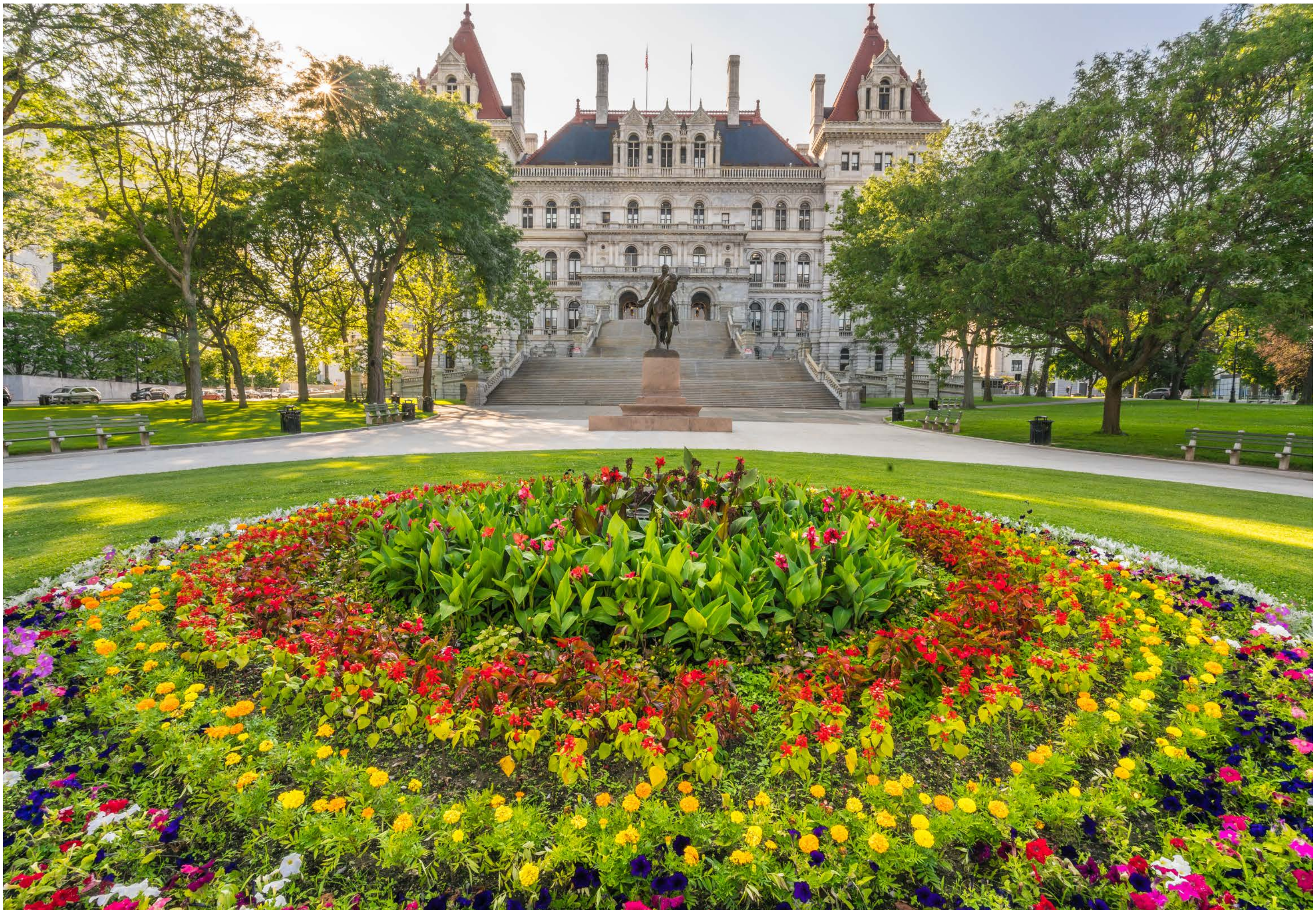

Advantages of the New York State Charter

One of the strengths of the credit union movement is the versatility and flexibility of the dual chartering system. Credit unions can be chartered by state governments or by the National Credit Union Administration (NCUA).

State charters, those chartered through their state governments as opposed to the National Credit Union Administration (NCUA), often hold several advantages such as local supervision, broader membership options, lower operating fees, and more expansive investment and member business lending authorities.

NASCUS
Dual Charter
Resource Initiative

NASCUS
The National Association of State Credit Union Supervisors

Adrienne A. Harris,
Superintendent
of Financial Services

Yolanda Ford,
Deputy Superintendent of Banks

Around the States:
New York State System Statistics

Advantages of the New York State Credit Union Charter

New York State-chartered credit unions have several advantages over federally chartered credit unions, including local supervision, more regulatory flexibility, broader field of membership, and greater investment authority.

State-Based Supervision

The New York State Department of Financial Services (DFS) is the prudential regulator of New York State-chartered credit unions. New York State-chartered credit unions are subject to the applicable portions of the New York Banking Law (NYBL) and associated regulations; NYBL Article 11, most recently amended in 2021, prescribes the authorities and responsibilities of the state-chartered credit unions.

DFS has first-hand understanding and knowledge of the needs of New York's diverse communities and is charged with maintaining and advancing the well-being of all New Yorkers. This perspective allows DFS, working with New York legislators and regulated institutions, to encourage innovative and competitive financial products and services as well as to protect the interests of New York consumers and businesses. As issues or questions arise, New York State-chartered credit unions can meet virtually or in person with either the Superintendent or DFS staff at offices in New York City or upstate. This provides meaningful access to a regulator with an intimate understanding and knowledge of state and local economic conditions.

Various New York State agencies partner with New York State-chartered financial institutions. These agencies have established programs to advance the housing, business, and community development needs of New Yorkers and New York communities. DFS is familiar with these programs and works with these agencies to facilitate collaboration with New York State-chartered credit unions, to promote consumer access and local economic development.

With local access to DFS and state legislators, New York State-chartered credit unions have a greater opportunity to express their views on oversight than do federally chartered credit unions.

Ensuring Competitiveness: Authorization of Additional Authorities and Powers

NYBL §454 sets forth a broad array of specifically enumerated powers granted to New York State-chartered credit unions, and NYBL §454.34 permits a credit union to exercise "all other powers" that are necessary or appropriate to carry on its business. NYBL §12-A authorizes the Superintendent to allow a New York State-chartered credit union to exercise any federally permitted power of a federally chartered credit union, and has done so upon the submission of applications consistent with the requirements of Section 12-A. As a result, New York State-regulated credit unions are generally able to engage in the full suite of activities permissible for federally chartered credit unions, as well as additional authorities available under the NYBL.

Representation Through an Advisory Board

DFS has formally constituted, and regularly convenes, meetings of the members of a State Charter Advisory Board, pursuant to Financial Services Law §205-b. Members are selected by the Superintendent to represent state-chartered banking organizations across the spectrum of DFS's oversight, including a credit union representative. Representation on the advisory board offers an important communication channel for credit unions to provide timely input on DFS's policy and regulatory initiatives, in addition to regular trade association and individual credit union communications and engagements with DFS.

By-Law Flexibility

A New York State-chartered credit union may implement customized by-laws designed for that institution, so long as such by-laws do not contravene applicable law. By comparison, the National Credit Union Administration (NCUA) prescribes by regulation the specific by-laws that federal credit unions must adopt, with limited grandfathering exceptions, and these by-laws may not be tailored to the particular features of specific federal credit unions. While the Superintendent must approve by-laws of New York State-chartered credit unions, there is no one-size-fits-all framework applied to all institutions. This greater flexibility permits New York State-chartered credit unions to adjust their by-laws based on size, operating model, and structure, allowing each institution the option of a governance framework specifically tailored to its operations.

Field of Membership

DFS permits New York State-chartered credit unions to define broader community field of membership (FOM) than the NCUA allows. For example, New York law does not require that communities be "local" as NCUA does. Instead, the Superintendent has broad discretion to approve FOMs based on a more expansive concept of "community", commensurate both with changing financial services practices and technologies and with the ways that people gather and organize themselves.

For example, a FOM for a New York State-chartered credit union may be organized around employment, profession, and association, as well as geographically linked groups, including a combination of defined communities within a single FOM. In allowing New York credit unions to define their communities, the New York framework eliminates an otherwise-significant hurdle when a credit union is considering merger partners. Further, New York State-chartered credit unions may increase their membership and expand operations strategically and without additional regulatory frictions.

Low-Income Designation

A credit union designated as "low-income" has access to additional sources of funding and resources, including the ability to accept non-member deposits, eligibility to participate in the NCUA's Community Development Revolving Loan Program, and an exemption from the loan limit requirements for member business loans. State-chartered credit unions must satisfy NCUA-determined criteria in order to be designated as low income. The NCUA and the National Association of State Credit Union Supervisors have developed a streamlined process to determine the eligibility of state-chartered credit unions for designation as low-income.

Pursuant to guidance issued by the Superintendent in 2017, New York State-chartered credit unions that wish to have their eligibility for a low-income designation evaluated under the streamlined process can submit a letter directly to their point of contact at DFS. DFS will then manage interactions with the NCUA regarding the request for designation, sparing state-chartered credit unions additional filing or communication responsibilities.

Student Branches

DFS encourages student branches of credit unions to provide students financial literacy as well as access to financial services. Pursuant to 2017 order from the Superintendent, students who become members of a New York State-chartered credit union at a student branch may retain their membership, even after they are no longer enrolled at the school where the student branch is located. Moreover, faculty and staff of the school where the student branch is located may become members of the credit union, provided that the credit union has filed a notice with DFS.

Trust Powers Authorization

New York State-chartered credit unions can be authorized to exercise fiduciary powers to the same extent as banks or trust companies, under NYBL §455. This section empowers the Superintendent to permit a credit union to act as a trustee, guardian, receiver, conservator, or in other fiduciary capacities. Federally chartered credit unions are not permitted to exercise general trust powers.

Greater Investment Authority

New York State-chartered credit unions may make various investments, outlined in NYBL §454. These investment authorities are enhanced by the definition of capital in NYBL §457, which includes member deposits as part of an institution's capital. Member deposits are not included in the capital calculation applicable to federally chartered credit unions, and so investment limitations defined as a percentage of capital are applied to smaller base for federally chartered credit unions, as compared to New York state-chartered credit unions.

In addition, a credit union may invest in credit union organizations (CUSOs) in amounts up to three percent of the credit union's shares and deposits under NYBL §454.19 and 3 CRR-NY 97.5. CUSO-permitted activities are broadly defined under 3 CRR-NY 97.3, which also allows the Superintendent to approve additional activities. This means that a credit union may invest in a company (including, for instance, an insurance agency), so long as the company provide services primarily to the credit union's members or to other credit unions.

Further, the Superintendent can authorize credit unions to make investments not specifically contemplated in the New York regulatory framework but permitted for federally chartered credit unions under NYBL §12-A. Such approvals are publicized on the DFS website.

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The National Association of State Credit Union Supervisors

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