

August 27, 2015

Mr. Gerald S. Polquin
 Secretary of the Board
 National Credit Union Administration
 1775 Duke Street
 Alexandria, VA 22314-3428

Dear Mr. Polquin,

I serve as an outside director at a small community bank in northern Wisconsin, Tomahawk Community Bank. I am writing to express my strong objection to the National Credit Union Administration's (NCUA) attempted power-grab with regard to its efforts to rewrite credit union member business lending requirements/rules. This is a contentious issue that has been debated for years and warrants vigorous congressional oversight. NCUA is attempting an end run around Congress that is being led by multibillion-dollar credit unions, including those such as Landmark Credit Union (\$2.7 Billion) and the recently expanded (via merger) Summit Credit Union (\$2.3) here in Wisconsin.

The NCUA's goal is to circumvent reasoned safeguards currently in place with respect to Member Business Lending (MBL), despite in most cases lacking the necessary experience and expertise to venture beyond current MBL permitted activities. It is quite incredible to me that credit unions, which already possess a huge competitive advantage given the fact that they do not pay taxes, would so blatantly attempt to circumvent the Federal Credit Union Act, especially at a time when credit availability to business owners and larger commercial property owners is anything but restrained, evidence the termination/lapse of some Small Business Administration lending programs originated at the front-end of the recession.

By profession, I am a commercial real estate appraiser, and have been actively engaged in same across the northern half of the state of Wisconsin over the course of the past 30 years. As such, I am well aware of who is funding many different projects and properties that are commercial, special purpose, and agricultural related/oriented across these counties. It absolutely amazes me how far the credit unions have overstepped their original mission which paraphrased, was "to serve people of modest means who share a meaningful common bond, such as working for the same employer, attending the same church, or attending the same educational institution". That narrow defined focus has long been abandoned and permitted to be abused by Congress, much to the detriment of community banks.

For example, over the past 24 months, I am aware of credit union financing of golf courses (\$1+ million property) automobile dealerships, a new restaurant (\$600,000) built for a real estate investor /developer who in turn leased the facility to an operator, the restaurant sandwiched between a convenience mart with fuel sales (\$1.5 Million value) and a motel complex (\$2 million value) under that same developer's (CU member) ownership, a loan for a \$2 Million resort in the Vilas County, a several hundred thousand dollar loan for a recreational equipment sales and service center property in Oneida County, and the financing of a large mini-warehouse property in the Rhinelander market. I am even aware of a case where a credit union that assumed the defacto role of speculative real estate investor, acquiring a parcel of land for purposes of selling same to Wal-mart for development of a new Wal-mart Super Center.

Think about that last one in the context of the number of stories across the nation where Wal-mart enters smaller communities, decimates their local and long tenured retail base, often leaving central business districts in shambles and facing years of rebuilding/re-imaging and re-tenanting. Yet, here we have a regional credit union using tax-free dollars allowed by Congress to in many ways destroy a large number of small businesses in a community. In what world does that make any sense? Please show me in the Federal Credit Union Act where that was an intended consequence of conferring credit unions with tax-exempt status.

With these properties and deals as context, please show me how these large dollar amount commercial loans are serving people of "modest means". Show me how, given the disparity and differences across the commercial asset types identified and their geographic distances, that "common bond" such as working for a common employer, etc., is present. Obviously, it is absent. It is also further demonstration of the reason that nearly 50% of credit union members are classified as upper income and just $\pm 30\%$ of credit union customers fall in the low-and moderate income categories (by contrast, 40% of bank customers represent low to moderate income individuals/families, per ABA). It is also a why the NCUA prefers not to have other statistics advanced regarding its member organizations, such as the fact that a recent study in Oregon, a state possessing several dominant credit unions, revealed that just 1% of credit union home loans went to low-income borrowers. While an extreme example, absence of focus on low and moderate income consumers is pervasive throughout the credit union industry.

Given the above, Congress should not only reject any MBL rewrite or expansion, but should vigorously revisit the core mission for which credit unions were established and ensure that they are in fact even meeting that initial mission.

Mr. Gerald Polquin

The prior commercial lending examples I cited also indicate the degree to which credit unions are operating as de-facto banks, yet with the huge benefit of being non-taxed entities. At a time when all we hear about is "paying one's fair share", it is incredulous that billions of dollars of tax revenue are being avoided by credit unions when they have so blatantly overstepped their original authorities and intent.

The bank for which I serve as outside director is a mutual savings bank with 80+ year history in our community. We are not a stock organization, not a publicly traded entity, and all earnings, after-tax, are simply utilized in building capital and reserves. Yet, we compete on a rigged playing field, facing ever expanding credit union presence but having to compete with one hand behind our back because we do not enjoy the same tax-exempt status afforded a credit union. This can imply an automatic .25% to 1.00% difference in loan pricing, to the disadvantage of any tax paying bank. This has definite consequences in the lending arena. While we are 100% committed to and believe in full competition, it must be competition on an equal basis, not a "rigged" environment.

As you may or may not be aware, mutual savings banks were also afforded tax-exempt status after World War I, with that status present until 1951 when the Revenue Act of 1951 changed their status. In reference to mutual savings banks, the legislative history of the Revenue Act of 1951 states:

"Mutual savings banks were established to encourage thrift and to provide safe and convenient facilities to care for savings. They also have the responsibility of investing the funds left with them so as to be able to give their depositors a return on their savings. Mutual savings banks were originally organized for the principal purpose of serving factory workers and other wage earners of moderate means who, at the time these banks were started, had no other place where they could deposit their savings.

"At the present time, mutual savings banks are in active competition with commercial banks and life insurance companies for the public savings, and they compete with many types of taxable institutions in the security and real estate markets. As a result your committee believes that the continuance of the tax-free treatment now accorded mutual savings banks would be discriminatory. So long as they are exempt from income tax, mutual savings banks enjoy the advantage of being able to finance their growth out of earnings without incurring the tax liabilities paid by ordinary corporations when they undertake to expand through the use of their own reserves. The tax treatment provided by your committee would place mutual savings banks on a parity with their competitors." (Senate Report No. 781, 1951-2 C.B. 476.)

The reasons for removing tax exempt status for mutual savings banks were also applied to savings and loan associations in the same report and hearings:

"The grounds on which your committee's bill taxes savings and loan associations on their retained earnings, after making a reasonable allowance for additions to a reserve for bad debts, are the same as those on which mutual savings banks are taxed under the bill. Moreover, since savings and loan associations are no longer self-contained cooperative institutions as they were when originally organized there is relatively little difference between their operations and those of other financial institutions which accept deposits and make real-estate loans." (Senate Report No. 781, 1951-2 C.B. 478.)

Any reasonable and rational review of the current credit union operating model would clearly result in the following assertion being made for credit unions as well. Utilizing some of the exact same language as was advanced for mutual savings banks and savings and loan tax-exempt status revocation, the following incontrovertible statements are advanced.

"So long as they are exempt from income tax, **CREDIT UNIONS** enjoy the advantage of being able to finance their growth out of earnings without incurring the tax liabilities paid by ordinary corporations when they undertake to expand through the use of their own reserves. The tax treatment provided by your committee would place **CREDIT UNIONS** on a parity with their competitors."

AND

"Moreover, since **CREDIT UNIONS** are no longer self-contained cooperative institutions as they were when originally organized there is relatively little difference between their operations and those of other financial institutions which accept deposits and make real-estate loans."

Evidence of no differentiation being present between credit unions and banks is also present in various media outlets, even those that are business/finance oriented. For example, Street and Smith's Sports Business Daily's June 16, 2015 edition included the following. Note that this business journal easily interchanges credit union and bank in the same paragraph. To date, no revision or correction to the story has been posted.

Mr. Gerald Polquin

Golden 1, one of the nation's largest credit unions, has acquired naming rights for the \$477M downtown NBA Kings arena set to open in October '16. Sources pegged the deal at \$120M over 20 years, making it one of the largest naming-rights deals for a single-tenant NBA arena. An associated co-branded credit-card program and the cost of out-of-home advertising program associated with the stadium could escalate the price even greater, a source said. Sacramento-based Golden 1 is the latest company to support a hometown naming-rights platform. It is the largest credit union in California and the sixth-largest in the U.S. with \$9B in assets. The **banks** boasts 720,000 members in California, largely employees of the state government.

Interestingly, it was not only the above referenced publication but also the Sacramento Business Journal's article pertaining to the Golden 1 Credit Union naming rights for the Sacramento Kings new NBA arena that also utilized "credit union" and "bank" interchangeably. A copy of that entire article is appended. Of further interest is the fact that they actually issued a correction to the article, not to change "bank" to "credit union", but to indicate that Golden 1 was the largest credit union by membership, not asset size in California. So ingrained in the public's perception is the fact that credit unions are effectively banks that even a corrected/revised article does not change the nomenclature assigned the institution. You can probably bet that it was Schools First Federal Credit Union that contacted the writer in order to make sure that they were duly noted as the state largest asset-based credit union, yet use of the word bank in describing Golden 1 was apparently not an issue for them.

This is not surprising . Whenever the opportunity is presented - when interacting with people in general when a credit union is being discussed for some reason or another - and I ask them whether or not they were aware of the fact that credit unions pay no taxes, about 80% are totally unaware of this fact and are actually quite shocked by it.

And don't be fooled into thinking it is only large credit unions engaging in the naming rights game. Consider the following excerpt from the Credit Union Times® (red font being my comments):

Cloquet, Minn.

An ESPN writer once noted that "to step into the world of hockey in Minnesota is to step into a bit of a Bizarro World" where high school hockey games are often times more popular than any NHL match.

So when board members of the **\$70 million** Northwoods Credit Union in Cloquet, Minn., were approached to sign a naming rights deal for a hockey arena, they unanimously jumped on the opportunity.

"Hockey is such a big part of Cloquet and its history, and there are so many of our members and their children who have played hockey or are still playing, as well as a lot of coaches," Northwood CU President/CEO Barb Brown told the Pine Journal, a local newspaper.

Indeed, the small town of Cloquet is the proud producer of three NHL players, and two of them played for teams that won the Stanley Cup.

"While there is no easy way to put a monetary return on our investment (**Really? So the rationale for using US tax dollars - effectively - for this investment was what?**), we have been able to see a return from community recognition," Brown said. "**We were the 'paper mill credit union' for our first 70-some years. We've since expanded to include those who live, work, worship, attend school or volunteer in Carlton or Pine counties. (Again, boldly declaring that they are now far beyond the scope of their original intent/mission, yet still enjoying their tax free status).**

Finally, it is shocking to me that an industry so awash in cash given the significant number of naming rights at arenas, sports venues, and other properties/ facilities across the country, are effectively claiming pauper as rationale for expansion of their lines of business lending in order to remain "viable". It is truly laughable (unfortunately, the joke is on community banks and US tax payers) and egregious that the NCUA / credit unions would be approaching Congress in regard to MBL expansion at the same time that they are using millions and millions of dollars of tax exempt earnings in acquiring naming rights, as per the second appended article included with this correspondence.

In summary, the credit union industry and credit unions themselves with a very rare exception, no longer meet the original litmus test of a very small unified cooperative oriented funding mechanism. Quite frankly, it is big business in many cases, for the elite and well-healed, funding projects and asset types so far removed from credit union's original core mission as to be unrecognizable. As such, not only should MBL **not be expanded**, but critical review of core mission and purpose of each credit union actively undertaken and **at a minimum**, full and equal taxation consistent with that of banks immediately proposed and enacted.



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Time Branding for Credit Unions

By Tina Orem

May 01, 2015 • [Reprints](#)



Credit unions have a lot of options when it comes to marketing, but one method seems to be gaining popularity: Naming rights.

As the below chart of a sample of recent transactions shows, [naming rights deals](#) involving credit unions are popping up all over the country. And they

vary wildly, ranging from as much as \$7 million to as little as \$500,000.

In their most basic form, these deals typically involve trading cash for the right to rebrand a building, arena or other facility. Though having your credit union's name on the side of the local arena can mean huge exposure, buying naming rights often involves complex, lengthy negotiations with a variety of stakeholders, including local governments – and they can cost millions of dollars. In fact, corporate sponsorships, of which naming rights are a big part, eat up approximately 22% of corporate marketing budgets these days, according to Moery Company, a marketing and consulting firm in Alexandria, Va.

In the sample used for this article alone, at least \$23 million worth of naming rights deals were cut with credit unions in just the last nine months or so, one of the most recent being the Tullahoma, Tenn.-based [Ascend Federal Credit Union](#). On April 23, it announced a deal with Live Nation Entertainment for the rights to name a new amphitheater in downtown Nashville. Ascend has \$1.7 billion in assets and about 150,000 members.



Location

- Scranton, Penn.
- Hauppauge, N.Y.
- Birmingham, Ala.
- Falcon Heights, Minn.
- Tampa, Fla.
- Houston, Texas
- Federick, Md.
- Albuquerque, N.M.
- Tullahoma, Tenn.

Average cost per seat: \$678.95

Date	CU name	Reported periodic amount	Reported term	Total deal amount	Venue	Seats	\$ per seat
Oct 2014	Tobynanna FCU (now Valor CU)	\$50,000 year	10 yrs	\$500,000	Valor Credit Union Field at Scranton Veterans Memorial Stadium	15,000	\$33.33
Oct 2014	Island FCU	N/A	10 yrs	\$7 million	Island Federal Credit Union Arena	4,000	\$1,750
Jan 2015	Legacy Community FCU	N/A	5 yrs	\$2 million	Legacy Arena at the BJCC	18,000	\$111.11
Jan 2015	Spira CU	N/A	8 yrs	N/A	SPIRE Credit Union Home Run Porch	N/A	N/A
Jan 2015	Suncoast CU	N/A	N/A	\$5 million	Suncoast Credit Union Arena	3,300	\$1,515.15
Feb 2015	Smart Financial CU	N/A	5 yrs + 5-yr option	\$6.7 million	Smart Financial Centre at Sugar Land	6,300	\$1,063.49
Feb 2015	Nymeo FCU	\$150,000 \$250,000	7 yrs	\$1.05 - \$1.75 million	Nymeo Field at Harry Grove Stadium	5,400	\$194.44- \$324.07
April 2015	Nusenda CU	\$79,800	8 yrs + renewal option	\$638,400	Nusenda Credit Union Community Stadium	7,500	\$85.12
April 2015	Ascend FCU	N/A	10 yrs	N/A	Ascend Amphitheater	6,800	N/A

Though she wouldn't divulge the dollars involved in Ascend's deal, President and CEO Caren Gabriel told *CU Times* the cost was reasonable considering the amount of brand recognition the credit union would receive.

"When you consider how much it would cost you to promote your credit union on a scale equivalent to concert promotion, the initial sticker shock that might accompany a naming rights opportunity begins to fade," she explained.

Naming rights involve more than just a sign on a wall, Gabriel also noted.

"We believe the number of impressions – or the 'bang for our buck' – will surpass our investment," she said. "Consider the marketing elements associated with concert promotion: Radio, TV and social media; outdoor billboards; newspaper and other print media; posters and flyers; letterhead and business cards; press releases and publicity; ticket stock and much more. The Ascend brand will be on all of these elements."

CU Times' sample only includes arena deals, but not all credit unions are interested in sports venues – they're also buying naming rights to other facilities. In October, for example, the Asheville, N.C. city council voted to sell the naming rights for an outdoor public space to North Carolina State Employees Credit Union for \$1.5 million. And in February, the Colorado Springs, Colo.-based Ent Federal Credit Union signed a 15-year extension of an agreement with the University of Colorado that gives it the naming rights to a performing arts center.

Golden 1 Credit Union takes center court with arena naming deal

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Ben van der Meer

Staff Writer
Sacramento
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DENNIS MCCOY | SACRAMENTO BUSINESS JOURNAL

Golden 1 president and CEO Donna Bland: As a Sacramento-based organization, the credit... [more](#)

SEE CORRECTION AT THE END OF THIS ARTICLE

By putting the company name on Sacramento's highest-profile new building, **Golden 1 Credit Union** is looking to raise its own profile as well.

The **naming-rights deal**, announced Tuesday, will brand the downtown arena as "Golden 1 Center." President and CEO **Donna Bland** said the arrangement is a way of making the 82-year-old financial institution more public.

"This is our flagship moment," she said after the morning announcement with the **Sacramento Kings**. As a Sacramento-based organization, she said, Golden 1 has a vested interest in being part of a redeveloping downtown scene. The team's relationship will be deeper, she said, than it might be with a nonlocal company.

Richard Musci, an executive vice president and chief lending products officer for Golden 1, said the naming rights are just the beginning. He said he'd expect Golden 1 to be involved in many activities hosted at the arena, beyond just Kings' games.

One of Golden 1's first branches was at 8th and L streets, Bland said. Another branch, shuttered when redevelopment of Downtown Plaza for the arena began, will be re-established at 7th and L. That means the credit union will have a visible presence for both current customers and hoped-for new ones, she said.

"When you have your name on a major sports arena, more consumers become aware of the brand," she said. Golden 1 studied similar naming-rights deals elsewhere to verify that, she said. "It's key to expanding awareness and becoming the top-of-the-mind choice when consumers make choices about finances."

Golden 1 is already the state's second largest credit union, with a presence in 38 of the state's 58 counties and more than 700,000 members. Having the name on the arena will build on that, and in turn, help the bank serve both new and existing customers better, Bland said.

"We're trying to reach all demographics," she said. "This is an investment in the community."

CORRECTION

An earlier version of this story described Golden 1 as the state's largest credit union. SchoolsFirst Federal Credit Union, based in Orange County, is the largest by assets. Golden 1 is largest by membership.