

Primary Differences Between Federal Charter and Iowa State Charter

Regulation																																			
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Primary Regulator	National Credit Union Administration (NCUA) Administered by a 3-member Board. Chair: J. Mark McWatters Member: Rick Metsger Member: Vacant	Iowa Division of Credit Unions (Division) Housed within the Department of Commerce Superintendent of Credit Unions: Katie Averill																																	
Regulatory Fees	<p>NCUA Operating Fees NCUA sets forth an operating fee schedule annually. The following operating fee is based upon the total assets of a natural person federal credit union as of December 31, 2018:</p> <p>If total assets are less than \$1 million, the operating fee assessment is \$0.</p> <p>If total assets are more than \$1 million, the operating fee assessment is:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 20%;">0.00026940</td> <td>on the first \$1,514,387,940 of assets, plus</td> </tr> <tr> <td>0.00007852</td> <td>on the next \$3,068,127,216 of assets, plus</td> </tr> <tr> <td>0.00002622</td> <td>on assets over \$4,582,515,156</td> </tr> </table> <p>Examples:</p> <p>A credit union with \$1,000,000 in total assets has an operating fee of: \$0.</p> <p>A credit union with \$1,250,000 in total assets has an operating fee of: $(\\$1,250,000 \times 0.0002694) = \\337</p> <p>A credit union with \$2,400,000,000 in assets has an operating fee of: $(\\$1,514,387,940 \times 0.0002694) + ((\\$2,400,000,000 - \\$1,514,387,940) \times 0.00007852) = \\$477,514$</p> <p>A credit union with \$5,000,000,000 in total assets has an operating fee of: $(\\$1,514,387,940 \times 0.0002694) + ((\\$4,582,515,156 - \\$1,514,387,940) \times 0.00007852) + ((\\$5,000,000,000 - \\$4,582,515,156) \times 0.00002622) = \\$659,832$</p> <p>Overhead Transfer NCUA also relies on funding from an annual assessment that the agency charges against NCUSIF earnings (both Federal and State CUs that are insured by the NCUSIF are required to keep the equivalent of 1% of shares and deposits on deposit with the agency) to reimburse NCUA for insurance-related activities.</p>	0.00026940	on the first \$1,514,387,940 of assets, plus	0.00007852	on the next \$3,068,127,216 of assets, plus	0.00002622	on assets over \$4,582,515,156	<p>Division Operating Fee The Division is authorized to assess an operating fee against credit unions. The examination fee includes a base fee plus fee for percentage of assets over the minimum asset range. It is calculated using the credit union's June 30, 2018 asset size.</p> <p>Annual Fee:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 33%;">ASSETS</th> <th style="width: 33%;">BASE FEE</th> <th style="width: 34%;">Fee for % of Assets Over Minimum</th> </tr> </thead> <tbody> <tr> <td><\$1 Million</td> <td>\$750</td> <td>0.00</td> </tr> <tr> <td>\$1 < \$4 Million</td> <td>\$1,000</td> <td>0.0007</td> </tr> <tr> <td>\$4 < \$25 Million</td> <td>\$3,050</td> <td>0.00025</td> </tr> <tr> <td>\$25 < \$100 Million</td> <td>\$9,350</td> <td>0.00017</td> </tr> <tr> <td>\$100 < \$300 Million</td> <td>\$25,000</td> <td>0.00015</td> </tr> <tr> <td>\$300 < \$1 Billion</td> <td>\$55,500</td> <td>0.00009</td> </tr> <tr> <td>\$1 Billion < \$2 Billion</td> <td>\$131,000</td> <td>0.00006</td> </tr> <tr> <td>Over \$2 Billion</td> <td>\$187,000</td> <td>0.00003</td> </tr> </tbody> </table> <p>Fee calculation Example</p> <p>Fee Calculation Formula = Base Fee + ((Total Assets – Minimum Asset in Range) * Fee for % of Assets Over the Asset Range Minimum.</p> <p>Example for credit union with \$10,000,000 in assets. $\\$3,050 + ((10,000,000 - 4,000,000) * .0002)$ $\\$3,050 + (6,000,000 * .0002)$ $\\$3,050 + 1,200 = \\$4,250$ Annual Fee 1st Installment = $4,250/2 = \\$2,125$</p>	ASSETS	BASE FEE	Fee for % of Assets Over Minimum	<\$1 Million	\$750	0.00	\$1 < \$4 Million	\$1,000	0.0007	\$4 < \$25 Million	\$3,050	0.00025	\$25 < \$100 Million	\$9,350	0.00017	\$100 < \$300 Million	\$25,000	0.00015	\$300 < \$1 Billion	\$55,500	0.00009	\$1 Billion < \$2 Billion	\$131,000	0.00006	Over \$2 Billion	\$187,000	0.00003
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Regulation (cont'd)		
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Frequency of Examination	<p><i>“Federal credit unions shall be under the supervision of the Board, and shall make financial reports to it as and when it may require, but at least annually. Each Federal credit union shall be subject to examination by, and for this purpose shall make its books and records accessible to, any person designated by the Board.”</i> (12 USC § 1756).</p> <p>Federal credit unions meeting the requirements in NCUA Letter 16-CU-12 are eligible for an extended examination cycle between 14 and 20 from the prior examination completion date. Examinations for all other federal credit unions will begin between 8 and 12 months from the prior examination completion date.</p>	Examinations shall occur no less than once every 24 months, or when the superintendent deems necessary. (Iowa Code § 533.113).
Alternatives to Examination	The Federal Credit Union Act is silent on this matter.	The superintendent may accept, in lieu of an examination by the supervisory authority, an external audit by a CPA firm authorized by the superintendent. (Iowa Code § 533.113).
Community Charter Requirements	There are two types of community charters. One is based on a single, geographically well-defined local community or neighborhood; the other is a rural district. More than one credit union may serve the same community. NCUA recognizes four types of affinity on which both a community charter and a rural district can be based – persons who live in, worship in, attend school in, or work in the community or rural district. Businesses and other legal entities within the community boundaries or rural district may also qualify for membership. NCUA has established the following requirements for community charters: 1) the geographic area’s boundaries must be clearly defined; and 2) the area is a well-defined local community or a rural district. (NCUA Appendix B to Part 701, Chapter 2, Section V).	Under Iowa law, a state chartered community credit union's FOM must have a common bond based on residence, employment or principal place of business in a specific geographic boundary (Iowa Adm. Code § 189-2.5(1)(d)). “Specific geographic boundary” is not defined.
Conversion	To convert from a federal charter to a state charter, the credit union's board must vote to approve the conversion (FOM Manual Ch. 4 III.C). Pursuant to federal law, a credit union that converts to a state charter will not be divested of any members (12 U.S.C. § 1759(e)(2)).	To convert from a state charter to a federal charter, a majority of the voting credit union members must approve the proposal (Iowa Code § 533.403). Pursuant to state law, a credit union that converts to a federal charter will not be divested of any members (Iowa Code § 533.202; 12 U.S.C. § 1759(e)(2)).

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Taxation		
	Federal Charter	Iowa State Charter
Source of Tax Exemption	<p>The tax exemption for FCUs comes from 26 USC 501(c)(1). FCUs are considered to be corporations organized by an Act of Congress –“federal instrumentalities”.</p> <p><u>26 USC 501(a) Exemption from taxation</u> <i>“An organization described in subsection (c) . . . shall be exempt from taxation . . .</i></p> <p>(c)(1) <i>Any corporation organized under Act of Congress which is an instrumentality of the United States but only if such corporation--</i></p> <p style="padding-left: 20px;">(A) <i>is exempt from Federal income taxes--</i></p> <p style="padding-left: 40px;">(i) <i>under such Act as amended and supplemented before July 18, 1984, or</i></p> <p style="padding-left: 40px;">(ii) <i>under this title without regard to any provision of law which is not contained in this title and which is not contained in a revenue Act, or</i></p> <p style="padding-left: 20px;">(B) <i>is described in subsection (1).”</i></p>	<p><u>Federal Tax Exemption</u> State chartered CUs get their tax exemption from a different section of the IRS Code –501(c)(14).</p> <p><u>26 USC 501(a) Exemption from taxation</u> <i>“An organization described in subsection (c) . . . shall be exempt from taxation . . .</i></p> <p><i>“(c)(14)(A) Credit unions without capital stock organized and operated for mutual purposes and without profit.”</i></p> <p><u>State Tax Exemption</u> <i>“A credit union shall be deemed an institution for savings and is subject to taxation only as to its real estate and moneys and credits. The shares shall not be taxed.” (Iowa Code § 533.329).</i></p>
Subject to the moneys and credits tax?	No. Federal Charters are not subject to the moneys and credits tax.	Yes. The moneys and credits tax on credit unions is imposed at a rate of one-half cent on each dollar of the legal and special reserves which are required to be maintained by the credit union under section 533.303.
Subject to Iowa Sales Tax?	No. Federal instrumentalities are not subject to state sales taxes.	Yes, with one important exception: the sale or rental of computers used in the processing or storage of data or information by credit unions is exempt from tax. (Iowa Adm. Code § 701-18.45).
Subject to Unrelated Business Income Tax (UBIT)?	No. Exempt since FCUs are considered to be federal instrumentalities.	Potentially – although which credit union activities are subject to taxation is yet to be fully determined by the IRS. Generally speaking, income not “substantially related to the CU’s primary purpose” may be subject to UBIT.

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Powers		
	Federal Charter	Iowa State Charter
Trust Services	Federally chartered CUs cannot act as trustees (except in very limited circumstances), but may offer trust services through a CUSO (if a national trust charter is obtained).	State chartered CUs cannot act as trustees, but may offer trust services through a CUSO (if a national trust charter is obtained).
APR Cap	Currently, NCUA Rules & Regulations allow a maximum interest rate of 18%, inclusive of all finance charges. If a loan is classified as a short term loan, meeting specific NCUA criteria, the maximum APR is 28%.	Iowa’s Consumer Credit Code prohibits lenders from assessing a finance charge in excess of 21% on a closed-end loan (Iowa Code § 537.2401). For open-end loans, there is no maximum finance charge other than that the charge cannot exceed the balance of the loan. (Iowa Code § 537.2402).
Loan Maturity Cap	NCUA Part 701.21 imposes a general 15-year maturity limit on loans made to members, other credit unions, and CUSOs (subject to limited exceptions). Exceptions apply for 20-year loans and long-term mortgage loans, which may have maturities of up to 40 years, or such longer period as may be permitted by the NCUA Board on a case-by-case basis.	No cap, other than loans for \$1000 or less may not have a term of more than 37 months. (Iowa Code § 537.2308).
Loan Limits to Individuals	Per NCUA Part 701.21(c)(5), <i>“no loan or line of credit advance may be made to any member if such loan or advance would cause that member to be indebted to the Federal credit union upon loans and advances made to the member in an aggregate amount exceeding 10% of the credit union’s unimpaired capital and surplus.”</i>	<i>“A state credit union shall not lend in the aggregate to a member more than ten percent of its member savings.”</i> (Iowa Code §533.315).
Loan Participations	<i>“If the originating lender is a federal credit union, the retained interest must be at least 10 percent of the outstanding balance of the loan through the life of the loan.”</i> (NCUA Part 701.22).	<i>“The aggregate amount invested...shall not exceed five percent of the assets of the credit union.”</i> (Iowa Code §533.301).
Acquisition of Property	<i>“A federal credit union...shall have power to purchase, hold, and dispose of property necessary or incidental to its operations.”</i> (12 USC § 1757(4)).	A credit union shall have the power to <i>“[p]urchase, hold and dispose of property necessary and incidental to its operation provided, however, that any property acquired through foreclosure shall be disposed of within a period not to exceed ten years.”</i> (Iowa Code § 533.301).
Borrowing Power	<i>“A federal credit union...shall have power to borrow, in accordance with such rules and regulations as may be prescribed by the Board, from any source, in an aggregate amount not exceeding, except as authorized by the Board, 50 per centum of its paid-in and unimpaired capital and surplus.”</i> (12 USC § 1757(9)).	<i>“A credit union may borrow from any source in total sum which shall not exceed fifty percent of the sum of its share and deposit account balances.”</i> (Iowa Code § 533.306).
Purchase & Sale of Assets and Eligible Obligations	<i>“Any federal credit union may discount with or sell to any Federal intermediate credit bank any eligible obligations up to the amount of its paid in and unimpaired capital...A federal credit union shall have power to purchase, sell, pledge, or discount or otherwise receive or dispose of, in whole or in part, any eligible obligations (as defined by the Board) of its members”</i> (12 USC § 1757(9), (13)).	A credit union shall have the power to <i>“sell, participate in, or discount the obligations of its members with or without recourse. Purchase the obligations of credit union members, provided the obligations meet the requirements of this chapter.”</i> (Iowa Code § 533.301).

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Powers (cont'd)		
	Federal Charter	Iowa State Charter
Sale of Insurance	The Federal Credit Union Act is silent on this matter.	A credit union shall have the power to “[p]urchase insurance or make the purchase of insurance available for members.” (Iowa Code § 533.301).
Entrance or Membership Fee	The Federal Credit Union Act is silent on this matter.	<i>“A credit union may charge an entrance fee as may be provided by the bylaws.” (Iowa Code § 533.302).</i>
Expulsion of Members	May be done either through two-thirds vote of the members present at a special meeting, or by the board for reason of non-participation in the affairs of the credit union, if the board has adopted a policy allowing it to do so. (12 USC § 1764).	<p><i>“1. The board of directors may expel any member who has failed to do either of the following: a. Carry out the member's obligations to the state credit union. b. Comply with the state credit union's bylaws or policies.</i></p> <p><i>2. A member may be expelled by a majority vote of the board of directors at a regular or special meeting of the board.” (Iowa Code § 533.210).</i></p>

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Permissible Investments		
	Federal Charter	Iowa State Charter
Investment Parity	None.	In addition to the permissible investments listed elsewhere in this chart, an Iowa credit union shall have the power to invest in "[a]ny permissible investment for federal credit unions, provided that this paragraph shall not permit a credit union to invest in a credit union service organization except as provided in paragraph 'f'". (Iowa Code § 533.301).
CUSO Investment Rules	Under Federal regulations, a federally chartered credit union's investments in a CUSO must not exceed, in the aggregate, 1% of its paid-in and unimpaired capital and surplus as of its last calendar year-end financial report. Paid-in and unimpaired capital and surplus means shares plus post-closing, undivided earnings (this does not include regular reserves or special reserves required by law, regulation or special agreement between the credit union and its regulator or share insurer) (NCUA Part 712.2(a), (d)(1)). NCUA rules are silent as to whether a state chartered credit union converting to a federal charter can be grandfathered in, which could be construed to mean that converting credit unions will have to comply with the more restrictive federal rules immediately.	Under Iowa law, a state chartered credit union can invest up to 5 percent of its assets in a CUSO. (Iowa Code § 533.301).
Investments in Government Obligations	Funds may be invested in obligations of any state or political subdivision thereof, except that no more than 10% of unimpaired capital and surplus may be invested in any one issuer. (12 USC § 1757(7)(K)).	Funds may be invested in: 1) "[o]bligations, participations, or other instruments of or issued by, or fully guaranteed as to principal and interest by the United States government or any agency thereof; or any trust or trusts established for investing directly or collectively in the same... 2) General obligations of the state of Iowa and any subdivision of the state." (Iowa Code § 533.301).

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Permissible Investments (cont'd)		
	Federal Charter	Iowa State Charter
Investments in Real and Personal Property	<i>A federal credit union shall have power to purchase, hold, and dispose of property necessary or incidental to its operations.</i> (12 USC § 1757(4)).	<i>A credit union shall have the power to “[p]urchase, hold and dispose of property necessary and incidental to its operation provided, however, that any property acquired through foreclosure shall be disposed of within a period not to exceed ten years.”</i> (Iowa Code § 533.301).

Wildcard		
	Federal Charter	Iowa State Charter
Wildcard Provision	None.	<i>A credit union shall have the power to “[e]ngage in any activity authorized by the superintendent which would be permitted if the credit union were federally chartered and which is consistent with state law.”</i> (Iowa Code § 533.301).
Investments in Cooperative Societies	The Federal Credit Union Act is silent on this matter.	<i>A credit union shall have the power to “[m]ake loans to a cooperative society or other organization having membership in the credit union.”</i> (Iowa Code § 533.301).

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