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What's lost in the din of a bank-credit union shouting match

By Joe Bonner August 17, 2022

The trend of credit unions buying banks over the past few years has generated energetic and highly critical responses from all corners of the banking industry including the American Bankers Association, the Independent Community Bankers of America, every state bankers' association and multiple other similarly interested entities. We see different variations of the same arguments in both national and regional banking publications on a regular basis.

Not surprisingly, the credit union industry has developed its own stock responses to banking industry criticisms. But are both sides so involved in debating the details of this issue that they are missing obvious and perhaps more practical questions?

I was engaged by a community bank to help develop an updated strategic plan. As we started to discuss potential scenarios for growth by acquisition, one of the executives launched into a bit of a tirade about credit unions buying banks. His rant followed the main industry talking points about loss of tax revenue, credit union executive pay, nonprofits buying for-profit businesses and credit unions not being subject to the Community Reinvestment Act.

The executive referred to a local transaction from the prior year where a large credit union had purchased a small bank. He tossed out random pieces of information about the bank to make an argument that state regulators should not have approved the deal. I was familiar with the transaction and had previously spoken to an executive at the credit union in question. Of course, that credit union executive had the exact opposite take on the transaction.

I knew a little about the bank in question. It wasn't officially "troubled" because it wasn't under a published regulatory enforcement order, but it had a cross section of sobering challenges that many small banks face. These included limited post-pandemic growth prospects, the mushrooming cost of maintaining technological relevance, and tremendous difficulty attracting millennials and Gen Z as both customers and employees.

So, the bank retained an investment banking firm to explore a sale. It wasn't a secret because that firm reached out to multiple institutions in the region whose balance sheets and strategic appetite might facilitate a fit. This was far from a backroom deal. The bank openly put itself up for sale, many banks were invited to consider acquiring it and a credit union made the best offer.

Community bank executives and directors should ask themselves how, if their bank was for sale, they would react to a credit union expressing interest. Boards of banks for sale always work to obtain the best outcome for their shareholders. If a credit union's offer included the highest multiple of price to tangible book value, limited credit marks, no earn-outs and was all cash (as all credit union purchase offers are), would the bank board not have an obligation to seriously consider it? In the absence of a nearly equivalent offer from a fellow bank, would the board not have a fiduciary duty to accept the credit union's offer?

For credit unions, boards and executives should ask themselves if this pursuit of banks is worth the risk. It's more philosophical than the question for bankers, but it's just as important.

Banking industry arguments and lobbying efforts against credit union tax status have been going on for decades, if not generations. Despite the size of the cottage industry built around this ongoing campaign, no significant change has occurred, and none seemed likely, perhaps until now.

Efforts to persuade Congress to reduce or eliminate the credit union tax advantage had been stuck on the proverbial back burner. There simply weren't any new developments significant enough to overcome that longstanding political inertia, at least until this issue provided the bank lobby with new and compelling avenues of attack that have recently produced small victories in certain states from regulators and legislatures. That's far from convincing the U.S. Congress to eliminate the credit union tax advantage, but it's movement — for banks and against credit unions.

No one knows where those initial movements might lead, but any sustained momentum will almost certainly be unfavorable to credit unions.

The credit union industry accurately notes that of roughly 2,000 whole banks purchased or absorbed through merger (outside of FDIC receivership) in the past decade, only 50 were purchased by credit unions. Is the risk of even the slightest change in congressional thinking toward credit union tax status — something credit unions view as critical to the economic viability of their model and thus their mission — worth making such a small ripple in a large pond?

Community bank executives and directors who so energetically criticize these transactions should consider whether their attitude might change when the time comes to sell their bank.

Credit union executives and directors who so passionately defend their tax status should ask if continued bank purchases might lead to a crack in the political shield that has protected that tax status so well for so long.

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