



Credit Union National Association

cuna.org

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July 19, 2011

The Honorable John Boehner
Speaker
United States House of Representatives
Washington, DC 20515

The Honorable Nancy Pelosi
Democratic Leader
United States House of Representatives
Washington, DC 20515

Dear Mr. Speaker and Leader Pelosi:

On behalf of the Credit Union National Association (CUNA), I am writing regarding H.R. 1315, the Consumer Financial Protection Safety and Soundness Improvement Act, which is scheduled to be considered by the House later this week. CUNA is the nation's largest credit union trade association, representing 90% of America's 7,500 state and federally chartered credit unions and their 93 million members.

Credit unions are the best way for consumers to conduct their financial services; however, credit unions are facing tremendous regulatory burdens that could become worse as the Dodd-Frank Act is fully implemented. The not-for-profit, cooperative credit union structure means the cost of compliance with unnecessary and unduly burdensome regulations impacts credit union members directly. Every dollar that a credit union spends complying with an unnecessary or overly burdensome regulation is a dollar that cannot be used to benefit the credit union's membership, which looks to the credit union for favorable loans and saving products. In light of this, relieving credit unions' regulatory burdens so that they are able to serve their members in a safe and sound manner is a key objective for credit unions, state credit union leagues and CUNA.

Credit Union Views of the Rules Committee Print of H.R. 1315

The Rules Committee Print of H.R. 1315 combines several bills (H.R. 1121, H.R. 1315, and H.R. 1667) which were considered by the House Financial Services Committee earlier this year. We appreciate the opportunity we had to testify on these bills in April.¹

The Rules Committee Print would adjust the voting threshold required for the Financial Stability Oversight Council (FSOC) to set aside or stay a rule issued or finalized by the Bureau of Consumer Financial Protection (CFPB); expand the FSOC's review authority of CFPB rules; establish a commission to run the CFPB in place of the Director; and require the confirmation of the chair of the commission prior to the transfer of the authority to the CFPB.

¹ Testimony of Rod Staatz, President and Chief Executive Officer, SECU of Maryland on behalf of the Credit Union National Association, before the Subcommittee on Financial Institutions and Consumer Credit, Committee on Financial Services United States House of Representatives Hearing on "Legislative Proposals to Improve the Consumer Financial Protection Bureau," April 6, 2011.



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As we stated in our testimony, we are supportive of the adjustment to the voting threshold required for the FSOC to set aside or stay a rule issued or finalized by the CFPB from two-thirds vote of the FSOC to a majority vote excluding the CFPB director. Given the financial crisis from which we are struggling to emerge, the threshold to prevent harmful regulation from going into effect should not be as high as a two-thirds vote of the financial regulators. Reducing the threshold would help balance consumer protection with safety and soundness concerns.

The legislation would also expand the FSOC review authority of CFPB regulations to regulations which the FSOC finds are inconsistent with the safe and sound operation of United States financial institutions. As suggested in our testimony, a serious and growing concern for credit unions is overall regulatory burden. We are concerned the legislation does not allow financial regulators to review CFPB regulations in this context. To address this, we suggested, and would support, legislation expanding the FSOC review authority to permit the FSOC to stay or set aside rules it deems unreasonably burdensome for financial institutions or in cases where rule would present a burden to financial institutions that would outweigh the benefit to consumers.

The legislation would replace the CFPB Director with a five person Consumer Financial Protection Commission (the Commission). When the CFPB was initially proposed by the Administration in June 2009, the legislation provided for a five-person board to govern what was then called the Consumer Financial Protection Agency (CFPA). The Administration's proposal further provides that one of the five seats would be designated for a national banking regulator. In response to that proposal, CUNA stated that the "CFPA Board needs to be larger than what has been proposed, and there should be seats on the board statutorily designated for industry representatives, a state or federal credit union regulator, and...possibly a state consumer agency representative."²

Our concern today is the same as at that time: there is no guarantee that the Commission will include someone who had experience running a financial institution, specifically a credit union, and that without such experience, there would not be an appreciation for the totality of regulatory burdens facing credit unions.

² Letter from CUNA to House Financial Services Committee Chairman Barney Frank. July 14, 2009.
5. http://www.cuna.org/download/congress_letter_071409.pdf

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Should Congress replace the CFPB Director with a Commission, we encourage Congress to expand the size of the Commission beyond what has been proposed by the Rules Committee Print and include appropriate industry and regulator representation, including a seat specifically for a person with experience related to credit unions. Expanding the scope of experience in this manner would enhance the quality of regulation promulgated by the CFPB by ensuring both the consumer perspective as well as the industry perspective is represented in the decision-making process.

Finally, the legislation would delay the transfer date of regulatory authority until the Chair of the Commission has been appointed and confirmed by the Senate. It is worth noting that one of the benefits we see in the implementation of the CFPB is the extension of regulation and supervision to currently unregulated providers of financial services. If the transfer date is delayed, these unregulated providers will continue to not be subject to the same level of regulation as the currently regulated providers of financial services.

From the outset of the debate over the CFPB, we have repeatedly recognized that consumers of financial products provided by unregulated entities need greater protections. The Dodd-Frank Act, with respect to the CFPB, took a balanced approach to providing these protections; nevertheless, there is always room for improvement. H.R. 1315 includes provisions, specifically the provisions dealing with the FSOC voting threshold, which would improve the balance of the legislation.

Other Recommendations Related to the CFPB

Much more important than the details of when and how the CFPB stands up is how it will function once fully operational. In that regard, we believe the CFPB should conduct its consumer protection mission in a manner that minimizes regulatory burden on financial institutions, and we encourage Congress to encourage the CFPB to do so.

We have recommended to the CFPB that an Office for Regulatory Burden Monitoring be established. As we envision it, this office could be housed within the Office of Community Banks and Credit Unions and would be responsible for working with credit unions and community banks to assess the impact of regulatory burdens being imposed on these institutions. It would also coordinate with prudential regulators to assess the entirety of the regulatory burdens such institutions face. While we believe the CFPB could establish this office without further legislative authority, if Congress were to direct the CFPB to establish the new office, we would strongly support it.

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In addition, we believe Congress should undertake a comprehensive review of the regulatory burdens facing small financial institutions like credit unions with an eye toward simplifying regulation for these institutions without jeopardizing consumer protection. Efforts to address institutions' regulatory burdens will facilitate compliance and help ensure consumers receive the protections in the financial marketplace that they deserve. One area that Congress identified as having this potential is the reconciliation of disclosure requirements under the Truth-in-Lending Act (TILA) and the Real Estate Settlement Procedures Act (RESPA). We are pleased that the CFPB is reviewing how to coordinate and simplify these disclosures and have been working with the CFPB on that project.

Finally, we note that the CFPB already has authority to exempt any class of covered entities or products from its rules.³ We are not aware that a process for these exemptions has been established. We believe credit unions and the pro-consumer products they provide are the very type of entities that should be considered for exemptions, particularly from any onerous new rules. Given the fact that credit unions exist to provide favorable rates to their member-owners, we urge Congress to work with the CFPB to make the exemption process meaningful and timely.

On behalf of America's credit unions and their 93 million members, thank you for your consideration.

Best regards,

A handwritten signature in black ink, appearing to read "Bill Cheney", with a long, sweeping underline that extends to the right.

Bill Cheney
President & CEO

³ Section 1022(b)(3) of the Dodd-Frank Act.