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TESTIMONY
OF
PAMELA STEPHENS
PRESIDENT AND CHIEF EXECUTIVE OFFICER
SECURITY ONE FEDERAL CREDIT UNION
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
"EXAMINING CREDIT UNION REGULATORY BURDENS"
APRIL 10, 2013

Testimony of
Pamela Stephens
President and Chief Executive Officer
Security One Federal Credit Union
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
"Examining Credit Union Regulatory Burdens"

April 10, 2013

Chairman Capito, Ranking Member Meeks, Members of the Subcommittee:

Thank you very much for the opportunity to testify at today's hearing. My name is Pamela Stephens, and I am President and Chief Executive Officer of Security One Federal Credit Union, a federally chartered community credit union with total assets of $54 million, headquartered in Arlington, Texas, serving 9,200 members. Our field of membership is individuals who live, work or worship in Arlington or Mansfield, Texas. I am testifying today on behalf of the Credit Union National Association (CUNA), the largest credit union advocacy organization in the United States, representing nearly 90% of America's 7,000 state and federally chartered credit unions and their 96 million members.

Credit unions greatly appreciate the attention that this subcommittee has given to the ever-increasing, never-decreasing regulatory burden that they face. By our count, this is the thirteenth hearing at which credit unions have been asked to testify on this subject since the beginning of 112th Congress. We are heartened to have the opportunity to present ideas and proposals to reduce credit unions' regulatory burden. Credit unions very much look forward to regulatory relief, and to working with you to achieve that relief.

We appreciate the steps that have already been taken towards regulatory relief, including the enactment in the 112th Congress of legislation sponsored by Representatives Luetkemeyer (R-MO) and Scott (D-GA) related to signage on ATM machines, and the passage of legislation in the House earlier this year of legislation sponsored by Representatives Luetkemeyer and

Sherman (D-CA) related to privacy notices. These bills represent steps in the right direction toward reducing regulatory burden for credit unions and other community based financial institutions, and may offer a roadmap for future legislation.

This testimony will describe the current state of regulatory burden credit unions face, efforts on the part of the Consumer Financial Protection Bureau (CFPB) and the National Credit Union Administration (NCUA) to reduce regulatory burden, ongoing concerns with these agencies and the Financial Accounting Standards Board (FASB), and areas where statutory changes could reduce regulatory burden and enhance service to credit union members.

The Crisis of Creeping Complexity

We have come to call what credit unions face in terms of regulatory burden a "crisis of creeping complexity." It is not just one new law or revised regulation that challenges credit unions but the cumulative effect of regulatory changes. This is not a new phenomenon. It has been building for over a decade. It certainly was not simply caused by the enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act; however, as the CFPB continues to promulgate and review the regulations under its jurisdiction as required by the Dodd-Frank Act and other statutes now subject to its jurisdiction, there will likely be hundreds of additional changes credit unions will be required to make, notwithstanding the fact that everyone agrees that credit unions did not cause or contribute to the financial crisis.

In testimony before this Subcommittee last May, we noted that credit unions had been subject to over 120 rule changes from 15 different agencies between 2008 and 2012. Since then, 37 additional rules and regulatory changes have been adopted. That is more than one new rule or rule change per month! More regulations are in the pipeline for this year, including additional rules required under the Dodd-Frank Act. All of this despite the fact that credit unions are already one of the most heavily regulated entities in this country and they do not engage in the anti-consumer practices that created the crisis.

The costly and pervasive impact of these rules on credit union operations, a number of which are detailed and complex, covering hundreds of pages, simply cannot be overstated. Because credit unions are financial cooperatives, owned by their members, costs a credit union bears to meet the multitude of wide-ranging regulatory training and compliance responsibilities are ultimately paid by their members. The diversion of funds to pay for compliance may mean members see lower rates on savings, higher rates on loans, and foregone or reduced services. For some credit unions, it may also result in pressure on earnings.

The burden of complying with ever-changing regulatory requirements is particularly onerous for smaller institutions like mine, because most of the costs of compliance do not vary by size, and therefore proportionately are a much greater burden for smaller as opposed to larger institutions. If a smaller credit union offers a service, it has to be concerned about complying with most of the same rules as a larger institution, but can only spread those costs over a much smaller volume of business. Not surprisingly, smaller credit unions consistently say that their number one concern is regulatory burden. Problems fulfilling regulatory requirements are frequently cited when smaller credit unions seek to be merged.

As the CEO of a small credit union, please allow me to describe some of my real-world, on the ground concerns, starting with the cost of complying with the regulations coming out of Washington, D.C. and Alexandria. Every time a new rule is implemented, we have to evaluate the rule and determine how to comply with it; the regulations themselves are not always clear about how to comply. Once we think we understand what is necessary to achieve and remain in compliance, my credit union has to write new policies and develop appropriate procedures. We have to train our staff and often print new forms. In most cases, these rules are not changing how we offer services to our members – because we do right by our members – but they do affect how much we are able to do for our members. There is no question about it: when a regulation is changed because some bad actor found a new way to take advantage of its customer or because some bureaucrat decided it was time for us to do things differently, it means that I have to divert credit union member resources away from programs and services designed to help members.

Credit unions – and frankly, small banks – did not cause the financial crisis, but we are certainly paying for it. Sadly, many of us cannot afford it. Our credit union certainly cannot afford to keep a staff person dedicated to compliance – my vice presidents and I do the work, and I live in fear that we may not be in compliance. Regulatory burden is one of the prime reasons that there is a significant consolidation taking place in the community financial institution sector. Difficulties in maintaining high levels of member service in the face of increasing regulatory burden are undoubtedly a key reason that roughly 300 small credit unions merge into larger credit unions each year. Small community based financial institutions have an important mission to help consumers, and I see every day the critical role that credit unions like mine play in the lives of our members, which is why the work you do in terms of providing regulatory relief is so urgent.

We encourage the Subcommittee to continue to exercise its critical oversight function. Closely scrutinize the proposals coming from the CFPB, NCUA and other agencies to ensure that these changes are not only within the intent of Congress but also have minimal adverse impact on the institutions serving Main Street. Ask the regulators how their proposals will impact the delivery of financial services to those they serve. Encourage the CFPB to use its exemption authority to exempt credit unions and other community based financial institutions from regulations designed to reign in the abusive activity of unregulated entities. In many respects, Main Street financial services providers, like credit unions, are consumers' and small businesses' last hope for receiving affordable and fair financial services. This is certainly the case with respect to credit unions because their users are also their owners. When Congress exercises its oversight function, it has been our observation that the rules tend to improve for financial services as well as consumers.

Additionally, we urge Congress to consider the series of statutory changes we are proposing. It has been almost seven years since comprehensive regulatory relief has been enacted by Congress and 15 years since major reforms have been made to the Federal Credit Union Act. There are a number of areas of the Federal Credit Union Act and other statutes that are in need of revision. This testimony makes several recommendations, but certainly does not represent an exhaustive list of the relief that is needed by credit unions and small banks.

Concerns with Respect to the Consumer Financial Protection Bureau

Frankly, the anxiety and the frustration over regulatory burden are often focused, whether fairly or unfairly, on the CFPB. We understand that the CFPB is subject of a great deal of political debate, specifically related to its leadership, structure and funding. The concerns of many credit unions, though, are what will the CFPB do next, what will we have to change to accommodate the new rules, how much will the changes cost and when will the CFPB more fully turn its attention to the unregulated entities in the financial services sector, like certain payday lenders, check cashers, title loan companies and others.

In addition to nine separate rules on mortgages (eight final and one pending) and the remittances rules, the CFPB has already indicated it is considering what steps to take regarding areas such as but not limited to student loans, overdraft protection plans, credit cards, prepaid cards, financial services to various segments of our economy, and data collection. Where will it all end, and what will be the ultimate price that will have to be paid to meet all of these requirements?

To its credit, the CFPB has taken several steps, particularly in the last year, to listen to credit unions' concerns about its rulemaking and to reduce regulatory burden in ways that will benefit credit unions and their members.

While not required to do so by Congress, the agency established a Credit Union Advisory Council, which meets four times a year, and at least half of the meetings may be in person at the CFPB headquarters. Director Richard Cordray has met with the Council in both of its meetings so far. We feel these meetings should be open to public observation as they provide an important forum for credit union representatives to share concerns and provide practical guidance to the agency on operational and public policy issues. Director Cordray and his staff have met on numerous occasions with CUNA President and CEO Bill Cheney and senior CUNA staff and have visited with credit unions and their state leagues around the country. The agency has also held briefing sessions on proposed and final rules that have been very useful. Just last month, the CFPB announced that it is embarking on an initiative to assess the regulatory burdens associated with its regulations.

Despite the fact that we have very significant concerns with some CFPB rulemakings to date and anxieties about others to come, the CFPB has provided a model of outreach and inclusion in addressing issues under the Dodd-Frank Act that other financial regulatory agencies should be required to emulate. Nevertheless, so much more is needed in the areas of regulatory relief, transparency, and accountability, and we encourage the Subcommittee to continue to exercise prudent oversight over the CFPB's rulemakings.

Remittances Regulations

One area of continuing concern for many credit unions is the CFPB's remittances regulation. To its credit, the CFPB has taken a number of steps to listen to stakeholders during –

and after – its rulemaking process. The final and proposed rule included a number of improvements that CUNA and others sought including:

- Eliminating a requirement to disclose state and local taxes imposed on a remittance transfer to a foreign country;
- Providing more flexibility regarding the disclosure of remittance fees imposed by a designated recipient's institution and foreign taxes;
- Limiting liability for transfer providers when a sender provides incorrect or insufficient information regarding a remittance transfer; and
- Delaying the effective date of the remittance transfer rule.

Despite these improvements, credit unions continue to have very significant concerns with the CFPB's remittance proposal. The final rule includes an exemption level that is far too low to be effective. The agency's rule exempts transfer providers with 100 or fewer transfers a year under its authority in the Dodd Frank Act to determine "normal course of business" regarding international remittance transfers. However, 100 transfers per year is equal to approximately 8 transfers per month, or about two a week. We do not think that meets any reasonable notion of what constitutes "normal course of business," particularly since a number of credit unions have as many as 1,000 or more transfers per year, still only four per day. A number of these credit unions do not charge explicit fees to send remittances and some actually lose money in providing these services. There have been absolutely no examples of abuses we have been able to unearth regarding remittance services that credit unions provide. Nevertheless, a number of credit unions are considering exiting the service as a result of the requirements for new disclosures regarding exchange rates, fees, taxes, and the date money will be received (all of which may be difficult to determine), the required thirty minute waiting periods before a transaction can be sent, investigation and error resolution requirements and additional liability.

We urge the Committee to work with the CFPB to revisit the exemption level and allow more credit unions and small banks to qualify for an exemption. To be clear: we are not suggesting consumers who use credit unions should have inadequate disclosures but we believe there is more leeway the CFPB could have used to minimize the costs and impact of this rule, particularly for not-for-profit credit unions and their members. Some credit unions that are trying to continue to offer international remittance services have told us they have been informed by their third party vendors, including large banks, that assist operationally in making the transfer, that they cannot meet the requirements of the rule this year. In fact, my credit union had entered into a contract with a remittance services provider before it announced that it planned to exit the service because it could not comply with the new regulation; we have since entered into an arrangement with another provider.

We have raised these concerns with the CFPB but they also need to be addressed very quickly. The compliance date for the remittance rule, expected to be effective in the coming months, has not yet been set; however, if the final rule is implemented, the result may be that the remittance transfer service providers which created problems for consumers will be the only ones left in the market. We appreciate the Subcommittee's attention to this matter.

Mortgage Regulations

Credit unions are also justifiably concerned about a number of the CFPB's mortgage rules, including the ability to repay rule, the mortgage loan origination rule, and the mortgage servicing rules.

During the development of the "Ability to Repay" rule, there were a lot of concerns the rule would be too stringent for creditors, but the agency's work on this rule has been generally commended. The regulation sets standards for a qualified mortgage, which will afford a "safe harbor" of legal protection to creditors providing qualified mortgages (QMs), if a borrower sues the creditor for noncompliance with the ability to repay provisions. The rule provides a "rebuttable presumption" that compliance is sufficient even for loans which are not QMs, an approach CUNA strongly supported. Also, the rule permits certain institutions to have some flexibility in structuring mortgages while retaining important legal protections.

However, we believe more consideration should be given to exercising greater exemption authority from the ability to repay rules for credit unions because their mortgages are already subject to ongoing scrutiny from their prudential regulators and our institutions have not engaged in unscrupulous mortgage lending practices. Furthermore, we have concerns that the prudential regulators or the secondary mortgage market will require or favor QMs so much that it will be difficult for non-QM-qualifying borrowers to obtain a mortgage going forward. In CUNA's conversations with Director Cordray, he has assured CUNA that this is not the intent of the CFPB, but we urge the Subcommittee to work with the prudential financial regulators and the Federal Housing Finance Agency, to address this concern.

The mortgage loan originator compensation rule contains a requirement that beginning June 1, creditors must refrain from adding credit-related insurance to the monthly balance of a covered mortgage loan. A number of credit unions are concerned that their vendors will not be able to make processing changes in sufficient time to meet the June compliance date, and we hope to work with the Subcommittee and the CFPB to achieve some leeway on this issue.

Credit unions also have significant concerns regarding the CFPB's mortgage servicing rules. We recognize and appreciate the CFPB's inclusion of a small servicer exemption, for those servicers that service 5,000 of fewer mortgage loans and service only mortgage loans that they or an affiliate originated or own. However, we do not believe that the exemption is flexible enough. For example, a credit union that would otherwise be exempt, but services even one loan for Habitat for Humanity at no cost, will be covered by the rule and subject to the range of periodic statement, rate adjustment notice, error resolution, delinquent borrower assistance and other requirements that apply to huge servicers.

We are also concerned with a requirement that creditors wait more than 120 days after a mortgage loan account is delinquent to begin foreclosure procedures. All of these requirements make sense for entities that were taking advantage or abusing consumers in the mortgage servicing process. However, credit unions do not abuse their members and they retain a significant portion of their mortgage loans in portfolio. Even if they sell their loans, they generally retain the servicing of the loans to ensure their members are treated well throughout the life of the loan. Credit unions want to work with their members to avoid adverse consequences, including foreclosure, and take steps to contact the borrower and restructure the debt if possible. If foreclosure is ultimately necessary, it is not a surprise to the credit union borrower. In such a case, delaying the beginning of what can be a very cumbersome foreclosure process for over 120 days, when the credit union had been working all along with the borrower to keep the loan or modification on track, is needlessly burdensome for the credit union's other members, since the costs of dealing with the loss to the credit union associated with the foreclosure are ultimately borne by the others who belong to that credit union.

We urge the Subcommittee to work with the CFPB to consider modifications to the exemption that will make it more meaningful for small servicers, such as credit unions, and to provide reasonable flexibility on error resolution and information request requirements, and to consider accommodations with respect to the 120 day waiting period for servicers, like credit unions, that have been working with borrowers prior to the commencement of the foreclosure process.

Exemption Authority

Credit unions wonder why they and their members are being forced to pay the price of new Dodd-Frank Act regulations when, as so many policymakers have said, credit unions did not cause the financial crisis and they are not part of the problem. Since credit unions are not a part of the problem, why cannot the CFPB do more to exempt credit unions from new requirements and focus its attention on the abusers of consumers?

Congress has conveyed exemption authority to the CFPB, and we believe that Congress should ensure that the CFPB is more proactive in its use of this authority as it pertains to credit unions in light of the fact that credit unions seek to avoid abusive practices and did not cause the financial crisis. Attached to this testimony is a memorandum to CUNA that addresses the CFPB's extensive exemption authority. The Subcommittee should encourage the CFPB to use its exemption authority for credit unions to the greatest extent possible.

Concerns With Respect to the National Credit Union Administration

As with the CFPB, our credit unions' experiences with the NCUA have been a mix of positive steps to address regulatory relief and ongoing concern with the potential for regulatory overreach.

To its credit, last year, the NCUA established a working group comprised of credit union officials to discuss concerns about the regulation of troubled debt restructurings. NCUA used the feedback from credit unions, CUNA and others, to develop a new rule that was adopted in May 2012 to facilitate the ability of credit unions to work with their members to structure loan modifications so that affected, qualified borrowers can remain current on their loans.

NCUA has taken other steps to provide regulatory relief such as:

- Raising the definition of small credit unions to $50 million so that more credit unions would be able to meet reduced requirements where safety and soundness concerns are not raised.
- Expanding the definition of "rural district' so that more consumers in nonurban areas can be part of a credit union.
- Improving the application process to ensure qualified state and federal credit unions know of their eligibility to be designated as a low income credit union,

which under the Federal Credit Union Act, are not subject to certain member business loan and net worth restrictions.

- Allowing federal credit unions to invest in Treasury Inflation Protection Securities (TIPS).

The agency is also considering allowing well-managed, well-capitalized federal credit unions to use simple derivatives to hedge interest rate risks, a move that CUNA strongly endorses.

Credit unions remain concerned, however, that the agency is developing too many rules under the guise of safety and soundness at a time when the credit union system is performing very well. As of year-end, credit unions' financial performance remained very positive; earnings were at record levels; the system's net worth ratio level was around 10.4%; delinquencies continued to fall to 1.2%; and, lending rose 4.6%.

Despite this very strong performance, the agency is pursuing rules on loan participations, which historically have facilitated robust lending by allowing credit union to sell loans and loan packages; emergency liquidity, which would preclude the Federal Home Loan Banks from serving as a source of emergency liquidity for credit unions; and, credit union service organizations (CUSOs), which are not under the agency's legal purview as directed by Congress and because these entities are creatures of state law.

The agency has also indicated it is looking into new risk-based net worth requirements. We welcome this review and want to work with the agency on it.

Credit unions have also raised concerns about examination issues. In a recent survey of our members regarding examination issues, 60% of the 1,500 respondents indicated they had a favorable experience with their last state or federal examination; however, 25% of respondents indicated their last examination experience had been unfavorable. CUNA is reviewing these findings and will be using the information from the survey to continue pressing for improvements in the examination process to make it fairer and more balanced for credit unions.

The issue of examination appeals at NCUA remains an ongoing concern. We urge the Committee to impress upon prudential regulators the need to ensure examinations are well-balanced, that examination findings are reasonable and appropriate, that examiners conduct themselves in a professional manner throughout the review process, and that the appeals process be meaningful and timely.

In addition to these issues, credit unions remain concerned about the lack of oversight regarding NCUA's budget. At a time when other regulators have cut their budgets, the NCUA budget has increased significantly since 2009. In that year, the budget increased 12.1%; in 2010 it was up by 13%; in 2011, it increased by 12.2%; and in 2012, the budget grew by 5.1%. This year, the NCUA increased its budget 6.1%. Credit unions take the oversight of the agency's budget very seriously because they fund most of the agency's operations, with the exception of the Community Development Revolving Loan Fund.

Between 2001 and 2008, the NCUA conducted an open public hearing on its budget; this meeting afforded stakeholders with an opportunity to raise concerns or issues with the NCUA directly. Since that practice ended, the agency's budget has increased significantly, as we have noted. We support the reinstatement of annual NCUA hearings on the budget and we urge the Subcommittee to join us in endorsing this effort which will provide increased accountability for the agency's budget process.

Finally, we have concerns that NCUA has inappropriately applied certain rules, under the guise of safety and soundness, to state chartered federally insured credit unions. While NCUA has an important role to play in ensuring the safety and soundness of the National Credit Union Share Insurance Fund (NCUSIF), we are concerned that the agency's efforts to tie access to federal insurance for state credit unions to strict compliance with its rules unduly compromises important principals of dual chartering and the ability of state supervisors to regulate their agencies. As we describe elsewhere in our testimony, CUNA supports an amendment to the Federal Credit Union Act that would expand the size of the NCUA Board to five members and designate one seat on the Board for a state credit union supervisor. This would go a long way toward helping to address concerns about dual chartering.

Concerns With Respect to the Financial Accounting Standards Board

While we understand that Congress is loath to set accounting standards, we would like to bring to the Subcommittee's attention our concern with a proposal from FASB related to the way financial institutions and other entities report credit losses.

Under the proposal, expected credit losses would not only be estimated based on past events and current conditions as under GAAP now, but creditors would also be required to take into account "reasonable and supportable forecasts" about future events that could affect the performance <u>over the life of the asset</u>. Credit unions are concerned that the proposal, if adopted, would mean they will have to significantly and immediately increase their allowance for loan and lease loss accounts (ALLL) and that making accurate forecasts of future events would be extremely problematic. This proposal would essentially require lenders to estimate losses over the life of the loan, and to book the entire present value of those losses at the time of origination, even though the income from the loan would only be earned over its life. Because credit unions are not publicly traded, there would be very little use for this information by consumers or by credit union regulators.

This proposal is open for comments through May 31. CUNA has met with FASB and is urging that this proposal not be applied to credit unions. We urge the Subcommittee to support relief for credit unions from the impact of the FASB rule.

Recommendations for Statutory Changes and Reports

We have several recommendations that we urge the Subcommittee to consider, and present our recommendations in six categories: highly important <u>Federal Credit Union Act</u> amendments, proposals designed to address the credit needs of credit union members who own small businesses, other <u>Federal Credit Union Act</u> amendments, improvements to the <u>Dodd-Frank Act</u>, other regulatory improvements, and studies.

First and foremost, we encourage Congress to reform credit union capital requirements by permitting them to accept supplemental forms of capital and to increase the member business lending cap.

Understanding that the Subcommittee is looking for more specific regulatory relief proposals, we encourage Congress to take several steps in the area of enabling credit unions to serve their business lending members even better by enacting legislation to:

- Treat Non-Owner Occupied One to Four Family Dwelling Loans as Real Estate Loans
- Increase the De Minimus Business Loan Amount
- Encourage Small Business Development in Underserved Urban and Rural Communities
- Fully Exempt Government Guaranteed Business Loans from Member Business Lending Cap
- Enable Full Credit Union Participation in the Section 504 Program
- Provide NCUA with Regulatory Flexibility for Small Business Lending

- Exclude Member Business Loans Made to Non-Profit Religious Organizations from the Member Business Lending Cap

We have also identified several areas of reform and improvement to the Federal Credit Union Act. Some of these proposals have been passed by the House of Representatives in previous Congresses. Our proposals would:

- Clarify Share Insurance Coverage of Certain Trust Accounts
- Modernize the National Credit Union Administration Board
- Clarify that All Federal Credit Unions Are Eligible to Serve Underserved Areas
- Permit Net Worth Restoration Plan Flexibility during Disasters
- Enhance Federal Credit Union Investments in Securities
- Increase Investment Limit in Credit Union Service Organizations
- Eliminate the Numerical Limitation of Employee Groups in Voluntary Credit Union Mergers
- Protect Membership When Credit Unions Merge With or Convert To A Community Credit Union
- Provide Federal Credit Unions with Additional Governance Flexibility
- Permit NCUA Additional Flexibility to Respond to Market Conditions
- Permit Privately Insured Credit Unions to Join Federal Home Loans Banks
- Increase the Maturity Limit for Higher Education Loans Made by Federal Credit Unions
- Require NCUA to Hold an Annual Open Hearing on its Budget

The Dodd-Frank Act deserves careful attention for many reasons; we have put forward a small number of suggestions that would:

- Improve Coordination between the CFPB and the NCUA
- Codify the Credit Union Advisory Council
- Require SBREFA Panels for all CFPB Rules

In addition to improvements to the Federal Credit Union Act and the Dodd-Frank Act, we encourage Congress to:

- Improve Regulation D With Respect to Automatic Transfers from Savings to Checking Accounts
- Reduce the Loan Loss Reserve Requirement of SBA's Microloan Program
- Require an FSOC Assessment of the Unintended Consequences of Accounting Standards on Private Entities
- Enact Examination Fairness Legislation

Finally, there are several areas that require additional study and consideration. Some of our study proposals could be accomplished without an act of Congress; others likely would require Congress to take action. Specifically, we encourage Congress to:

- Direct the Treasury Department to Study the Credit Union Examination Appeals Process
- Direct the GAO to Study NCUA's Use of Authority to Deviate from Generally Accepted Accounting Principles (GAAP)
- Order Additional Studies on Cost-Benefit Analysis of Rulemakings that Affect Credit Unions
- Direct the GAO to Study the Cumulative Regulatory Burden Facing Credit Unions and Small Banks
- Direct the GAO to Study the Impact of Supervisory Actions on the Vitality of Community Based Financial Institutions
- Direct the NCUA to Report on its Activities that Promote Dual Chartering of Credit Unions

Highly Important Federal Credit Union Act Amendments

Reform Credit Union Capital Requirements

Capital is king for all financial institutions. Credit unions are the only depository institutions with a statutory leverage requirement and they have the most restrictions on how capital may be obtained of any type of depository institution in the United States. By law, credit unions are required to maintain a net worth ratio of at least 7% in order to be considered well-capitalized for the purposes of the prompt corrective action (PCA) regime. Leverage requirements for other regulated financial institutions in the US are established by regulation, and since the inception of the credit union statutory leverage requirement, the corresponding leverage requirements mandated by regulation for banks and thrifts have been lower.

The law also specifies that only retained earnings constitute net worth for credit unions. Credit unions are the only type of depository institution in the United States without the ability to issue some form of capital instrument to augment retained earnings to build capital. Unfortunately, retained earnings often cannot keep pace with asset growth, meaning that healthy growth can dilute a credit union's regulatory capital ratio and result in nondiscretionary supervisory action under PCA rules. In addition, during periods of financial stress, when credit unions might suffer losses that erode capital, their only alternative in the short run is to reduce asset size, which requires discouraging deposits or, in some cases, turning away deposits, in order to keep net worth ratios at well-capitalized levels.

This effect was evident during the recent financial crisis and its aftermath. Credit unions in the areas of the country most affected by the bursting of the real estate price bubble (California, Nevada, Arizona and Florida, often referred to as the "sand states") saw sharper reductions in net income than in the rest of the country. To counteract the effect of that reduced net income on capital ratios, credit unions in the sand states cut back on account promotions and reduced interest rates on deposits more than in the rest of the country, to discourage deposit growth. From the beginning of 2008 to the end of 2010, total deposit growth at all credit unions in the sand states was only 4.7% compared to 28% in the rest of the country. At the very time that credit union members, also feeling the effects of the recession on their household finances, were looking to credit unions for support, credit unions were faced with the necessity to hold back their growth to preserve their capital ratios because they lacked access to supplemental capital.

As credit unions continue to recover from the Great Recession, they will need to raise capital ratios at a time when the outlook for credit union net income – the source of retained earnings – is not particularly strong. Net interest income – the difference between what credit unions earn in interest on loans and investment and what they pay on interest and dividends on savings has been on a long-term downtrend caused by the compression of market interest rates toward zero and by intense competition on both sides of the balance sheet. This pressure is unlikely to abate significantly in the near term. In addition, interchange income, an important source of non-interest revenue for credit unions, has been under pressure as a result of the debit interchange provision included in the Dodd-Frank Act, and is likely to diminish. Given the headwinds facing credit union earnings, a number of credit unions and their members may face a protracted period of reduced member service, disadvantageous member pricing and very slow growth, unless Congress allows credit unions to access supplemental forms of capital.

Representatives Peter King (R-NY) and Brad Sherman (D-CA) have introduced the Capital Access for Small Businesses and Jobs Act (H.R. 719) which would empower the NCUA to authorize well-managed credit unions to access supplemental forms of capital. The legislation establishes a set of limitations to ensure that that the supplemental capital instruments would enhance credit union safety and soundness and remain consistent with credit unions' cooperative structure. The legislation specifically states that credit unions could only access supplemental capital instruments that: (1) do not alter the cooperative nature of the credit union; (2) are subordinate to all other claims against the credit union, including the claims of creditors, shareholders, and the National Credit Union Share Insurance Fund; (3) are available to cover operating losses in excess of retained earnings and, to the extent so applied, will not be replenished; (4) if they have a stated maturity, have an initial maturity of at least five years, and their inclusion as net worth may be discounted at the Board's discretion when the remaining maturity is less than five years; (5) are subject to disclosure and consumer protection requirements as determined by the Board; (6) are offered by a credit union that is sufficiently capitalized and well-managed, and (7) are subject to such rules and regulations as the Board may establish.

Allowing credit unions to access supplemental forms of capital in the manner proposed by H.R. 719 would enhance the safety and soundness of the credit union system by providing an additional buffer against operating losses and against claims on the NCUSIF. Both state (NASCUS) and federal (NCUA) credit union regulators support access to supplemental capital.

Increase the Credit Union Member Business Lending Cap

We appreciate the fact that we have had several opportunities over the last ten years to testify in support of legislation to allow business lending credit unions to continue to serve their small business-owning members. The current cap on business lending essentially prohibits a credit union like mine from entering the market. If my credit union engaged in business lending, my cap would be about $6.5 million; the cost of hiring an experienced business lending staff does not make sense for me when that operation would have to shut down soon after it became successful. That is just what the business lending cap does – it discourages credit unions from successfully serving their members. If a credit union has entrepreneurs in its membership who need access to credit, why should the law prevent the credit union from serving them? After all, that is why credit unions were founded in the first place!

Representatives Ed Royce (R-CA) and Carolyn McCarthy (D-NY) have introduced the Credit Union Small Business Jobs Creation Act (H.R. 688), which would permit well-capitalized, business lending credit unions that have been operating near the current member business lending cap to apply to the National Credit Union Administration for the ability to lend up to 27.5% of their assets to small businesses. We estimate that this bill would allow credit unions to lend an additional $13 billion to small businesses in the first year, helping them to create 140,000 new jobs.

We are well aware of the objection to this legislation that the banks have made, and while we do believe – and have demonstrated repeatedly – that their arguments are folly, we know this is not the time or place to argue the matter. Still, they have focused much of their efforts on claiming that the Royce-McCarthy legislation would impact only a small number of credit unions. I would suggest that if the Royce-McCarthy bill were to become law, more credit unions like mine would offer business loans to our members because we would see a path to having a viable and successful business lending program. And, I would also suggest that credit unions like mine are precisely the type of institutions Congress should want lending to small businesses because we know our members, we understand our communities, and we operate safely and soundly. I urge Congress to allow credit unions to more fully serve their members, including their small business members.

Provisions Addressing the Credit Needs of Credit Union Members Who Own Small Businesses

Even though we know there is broad and deep bipartisan and bi-cameral support for increasing the credit union member business lending cap as Representatives Royce and McCarthy have proposed, we are mindful that the process the committee is pursuing involves more targeted regulatory relief proposals. Therefore, we suggest the consideration of several smaller-impact proposals that would facilitate credit union service to their small business-owning members, without causing negative consequences for small banks. Some of these proposals have previously passed the House of Representatives.

Treat Non-Owner Occupied One to Four Family Dwelling Loans as Real Estate Loans

As part of the Credit Union Membership Access Act (CUMAA), which imposed the cap on credit union member business lending, Congress included a provision designating loans made by credit unions for non-owner occupied one-to-four family dwellings as business loans, making these loans subject to the member business lending cap. However, if this type of loan is made by a bank, it is treated as a residential loan. We encourage Congress to enact legislation that treats these types of loans when made by credit unions as residential – not business – loans. While it would not have nearly the impact of increasing the credit union member business loan cap, it would give credit unions that are actively managing the cap additional capacity to serve their members with modest rental real estate holdings, and it would bring regulatory parity to the treatment of these types of loans.

Increase the De Minimus Business Loan Amount

The Federal Credit Union Act exempts from the member business lending cap business loans a borrower or an associated member that has a total of all such extensions of credit in an amount equal to less than $50,000. The de minimus amount has not been adjusted, nor indexed for inflation since 1998.

We encourage Congress to significantly increase the de minimus amount of a credit union business loan and permit the NCUA to adjust this amount no more than once per year to account for the effects of inflation. As with the proposal related to one-to-four non-owner occupied dwellings, increasing the de minimus amount would provide credit unions that today are actively managing the credit union member business lending cap the ability to continue to serve their members. We note that the FDIC considers a loan made to a business by a bank a small business loan if it is less than $1 million.[1] Increasing the de minimus to $500,000 and indexing that amount to take into consideration the effects of inflation would ensure that the loans exempted from the cap are truly small business loans and that the de minimus level, which has not been adjusted in 15 years, keeps up with economic conditions. Even though these loans would not count against the member business lending cap, we do not object to the NCUA having the authority to regulate them for safety and soundness considerations as if they were business loans.

Encourage Small Business Development in Underserved Urban and Rural Communities

In 2008, the House of Representatives passed legislation, H.R. 6312, the Credit Union, Bank, and Thrift Regulatory Relief Act, which included a provision that would have exempted from the credit union member business loan cap a loan made to a business operating in an

[1] Federal Deposit Insurance Corporation. Call Report Instruction Book. Schedule RC-C, Part II. Loans to Small Businesses and Small Farms. RC-C-30.

underserved area. The language envisioned underserved areas as including New Market Tax Credit low-income community areas and Community Development Financial Institution investment areas. We would encourage the Subcommittee to revisit this language, which passed the House of Representatives by voice vote.

Fully Exempt Government Guaranteed Business Loans from Member Business Lending Cap

Under current law, the guaranteed portion of a business loan made through a government-guaranteed loan program is exempt from the credit union member business lending cap. Many credit unions participate in the Small Business Administration programs, including the 7(a) loan program. At the end of 2012, there were 347 credit union SBA lenders – collectively they reported $920 million in SBA loans outstanding in 8,142 individual loans (the average credit union SBA loan size is thus roughly $100,000). In dollar terms, SBA loans are equal to about 2% of total MBLs at credit unions. Since December 2008, the number of SBA loans outstanding has grown by 89% at credit unions throughout the nation.

To encourage greater credit union participation in the 7(a) program and to help SBA-lending credit unions have additional capacity to manage the credit union member business lending cap, we encourage Congress to enact legislation that fully exempts loans made through the 7(a) program from the business lending cap. We appreciate that Representative Nydia Velazquez (D-NY) has in the past introduced legislation to this end, and we hope that we can work with her and others on this issue.

Enable Full Credit Union Participation in the Section 504 Program

To facilitate credit union participation in the SBA's 504 loan program, we encourage Congress to enact a technical change that would permit credit unions to participate in government guarantee loan programs on the terms set out in the regulations governing those programs. Section 107(5)(A)(iii) of the Federal Credit Union Act authorizes federal credit unions to make loans secured by the insurance or guarantee of, or with advance commitment to purchase the loan by, the Federal Government, a State government or any agency of either may be made for the maturity and under the terms and conditions specified in the law under which such insurance, guarantee, or commitment is provided. The regulations governing the 504 loan program permit lenders to take certain action that would otherwise be prohibited for federal credit unions under the Federal Credit Union Act. For example, the Federal Credit Union Act prohibits federal credit unions from imposing prepayment penalties; however, prepayment penalties are permitted by the regulations governing the 504 loan programs. We believe that federal credit unions participating in the 504 loan program should be able to exercise the same powers as other lenders participating in the program, consistent with the regulations of the program. We encourage Congress to enact a technical amendment in this regard, noting that the House of Representatives passed this provision as part of the Credit Union, Bank, and Thrift Regulatory Relief Act of 2008.

Provide NCUA with Regulatory Flexibility for Small Business Lending

One of the consequences of having credit unions' capital ratios hardwired into statute is limitations on permissible activity based on capital level also get hardwired into law under certain circumstances. A credit union is considered well capitalized when its net worth ratio is greater than 7%; it is considered adequately capitalized when its net worth ratio is between 6% and 7%. Under current law, a credit union must cease business lending if their capital levels fall below 6%. However, because of credit unions' capital structure, there may be circumstances under which an otherwise healthy credit union would dip below the adequately capitalized level. For example, for a small credit union, an unexpected and large influx of deposits would reduce the credit unions' capital levels. In these cases, it would be beneficial for the NCUA to have regulatory flexibility to allow the credit union to continue to lend, in order to support retained earnings growth to raise the credit union's net worth ratio. We encourage Congress to give the NCUA flexibility to permit a credit union to continue to lend to small businesses if its capital ratio drops below the level considered to be adequately capitalized.

Exclude Member Business Loans Made to Non-Profit Religious Organizations from the Member Business Lending Cap

A handful of very experienced credit unions specialize in making loans to non-profit religious organizations; and these loans are some of the safest loans written today. However, the member business lending cap constrains these credit unions' ability to serve this market, notwithstanding that the credit unions that originate this lending are generally exempt from the member business lending cap under the grandfather provision enacted in 1998. The reason the cap affects these credit unions is that it is normal course of business for these credit unions to sell participations of these loans to other credit unions that would be subject to the member business lending cap. Exempting these loans from the cap would permit other credit unions to purchase participations in these relatively safe loans without their part of the loan counting against the cap. The only change in the treatment of these loans we are proposing affects the treatment under the cap. The participating credit union would still do the necessary underwriting for their portion of the loan; and the loan would continue to be regulated as a business loan, but exempting it from the cap would add another investment option for credit unions and help credit unions spread the risk associated with these loans.

We encourage Congress to enact legislation to exempt member business loans made to non-profit religious organizations from the member business cap. Over the last ten years, there have been several proposals to exempt these loans from the member business lending cap. In fact, the House of Representatives passed legislation that included this proposal in 2006 and 2008. We appreciate the leadership shown by Representatives Ed Royce (R-CA) and Corrine Brown (D-FL) through their sponsorship of this legislation, and we encourage Congress to enact this legislation.

Other Federal Credit Union Act Improvements

Clarify Share Insurance Coverage of Certain Trust Accounts

Members of federally-insured credit unions have similar deposit insurance coverage as customers of federally-insured banks. In fact, the Federal Credit Union Act directs the NCUA, which administers the NCUSIF, to provide coverage that is on par with the FDIC.[2] However, the NCUSIF does not provide equal insurance treatment for certain types of accounts that are similar to accounts held by bank customers and insured by the FDIC, including Interest on Lawyer Trusts Accounts (IOLTAs) and prepaid debit card master accounts.

An IOLTA is set up by an attorney as an escrow account containing pooled client funds, with the interest on the funds going to support legal services for the poor. In NCUA legal

[2] 12 USC 1787(k)(1)(A)

opinion letter 96-0841, the agency stated that the client continues to own the money and that the attorney is only serving as a custodial agent. Therefore, membership status (in the credit union) of the client(s), as the owner(s) of the funds, and not that of the attorney or IOLTA administrator, determines whether the IOLTA account can be maintained by the credit union and whether it is insurable. Generally speaking, in order for the attorney to maintain an IOLTA account at a credit union, all of the clients whose funds would be deposited must be members of the credit union. Federal credit unions that are designated as "low income" face fewer restrictions in setting up IOLTA accounts since they are allowed to accept non-member funds.

Another deposit insurance issue arises with prepaid debit card master accounts at banks and credit unions. The funds attached to most general purpose reloadable (GPR) cards issued by banks and credit unions are typically held in aggregate accounts at the issuing financial institution, not in individual accounts. The deposit insurance coverage for such GPR cards vary widely depending on the card program's structure and credit union member and bank customer awareness of such coverage, if it exists and in what amount, also varies widely among banks and credit unions.

CUNA believes that authority added to the Federal Credit Union Act in 2006 should permit NCUA to extend IOLTA deposit and "pass-through" share insurance on par with FDIC-insured institutions; however, NCUA has not been willing to extend share insurance coverage to these accounts. There is no public policy reason for deposit insurance purposes to distinguish credit union IOLTA accounts from those insured by FDIC.

CUNA supports clear disclosures regarding whether a GPR prepaid card offers insurance on its underlying funds, whether through the NCUSIF or the FDIC. However, pass-through insurance should not be required for all GPR prepaid cards. Imposing such a requirement would likely increase costs for providers and reduce the accessibility of prepaid cards for consumers.

Modernize the National Credit Union Administration Board

While it may seem counter-intuitive for a regulated entity to propose increasing the size of the body that regulates it, CUNA encourages Congress to consider significant reforms to the size and composition of the National Credit Union Administration Board of Directors. Currently, the NCUA Board is composed of three full time members appointed by the President of the United States and confirmed by the Senate; no more than two board members can be from the same political party; each member serves a staggered six-year term; and no more than one member may be, or recently have been, involved in any insured credit union as a committee member, director, officer, employee or other institution-affiliated party.

Three problems exist with this structure. First, when a Board member resigns or his term expires, an often lengthy and politically challenging process begins to fill the vacancy; while the challenges of confirmation are not unique to the credit union system, it is not unusual for this process to take more than a year. This deprives the Board of expertise and can concentrate all decision-making power with the one or two seated Board members. There has been an occasion within the last ten years were there were two simultaneous vacancies on the board, leaving the Chairman as the only board member. This is an unhealthy situation for effective governance of a system comprised of 7,000 credit unions, with over $1 trillion in assets and 96 million members. There is presently one vacancy on the Board with another Boardmember's term expiring in August. Congress intended for credit unions to be regulated by a Board, similar to the FDIC Board, not a single regulator like the Comptroller of the Currency. Enlarging the Board to five members would alleviate this situation.

Second, there is currently no stipulation in law that any of the Board members have relevant experience and familiarity with state-chartered credit unions, or an appreciation for the important supervisory role that state credit union regulatory have. The absence of board members with state-chartered credit union experience deprives the NCUA Board and staff of qualified perspective with respect to state-chartered institutions and the importance of the dual chartering of credit unions. It also fails to protect state-chartered credit unions from regulatory overreach on the part of the federal regulator which is also the insurer of nearly all state-chartered credit unions. Designating a seat on the NCUA Board for a state credit union regulator would lead to better regulation and enhance the safety and soundness of the entire credit union system.

Third, under current law, only one member of the Board can have recent credit union experience; no similar limitation exists on the FDIC Board with respect to bank experience. This restriction limits the pool of candidates the President may choose from in filling Board vacancies. Excluding candidates based on such recent experience robs the NCUA Board of talented and experienced professionals who would have real-world insight into the effects of Board actions.

We believe credit unions deserve a world-class regulator comprised of Board members who have a deep and thorough understanding of the credit union system. We encourage Congress to consider expanding the size of the NCUA Board from three to five, dedicate one of those seats for a state credit union regulator, and eliminate the restriction that no more than one Board member can have experience with credit unions. Such action would help maintain independence, retain needed expertise, and enable continuity of leadership. It is worth noting that the Government Accountability Office has recommended NCUA Board expansion in the past.[3] We understand that these changes may increase costs at the agency; however, we believe that any increase should be nominal relative to the size of the agency's budget. Further, we believe there are opportunities for the agency to reprioritize its budget to accommodate these changes without significantly increasing the costs borne by credit unions.

Expand Credit Union Service in Underserved Areas

Providing access to credit and promoting thrift are the key goals of credit unions, and the reason that they exist in the market place. Congress should encourage credit unions to reach out and serve underserved communities, not prohibit them from doing so. CUMAA included language intended to clarify that all federal credit unions may apply to NCUA to add underserved areas to their field of membership. But the wording was challenged in court by banking trade groups in 2006, and as a result NCUA discontinued underserved area expansions for credit unions that would like to reach potential members who are not being served adequately.

In 2008, the House of Representatives approved legislation (H.R. 6312) that included a compromise provision that would have enhanced the ability of credit unions to assist underserved communities with their economic revitalization efforts. Specifically, the provision would have provided all federal credit unions with an equal opportunity to expand services to individuals and groups working or residing in areas that meet the income, unemployment and other distress criteria identified by the Treasury Department. The bill's definition of a qualified underserved area included areas currently eligible as "investment areas" under the Treasury Department's Community Development Financial Institutions (CDFI) program, as well as census

[3] Government Accountability Office. Credit Unions: Reforms for Ensuring Future Soundness. GAO/GGD-91-85 (Washington, D.C.: Jul. 10, 1991), 197.

tracts qualifying as "low income areas" under the New Markets Tax Credit targeting formula adopted by Congress in 2000. Unfortunately, this legislation was not considered by the Senate.

We encourage the Subcommittee to pursue legislation that clarifies that all federal credit unions are eligible to add underserved areas to their fields of membership. We believe the 2008 language provides a good place to start on achieving this end, and we would like to work with the Subcommittee as you revisit this language.

Permit Net Worth Restoration Plan Flexibility during Disasters

The National Credit Union Administration (NCUA) has little flexibility to waive credit union net worth restoration plan requirements when a credit union's operations are disrupted by natural disasters or terrorist acts.

Well-capitalized, well-managed, and properly-regulated credit unions often face circumstances beyond their control. Extreme weather events and terrorist attacks can quickly erode a credit union's net worth to asset ratio, either because of an influx of disaster relief deposits or if members temporarily become unable to make payments on the loans. When this happens, the NCUA mandate a series of draconian actions to restore net worth at the affected credit unions.

We encourage Congress to provide the NCUA Board with authority to waive temporarily the requirement to implement a net worth restoration plan for a credit union that becomes undercapitalized due to disruption of its operations by a natural disaster or a terrorist act.

Enhance Federal Credit Union Investments in Securities

The Federal Credit Union Act currently limits the investment authority of federal credit unions to loans, government securities, deposits in other federally-insured financial institutions, and certain other very limited investments. Many credit unions have large investment portfolios that can only be accommodated with these limited investment options. However, safe investing requires a diversity of investment options. Such options are severely limited for credit unions. Credit unions need additional investment authority to purchase for the credit union's own account certain securities of investment grade.

We encourage Congress to provide credit unions with additional options to safely and soundly exercise the management of excess capital, in line with the best interests of the members of the credit unions. We would support legislation that provides additional investment authority to purchase for the credit union's own account certain investment securities of investment grade. The total amount of the investment securities of any one obligor or maker could not exceed 10% of the credit union's net worth, and the sum of such investment securities could not exceed two times net worth. This increased authority is especially important since corporate credit unions, which once served as a significant investment outlet for credit unions, are now much more focused on transactions than investment services.

The House of Representatives passed a similar proposal as Section 303 of H.R. 3505, the Financial Services Regulatory Relief Act of 2006, by a vote of 415 - 2. However, the provision was not included in the version of the legislation that was ultimately enacted into law. It was also included as Section 101 of H.R. 6312, the Credit Union, Bank, and Thrift Regulatory Relief Act of 2008, which passed the House of Representatives by voice vote on June 24, 2008; unfortunately, this legislation was not considered by the Senate.

Increase Investment Limit in Credit Union Service Organizations

The Federal Credit Union Act authorizes federal credit unions to invest in organizations providing services to credit unions and credit union members. An individual federal credit union, however, may invest in aggregate no more than one percent of its shares and undivided earnings in these organizations, commonly known as credit union service organizations or CUSOs. This is an outdated limit on credit unions' ability to invest in a CUSO. We encourage Congress to enact legislation that increases the limit on credit union investment in CUSOs to three percent.

Banking is subject to strong economies of scale. Smaller financial institutions tend to be much less efficient than larger ones, on average. For a small institution, there are only two options: grow quickly, which usually means being absorbed by a larger institution, or collaborate with other smaller institutions. Collaboration can involve several credit unions coming together to invest in an entity, in this case a CUSO, that can provide back office or other services to all of them.

A CUSO is an entity established primarily to serve the needs of its credit union owner(s) whose business relates to the daily operations of the credit union(s) it serves. CUSOs perform important services that support credit unions and enhance their ability to serve their members.

CUSOs offer data processing, computer support, marketing campaigns, teller training, loan originations, payroll support, electronic transaction services, financial counseling, checking account services, record retention and other professional services. CUSOs are jointly owned by credit unions.

In addition to facilitating more collaboration among credit unions, expanded CUSO investment authority would allow credit unions to provide additional funding for organizations that help credit unions do their work, and meet their members' financial needs. In turn, credit unions could expand their services to their members or offer services at a more favorable rate than if they had to deal with a vendor outside of the credit union system.

This provision passed the House of Representatives as Section 305 of H.R. 3505, the Financial Services Regulatory Relief Act of 2006, by a vote of 415 - 2. However, the provision was not included in the version of the legislation that was ultimately enacted into law. It was also included as Section 101 of H.R. 6312, the Credit Union, Bank, and Thrift Regulatory Relief Act of 2008, which passed the House of Representatives by voice vote on June 24, 2008; unfortunately, this legislation did not pass the Senate.

Eliminate the Numerical Limitation of Employee Groups in Voluntary Credit Union Mergers

In voluntary mergers of multiple bond credit unions, NCUA has determined that it must consider not transferring employee groups over 3,000 from the merging credit union and requiring such groups to spin off and form separate credit unions. A spun-off group with 3,000 potential members would likely have less than $20 million in assets, and would be hard-pressed to efficiently offer a broad range of financial services to its members.

As the natural consolidation of credit unions continues, we anticipate this numerical limitation will begin to pose challenges for healthy credit unions seeking to merge to serve their members more effectively. We ask Congress to eliminate the numerical limitation with respect to voluntary mergers of multiple common bond credit unions. This proposal passed the House of Representatives on March 8, 2006 as Section 308 of H.R. 3505, the Financial Services Regulatory Relief Act of 2006, by a vote of 415 - 2. However, the provision was not included in the version of this legislation that passed the Senate.

Protect Membership When Credit Unions Merge With or Convert To A Community Credit Union

Currently, when a credit union merges with a community credit union, the continuing credit union may serve members of record but groups within the merging credit union's field of membership that are outside of the continuing community credit union's boundaries must be removed and new members from those groups may not be added. This arbitrary limitation not only burdens the merger process but also limits credit union choices for affected groups that had been part of a credit union's common bond prior to a merger with a community credit union.

We urge Congress to enact legislation that would allow new members from a group that was in the field of membership of a credit union that merges with a community credit union to be eligible to join the continuing community credit union, even if the group is outside the service area of the community credit union after the merger. This proposal passed the House of Representatives on March 8, 2006, as Section 309 of H.R. 3505, the Financial Services Regulatory Relief Act of 2006, by a vote of 415 - 2. However, the provision was not included in the version of the legislation that became law. It was also included as Section 106 of H.R. 6312, the Credit Union, Bank, and Thrift Regulatory Relief Act of 2008, which passed the House of Representatives by voice vote on June 24, 2008; unfortunately, this legislation was not considered by the Senate.

A similar issue arises regarding a conversion to a community charter. Under the Federal Credit Union Act, once a common-bond credit union successfully converts to a community charter, any member falling under the previous charter's field of membership (FOM), and not residing or working within the defined community may not be included in the continuing community credit union's field of membership. This anomaly should be corrected so that in the event of a conversion to a community credit union charter, no segment of the existing common-bond credit union membership loses his/her membership rights.

Provide Federal Credit Unions with Additional Governance Flexibility

We recommend three changes to the Federal Credit Union Act related to credit union governance. First, we ask Congress to give credit unions flexibility to expel a member who is disruptive to the operations of the credit union without the need for a two-thirds vote of the membership present at a special meeting, as required by current law. Second, we ask that federal credit unions be authorized, but not required, to limit the length of service of their boards of directors to ensure broader representation from the membership. Finally, we ask that federal credit unions be permitted to reimburse board of director volunteers for wages they otherwise forfeit by participating in credit union affairs.

Under current law, the expulsion of a member is subject to a two-thirds vote of the membership present at a special membership meeting called for that purpose. While the instances of credit union member expulsion are rare, there have been situations in the past where a more expedited expulsion process would have been warranted, including situations where a member is harassing personnel and creating safety concerns. We encourage Congress to permit federal credit unions to adopt and enforce an expulsion policy for just cause and nonparticipation by majority vote of their board of directors.

Credit unions also should have the right to limit the length of service of their boards of directors as a means to ensure broader representation from the membership. Credit unions, rather than the federal government, should determine term limits for board members. Providing credit unions with this right does not raise supervisory concerns and should not, therefore, be denied by the federal government.

Given the pressures of today's economy on many workers and the legal liability attendant to governing positions at credit unions, it is increasingly difficult to attract new members for boards of directors. Amending the Federal Credit Union Act to permit credit unions to reimburse directors for lost wages resulting from carrying out their board duties would help encourage interest and involvement in credit union boards of directors. Whether or not a volunteer attends a meeting or training session is sometimes determined by whether or not the director will have to miss work and not be paid.

These proposals passed the House of Representatives on March 8, 2006 as Section 310 of H.R. 3505, the Financial Services Regulatory Relief Act of 2006, by a vote of 415 - 2. However, the provision was left out of the final bill in negotiations with the Senate. It was also included as Section 110 of H.R. 6312, the Credit Union, Bank, and Thrift Regulatory Relief Act of 2008, which passed the House of Representatives by voice vote on June 24, 2008; unfortunately, this legislation was not considered by the Senate.

Permit NCUA Additional Flexibility to Respond to Market Conditions

The Federal Credit Union Act prohibits federal credit unions from lending at interest rates exceeding 15% annual percentage rate, except when the NCUA determines that money market interest rates have risen over the preceding six-month period **and** that prevailing interest rate levels threaten the safety and soundness of individual credit unions as evidenced by adverse trends in liquidity, capital, earnings, and growth.

We ask Congress to give the NCUA flexibility to allow federal credit unions to lend above the 15% ceiling if either of the conditions are met: money market interests have risen over the preceding six months **or** the prevailing interest rate levels threaten the safety and soundness of individual credit unions as evidenced by adverse trends in liquidity, capital, earnings, and growth.

This proposal passed the House of Representatives on March 8, 2006 as Section 311 of H.R. 3505, the Financial Services Regulatory Relief Act of 2006, by a vote of 415 - 2. However, the provision was left out of the final bill in negotiations with the Senate. It was also included as Section 105 of H.R. 6312, the Credit Union, Bank, and Thrift Regulatory Relief Act of 2008, which passed the House of Representatives by voice vote on June 24, 2008; unfortunately, this legislation was not considered by the Senate.

Permit Privately Insured Credit Unions to Join Federal Home Loans Banks

Under current law, privately-insured credit unions are not permitted to become members of a Federal Home Loan Bank. We support the enactment of legislation that would allow privately insured credit unions to join a FHLB, providing a new source of mortgage funding for these financial institutions and their members. Passage of this legislation would advance home ownership options for members of privately-insured credit unions. A similar proposal passed the House of Representatives on March 8, 2006 as Section 301 of H.R. 3505, the Financial Services Regulatory Relief Act of 2006, by a vote of 415 - 2. However, the provision was not included in the version of this legislation adopted by the Senate. Legislation on this issue was also introduced in the 112th Congress by Representative Steve Stivers (R-OH).

Increase the Maturity Limit for Higher Education Loans Made by Federal Credit Unions

The costs of higher education continue to grow but federal credit unions are limited in their ability to meet the student loan demands of their members because of a statutory limit on the maturity of the loans they can offer. Under current law, federal credit unions are limited to making loans with maturities of 15 years or less, except for residential loans on a one-to-four family dwelling that is the primary residence of the credit union member to whom the loan is made. We ask Congress to permit private student loans with maturities of up to 30 years for credit unions that are well positioned to manage such loans.

Require NCUA to Hold an Annual Open Hearing on its Budget

Federally-insured credit unions provide almost all of the funding for the operations of the National Credit Union Administration. From 2001 to 2008, the NCUA held annual public hearings on its budget. Since the NCUA stopped holding these hearings, the agency has significantly increased it budget and expanded its footprint. For example, the 2009 budget represented a 12% increase over the 2008 budget; in 2010, the agency approved a 13% increase; in 2011, a 12.2% increase. While the budget increases for 2012 (5.1%) and 2013 (6.1%) are lower than the increases for the crisis years, the agency continues to increase the budget at a time when the FDIC is reducing its budget. For 2013, the FDIC has approved a 17% budget decrease.

We encourage Congress to encourage the NCUA to justify why the agency continues to expand its footprint at a time when other similar regulators are reducing their footprint, and when almost the entire federal government is being subjected to cuts as a result of sequestration. We also encourage Congress to enact legislation requiring the NCUA to make publicly available a budget on an annual basis and hold a hearing to receive input from the public. The credit unions paying for the operation of the NCUA deserve a voice in the development of the agency's budget, and they deserve a transparent budget process that funds an appropriately sized and efficient regulatory agency.

Improvements to the Dodd-Frank Act

Improve Coordination between the CFPB and the NCUA

Credit unions are rightly concerned that they are being subjected to new regulations and requirements by the CFPB that address abuses that have not involved credit unions. The regulatory burden on credit unions is tremendous and the cumulative impact of all regulatory requirements is diverting credit unions from fulfilling their primary mission, which is to serve their members. As member owned financial cooperatives, credit unions are in business to protect and promote their members' financial interests. However, credit unions are increasingly subjected to the very same rules that are intended to address the most egregious practices in the financial market place.

We ask Congress to require the CFPB to coordinate with the National Credit Union Administration and state credit union regulators to determine whether it is necessary to impose new regulatory or data collection requirements on credit unions or whether such requirements should be modified in recognition of credit unions' current efforts to protect consumers. Exemptions and modifications would have to be applied in accordance with procedures established by the CFPB.

Codify the Credit Union Advisory Council

Shortly after the CFPB was established, the Bureau leadership announced the creation of a credit union advisory council (CUAC). This group, the creation of which CUNA strongly urged, advises the agency on the impact of the Bureau's proposals on credit unions, sharing information, analyses, recommendations and the unique perspective of not-for-profit financial institution with the agency director and staff. However, since the CUAC is not required by law, it could be abolished at any time. We believe the CUAC is an important resource for the agency and also provides a forum for credit union officials to provide direct feedback to the agency on how proposals and final rules will affect credit unions' operations.

We ask Congress to codify the CFPB Credit Union Advisory Council as a legal requirement and to require the CFPB to reimburse CUAC members for their travel and lodging expenses incurred to attend meetings of the CUAC.

Require SBREFA Panels for all CFPB Rules

As required by the Dodd-Frank Act, the Consumer Financial Protection Bureau has held Small Business Regulatory Enforcement Fairness Act (SBREFA) panels for several of its regulations, including mortgage rules. These panels, which are conducted under the auspices of the Small Business Administration's Office of Advocacy, are invaluable for identifying concerns and shedding light on costs small businesses will have to bear under new proposals. However, the CFPB has taken the view that it is not required to hold a SBREFA panel for rulemaking that involve regulations transferred from other agencies, such as the international remittance transfers regulation that was initiated by the Federal Reserve Board.

We ask Congress to direct the CFPB to hold Small Business Regulatory Enforcement Fairness Act (SBREFA) panels for all regulations that the CFPB promulgates which could impact small businesses, including for regulations that were initiated by other federal regulators such as the Federal Reserve Board.

Other Regulatory Improvements

Improve Regulation D With Respect to Automatic Transfers from Savings to Checking Accounts

Federal Reserve Regulation D governs depository institution reserve requirements used by the Federal Reserve to influence monetary policy. Regulation D impacts credit union members by limiting the number of withdrawals permitted from Share Savings, Money Market, and other savings accounts in a manner no longer consistent with economic realities. Regulation D has not been updated since passage of the Depository Institutions Deregulation and Monetary Control Act of 1980, an act adopted because national banks were converting to state-charters in order to avoid regulation by the Fed. These conversions impeded the Fed's ability to influence monetary policy and fight stagflation.

While permitting the Federal Reserve to influence monetary policy remains important to maintaining a healthy economy, these 33-year-old rules should be updated for the 21st century, particularly with regard to Regulation D's restrictions on savings accounts. Raising or eliminating the cap on the number of transfers between these accounts per month could reduce the number of overdraft fee or non-sufficient balance fees incurred by consumers. We encourage Congress to consider such legislation.

Reduce the Loan Loss Reserve Requirement of SBA's Microloan Program

The Small Business Administration's Microloan Program is designed to provide small businesses with short-term loans for working capital or to purchase inventory or supplies. Under this program, the SBA makes special funds available to nonprofit organizations with experience in lending and technical assistance called intermediaries. These intermediaries then make loans to eligible borrowers in amounts up to a maximum of $50,000.

In order to be an intermediary, the financial institution is required to have a loan loss reserve fund that is 15 percent of the outstanding balance of the notes receivable owed to the intermediary. While there are circumstances where the Administrator may reduce the annual loan loss reserve requirement, in no case will it be allowed to drop below 10 percent of the outstanding balance of the notes receivable owed. In the situations where the Administrator may reduce the loan loss reserve for an intermediary, the average annual loss rate for the intermediary must be less than 15 percent during the 5 years preceding said period.

We encourage Congress to enact legislation that reduces the loan loss reserve requirement for SBA microloans to no more than 5 percent of the outstanding balance of the notes receivable owed to the intermediary, and authorize the Administrator to reduce the annual loan loss reserve requirement to no less than 1 percent if the average annual loss rate for the intermediary is less than 5 percent.

Require an FSOC Assessment of the Unintended Consequences of Accounting Standards on Private Entities

There are numerous existing accounting standards as well as several proposed standards that are intended to address problems related to publicly traded companies; most of these accounting standards apply equally to non-publicly traded companies. We encourage Congress to direct the FSOC to conduct post-implementation assessments of new and revised accounting standards issued by FASB to identify the unintended consequences of applying accounting standards designed for publicly-traded entities to private entities. This proposal is intended to alert the accounting standard setters and financial regulators to unintended consequences of misapplication of accounting standards to private entities, and in turn prompt positive changes to such standards.

Enact Examination Fairness Legislation

Concerns regarding credit union examinations increase during difficult economic times, but even as the economy recovers, credit unions continue to express concern with their examinations. In a recent survey conducted by CUNA, 25% of credit unions reported dissatisfaction with their most recent exam. Credit unions support strong but fair and appropriate safety and soundness regulation and supervision to protect the financial resources of credit unions and their members and to minimize costs to the NCUSIF borne by all federally insured credit unions. These exams should be based on the laws Congress enacts and the regulations that

NCUA promulgates, and the appeals process should protect credit unions from examiner retaliation.

We were very grateful for and pleased to support the legislation introduced in the 112th Congress by Chairman Capito (R-WV) and Representative Carolyn Maloney (D-NY) that would codify certain examination standards, provide an independent ombudsman to whom credit unions and banks could raise concerns about their exams, and create an independent appeals process under which they could dispute determinations made in their exams. We also appreciated the hearing that was held in 2012 on this legislation; in the months following that hearing, we began to hear from credit unions anecdotally of improved examination experiences. We believe one of the reasons for this was the impact of the hearing. We encourage the Subcommittee to continue to shed light on the examination experiences of credit unions and small banks, and we look forward to working with you on the examination fairness legislation in the 113th Congress.

Studies

Direct the Treasury Department to Study the Credit Union Examination Appeals Process

Credit unions need an effective and efficient process for appealing examination findings and directives that they reasonably determine are arbitrary. Section 309 of the Riegle Community Development and Regulatory Improvement Act of 1994 requires that certain agencies, including the NCUA, develop an independent appeals process for examination issues. While the NCUA has taken steps to implement the requirement, credit unions remain concerned that absent passage of the examination fairness legislation, credit unions have limited resource to challenge unwarranted directives and findings.

We encourage Congress to direct the Secretary of Treasury to conduct a study regarding the usefulness and transparency of the appeals process to credit unions seeking redress for examination directives of NCUA, and to report to Congress the results of this study along with recommendations to ensure that credit unions have a fair and independent appeals process.

Direct the GAO to Study NCUA's Use of Authority to Deviate from Generally Accepted Accounting Principles (GAAP)

There are numerous existing generally accepted accounting standards as well as several proposed standards that apply inappropriately to credit unions as member-owned cooperatives, which are not publicly traded. Under the Federal Credit Union Act, NCUA is authorized to allow credit unions to deviate from generally accepted accounting principles. "If the [NCUA] Board determines that the application of any generally accepted accounting principle to any insured credit union is not appropriate, the Board may prescribe an accounting principle for application to the credit union that is no less stringent than generally accepted accounting principles."[4] However, the agency rarely invokes the authority. We believe a government study is needed regarding the extent to which NCUA has such authority and to assess the consequences to credit unions and the agency should deviations be permitted, particularly in the area of merger accounting and credit impairments and losses.

We encourage Congress to direct the Government Accountability Office to conduct a study of: (1) whether the NCUA has sufficient statutory discretion to deviate from existing U.S. GAAP designed for publicly traded companies; and (2) the costs and benefits to credit unions and the NCUA should NCUA allow financial statement reporting for merger accounting and credit impairment and losses that deviates from GAAP standards.

Order Additional Studies on Cost-Benefit Analysis of Rulemakings that Affect Credit Unions

Credit unions are concerned that federal regulators are not sufficiently assessing costs and benefits when promulgating new regulations. Since 2008, credit unions have been subjected to in excess of 120 regulatory changes from at least 15 different federal agencies. The burden of complying with ever-changing and ever-increasing regulatory requirements is particularly onerous for smaller institutions, including credit unions.

The OMB and GAO should conduct additional studies on the cost-benefit analysis of rulemakings from the federal financial agencies, including the NCUA and CFPB, and assess the impact and costs on credit unions and smaller financial institutions.

Direct the GAO to Study the Cumulative Regulatory Burden Facing Credit Unions and Small Banks

[4] 12 U.S.C. § 1782(a)(6)(C)(ii)

We encourage Congress to direct the GAO to complete a study on the total cumulative regulatory burden facing credit unions and small banks, and the effect this burden has on the ability of these institutions to meet the financial services needs of their communities. As part of this study, we would encourage Congress to ask the GAO to include recommendations for minimizing the current and future regulatory burdens on these institutions and include analyses and responses from the federal regulators of depository institutions as well as the CFPB.

Direct the GAO to Study the Impact of Supervisory Actions on the Vitality of Community Based Financial Institutions

We encourage Congress to direct the GAO to review and report to Congress on an annual basis the actions taken by the NCUA and FDIC related to the supervision of the institutions under their authority and the impact of those actions on the vitality of such institutions.

Direct the NCUA to Report on its Activities that Promote Dual Chartering of Credit Unions

We encourage Congress to enact legislation directing the NCUA to report to Congress on an annual basis its actions in the previous year that promoted dual chartering for credit unions and any action it took that resulted in limiting the ability of states to set standards for the credit unions under their supervision.

Conclusion

The scope and depth of the regulatory burden crisis facing community financial institutions is so great that producing an exhaustive list of the challenges and the solutions is frankly impossible. There are a number of other areas of concern to credit unions in this space that may warrant separate consideration, including the implementation and the adverse impact of the debit interchange regulation and the potential consequences of housing finance reform legislation.

With respect to the debit interchange amendment, the impact of the law and its regulation is very real to credit unions of all sizes. A recent Federal Reserve report included data showing the detrimental impact of the debit regulation on small financial institutions.[5] While small issuers (less than $10 billion in assets) are exempt from the regulated debit rate, they are not exempt from the law's provisions on routing and exclusivity. As the full impact of the entire regulation becomes more apparent over time, we urge Congress to continue to pay close attention to the impact on credit unions and other small issuers.

Finally, as Congress proceeds to consider housing finance reform legislation, we hope the concerns of community based financial institutions will be addressed. It is critical that a functioning, well regulated secondary mortgage market ensures fairness, provides liquidity in all market conditions and allows for equal access to the secondary market so that credit unions will be readily available to serve their members on the terms that they expect and demand. We look forward to working with the Committee on this issue.

Once again, we greatly appreciate the opportunity to testify at today's hearing. We hope that what we have submitted provides a good starting place for the Subcommittee, and we look forward to working with you and others to achieve meaningful regulatory relief.

[5] Federal Reserve Board of Governors. 2011 Interchange Fee Revenue, Covered Issuer Costs, and Covered Issuer and Merchant Fraud Losses Related to Debit Card Transactions. March 5, 2013. http://www.federalreserve.gov/paymentsystems/files/debitfees_costs_2011.pdf

ATTACHMENT I

MEMORANDUM RELATED TO CFPB EXEMPTION AUTHORITY

This memorandum addresses the Bureau's statutory authority to exempt credit unions from obligations imposed by: (1) Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act[1] ("Dodd-Frank Act") and Bureau regulations issued under Title X; and (2) the "enumerated consumer laws" and Bureau regulations to implement those laws.

Executive Summary

As described in greater detail below, the Bureau has several sources of statutory authority that it could use to provide exemptions from the requirements of statutes or implementing regulations generally or the requirements of certain provisions specifically.[2] These statutory provisions individually and together grant broad authority to the Bureau and constitute a strong legal framework to support the agency's reasonable use of its exemption authority.

For example, Section 1022 of Title X of the Dodd-Frank Act permits the Bureau to exempt ***any*** **class of covered person from** ***any*** **provision of Title X or** ***any*** **rule issued by the Bureau under Title X** if such an exemption is consistent with relevant statutory considerations that the Bureau must take into account in issuing an exemption.

In addition to this general authority, of the eighteen enumerated consumer laws, eleven provide the Bureau with specific exemption authority. Specifically, of the eighteen enumerated consumer laws:

- Five permit the Bureau generally to provide exemptions for specific classes of transactions only;
- Five permit the Bureau to make exemptions from specific statutory provisions only; and
- One permits the Bureau to provide exemptions for specific classes of transactions and also permits the Bureau to make exemptions from specific statutory provisions.

As discussed below, however, the various statutes generally do not define the phrase "class of transaction" or otherwise clarify whether a "class of transaction" may apply to a specific type of institution. Nonetheless, the Bureau's exemption authority under specific provisions of certain laws may be broader than its more general "class of transaction" authority.

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[1] Public Law 111–203, 124 Stat. 1376 (2010).

[2] We note that, in large part, the Bureau's exemption authority is permissive and not mandatory. That is, where permitted, the Bureau may (but is not required to) provide exemptions.

Five of the eighteen enumerated consumer laws permit the Bureau to make exemptions for classes of transactions subject to substantially similar state laws.[3] This "substantially similar state law" exemption authority requires, among other things, that there be a state law that is substantially similar to the federal law and that there is adequate provision for enforcement of that state law.

Regardless of the source of exemption authority, our discussion below assumes that any Bureau use of its exemption authority would be consistent with the Administrative Procedure Act. Specifically, we assume that any Bureau use of its exemption authority by rule would not be "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law."[4] For example, if the Bureau were to make an exemption for credit unions and not for other types of institutions as well, the Bureau would need a sufficient basis for treating credit unions differently than other types of institutions.

Background on the Bureau

As you know, Title X of the Dodd-Frank Act created the Bureau as an independent agency within the Federal Reserve System. In general, the Bureau is charged with writing rules to implement a number of federal consumer financial laws, as well as supervision and enforcement of those laws. Certain consumer financial protection functions previously performed by the federal banking agencies and the National Credit Union Administration ("NCUA") were transferred from such agencies to the Bureau. In addition to inheriting supervisory and enforcement authority for certain institutions, the Bureau is generally authorized to issue regulations to implement various consumer financial protection laws. Separately, the Bureau is authorized to engage in rulemakings and to take certain actions regarding unfair, deceptive or abusive acts or practices in connection with consumer financial products and services.[5]

Broad Bureau Exemption Authority Under Section 1022 of Title X

Section 1022 of Title X of the Dodd-Frank Act authorizes the Bureau "to exercise its authorities under Federal consumer financial law to administer, enforce, and otherwise implement the provisions of Federal consumer financial law."[6] Section 1022 permits the Bureau to "prescribe rules and issue orders and guidance, as may be necessary or appropriate to enable the Bureau to administer and carry out the purposes and objectives of the Federal consumer financial laws, and to prevent evasions thereof."[7] The "Federal consumer financial laws" include Title X, the "enumerated consumer laws" and any Bureau rule prescribed under Title X or the

[3] Note that only one law, the Fair Debt Collection Practices Act, includes only the "substantially similar state law" exemption authority. That is, four of the five laws that include this type of exemption authority also include another type of exemption authority, such as the "class of transaction" authority discussed above.
[4] 5 U.S.C. § 706(2)(A).
[5] *See* 15 U.S.C. § 5531.
[6] 12 U.S.C. § 5512(a).
[7] 12 U.S.C. § 5512(b)(1).

enumerated consumer laws. As a result, in addition to any other rulewriting authority provided for under Title X or the enumerated consumer laws, Section 1022 separately authorizes the Bureau to write rules as it deems appropriate to carry out the purposes and objectives of the Federal consumer financial laws.

Section 1022 also provides the Bureau with exemption authority with respect to Title X and the rules that the Bureau may prescribe to carry out the purposes and objectives of the Federal consumer financial laws (*i.e.*, Bureau rules issued under Title X). Specifically, Section 1022 provides that the Bureau "**may conditionally or unconditionally exempt any class of covered persons . . . from any provision of [Title X], or from any rule issued under [Title X]**, as the Bureau determines necessary or appropriate to carry out the purposes and objectives of" the Title.[8]

This exemption authority is far-reaching. Section 1022 authorizes the Bureau to provide an exemption from a Bureau rule issued under Title X that addresses conduct governed by an enumerated consumer law, even if that specific law does not provide the Bureau with independent exemption authority. That is, the Bureau's authority to provide an exemption from a rule issued under Title X is not contingent on statutory exemption set forth under the underlying enumerated consumer laws.

In order to exempt credit unions from a rule issued under Title X, the Bureau must determine that such an exemption is appropriate to carry out the purposes and objectives of Title X. The broadly stated "purpose" of Title X, as described in Section 1029A, is for the Bureau to implement and enforce the Federal consumer financial laws "consistently for the purpose of ensuring that all consumers have access to markets for consumer financial products and services and that markets for consumer financial products and services are fair, transparent, and competitive."[9] For example, if credit unions could no longer offer certain consumer financial products or services because of an inability to do so on a competitive cost basis, including because compliance costs outweigh revenue, the Bureau may find an exemption appropriate in order to ensure or expand consumer access to those products.

Moreover, the stated "objectives" of Title X, as described in Section 1029A, are that the Bureau's authority under the Federal consumer financial laws is "for the purposes of ensuring" that: (1) consumers are provided with timely and understandable information to make responsible decisions about financial transactions; (2) consumers are protected from unfair, deceptive, or abusive acts and practices and from discrimination; (3) outdated, unnecessary, or unduly burdensome regulations are regularly identified and addressed in order to reduce unwarranted regulatory burdens; (4) federal consumer financial law is enforced consistently, without regard to the status of a person as a depository institution, in order to promote fair competition; and (5) markets for consumer financial products and services operate transparently and efficiently to facilitate access and innovation.[10] For example, the Bureau may find it appropriate to rely on the "burden" objective (3) or the "markets" objective (5) to take the

[8] 12 U.S.C. § 5512(b)(3)(A) (emphasis added).
[9] 12 U.S.C. § 5511(a).
[10] 12 U.S.C. § 5511(b).

position that an exemption is appropriate where credit unions were not able to provide their members with access to certain financial products or services because of compliance burdens or cost challenges.

Finally, Section 1022 also includes three statutory considerations that the Bureau must take into account in issuing an exemption to a rule issued under Title X. Specifically, in issuing such an exemption, the Bureau must, as appropriate, consider three factors: (1) the total assets of the class of covered persons; (2) the volume of transactions involving consumer financial products or services in which the class of covered persons engages; and (3) existing provisions of law that are applicable to the consumer financial product or service and the extent to which such provisions provide consumers with adequate protections.[11] The statute is silent on how the Bureau should consider these factors. Nonetheless, based on the context, the Bureau might determine that an exemption is appropriate where, for example, a covered person has fewer total assets or engages in a volume of transactions that is less than the average covered person.

Bureau Exemption Authority Under the Enumerated Consumer Laws

As indicated above, the Dodd-Frank Act transferred certain existing rulewriting authority under the "enumerated consumer laws" from other agencies to the Bureau. Of the enumerated consumer laws, the following twelve provide the Bureau with some type of express exemption authority:

(1) the Consumer Leasing Act of 1976 ("CLA");
(2) the Electronic Fund Transfer Act ("EFTA"), except for Section 920 (debit interchange);
(3) the Equal Credit Opportunity Act ("ECOA");
(4) the Fair Credit Billing Act ("FCBA");
(5) the Fair Credit Reporting Act ("FCRA"), except for Section 615(e) (red flags) and Section 628 (disposal of credit report information);
(6) the Fair Debt Collection Practices Act ("FDCPA");
(7) Subsections (b) through (f) of Section 43 of the Federal Deposit Insurance Act ("FDIA");
(8) Sections 502 through 509 of the Gramm-Leach-Bliley Act ("GLBA"), except for Section 505 (enforcement) as it applies to Section 501(b) (information security);
(9) the Home Mortgage Disclosure Act of 1975 ("HMDA");
(10) the Home Ownership and Equity Protection Act of 1994 ("HOEPA");
(11) the Real Estate Settlement Procedures Act of 1974 ("RESPA"); and
(12) the Truth in Lending Act ("TILA").[12]

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[11] 12 U.S.C. § 5512(b)(3)(B).

[12] *See* 12 U.S.C. § 5481(12). Six of the enumerated consumer laws either do not provide the Bureau with specific rule writing authority or do not provide the Bureau with express authority to make exceptions for credit unions. These six laws are: (1) the Truth in Savings Act; (2) the Alternative Mortgage Transaction Parity Act of 1982; (3) the Home Owners Protection Act of 1998; (4) the Interstate Land Sales Full Disclosure Act; (5) the S.A.F.E. Mortgage Licensing Act of 2008; and (6) Section 626 of the Omnibus Appropriations Act, 2009. If, however, the Bureau were to issue a rule under Title X relating to conduct also covered by these six laws, Section 1022 would appear to

Each of these twelve enumerated consumer laws provides the Bureau with specific exemption authority, but such authority is not uniform. For ease of use, we have separated the discussion of the Bureau's exemption authority into the following three sections based on the type of exemption authority:

- General authority to exempt specific classes of transactions;
- Authority to make exemptions from specific provisions of a statute; and
- Authority to exempt persons subject to substantially similar requirements under state law.

Class of Transaction Exemption Authority

A number of the enumerated consumer laws authorize the Bureau to make exceptions for classes of transactions that would otherwise be covered by these laws. Specifically, TILA, EFTA, ECOA, HMDA, RESPA and CLA each provide the Bureau with general authority to exempt classes of transactions. As discussed below, these statutes do not define the scope of this "class of transaction" exemption authority.

- Section 104 of TILA provides that the statute does not apply to any transaction for which the Bureau determines by rule that coverage under the statute is not necessary to carry out its purposes.[13]

- Section 105 of TILA provides that any Bureau regulation to carry out the purposes of TILA (except for the mortgage limitations of Section 129 (HOEPA)) "may provide for such . . . exceptions for all or any class of transactions, as in the judgment of the Bureau are necessary or proper to effectuate the purposes of [TILA], to prevent circumvention or evasion thereof, or to facilitate compliance therewith."[14]

- Section 105 of TILA also authorizes the Bureau to exempt by regulation from all or part of TILA "all or any class of transactions, other than transactions involving any mortgage described in section 103(aa), for which, in the determination of the Bureau, coverage under all or part of [TILA] does not provide a meaningful benefit to consumers in the form of useful information or protection."[15]

- Section 129H of TILA provides that the Bureau, the federal banking agencies, the NCUA and the Federal Housing Finance Agency may jointly exempt by rule "a class of loans" from the requirements of Sections 129H(a) and 129H(b) (relating to limitations on higher-risk mortgages without a written appraisal and the related appraisal requirements)

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provide the Bureau with exemption authority for that rule, assuming that the rule was issued pursuant to Title X and not one of the six laws.

[13] 15 U.S.C. § 1603(5).

[14] 15 U.S.C. § 1604(a).

[15] 15 U.S.C. § 1604(f)(1). In determining whether to exempt a class of transactions, the Bureau must consider five factors, including, for example, whether the goal of consumer protection would be undermined by the exemption. 15 U.S.C. § 1604(f)(2).

if the agencies determine that the exemption is in the public interest and promotes the safety and soundness of creditors.[16]

- Section 904 of the EFTA provides that any Bureau regulation to carry out the purposes of the EFTA "may provide for such . . . exceptions" for any class of electronic fund transfers or remittance transfers, as the Bureau believes are necessary or proper to effectuate the purposes of the EFTA, to prevent circumvention or evasion thereof or to facilitate compliance with the EFTA.[17]

- Section 703 of the ECOA provides that any Bureau regulation to carry out the purposes of the ECOA "may provide for such . . . exceptions" for any class of transaction, as the Bureau believes are necessary or proper to effectuate the purposes of the ECOA, to prevent circumvention or evasion thereof or to facilitate compliance with the ECOA.[18]

- Section 703 of the ECOA also provides that the Bureau's regulations may exempt from the ECOA "any class of transactions that are not primarily for personal, family, or household purposes, or business or commercial loans made available by a financial institution, except that a particular type within a class of such transactions may be exempted if the Bureau determines, after making an express finding that the application of [the ECOA or any ECOA provision] of such transaction would not contribute substantially to effecting the purposes of" the ECOA.[19]

- HMDA provides that the Bureau's regulations to carry out the purposes of HMDA "may provide for such . . . exceptions" for any class of transaction that the Bureau believes are necessary or proper to effectuate the purposes of HMDA, to prevent circumvention or evasion thereof or to facilitate compliance with HMDA.[20]

- RESPA provides the Bureau with authority "to grant such reasonable exemptions for classes of transactions, as may be necessary to achieve the purposes of" the statute.[21]

- The CLA provides the Bureau with authority to "provide for . . . exceptions for any class of transactions, as the Bureau considers appropriate."[22]

To use these specific exemption authorities, the Bureau must classify or distinguish transactions that otherwise would be subject to the underlying statute. That is, the Bureau must determine what a "class of transactions" entails. Although the phrase "class of transaction" is not defined in the relevant statutory provisions, the plain language references transactions and

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[16] 15 U.S.C. § 1639h(b)(4)(B).
[17] 15 U.S.C. § 1693b(c).
[18] 15 U.S.C. § 1693b(a)(1).
[19] 15 U.S.C. § 1693b(b). Note that such an exemption may only be for a period of five (5) years and only may be extended if the Bureau determines that such exemption remains appropriate. 15 U.S.C. § 1693b(c).
[20] 12 U.S.C. § 2804(a).
[21] 12 U.S.C. § 2617(a).
[22] 15 U.S.C. § 1667f(a)(2).

not persons or specific types of persons, such as creditors. Nonetheless, the Bureau could take the position that one way to classify or distinguish transactions is to look to the type of institution that is engaging in the transaction, such as a credit union that is not for profit (as opposed to for-profit entities). For example, the Bureau could take the position that a credit card issued by a not-for-profit credit union (or similar entity) is a “class of transaction” for purposes of TILA.

Each of the provisions cited above (other than the CLA) provide that the exemption authority must be used as necessary or appropriate to fulfill the purposes of the underlying statute. Similar to the discussion above with respect to Section 1022, the need to determine that an exemption is appropriate to fulfill the purposes of the underlying statute would apply in the context of providing an exemption for credit unions; that is, where applicable, the Bureau would have to determine that an exemption for credit unions meets the underlying purpose of the statute. Depending on the specific exemption being considered, the Bureau may determine that an exemption for credit unions is consistent with a statute’s purpose, such as if the Bureau were to find that such an exemption would ensure or expand consumer access to a particular financial product or service. For example, the Bureau is currently considering a remittance regulation under Regulation E. In this context, the Bureau may determine that an exemption for credit unions is consistent with the EFTA’s purpose.

Although not exemption authority *per se*, we note that Section 904 of the EFTA directs the Bureau by regulation to modify the requirements of the EFTA “on small financial institutions if the Bureau determines that such modifications are necessary to alleviate any undue compliance burden on small financial institutions and such modifications are consistent with the purpose and objective of” the EFTA.[23] In addition to the Bureau’s authority under the EFTA to provide for exceptions, including potentially for small financial institutions, the Bureau also would have the authority to modify (and presumably reduce the compliance burden associated with) specific requirements of the EFTA for small financial institutions.

Exemption Authority for Specific Statutory Provisions

A number of the enumerated consumer laws, specifically, TILA, FCBA, FCRA, GLBA, Section 43(d) of FDIA and HOEPA, include provisions that permit the Bureau to make exceptions from specific requirements of those laws (as opposed to exemptions from the laws generally). In some cases, such as, for example, TILA, this specific exemption authority is in addition to other exemption authority.

- Section 129D of TILA provides that the Bureau may exempt from the requirements of Section 129D(a) (relating to escrow or impound accounts) a creditor that: (1) operates predominantly in rural or underserved areas; (2) together with all affiliates, has total annual mortgage loan originations that do not exceed a limit set by the Bureau; (3) retains its mortgage loan originations in portfolio; and (4) meets any asset size threshold and any other criteria the Bureau may establish, consistent with the statutory purpose.[24]

[23] 15 U.S.C. § 1693b(c).
[24] 15 U.S.C. § 1639d(c). Note that the Federal Reserve Board issued a proposal in March 2011 to make such an exemption. *See* 76 Fed. Reg. 11,598 (Mar. 2, 2011).

- The FCBA provides that the Bureau may by rule provide "reasonable exceptions" to the statute's limitation on increases in the annual percentage rate for promotional rates for credit card accounts within the first six month such rate is effective.[25]

- Section 615(h) of the FCRA specifies that the Bureau's rules to implement the risk-based pricing requirements must address "exceptions to the [risk-based pricing] notice requirement . . . for classes of persons or transactions regarding which the agencies determine that notice would not significantly benefit consumers."[26]

- Section 504 of the GLBA provides that the Bureau's regulations to implement the GLBA privacy provisions may include exceptions to Section 502's opt-out requirements and limitations on reuse of information and sharing of account numbers for marketing purposes.[27]

- Section 43(d) of the FDIA provides that the Bureau may make exceptions to the Section 43(b) disclosure requirements applicable to depository institutions that do not have federal deposit insurance (*i.e.*, consumer oriented disclosures regarding the fact that an institution lacks federal deposit insurance) for any such institution that "does not receive initial deposits of less than an amount equal to the standard maximum deposit insurance amount from individuals who are citizens or residents of the United States, other than money received in connection with any draft or similar instrument issued to transmit money."[28]

- Section 129 of HOEPA provides that the Bureau may by rule exempt specific mortgage products or categories of mortgages from certain of Section 129's prohibitions, such as for prepayment penalties, balloon payments and negatively amortizing loans.[29]

To the extent that this exemption authority is not based on a specific type of transaction or product (like the HOEPA exemption authority), the Bureau would not have to address the scope of a "class of transaction" in order to use such authority, as discussed above. That is, the Bureau would not need to define a type of institution, such as a credit union, as a "class of transaction" in order to use this exemption authority. For example, to the extent a provision simply indicates that the Bureau has the authority to make exemptions without imposing conditions on such authority (*e.g.*, section 504 of the GLBA), the Bureau should have greater authority than under a provision that limits its exemption authority to certain types of transactions or products or under a provision that requires that the Bureau find that an exemption is appropriate to carry out the purposes or objectives a statute. As a result, the Bureau may have

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[25] 15 U.S.C. § 1666i-2(b).
[26] 15 U.S.C. § 1681m(h)(6)(B)(iii).
[27] 15 U.S.C. § 6804(b).
[28] 12 U.S.C. § 1831t(d).
[29] 15 U.S.C. § 1639(p)(1). Note that the Bureau must find that an exemption is in the interest of the borrowing public and will apply only to products that maintain and strengthen home ownership and equity protection. 15 U.S.C. §§ 1639(p)(1)(A) - (B).

even greater flexibility to make exemptions for credit unions under these provisions than the "class of transactions" authority discussed above.

Substantially Similar State Law Exemption Authority

A number of the enumerated consumer laws authorize the Bureau to exempt from coverage under those laws classes of transactions that are subject to state laws that impose substantially similar state requirements or provide for greater consumer protection and that make adequate provision for enforcement. Specifically, TILA, FCBA, HMDA, CLA and FDCPA include this type of exemption authority.

- Section 123 of TILA directs the Bureau by regulation to exempt from the requirements of Chapter 2 of TILA (relating to consumer credit cost disclosures) "any class of credit transactions within any State if it determines that under the law of that State that class of transactions is subject to requirements substantially similar to those imposed under [Chapter 2], and that there is adequate provision for enforcement."[30]

- The FCBA directs the Bureau to exempt from the requirement of the statute "any class of credit transactions within any State if it determines that under the law of that State that class of transactions is subject to requirements substantially similar to those imposed under [the Act] or that such law gives greater protection to the consumer, and that there is adequate provision for enforcement."[31]

- HMDA provides that the Bureau may by rule exempt from HMDA's requirements "any State-chartered depository institution within any State or subdivision thereof, if the [Bureau] determines that, under the law of such State or subdivision, that institution is subject to requirements that are substantially similar to those imposed under [HMDA], and that such law contains adequate provisions for enforcement."[32]

- The CLA directs the Bureau to write rules exempting from the requirements of the statute "any class of lease transactions within any State if it determines that under the law of that State that class of transactions is subject to requirements substantially similar to those imposed under [the Act] or that such law gives greater protection and benefit to the consumer, and that there is adequate provision for enforcement."[33]

- The Fair Debt Collection Practices Act ("FDCPA") directs the Bureau to exempt from the FDCPA's requirements "any class of debt collection practices within any State if the Bureau determines that under the law of that State that class of debt collection practices is

[30] 15 U.S.C. § 1633. Note that the Bureau has proscribed procedures for a state to apply for such an exemption. 12 C.F.R. pt. 1026, App. B.
[31] 15 U.S.C. § 1666j(b).
[32] 12 U.S.C. § 2805(b).
[33] 15 U.S.C. § 1667e(b).

subject to requirements substantially similar to those imposed by [the FCPA], and that there is adequate provision for enforcement."[34]

This type of exemption authority is more limited than the others discussed above. First, the Bureau must find that a class of transactions subject to the specific federal statute is also subject to a similar state law. This factor itself could limit the availability of the exemption to state-chartered credit unions in some instances. The Bureau also must find that the state law's requirements are "substantially similar" to those imposed by the federal statute. In addition, the Bureau must find that there is adequate provision for enforcement of the state laws. Also, this type of exemption authority is frequently limited to exempting classes of transactions. Since credit unions only would be exempt if they were also subject to substantially similar state laws, it is not clear whether this exemption authority would be as meaningful as the other exemption authorities discussed herein.

* * * *

As discussed above, Section 1022 of Title X of the Dodd-Frank Act and a number of the enumerated consumer laws provide the Bureau with express authority to provide exemptions from the requirements of statutes or implementing regulations generally or the requirements of certain provisions specifically. These various statutory provisions individually and together grant broad authority to the Bureau and constitute a strong legal framework to support the agency's reasonable use of its exemption authority.

[34] 15 U.S.C. § 1692o.

ATTACHMENT II

FINALIZED FEDERAL REGULATORY CHANGES APPLICABLE TO CREDIT UNIONS WITH EFFECTIVE DATES ON OR AFTER JANUARY 1, 2008

	Effective Date	**Title of Final Rule**	**Agency**
1.	1/1/2008	FEMA Flood Map Changes	FEMA
2.	1/1/2008	Annual Electronic Filing Requirement For Small Tax Exempt Organizations – Form 990-N	IRS
3.	1/1/2008	IRS Form 990 Instructions - New Reporting Form	IRS
4.	1/1/2008	IRS Redesign Form 990	IRS
5.	2/25/2008	Final Rules On Transaction Origin Identification	NACHA
6.	5/29/2008	Disclosures for Subprime Mortgage Loans	NCUA
7.	7/7/2008	CAN-SPAM Act Rules	FTC
8.	10/1/2008	Hope for Homeowners Program for Subordinate Lienholders	FHA
9.	10/10/2008	Use of Fair Value in an Inactive Market	FASB
10.	10/22/2008	Share Insurance Signs to Reflect Increased Limits	NCUA
11.	10/31/2008	Official Advertising Statement	NCUA
12.	11/21/2008	Incidental Powers	NCUA
13.	11/21/2008	Share Insurance Signs for Shared Branching	NCUA
14.	12/15/2008	Amendments to the Impairment Guidance No. 99-20	FASB
15.	12/31/2008	PCA: Amended Definition of Post-Merger Net Worth	NCUA
16.	1/2/2009	Criteria to Approve Service to Underserved Areas	NCUA
17.	1/7/2009	Interim Final Rule on Hope for Homeowners Program	FHA
18.	1/16/2009	Final RESPA Rule	HUD
19.	1/19/2009	Unlawful Internet Gambling	FED
20.	4/1/2009	Share Insurance Signs for Shared Branching	NCUA
21.	4/27/2009	RegFlex Changes for Unimproved Land	NCUA
22.	5/14/2009	Technical Changes to the FACT Act "Red Flags"	NCUA
23.	6/15/2009	Fair Value: Decrease in Market Activity/Transactions That Are Not Orderly	FASB
24.	6/15/2009	Recognition and Presentation of Other-Than-Temporary Impairments	FASB
25.	6/20/2009	Restructuring of Federal Reserve’s Check Processing Operation: Districts 10, 11, and 12	FED
26.	7/2/2009	Fed Rule Authorizing Excess Balance Accounts and Earnings on Balances	FED
27.	7/2/2009	Fed Rule Authorizing Pass-through Accounts and Adjusting the Limitation on Savings Account Transfers	FED
28.	7/19/2009	Restructuring of Federal Reserve’s Check Processing Operation: Districts 6 and 8	FED
29.	7/25/2009	Restructuring of Federal Reserve’s Check Processing Operation: Districts 4 and 9	FED
30.	7/30/2009	Revisions to Regulation Z Mortgage Loan Disclosures	FED

	Effective Date	Title of Final Rule	Agency
31.	9/1/2009	Credit Union Reporting	NCUA
32.	9/12/2009	Restructuring of Federal Reserve's Check Processing Operation: Districts 4 and 7	FED
33.	9/14/2009	Regulation Z Disclosures for Private Student Loans	FED
34.	9/21/2009	Regulation Z Rule Implementing the CARD Act	FED
35.	10/1/2009	Amendments to the Home Mortgage Provisions of Regulation Z	FED
36.	10/17/2009	Restructuring of Federal Reserve's Check Processing Operation: Districts 11 and 12	FED
37.	10/18/2009	Restructuring of Federal Reserve's Check Processing Operation: District 4	FED
38.	10/18/2009	Restructuring of Federal Reserve's Check Processing Operation: District 6	FED
39.	11/6/2009	Election of Federal Home Loan Bank Directors	FHFA
40.	11/14/2009	Restructuring of Federal Reserve's Check Processing Operation: Districts 11 and 12	FED
41.	11/30/2009	Share Insurance Coverage for Revocable Trust Accounts	NCUA
42.	11/30/2009	Temporary Increase in SMSIA; Display of Official Sign; Coverage for Mortgage Servicing Accounts	NCUA
43.	12/12/2009	Restructuring of Federal Reserve's Check Processing Operation: District 3	FED
44.	12/24/2009	Exceptions to the Maturity Limit on Second Mortgages	NCUA
45.	1/1/2010	Overdraft Protection Disclosures	FED
46.	1/1/2010	Revisions to Regulation S	FED
47.	1/1/2010	Operating Fees	NCUA
48.	1/1/2010	Truth in Savings Rule for Overdraft Protection and Electronic Disclosures	NCUA
49.	1/4/2010	NCUSIF Premium and One Percent Deposit	NCUA
50.	2/4/2010	Federal Home Loan Bank Membership to Include Non-Federally Insured CDFI Credit Unions	FHFA
51.	2/10/2010	Expansion of Special Information Sharing Procedures To Deter Money Laundering and Terrorist Activity	FinCEN
52.	2/14/2010	Regulation Z Disclosures for Private Student Loans	FED
53.	2/22/2010	Regulation Z Rule Implementing the CARD Act	FED
54.	2/27/2010	Consolidation of Federal Reserve's Check-Processing Operations	FED
55.	5/21/2010	Interagency Policy Statement on Funding & Liquidity Risk Management	NCUA
56.	6/4/2010	Establishment of Term Deposits at Federal Reserve Bank	FED
57.	6/18/2010	Direct Access Registration Requirement	NACHA
58.	6/18/2010	Risk Management and Assessment	NACHA
59.	7/1/2010	Final Rules for Student Loans	Education
60.	7/1/2010	Regulation Z Open-end Credit Final Rule	FED
61.	7/1/2010	Regulation E Final Rule for Overdraft Protection Plans	FED

	Effective Date	Title of Final Rule	Agency
62.	7/1/2010	FACT Act Rules and Guidelines on the Accuracy of Credit Information	FTC
63.	7/1/2010	FACT Act Rules and Guidelines on the Accuracy of Credit Information	NCUA
64.	7/1/2010	NCUA Final Rule on Unfair and Deceptive Practices for Credit Cards	NCUA
65.	7/6/2010	Disclosures for Non-federally Insured Credit Unions	FTC
66.	7/26/2010	Chartering and Field of Membership (FOM): Community Credit Unions	NCUA
67.	8/2/2010	FedACH SameDay Service	FED
68.	8/5/2010	Low-Income Definition	NCUA
69.	8/16/2010	Payments Made in Settlement of Payment Card and Third-Party Network Transactions	IRS
70.	8/22/2010	Final Rule Implementing the CARD Act Provisions for Penalty Fees and Rate Reviews	FED
71.	8/22/2010	Regulation E Rules for Gift Cards	FED
72.	9/2/2010	Display of Official Sign; Permanent Increase in Standard Maximum Share Insurance Amount	NCUA
73.	9/7/2010	Clarifications of Reg E and Reg DD Overdraft Rules	FED
74.	9/7/2010	Clarifications on Reg DD Overdraft Protection Rules	NCUA
75.	10/1/2010	SAFE Act	NCUA
76.	10/4/2010	FHA Risk Reduction Final Rule	HUD
77.	10/18/2010	Reverse Mortgage Guidance	NCUA
78.	10/25/2010	RegFlex Program Changes	NCUA
79.	10/25/2010	Short-Term, Small Amount Loans	NCUA
80.	11/29/2010	Extension of CARD Act Effective Date for Gift Cards	FED
81.	12/23/2010	Conversions of Insured CUs: Definition of Regional Director	NCUA
82.	12/31/2010	Model Privacy Notices	NCUA
83.	1/1/2011	FACT Act Risk-Based Notice Rule	FED
84.	1/1/2011	Consumer Notification of Mortgage Loan Sales or Transfers	FED
85.	1/1/2011	Notice Regarding Charges Permitted Under the FCRA	FTC
86.	1/1/2011	Mobile ACH Payments	NACHA
87.	1/3/2011	Confidentiality of Suspicious Activity Reports	FinCEN
88.	1/18/2011	Corporate Credit Union Rule	NCUA
89.	1/20/2011	IRPS 11-1 Supervisory Review Committee	NCUA
90.	1/27/2011	Fiduciary Duties at Federal Credit Unions, and Mergers and Conversions of Insured Credit Unions	NCUA
91.	1/30/2011	Interim Final Rule on Disclosures Required under the Mortgage Disclosure Improvement Act	FED
92.	1/31/2011	Extension of CARD Act Gift Card Rules	FED
93.	3/14/2011	Conversions of Insured Credit Unions: Definition of Regional Director	NCUA
94.	3/23/2011	Corporate Credit Unions: Technical Corrections	NCUA
95.	3/23/2011	PCA: Amended Definition of “Low-Risk Assets	NCUA

	Effective Date	Title of Final Rule	Agency
96.	3/24/2011	Garnishment of Accounts Containing Federal Benefit Payments	Treasury
97.	3/28/2011	Amendment to BSA Regulations: Reports of Foreign Financial Accounts	FinCEN
98.	3/28/2011	IRPS: Chartering Corporate Federal Credit Unions	NCUA
99.	4/1/2011	Interim Final Rule on Appraisal Independence	FED
100.	4/1/2011	Loan Compensation and "Steering" of Loans	FED
101.	4/4/2011	Temporary Minimum Capital Increase for FHFA Regulated Entities	FHA
102.	6/24/2011	Technical Correction - Golden Parachute and Indemnification Payments	NCUA
103.	6/24/2011	Temporary Unlimited Share Insurance for Noninterest-bearing Transaction Accounts	NCUA
104.	6/27/2011	Golden Parachute and Indemnification Payments	NCUA
105.	7/21/2011	Consumer Financial Rules to be Enforced by the CFPB	CFPB
106.	7/22/2011	Regulation D Interim-Final Rule Implementing the Alternative Mortgage Transaction Parity Act	CFPB
107.	7/25/2011	Sample Income Data to Meet the Low-income Definition	NCUA
108.	7/27/2011	Remittance Transfers Interim Final Rule	NCUA
109.	8/10/2011	Technical Corrections & Clarifying Amendments to RESPA Regulations	HUD
110.	8/15/2011	Fair Credit Reporting Risk-Based Pricing (Credit Score Disclosures)	FED
111.	8/15/2011	Regulation B - Equal Credit Opportunity Act (Credit Score Disclosures)	FED
112.	8/19/2011	Mortgage Acts & Practices - Advertising Rule	FTC
113.	8/29/2011	SAFE Mortgage Licensing Act: Minimum Licensing Standards and Oversight Responsibilities	HUD
114.	10/1/2011	CARD Act Clarifications	FED
115.	10/1/2011	Debit Interchange Fee and Routing Regulations (Regulation II)	FED
116.	10/1/2011	Federal Reserve Board's Interim Final Rule on the Interchange Fee Fraud-Prevention Adjustment	FED
117.	10/19/2011	Indorsement and Payment of Checks Drawn on the United States Treasury	Treasury
118.	10/31/2011	Net Worth & Equity Ratio	NCUA
119.	11/14/2011	Notification of Employee Rights under the National Labor Relations Act	Labor
120.	11/30/2011	NCUA Remittance Transfers Rule	NCUA
121.	12/2/2011	Community Development Revolving Loan Fund (CDRLF) Access for Credit Unions	NCUA
122.	12/23/2011	Low-Income Designation – Technical Amendment	NCUA
123.	1/1/2012	Accuracy of Advertising and Notice of Insured Status	NCUA
124.	1/23/2012	Corporate Credit Union Rule – Technical Amendment	NCUA

	Effective Date	Title of Final Rule	Agency
125.	4/19/2012	Guidance on Reporting Interest Paid to Nonresident Aliens	IRS
126.	5/31/2012	Corporate Credit Union Follow-up Rule	NCUA
127.	6/29/2012	Rules of Practice for Adjudication Proceedings	CFPB
128.	6/29/2012	Rules Relating to Investigations Final Rule	CFPB
129.	7/2/2012	Regulatory Flexibility Program	NCUA
130.	7/2/2012	Regulatory and Reporting Treatment of Troubled Debt Restructurings	NCUA
131.	7/12/2012	Regulation J (Collection of Checks and Other Items by Federal Reserve Banks, Etc)	FED
132.	7/12/2012	Regulation D (Reserve Requirements of Depository Institutions: Reserves Simplification)	FED
133.	8/16/2012	Confidential Treatment of Privileged Information Final Rule	CFPB
134.	9/17/2012	End-User Exemption to the Mandatory Clearing of Swaps	CFTC
135.	9/30/2012	Interest Rate Risk Policy and Program Final Rule	NCUA
136.	10/1/2012	Debit Interchange Fee and Routing Regulations (Regulation II) -Fraud	FED
137.	11/23/2012	Delayed Implementation of Certain New Mortgage Disclosures	CFPB
138.	11/30/2013	Reserve Requirements of Depository Institutions	FED
139.	12/13/2012	Fidelity Bond	NCUA
140.	12/15/2012	Guidance on Troubled Debt Restructurings	FASB
141.	1/18/2013	Treasury Tax and Loan Depositaries; Depositaries and Financial Agents of the Government Final Rule	NCUA
142.	2/7/2013	Remittance Transfers Final Rule - Delayed	CFPB
143.	2/7/2013	Remittance Transfers Final Rule (Safe Harbor, Preauthorized Transfers) - Delayed	CFPB
144.	2/19/2013	Acceptance Deadline - Low-Income Designation Final Rule	NCUA
145.	2/19/2013	Definition of a “Small Credit Union” Final Rule	NCUA
146.	2/19/2013	Definition of “Troubled Condition” Final Rule	NCUA
147.	3/29/2013	Investment and Deposit Activities (TIPS)	NCUA
148.	6/1/2013	Escrow Accounts Final Rule (Reg Z)	CFPB
149.	6/11/2013	Alternatives to the Use of Credit Ratings	NCUA
150.	7/1/2013	COPPA	FTC
151.	1/10/2014	Mortgage Loan Origination Compensation	CFPB
152.	1/10/2014	Mortgage Servicing Final Rule - Reg X	CFPB
153.	1/10/2014	Mortgage Servicing Final Rule - Reg Z	CFPB
154.	1/10/2014	Ability to Repay / QM Final Rule	CFPB
155.	1/18/2014	Regulation B - Copies of Appraisals Final Rule	CFPB
156.	1/18/2014	Interagency Higher-Priced Mortgage Appraisal Requirements	NCUA
157.	12/31/2015	FATCA Final Rule	IRS