In addition to their tax advantages, credit unions enjoy regulatory advantages that have created charter arbitrage. The purpose of the FFIEC is, in part, to prevent regulatory disparities that carry consequences in the marketplace and that could inject risk across the system. Nevertheless, many disparities remain. Bank regulators should insist on parity between the two systems.

- **Differing Appraisal Standards** – The exemption level for commercial real estate appraisals was recently increased to $1 million – twice the level enjoyed by banks. Although this is a developer's dream, higher thresholds could increase long-term risk across the financial system.
- **Double Counting of Capital** – the National Credit Union Share Insurance Fund (NCUSIF) is structured differently than the FDIC's Deposit Insurance Fund (DIF). Although FDIC-insured institutions pay premiums that are then solely the assets of the DIF, credit unions place "deposits" at the NCUSIF that are equity for the NCUSIF and at the same time assets of the credit union. This allows credit unions to avoid the balance-sheet cost of deposit insurance contributions, essentially subsidizing the credit union industry by permitting double-counting deposit-insurance coverage payments.
- **No Risk Based Capital** – Banks have been under increasingly-stringent risk-based capital rules since 1988, and in particular have been living under Basel III for nearly a decade. By contrast, the current NCUA Prompt Corrective Action (PCA) rules are considerably less stringent. They set a single, seven percent ratio of risk-based net worth as the definition of a well-capitalized credit union. NCUA has finalized a new risk-based framework that revises this approach, but it has delayed implementation until 2020 and proposed to further delay it until 2022.
- **Counting of goodwill as capital in mergers** – Credit unions are able to count goodwill as capital in mergers, including when they buy banks. A credit union is able to record goodwill on the balance sheet (subject to an annual impairment test), or amortize goodwill over 10 years. This makes banks less competitive bidders when competing with credit unions for M&A opportunities.
- **Differing standards of what counts as capital** – NCUA allows loans to other credit unions to count as net worth even though under GAAP they would be assets against which regulatory capital must be held. NCUA also counts reserves as if they are retained earnings, as opposed to segregating loan loss reserves from capital as occurs in the bank context. This disparity could amplify the impact of the current expected credit loss (CECL) accounting.
- **No CRA analysis in merger context** – Credit unions are exempt from the Community Reinvestment Act, which relieves them of CRA analysis when they buy a bank—making their bid substantially more certain and attractive to a seller.