



CUNA

Credit Union National Association

cuna.org

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May 7, 2010

Members of the United States Senate
Washington, DC 20510

Dear Senator:

On behalf of the Credit Union National Association (CUNA), I am writing regarding S. 3217, the Restoring American Financial Stability Act (RAFSA). CUNA is the largest credit union advocacy organization in the United States, representing nearly 90% of America's 7,800 state and federally chartered credit unions and their 92 million members.

As our nation recovers from the most significant financial crisis since the Great Depression, there is no question that the statutory regime governing the regulation of financial services needs to be improved in a balanced manner that corrects the shortcomings of the existing system that contributed to the crisis, protects the financial system from future systemic threats, and does not adversely affect those parts of the system that have performed well throughout the crisis.

RAFSA represents one of the most comprehensive and significant reforms to financial services law to come before Congress in the last eighty years. Ever since this 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. While we still have a small number of outstanding concerns with respect to this legislation, we appreciate that many of the concerns we have raised have been addressed.

The Independence of the National Credit Union Administration and the Credit Union Charter

When the Administration first proposed its regulatory restructuring legislation last year, our primary concern was the continued independence of the National Credit Union Administration (NCUA) and the preservation of the credit union charter. None of the proposals threaten or infringe on the independence of NCUA or the credit union charter. We believe this is a significant acknowledgement that credit unions were not a part of the problem, and that the credit union system remains strong despite the collateral effects of the crisis.



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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 (the Bureau) 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 the efforts to ensure users of these products will have essential protections.

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 credit unions' members.

We strongly support the language in S. 3217 that directs the Bureau 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. 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 conditions of products such as mortgage loans. We welcome this language in the bill.

Examination and Enforcement

We also appreciate that S. 3217 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 the Senate to consider adding language to the bill that gives the Bureau the authority to delegate examination authority for large credit unions to the NCUA.

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

While we certainly support efforts to increase the threshold, we believe that permitting the Bureau 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.

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Review of Bureau Regulations

Section 1023 of S. 3217 gives the regulators on the Financial Stability Oversight Council the authority to petition the Council to stay or set aside rules promulgated by the Bureau under limited circumstances when the rules may put the safety and soundness of the banking system or the stability of the financial sector of the United States at risk. NCUA is not a member of the Council; however, if the scope of the authority of the Council to review Bureau regulations is expanded, we encourage the Senate to add NCUA to the Council only for the purposes of this section. If the scope of the authority of the Council is not expanded, we encourage the Senate to direct the Council to consult with NCUA on the effect of the Bureau's regulations on the safety and soundness of credit unions. This would ensure that the credit union regulator has a voice in the review of these regulations.

Remittances

We have been closely following the development of the remittances language in this bill and its House companion. We support the intent of this provision, which is to increase disclosures to consumers sending remittances to family members in their home country. However, we continue to have concerns that the definition of remittances under this legislation is overly broad. As introduced, this language would apply to all cross-border money transfers, including transfers for the purchase of goods and between accounts held by the same accountholder. We urge the Senate to narrow the definition of remittances under this legislation to what is traditionally considered a remittance.

Improving Access to Mainstream Financial Institutions

We welcome the inclusion of Title XII which seeks to help increase low- and moderate-income Americans' access to mainstream financial institutions as an alternative to payday lenders, and appreciate the efforts of Senators Akaka and Kohl with respect to these provisions.

Promoting thrift is on one of the core missions of credit unions. Credit unions throughout the nation are dedicated to developing and offering products that provide consumers affordable payday lending alternatives. If this provision is enacted, we believe it could increase the number of small-dollar loans made by qualifying credit unions and decrease consumer dependence on less scrupulous providers of short-term, small dollar loans, while at the same time having the added benefit of increasing consumer access to mainstream financial institutions.

Amendments

While we will continue to convey our views on the various amendments under consideration separately, we appreciate the Senate's passage of the Snowe amendment (SA 3755), which removed the section of the legislation requiring the collection of deposit account data.

Further, two amendments have been filed which, if approved, would cause us to strongly oppose enactment of this legislation. These amendments (SA 3769 and SA 3771), proposed by Senator Durbin, would make changes to the card payments system which will increase costs and reduce choice for consumers and will give the largest merchants further leverage to harm small businesses, which are already under significant pressures in this difficult economy. While we have had significant concerns with the details of the regulatory restructuring legislation, CUNA is the only major trade association representing financial institutions which has not opposed the legislation; nevertheless, passage of the Durbin amendments would prompt us to vigorously oppose the legislation.

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Conclusion

We do not dispute the need for financial regulatory reform legislation, and we recognize that much of this bill's focus is on correcting regulatory shortcomings that have little or nothing to do with credit unions. We appreciate that the credit union charter, prudential regulation and share insurance fund remain generally unchanged, and view this as a recognition that the credit union system has performed well throughout the crisis and remains strong. Further, we recognize, as we have from the beginning of this debate, that consumers of financial products provided by unregulated entities need greater protections. While we will continue to seek improvements in this legislation, we believe that S. 3217 takes a balanced approach to providing these protections.

On behalf of America's credit unions, thank you very much for your consideration of our views.

Sincerely,

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

Daniel A. Mica
President & CEO