

Massachusetts Credit Unions



Creating Cooperative Power

**JOINT COMMITTEE ON FINANCIAL SERVICES
VIRTUAL PUBLIC HEARING
OCTOBER 26, 2021**

**STATEMENT IN SUPPORT RELATIVE TO
SENATE 656, SENATE 735, HOUSE 1108**

AN ACT RELATIVE TO GROWTH OPPORTUNITIES FOR STATE FINANCIAL INSTITUTIONS

ACTS TO STRENGTHEN THE STATE CREDIT UNION CHARTER

The Cooperative Credit Union Association, Inc. (“Association”) is the state credit union trade association, serving approximately 160 federally and state-chartered credit unions that are cooperatively owned by 3 million consumers as members. On average, one in three Massachusetts consumers are credit union members. Furthermore, the industry employs over 7,500 full and part-time employees. As not for profit cooperatives, over 2,000 volunteer directors further serve local credit unions who deliver \$310 million in member benefits annually.¹ On behalf of the Massachusetts credit union movement, Senate 656, Senate 735 and House 1108 are supported without reservation as priority legislation introduced this session by the Association. The Association also expresses its appreciation for the efforts of this Committee to consider these measures early within its banking-related agenda in the current session.

¹ As of June 2021, credit union member benefits include higher yield on savings: \$56.5 million; lower fees: \$13.6 million; lower loan rates: \$240.3 million; and savings to nonmembers: \$121.1 million (by impact of credit union presence in the marketplace). CUNA Research and Statistics.

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The thrust of these measures, taken collectively, is to take the next steps forward from the landmark legislation passed last session by this Committee, referred to as the credit union modernization bill,² and further chart the way for the future of credit unions to better serve residents of the Commonwealth. This strategic path, which is driven by the members of the Association, is comprised of the introduction of the following 3 measures which are the subject of the public hearing and testimony submitted today:

- ***Senate 656, An Act Relative to Growth Opportunities for State Financial Institutions***
- ***Senate 735, An Act to Strengthen the State Credit Union Charter***
- ***House 1108, An Act to Strengthen the State Credit Union Charter***

The remainder of this statement will address each measure.

A. Overview

1. Senate 656, An Act Relative to Growth Opportunities for State Financial Institutions

The thrust of Senate 656 opens an opportunity for growth for both state-chartered credit unions, who are structured as cooperative, mutually held, financial institutions, with their local mutual bank counterparts, savings and cooperative banks. In essence, the measure authorizes a mutual bank or credit union to combine with a mutual bank, stock bank or credit union in connection with purchasing the assets and/or assuming the liabilities, in whole or in part, and authorizes a voluntary liquidation, by amending relevant bank and credit union law only where the mutual bank or credit union is the surviving entity. Further, the bill permits such a transaction on an expedited basis as may be needed based on existing federal bank regulatory provisions for business combinations involving the purchase of all assets and all liabilities. A section-by-section summary of the bill is attached to this statement as Appendix A.

² Chapter 338 of the Acts of 2020.

2. Senate 735 and House 1108, Acts to Strengthen the State Credit Union Charter

The thrust of Senate 735 and House 1108, which are companion bills, is to strengthen the state credit union charter, mutual in form, to permit local corporate mergers and charter conversions amongst and between certain mutual banks. In addition, the bills also address enhancements to state investment provisions to allow emerging opportunities for state-chartered credit unions. Finally, the bills contain a technical amendment to delete an outdated liquidity requirement. A section-by-section summary of the bill is attached to this statement as Appendix B.

More specifically, the measures seek to authorize mutual bank and credit union mergers, with credit unions as the survivor, and mutual bank conversions to a state credit union charter by amending both bank and credit union laws. It also seeks to expand credit union investment opportunities to include asset-backed securities, core data processors, and fintechs, each subject to an aggregate cap of 10% of assets, and investment in the Massachusetts Capital Growth Corporation. Finally, the measures seek the deletion of an outdated requirement to automatically suspend lending when cash, as one source of liquidity today, falls below 5% of the total assets of a credit union.

B. Rapid Changes Underway in the Massachusetts Financial Services Marketplace

Massachusetts is currently experiencing a wave of financial institution consolidations as well as new and restructured market entrants. Covid-19 caused volatility and a market disconnect but did not drastically diminish a supply of capital or demand for transaction activity. While the recent

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pandemic slowed many traditional business activities for credit unions, corporate transactions were not halted and transaction activity continues to rebound quickly.³

The current experience is distinguished from previous periods of consolidation. Over the course of time, it is undisputed that there has been a healthy growth in bank assets. However, as a result of nearly 30 years of consolidation, a bifurcated system emerged both locally and nationally which generally includes a small number of very large banks operating on a nationwide basis and

³ In 2018, there were 6 bank merger transactions and a total of 3 credit union merger and charter conversions. A federally-chartered credit union converted to a Massachusetts state charter and a state-chartered credit union merged with and into another state-chartered credit union. A federally-chartered credit union also merged with and into a Massachusetts-chartered credit union.

In 2019, there were a total of 13 bank and credit union transactions which involved mergers. More specifically, 8 of the mergers resulted in the reduction of 3 savings banks, 4 co-operative banks and 1 credit union; 1 merger involved a New Hampshire state-chartered bank merging with and into a Massachusetts state-chartered trust company; 1 merger involved a Connecticut state-chartered bank merging with and into a Massachusetts state-chartered trust company; 1 merger involved a federally-chartered credit union merging with and into a state chartered credit unions; 2 mutual holding companies converted to stock holding companies; 1 savings bank converted to a trust company by operation of law; and 2 state-chartered credit unions converted to federally-chartered credit unions.

In 2020, there were a total of 14 major corporate transactions consummated. With respect to a total of 11 mergers, 7 resulted in the reduction of 3 co-operative banks, 1 trust company, and 3 credit unions. In particular, 1 merger involved a federally-chartered savings bank merging with and into a Massachusetts state-chartered co-operative bank; 1 merger involved a federally-chartered national bank merging with and into a Massachusetts state-chartered savings bank; 1 merger involved a federally-chartered credit union merging with and into a Massachusetts state-chartered credit union; 1 merger involved the excess deposit insurer for co-operative banks merging with and into the excess deposit insurer for savings banks resulting in a single excess deposit insurance fund providing excess deposit insurance coverage to all Massachusetts state chartered co-operative banks and savings banks; 1 co-operative bank reorganized into a mutual holding company structure; 1 mutual holding company converted to a stock holding company; and 1 credit union ended operations and voluntarily liquidated.

The October 7, 2021 edition of the Activity Report issued by the Division of Banks reveals 4 merger transactions and 2 purchase and assumption transaction activities for financial institutions.

a large number of small community banks generally operating in a small number of communities within a state, particularly Massachusetts, or perhaps a few states. Today, more and more large banks are expanding their footprint in the Commonwealth.⁴

As banks merge and/or deepen their presence in the Commonwealth, credit unions continue to market their products and services and provide community stability and local choice to unsettled consumers. For credit unions, such transactions and the financial landscape provide an additional opportunity to show the value they provide to even more consumers. Emerging from Covid-19 in a position of strength, local financial institutions are once again looking to strategic mergers to create synergies, drive scale efficiencies to support investment in technology, and generate long-term value for their institutions, members, and stakeholders.

C. Credit Union Transaction Landscape

Massachusetts state-chartered credit unions currently possess the authority to freely merge with their federal credit union counterparts with either party as the survivor.⁵ In addition, a state credit union can merge with and into state savings or cooperative banks or subsidiary banking institutions.⁶ Furthermore, a state credit union may convert its charter to a federally-chartered credit union or to a mutual bank.⁷

⁴ In December 2018, JPMorgan Chase announced the opening of its first retail branch in Greater Boston along with new lending commitments and investments in local workforce development to prepare area Boston residents for in-demand jobs and services.

⁵ Section 72 of Chapter 338 of the Acts of 2020. (consolidation); 12 C.F.R. 708(b).

⁶ M.G.L. c.171, s.78A (merger or consolidation of credit unions with savings banks, cooperative banks or subsidiary banking institutions).

⁷ M.G.L. c.171, s.80B (credit union chartered in commonwealth converted to federal charter); M.G.L. c.171, s.80A (conversion of credit union into mutual savings bank, mutual co-operative bank, mutual federal savings bank or mutual federal savings and loans association), respectively.

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Since 1998, federally-chartered credit unions have possessed the authority to convert to a mutual savings banks or mutual savings association charter. Furthermore, federal credit unions must deploy a two-part process to convert to a mutual savings bank charter before becoming a commercial bank.

Mergers or conversions of a federal credit union to a national bank may also be accomplished by a purchase and assumption agreement. Under such circumstances, the federal credit union transfers all of its assets to the bank and the bank would assume all of the federal credit union's liabilities pursuant to §205(b)(1)(C) of the Federal Credit Union Act. 12 U.S.C. §1785(b)(1)(C); NCUA Op. Ltr. 00-0360, July 2000. Similarly, a federal credit union may be the survivor.⁸

Sixteen states have statutes, regulations, or guidelines governing a bank selling assets to a credit union.⁹ Arkansas is the only state prohibiting the practice. Two states of note are Michigan and Washington. Michigan's Commissioner of Financial and Insurance Regulation issued an order authorizing state-chartered credit unions to enter into a purchase and assumption contract under their federal parity provision. Washington issued a procedure delineating how a purchase and assumption transaction would be carried out by a credit union purchasing a bank. A state-by-state list of authorities is attached to this statement as Appendix C.

⁸ GFA Federal Credit Union, Gardner, MA, became the second credit union in history to acquire a bank when it obtained the sole brick-and-mortar branch of Monadnock Community Bank, initially chartered as a credit union but converted to a mutual bank and then to a stock-owned bank, as well as its bank customers, employees, loans, technology, and other assets and liabilities in 2012. Since that time, 44 other transactions have occurred nationally under which a banks and credit unions have engaged in acquisition transactions across the country.

⁹ Alabama, Alaska, Florida, Hawaii, Indiana, Louisiana, Maine, Michigan, Nebraska, Nevada, New Hampshire, Oregon, Texas, Utah, Vermont, and Washington.

A clear statutory chartering gap exists in Massachusetts as there is no authority at present for a state credit union to be the survivor of a merger or conversion transaction with a bank.

Furthermore, state credit unions do not possess direct purchase of assets or assumption of liability authorities.¹⁰ Senate 656, Senate 735 and House 1108 seek to cure this problem by providing parity within merger and conversion transactions for mutual financial institutions in the Commonwealth as well as grant explicit purchase of asset/assumption of liability authority similar to that granted to state banks and federally-chartered credit unions so that a full complement of transaction opportunities are available equally for both local banks and credit unions.

D. Benefits of Diverse Local Financial Institution Partnerships in the Commonwealth

There are many beneficial member/consumer and business reasons to support legislative flexibility for a complete two-way street for transactions amongst Massachusetts mutual institutions. The most successful strategic combinations are the result of thoughtful and effective board processes that continuously explore strategic options to invest in and build out banking offerings. Well-functioning and well-advised boards understand the financial institution's available alternatives and evaluate a potential strategic transaction through a lens that considers the transaction in the context of those alternatives, including management's plan and projections,

¹⁰ Credit unions do possess direct authorities for each of the elements of a combination in current law. Elements of the transaction generally include the ability to acquire tangible assets and real estate for use as premises; to purchase loans; to purchase investments; and to assume deposits. M.G.L. c.171, s.8 (branches); s.75 (invest in real estate for use as premises); ss. 65A1/2 and 65E (purchase loans from and participate loans with federally-insured depository institutions); s.67 (investments); s.29 (accept deposits), respectively.

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the universe of potential acquirors or other strategic partners, their suitability and compatibility and their likely willingness and ability to pay. Combinations underscore the increasing importance of scale, advancing more solutions, gaining deposits, supplementing staff talent, accelerating digital and technological investment,¹¹ diversifying products and markets or market segments, and enhancing significant synergies and value creation that a well-planned and executed strategic transaction can create for constituencies on both sides of a transaction. Adding scale by spreading a larger stream of revenue over a smaller expense base allows both parties to reinvest back into their respective financial institutions to offer greater service and convenience to members and customers by leveraging tools such as the latest technology. Finally, credit unions are also very attractive partners in the marketplace as they can only engage in bank acquisitions using cash in comparison to cash and stock options due to their structure.

Without question, such acquisitions benefit a credit union, its members, a bank's stockholders and customers, and their communities. They are embraced by bank owners because they provide cash proceeds from the sale rather than stock ownership in some other institution as is the case when banks sell to other banks. Communities benefit from these transactions because credit unions pass earnings through to average consumers in the form of lower loan interest rates, higher savings yields, and fewer/lower fees. Additionally, credit unions preserve access to financial services for the bank customers who become credit unions members. The credit unions themselves also benefit from these purchases since the acquisition allows credit unions to grow,

¹¹ The Association notes the recent partnership of Digital Federal Credit Union, Marlborough, MA, Service Federal Credit Union, Portsmouth, NH, USAlliance Federal Credit Union, Rye, NY and Affinity Plus Federal Credit Union, St. Paul, Minnesota, to launch Bank Dora Financial, a digital checking account and bilingual Spanish-English mobile app for the unbanked and underbanked launched using a credit union service organization structure.

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expand their service offerings, and leverage synergies such as cultural alignment. Local economies also benefit by keeping the institutions assets in the state, rather than out of state.¹² The utilization of the same core technology provider is often a driving force, together with complementary real estate and lending portfolios, established community involvement and culture, all of which leads to a collaboration resulting in a true, local community institution that can be more effectively acquired than built from scratch.

From time to time in phases of financial institution consolidation, there can be instances where some institutions are unable to remain economically viable. To avoid a failure, a transaction under which a credit union is the survivor can ensure access to financial services is maintained for an established consumer base. If a transaction can avoid a banking desert, or continue to serve an underserved market, then consumers benefit and the choice is clear: credit unions are better able to serve their communities because of their statutory mission and commitment to members.

The Association also notes that by adding credit unions into the transaction marketplace benefits not only banks and credit unions, but also regulators. An increase in the number of competitive bidders helps as a direct increase in choice and in the diversity of players. In transactions,

¹² The Association also believes that credit unions and community banks should receive preference in the process to purchase or lease branches closed or divested as a result of a bank merger. Assuming competitive bids are provided, this will allow local credit unions and banks to expand their branch networks, increase competition, maximize banking choice, and provide continuing employment opportunities for existing branch personnel at locations slated to be closed.

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especially in those with financial challenges, the widest pool of candidates under consideration produces optimum results in the business and services arena and ultimately benefits consumers.

Finally, a recent St. Louis Federal Reserve Bank study exploring bank acquisitions by credit unions makes the case that credit unions, because of their not-for-profit community-focused structure, may be seen as “preferable suitors” to big banks by many of the smaller acquired community banks.¹³ As the study notes, because “small community banks tend to have deep ties to their customers... the owners of these banks might prefer to sell to an organization that has similar customer-oriented values;” not-for-profit credit unions hold a clear advantage in this regard over big banks.

It should also be noted that even with a recent increase in transactions, only a very small percentage of bank sale transactions are with credit unions. From 2012-2019, such sales accounted for only 1.7 percent of all bank sales and represented only 0.3 percent of merged bank assets. The St. Louis Federal Reserve Bank study determined that “because of all the regulatory and business-model barriers involved, it will likely never be a dominant transaction type, but there are clearly times when it makes business sense.” Id.

¹³ Meyer, Andrew P., St. Louis Federal Reserve. “*Why Are More Credit Unions Buying Community Banks?*” Regional Economist, April 2019. To be clear, credit unions are not legally able to purchase banks in the strict sense of the word since they cannot own bank stock. Rather, the acquisitions are essentially forward mergers for cash in which a credit union pays cash to bank owners for the right to assume the deposits, loans, branches and bank customers, who become members of the credit union. The bank charter is retired.

E. Transaction Processes Are Heavily Supervised by Regulators and Are Not Without Limitations

The pending bills each address the necessary two-way street for charter transactions between local banks and credit unions that are universally recognized as core components of a healthy financial institution regulatory structure. The merger, conversion and purchase/assumption processes are transparent and already supervised by the Massachusetts Commissioner of Banks, the National Credit Union Administration, and the Federal Deposit Insurance Corporation, which generally must independently approve transactions before they become final. In total, acquisition transactions in general can require gaining approval from six regulatory bodies and individuals.¹⁴ Credit unions are closely scrutinized by their respective regulators because they are subject to strict field-of-membership rules limiting who may and may not become a member. Credit unions are also subject to other statutory limitations, including a prohibition on holding capital other than as retained earnings. Business lending is also capped at 12.25% of assets, therefore there may be instances where a bank's loan portfolio cannot be assimilated into the credit union. Regulators will also focus on whether the transaction is appropriate in terms of safety and soundness. Amongst the most important aspects of credit union transactions for regulatory approval are (1) safety and soundness and (2) that the customers are eligible for membership. For the latter, regulators review how the bank customers fit into the credit union's field-of-membership and what the customers must do to become a member of the credit union. Additionally, NCUA as a regulator and share insurer continues to remain vigilant in this area and is in the process of finalizing a rule regarding credit union and bank

¹⁴ The Massachusetts Credit Union Share Insurance Corporation, the Massachusetts Commissioner of Banks, the Office of the Comptroller of the Currency, the National Credit Union Administration, the Federal Deposit Insurance Corporation, and the financial institution's members/shareholders.

mergers, referred to as combination transactions, to provide more parameters and even transparency in the process.¹⁵

F. False Narratives on Credit Union Bidding Power and Taxes

Opponents allege that credit unions hold a disproportionate and unfair advantage over banks in transactions due to disparities in accounting, capital treatment and structural characteristics, such as the lack of stockholders, which give credit unions the ability to tender significantly higher cash offers to bank sellers essentially locking other banks out of the bidding process. In reality, transactions reveal that banks completely dominate bank sales activity by accounting for 98.3% of all sales transactions over the past eight years.¹⁶

Negative income tax effects associated with bank sales to credit unions are also often raised in opposition. For example, a large percentage of the transactions closed and pending since 2012 involve banks that appeared to pay no taxes in the year prior to their sale to a credit union. This is true in 3 of the 5 completed or pending transactions in 2020. Overall, over half of banks that chose to sell to credit unions in 2020 appeared to pay no income taxes at all, according to regulatory call report filings. The median effective tax rate, including federal and state, on 2019 bank earnings is 0% amongst all bank sales to credit unions that were announced in 2020.

¹⁵ NCUA has a proposed rule pending relative to Combination Transactions with Non-Credit Unions and credit Union Asset Acquisitions.

¹⁶ Federal Deposit Insurance Corporation call reports for the period referenced.

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For the 39 bank sales to credit unions dating back to 2012, a total of 19 banks sold reported no applicable income taxes¹⁷ in the calendar year previous to the transaction. That represents 49% of the total banks that reported no applicable income taxes. Amongst all banks in the category dating back to 2012, the median effective tax rate, federal and state, in the year prior to sale is 0%.

It should be noted that even in cases where a decline in income tax payments arises from the shift of taxable bank earnings to not-for-profit, or untaxed, entities, those reductions are dwarfed by other taxes that are routinely paid as a result of the purchase transactions. This is attributed to the fact that credit union purchases are tendered in cash that generate capital gains, whereas bank sales to other banks typically occur with stock payments rather than cash payments. In addition, credit unions pay all other taxes, including property, employment, sales, and others.

Finally, the Association does not accept any premise advanced by opponents of the bills that if new expanded powers for credit unions are supported, then such action means that credit unions have outgrown the justification for their not-for-profit cooperative charter. On the contrary, the Association submits that favorable consideration of Senate 656, Senate 735 and House 1108, does not grant either the characteristics, nor the entirety of powers, possessed by Massachusetts for-profit banks. Rather these measures seek to provide a broader transaction platform to deliver stronger and more timely financial services for local financial institutions to better serve the Commonwealth's residents.

¹⁷ Federal Deposit Insurance Corporation call reports, bank income statements, for the period referenced.

G. Outdated Suspension of Lending Requirement-Section 3 of Senate 735 and House 1108

State credit union law currently requires that at least 5% of the total assets of a credit union must be carried as cash on hand or in certain statutory investments.¹⁸ Whenever such ratio falls below 5% of total assets of a credit union, no further loans can be made until the ratio has been reestablished.

This provision was enacted decades ago at a time when credit union balance sheets were in their simplest form and served as the primary liquidity mechanism to ensure that obligations were met. Cash is a current asset and still serves as the most liquid type of asset. Today, however, other primary sources of liquidity abound and include share deposit growth¹⁹ and income from loans and investments. Secondary and contingent sources of liquidity for credit unions include lines of credit from corporate federal credit unions, the “credit union for credit unions” and alternative providers such as the Federal Reserve Discount Window, Central Liquidity Facility and the Federal Home Loan Bank.²⁰ From a regulatory perspective, tools for risk management are consistent with the size and complexity of a credit union. Lessons learned from financial crises have resulted in regulatory guidance requiring sound liquidity planning and access to federal liquidity sources are vital to the safety and soundness of the entire credit union system.

Furthermore, and also driven by regulatory oversight, credit unions have adopted broad, robust asset-liability management frameworks, so that all assets are maximized to meet increasingly

¹⁸ M.G.L. c.171, s.57(loans to members; applications; preferences; limitations); M.G.L. c.171, s.71(cash on hand requirements and enumerated investments).

¹⁹ Due to the recent pandemic, members have increased savings levels at Massachusetts credit unions by 8.2% as of midyear 2021 and by 17.1% as of midyear 2020.

²⁰ NCUA Letter to Credit Unions 13-CU-10, October 2013.

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complex liabilities. It involves the process of managing the use of assets and cash flows to reduce the risk of loss present on balance sheets, thereby ensuring that assets are available to appropriately cover liabilities when due or expected to be due. Such a tool is conducted from a long-term perspective that manages risks, such as interest rate, arising from the accounting of assets vs liabilities. Most recently, the core deposits, shares and borrowings maintained by Massachusetts credit unions have increased to 59.1% as of mid-year 2021 from 52.8% as of mid-year 2020. Accordingly, the Association submits that the Massachusetts credit union industry is flush for liquidity purposes with a structure of deep liquidity resources available at the state and federal levels keenly overseen by regulators.

Another reason for prompt change is rooted in the process as set forth in the statutory structures, found within two separate sections. This process is automatic and mandates a trigger threshold which could have a significant impact on meeting the borrowing needs of members, especially during periods of unprecedented demand or intervening acts such as the recent pandemic. In addition, it may also pose a potential public confidence issue by the suspension of lending because of a singular balance sheet variation tied to an arbitrary threshold across all credit unions regardless of size, complexity or risk mitigation. It is important to note that the Association does not seek the elimination of the cash on hand requirement, only its outdated impact as it is automatic. Also, it should be noted that federally-chartered credit unions do not operate under a similar restriction.

Therefore, the Association seeks to modernize liquidity provisions for state-chartered credit unions by removing outdated thresholds and triggers which today's balance sheets and risk management frameworks have far surpassed through favorable consideration of Section 3 of the

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bills. As a further technical, companion language change, the Association also requests that the last sentence of the first paragraph of Section 71 of Chapter 171 be stricken for clarity and consistency:

~~"Whenever the aforesaid ratio falls below five percent of the total assets of a credit union, no further loans shall be made until the ratio as herein provided has been reestablished."~~

H. New Credit Union Investment Opportunities-Section 4 of Senate 735 and House 1108

The investment authorities of state-chartered credit unions are derived from two main areas of statute. One contains expressly enumerated investment provisions²¹ and the other authorizes investments in funds approved by the Massachusetts Commissioner of Banks and which appear separately on the Legal List of Investments ("Legal List").²²

The Association submits that efforts to provide a substantive update of state credit union investment provisions is long overdue. A review of statutory changes to date also supports this premise. Priority focus for change and action by this Committee has been targeted in the areas of deposits²³ and loans.²⁴ Last session's broad modernization law, while addressing governance, certain lending authorities, and other provisions, also did not address investments.²⁵

The last time this Legislature enacted any provisions to update state-chartered credit union investment authorities was accomplished in 2014, the first successful effort in over 30 years, and

²¹ M.G.L. c.171, ss.67 (investments) and 67B (stock investments/prudent man).

²² M.G.L. c.171, s.67(k). The Legal List is mandated by statute and prepared by the Division of Banks and Loan Agencies ("Division") annually pursuant to M.G.L. c.167, s.15A.

²³ Chapter 284 of the Acts of 2010 (removal of deposit cap).

²⁴ Chapter 454 of the Acts of 2008 (modernization of consumer and mortgage lending).

²⁵ Chapter 338 of the Acts of 2020 (credit union modernization).

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was generally limited in scope to avoid the stagnation of investment criteria to add provisions to the Legal List.²⁶ The effort resulted in streamlining the statutory petition process for the Commissioner of Banks to add permissible investments to the Legal List. It also updated criteria to add permissible investments, organized the criteria into one location within Chapter 171, and added certain “prudent person” stock investment authority.

Accordingly, the pending bills seek to address this problem by adding direct investment authorities into statute, distinct from the Legal List, which reflect emerging local and industry specific investment opportunities, as well as gaps in permissible, time-tested investments. This proposed authority is not unlimited as the bills contain provisions rendering such investment opportunities subject to and consistent with appropriate caps based upon assets found elsewhere in statute and Commissioner of Banks approval.

For example, the bills permit investment in the Massachusetts Growth Capital Corporation (“MGCC”).²⁷ MGCC is the state-created economic engine devoted to making nontraditional business loans and engaging in other activities to foster economic growth in the Commonwealth. It also serves as an important resource for small businesses seeking growth capital. Credit unions seek the opportunity assist in this area to invest in it with the funds of members as a safe, sound, local entity. It is also noted that other state financial institutions possess similar investment authority. M.G.L. c.167F, s.2, paragraph 30(A).

²⁶ Chapter 343 of the Acts of 2014 (legal list).

²⁷ Chapter 240 of the Acts of 2010 (massachusetts capital growth corporation).

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This Committee need not be reminded to look no further than the lending efforts of credit unions under the U.S. Small Business Administration's Paycheck Protection Program to measure the focus, dedication, priority, and service provided by credit unions to their small business members. During the recent pandemic, credit unions stepped to the plate to deepen and/or establish new relationships with this underserved market. Accordingly, the Association suggests that the mission of Massachusetts state-chartered credit unions is well established and directly aligns with that of the MGCC.²⁸ The investment authority proposed by the bills serves to direct additional infusions of capital funds from one local economic engine to another, thereby benefitting the Commonwealth, without imposing a cost or an unfunded mandate, while providing a safe and sound local investment option for credit unions, especially those with excess funds.

Another reason for change has arisen in within the credit union industry over the past few years.²⁹ A popular service organization based in New England which many credit unions and banks use to provide core technology services is structured as a cooperative organization and permits only its members or customers to purchase stock in the Connecticut-based company. There is no public market for the stock because of the ownership limitations, redemption provisions, and transfer restrictions. State credit unions seek to participate in this investment as a member of the cooperative thereby becoming shareholders and reflective of their own

²⁸ To accomplish its mission, MGCC works with local financial institutions, community development corporations, and other nonprofit organizations to finance projects that will produce jobs in economically distressed communities throughout the Commonwealth. MGCC also manages a competitive grant program for community development organizations that provide training and technical assistance to small businesses, including small contractors and uses its capitalization fund to service the debt it incurs to finance its loans.

²⁹ Div. Bks. Approval Letter, A20370, October 20, 2020.

cooperative structure and providing the opportunity to take advantage of a broad menu of services.

By leveraging the custom development and network of third-party partners through such an investment, the bills seek to permit credit unions to make such an investment to keep pace with rapid changes in the banking industry, increasing consumer demand for convenient access, and offer diverse products and services to members. This type of new intuitive technology environment is the future experience which is expected to offer credit union members the ability to achieve their financial goals within a seamless, interconnected banking experience. Without action, credit unions are limited to subscribing to membership-based organizations which provide professional services. M.G.L. c.171, s. 67A.

I. Conclusion

The Association, without question, believes that the best financial institution charter for the working families of the Commonwealth is the local, cooperative, not-for profit credit union charter. Yet as credit unions are confronted with the ever-changing financial landscape, it is essential that state laws are in place that are responsive to those changes. In fact, the real value of the state charter, when compared to a federal charter, is that of local legislators and regulators with timely responsiveness to credit union needs. The dual chartering system for credit unions must include a healthy, flexible and visionary state charter to serve the working families of the Commonwealth into the future. This is the premise that underlies the introduction of Senate 656, Senate 735 and House 1108, whose authorities have been presented to this Committee in previous sessions in various formats and appear again today with stronger drafting and a compelling need for action this session.

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There is no question that the pending bills elevate the credit union conversation now with a direct impact to be felt by member-owners who want their credit union to not only continue, but to grow to serve all of their upcoming and changing financial needs. Working with this Committee, the Association asserts that the progress made through education and efforts to modernize the state credit union charter last session can be built upon and deliver even more positive results for credit unions, the working families of the Commonwealth, our local communities, and banking partners within the financial services industry.

The Association respectfully requests your favorable consideration of the views of credit unions in steadfast support of Senate 656, Senate 735 and House 1108.