Statement of the Massachusetts Bankers Association in Opposition to
H 1032/S 623 - An Act Relative to Growth Opportunities for State Financial Institutions
Joint Committee on Financial Services
October 24, 2023

On behalf of our more than 120 commercial, savings and cooperative banks and federal savings institution members with more than 72,000 employees located throughout the Commonwealth and New England, the Massachusetts Bankers Association (MBA) appreciates the opportunity to submit testimony in strong opposition to **H 1032** - *An Act relative to growth opportunities for state financial institutions*.

The customers of our community banks are your constituents, local merchants and business entities in your districts. These banks support your communities in numerous ways and the corporate taxes that they pay fund the budgets you pass each year. Their employees are your neighbors as well as the volunteers you see at so many events and fundraisers as well as serving on various local boards and committees. Their thousands of banking offices anchor your business districts. These community banks have no interest in liquidating their affairs and terminating their commitments to be bought by a credit union.

This legislation has one goal sought by the large, bank-like credit unions. It seeks to allow the benefits accrued by the not -for -profit status of those multi-million- and billion-dollar credit unions to buy a community bank. Such a corporate transaction is neither sought by our member banks nor likely a priority for traditionally operated credit unions.

As drafted, the legislation makes significant adverse changes to existing law to create this new transaction. It also seeks to place the depositors of a community bank in some unknown, undefined status in the proposed acquiring credit union as well as other negative consequences to those depositors.

Current credit union law in chapter 171of the General Laws on membership reads, in part, as follows.

"Member", a person who holds one or more shares in the credit union. (Section1)

"A member may vote;(i) in person; (ii)by mail; or by electronic means…." (Section 11)

"Every member of a credit union shall hold 1 share…." (Section 30)

"The capital, deposits and surplus of a credit union shall be invested in loans to members…" (Section 57)

Yet, **H 1032/S 623** states: "The depositors of such bank shall become members of the credit union within 2 years after such transaction is approved or for such longer period as may be approved by the commissioner." (lines 25 to 27)

The bill is silent on their status, rights, eligibility for loans and all matters related to their accounts during any interim period of membership.

As drafted, the bill also ignores the owner-members of the purchasing credit union. The owners have no voting rights in **H 1032/S 623** on a proposed transaction to buy a bank. **H 1032/S 623** is both a completely unnecessary and flawed bill.

The legislation reflects the continued effort by the largest credit unions to seek additional amendments to credit union law even if never to be used. This is especially the case on amendments that were passed by this Committee and the Legislature to improve the rights of the owner-members of the credit union. For example, in the 2004 Session the Legislature passed an Act allowing the owners of the credit union to vote by mail. In 2020, this Committee reported favorably on a bill modernizing the credit union laws, which became Chapter 338 of the Acts of 2020 and effective on April 12, 2021. That Act authorized the owner-members of a credit union to vote electronically at an Annual Meeting or a Special Meeting of the owners. As you see on the attached charts, there is little evidence that credit unions have implemented those owner voting enhancements that the credit union petitioned the Legislature to grant them. We offer that the largest bank-like credit unions should be precluded from receiving additional powers until they give their owners the ability to vote other than in person.

Attached is a chart showing the 9 credit union transactions requiring the approval of the members owners that have occurred almost a year to over two years after the credit unions requested authority for the owners to vote electronically became effective.

The following information on three merger transactions is taken from the Certification of Vote submitted by the credit union to the Division of Banks:

- **33 members present and voted----25,054 members eligible to vote**
- **24 members present and voted----13,261 members eligible to vote**
- **130 members in favor and 5 members against---67,064 eligible to vote**

General Comments

We want to be clear: our community bankers do not fear competition. They compete every day against each other and against some of the world's largest financial institutions that operate here in Massachusetts. Our industry's objection to expanding credit union powers is that credit unions are not subject to the same statutory, supervisory, and financial burdens as banks. This bill will make this already uneven playing field even more tilted by allowing credit unions to purchase or acquire the assets of community banks and have the credit union be the surviving entity.

With their continued attempts to enact these new powers, it appears that the credit union industry will not rest until they are able to exercise all the same powers as banks under state law. MBA believes that **H 1032/S 623** will allow the credit union industry to further leverage their tax-exempt status to purchase local banks, removing these institutions from the state tax rolls.

The Legislation

H 1032/S 623 establishes a new statute for the purpose of allowing a credit union to purchase a bank. It is unlike bills filed in previous sessions that sought authority for the purchase of mortgages, loans and other assets as well as the assumption of liabilities by credit unions from banks or other entities.

Specifically, the legislation authorizes a state-chartered credit union to purchase the assets and liabilities of a state-chartered bank in conjunction with the liquidation of the bank. Under current law,

Section 15 of Chapter 167I, which governs the dissolution and liquidation of a state-chartered bank in mutual or stock form, the approval of a 2/3 vote of the Board at a special meeting called for that purpose is required. In addition, written approval of the Commissioner is required, after which a committee of three members is then elected to liquidate the assets, satisfy the debts and distribute any remaining proceeds to those entitled.

H 1032/S 623 makes a significant change to this process by eliminating the election of the members to carry out the liquidation and stating that the three members are to be "prescribed by the commissioner" while eliminating the ability of the Division of Banks to promulgate regulations to govern the process. The bill then adds a new paragraph to this statute to authorize the purchase and assumption transaction with a subsequent liquidation.

Under the proposed addition, a mutual or stock bank liquidating by selling its assets in whole or in part to a mutual bank or a credit union that is also assuming its deposit liabilities, other liabilities and contingent liabilities must comply with the approval process for a Purchase & Assumption transaction currently in statute, section 8 of chapter 167I. The bill also mandates that the Commissioner establish expedited procedures for such P&A transactions resulting in the immediate dissolution of the bank after the transaction. If liabilities remain then the standard liquidation procedures shall apply.

Section 2 of the bill seeks to add reciprocal authority for a state-chartered credit union to complete a P&A transaction of a state-chartered bank in mutual or stock form under the two banking statutes cited above. It also states that if the main office and branches of the bank are purchased then they shall become branches of the credit union without any other approvals required.

As detailed above, the bill also states that depositors of the purchased bank shall become members of the credit union within two years after the transaction or a longer period if approved by the Commissioner. We would ask why the legislation deprives depositors of membership rights for any length of time? Shouldn't share accounts be opened in conjunction with the conversion of the deposit accounts? In addition, under the current statutes a depositor could be precluded from getting a loan from the institution holding their funds until a share account is established. The bill is also silent on what becomes the status of depositors after the two years or longer period allowed by the Commissioner.

Finally, we would note that the statute governing credit union excess insurance states that the Massachusetts Share Insurance Corporation (MSIC) was established to insure the shares and deposits of members of credit unions. Therefore, it is unclear whether the assumed deposits will be insured until the current bank depositor affirmatively opens a qualifying share account or the unknown status after the above time periods have ended.

Conclusion

For the reasons stated above, MBA strongly opposes **H 1032/S 623**. We appreciate the opportunity to provide our views and we respectfully ask the Committee to give this bill an unfavorable report.