September 28, 2020

To Whom It May Concern:

The Department of Justice's Antitrust Division is seeking public comments into whether the division should revise the 1995 Bank Merger Competitive Review guidelines.

My comments will address whether the Antitrust Division should include non-bank competitors in their bank merger analysis, specifically credit unions.

The Antitrust Division should include credit unions in their bank merger analysis. The Antitrust Division should assign credit union deposits the same weighting as thrifts at 50 percent.

The assignment of a 50 percent weight can be justified by the liberalization of credit union common bond and the expansion of credit union powers over the last three decades, which has fueled the growth of credit unions.

At the end of the second quarter 2020, federally insured credit unions have $1.75 trillion in assets.[1] In comparison, community banks reported $2.46 trillion in assets.[2]

As of June 2020, 357 credit unions have at least $1 billion in assets – holding 70 percent of the industry's assets. There are 14 credit unions with $10 billion or more in assets.

The following information indicates that credit unions are directly competing with community and regional banks for deposits and loans. These recent surveys and studies chronicle the competition posed by credit unions with banks.

A report, The Non-Bank Chronicles: The Rise of Credit Unions, by Keefe, Bruyette & Woods (KBW) examines the competitive impact of the credit union industry on banks.[3]

The report notes that the credit union tax exemption affords credit unions considerable room to competitively price loan and deposit products, which has helped drive significant growth over the last several decades.

Credit unions are the only non-bank competitors that can offer customers a federally insured deposit product.

Since 2005, credit unions have seen their market share of United States consumers steadily grow, with deposits expanding 108 percent from $578 billion to $1.2 trillion or approximately 9.2 percent of all federally insured deposits in the country.

According to a survey of 114 bank executives covered by KBW, 52 percent identified credit unions as the "greatest threat" to their ability to profitably grow in the future.

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[1] https://www.ncua.gov/files/publications/analysis/quarterly-data-summary-2020-Q2.pdf
[2] https://www.fdic.gov/bank/analytical/qbp/2020jun/qbp.pdf#page=1
[3] https://kbw3.bluematrix.com/sellside/EmailDocViewer?encrypt=543eceaf-2d54-458c-98cd-eb1a66718c52&mime=pdf&co=kbw3&id=IMcKendry@aba.com&source=mail

Furthermore, 68 percent of the respondents indicated that they expect credit union market share to increase in future years.

Bankers noted that the most challenging areas from credit union competition are retail deposits, followed by retail lending. Unsurprisingly, 82 percent of respondents selected "rate offered on loans / deposits" as credit unions' top method of competing, followed by 54 percent indicating that loan structure.

The report also notes that credit unions are expanding into the commercial lending space, which poses a significant competitive threat to for banks with under $10 billion in assets. Eighty-nine percent of the bankers reported noticing an increase focus by credit unions on small business customers over the last five years.

A survey of by the Federal Reserve and the Conference of State Bank Supervisors found that community bankers view credit unions as their primary competitor for consumer loans.[4]

The survey found that 41.3 percent of community banks stated that credit unions are currently their primary competitor for consumer loans. Survey respondents believe credit unions will in the future be their primary competitor for consumer loans (35.6 percent).

A study by the Federal Reserve Bank of Philadelphia found that credit unions are growing faster than small banks and have gained market share relative to small banks.[5] This study found that small banks and credit unions compete for similar borrowers in the residential lending market.

In addition, two recent surveys by the Federal deposit Insurance Corporation and the Federal Reserve have found that credit unions are the primary nonbank competitor to banks for small business loans.

A survey on Small Business Lending by the Federal Deposit Insurance Corporation found that credit unions were the primary nonbank competitor to banks for small business loans.[6]

According to survey responses, both small and large banks (52.3 and 55.0 percent) reported frequent competition with credit unions with regard to small business lending.

The report defined banks with less than $10 billion in assets as small, and banks with at least $10 billion in assets as large.

The survey found that small banks were more concerned than large banks about credit union competition.

Nearly one-third (34.1 percent) of small banks viewed credit unions as a top three competitor, compared with only 12.2 percent of large banks.

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[4] https://www.communitybanking.org/~/media/files/publication/cb21pub_2018_final.pdf
[5] https://www.philadelphiafed.org/-/media/research-and-data/publications/banking-trends/2017/bt-credit_unions.pdf?la=en
[6] https://www.fdic.gov/bank/historical/sbls/section4.pdf

Small banks, those with less than $250 million in assets, were about twice as likely as those with $1 billion to $10 billion in assets to view credit unions as a top three competitor (39.0 percent compared with 19.1 percent).

In the other report, the Federal Reserve reported that small loans to businesses have grown rapidly in the post-recession period, according to its Report to the Congress on the Availability of Credit to Small Businesses.[7] Between 2012 and 2016, outstanding business loans at credit unions increased by 53.4 percent. In comparison, small loans to businesses by commercial banks increased only 1.4 percent.

While the Federal Credit Union Act caps the aggregate credit union member business lending at 12.25 percent of assets, the business loan cap does not apply to credit unions with a low-income designation. As of June 2020, more than half of all federally insured credit unions have a low-income designation.[8]

It should also be noted that there are ongoing legislative efforts to increase or eliminate the member business loan cap. This has the potential to accelerate the rate of small business lending by credit unions.

In conclusion, credit unions should be included in bank merger analysis. Credit unions should be assigned at least a 50 percent weighting.

If you have any questions regarding my comments, I can be reached at [redacted]

Sincerely,

Keith J. Leggett, Ph.D
Sunset Beach, NC

[7] https://www.federalreserve.gov/publications/files/sbfreport2017.pdf
[8] https://www.ncua.gov/files/publications/analysis/quarterly-data-summary-2020-Q2.pdf