



Credit Union National Association

cuna.org

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March 18, 2010

The Honorable Christopher Dodd
Chairman
Committee on Banking, Housing and Urban Affairs
United States Senate
Washington, DC 20510

Dear Chairman Dodd:

On behalf of the Credit Union National Association (CUNA), I am writing regarding the March 15, 2010 Committee Print entitled, "The Restoring American Financial Stability Act of 2010" (RAFSA). CUNA is the nation's largest credit union advocacy organization, representing nearly ninety percent of America's 7,800 state and federally chartered credit unions and their 92 million members.

RAFSA represents one of the most comprehensive and significant reforms to financial services law to come before Congress in the last eighty years and you are to be commended for your leadership and for reaching out to your colleagues in developing the legislation. Ever since financial regulatory restructuring legislation was initially proposed by the Administration last summer, we have provided feedback and expressed concerns to Congress and the Administration regarding the provisions that would create a new consumer financial protection regulator as well as the provisions addressing systemic risk and the resolution of huge, failing, for-profit financial companies. We appreciate your giving several of our concerns serious consideration in the development of the Committee print.

The Bureau of Consumer Financial Protection

Consumers of financial products—especially consumers of products and services provided by currently unregulated entities—need greater protections. As we have said since the Administration made its initial proposal, an independent consumer protection regulator (BCFP) could be an effective way to achieve that protection, provided the agency does not impose duplicative or unnecessary regulatory burdens on credit unions.

Several financial products offered by unregulated financial actors contributed to the financial crisis; we applaud your efforts to ensure users of these products will have essential protections.



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Regulatory Burden

Our primary concerns with the proposals to create an independent consumer protection regulator have focused on the additional regulatory burden credit unions might face if the legislation became law. Credit unions are already subject to staggering and growing regulatory burdens, the costs of which are borne directly by the credit union's members. Further, it is widely recognized that credit unions did not cause or contribute to the financial crisis, and they proactively are trying to be part of the solution to the crisis. The not-for-profit, member-owned structure of credit unions, coupled with their current regulatory regime, militates against credit unions ever contributing to a financial crisis.

We strongly support the Committee Print language that directs the BCFP to ensure that outdated, unnecessary, or unduly burdensome regulations are regularly identified and addressed in order to reduce unwarranted regulatory burdens.

As we have said in the past, in order for an independent consumer agency to work, consumer protection regulation must be consolidated and streamlined. The advantage of a single regulator responsible for writing consumer protection regulation is that the regulator would be in a position to identify and address obsolete, redundant or overly burdensome regulations. For example, credit unions face a regulatory environment in which the Department of Housing and Urban Development writes the rules for the Real Estate Settlement Procedures Act and the Federal Reserve Board writes the rules for the Truth in Lending Act, which have similar disclosure and other requirements. A single agency would be able to identify and streamline duplicative regulatory requirements, thereby reducing regulatory burdens for credit unions as well as improving consumers' comprehension of the terms and condition of mortgage loans. We welcome this language in the Committee Print.

Examination and Enforcement

We also appreciate that the Committee Print designates that the National Credit Union Administration (NCUA) will examine credit unions with less than \$10 billion in total assets for compliance with consumer protection regulations. Nevertheless, we have historic concerns with legislative proposals that seek to divide credit unions by asset size because the structure of all credit unions is the same. Therefore, we encourage you to consider adding language to the Committee Print that gives the BCFP the authority to delegate examination authority for large credit unions to the prudential regulator.

Permitting NCUA to use existing resources to supervise all credit unions for compliance with consumer protection law, and giving the BCFP back-up authority to examine credit unions, would permit the BCFP to devote more of its resources on less scrupulous financial services providers while maintaining the authority to intervene with a credit union in the event that it became necessary.

The House-passed regulatory restructuring legislation included language that gave the consumer regulator the authority to delegate to the appropriate prudential regulator examination authority over large credit unions and banks. The House language sets standards that ensure delegation would only occur if it is consistent with the public interest; the prudential regulator is capable of enforcing compliance; and the prudential regulator's capability is comparable to or superior to the capabilities of the Agency, in terms of expertise, demonstrated commitment and overall effectiveness in enforcing compliance.

While we certainly support efforts to increase the threshold, we believe that permitting the BCFP to delegate examination authority for large credit unions to NCUA would strike a balance that will ensure an appropriate level of examination for compliance with consumer laws, as well as ensuring that all credit unions have the opportunity to be examined by their prudential regulator. We encourage you to consider this approach as the legislation moves through the Senate.

Data Collection

We are concerned with the provisions of the Committee Print requiring the BCFP to collect depositor data by census tract because these data collection requirements could increase credit unions' regulatory and reporting burdens.

In January 2009, NCUA inaugurated a data collection program for Federal credit unions under which membership profile data is obtained during each regulator examination. The data is uploaded to NCUA's central office and a membership income profile is generated using geo-coding software. NCUA also uses the 5300 report to obtain information on the financial services that credit unions offer their members. We believe this data collection program provides sufficient information on members' income levels and services provided and that additional data collection from credit unions in these areas would be redundant and burdensome.

We urge the Committee to either remove this language from the Committee Print or modify the language to require the BCFP to coordinate with the prudential regulators regarding the type and form of the data, as well as the method of collection, making every effort to reduce duplicative data collection requirements and overall regulatory burden.

Systemic Risk

Because of the relative size of credit unions, we believe no single credit union is large enough to impose any systemic risk on the overall financial system. Therefore, when the initial version of the systemic risk legislation was introduced in the House, we were surprised to learn that credit unions might be included in legislation; and, we were deeply concerned that the members of credit unions, which are not-for-profit financial cooperatives, might be asked to pay into an insurance fund designed to dissolve huge, failing, for-profit financial companies.

We are pleased with the structure of the capitalization of the Orderly Liquidation Fund (OLF) in the Committee Print. The language makes it clear that credit union members will not be asked to provide any funds for the initial capitalization of the OLF, and that, in the event the Fund needs

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recapitalization, the only credit unions which could be assessed would be those with total assets greater than \$50 billion. While we would have preferred that credit unions were excluded from the scope of this legislation by definition, this language addresses our most significant concern with the systemic risk title.

Conclusion

Thank you again for your leadership and for your willingness to work with us to address credit unions concerns. We may have additional technical concerns with the legislation as it proceeds through Committee consideration, and will convey those at the appropriate time.

On behalf of America's credit unions, thank you very much for considering our views on this important legislation.

Sincerely,

A handwritten signature in black ink, reading "Daniel A. Mica". The signature is written in a cursive, flowing style with a large initial "D".

Daniel A. Mica
President & CEO