

This revenue test is based on the traditional banking model of the past and does not consider the services modern credit unions provide to members, nor the service delivery models required by provincially-regulated credit unions in managing economies of scale, in areas such as insurance, wealth and credit card services where third parties provide support across the credit union system.

4) We propose an updated definition for credit unions in the Income Tax Act to account for changes in our business model since the current definition was written nearly fifty years ago, modeled on the current legislated definition for federal credit unions.

Apart from this problem, there are many other inequities that exist in the tax system in Canada which, cumulatively, favour large financial institutions at the expense of smaller ones like credit unions. Tax is one of the areas that contributes to what is a worsening policy-driven concentration in financial services in Canada, to the detriment of the economy and the consumer. We would welcome the opportunity to work further with the committee and the government to address some of the tax policies that put credit unions at a competitive disadvantage.

OPEN BANKING

Open Banking presents a revolutionary opportunity for financial services in Canada. Canada's credit unions have come together in support of an open banking framework for Canada that is secure, accessible, and competition-friendly. In any open banking regulatory and legislative framework in Canada, it will be vital to ensure that smaller, provincially-regulated institutions be included. The Senate of Canada produced an in-depth report on this topic in June, in which it recommended:

> ***"That the federal government, provinces and territories work together to modernize and harmonize their respective laws and standards in order that an open banking framework be inclusive and enable the participation of credit unions, caisses populaires and other provincially and territorially regulated financial institutions."***

We strongly support this recommendation from the Senate Banking Committee's report on Open Banking.

5) We urge the government to adopt the recommendation of the Senate Committee on Banking with regards to credit union participation in any open banking framework in Canada.

Thank you for considering this submission. We welcome the opportunity to work with you to move these important recommendations forward.

Regards,

Canadian Credit Union Association

Martha Durdin
President & CEO
mdurdin@ccua.com 416.232.3422 (direct)