



Credit Union National Association

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Testimony  
of  
Rod Staatz  
President and Chief Executive Officer  
SECU of Maryland  
On behalf of the Credit Union National Association

Before the  
Subcommittee on Financial Institutions and Consumer Credit  
Committee on Financial Services  
United States House of Representatives  
Hearing on  
“Legislative Proposals to Improve the Consumer Financial Protection Bureau”

April 6, 2011



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Chairman Capito, Ranking Member Maloney, Members of the Subcommittee: Thank you very much for the opportunity to testify at today’s hearing and to present the views of the Credit Union National Association (CUNA)<sup>1</sup> regarding legislative proposals to improve the Consumer Financial Protection Bureau (CFPB). My name is Rod Staatz and I am President and Chief Executive Officer of SECU of Maryland.<sup>2</sup> I am also a member of CUNA’s Board of Directors.

Credit unions are the best way for consumers to conduct their financial services. However, credit unions are facing tremendous regulatory burdens that are only going to get worse as the implementation of the Dodd-Frank Act unfolds. In light of this, relieving credit unions’ regulatory burdens so that they are able to serve their members in a safe and sound manner is a key objective for credit unions, state credit union leagues and CUNA.

As you know, credit unions are not-for-profit financial cooperatives; the only owners of a credit union are its members, who receive the benefit of ownership through reduced fees, lower interest rates

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<sup>1</sup> CUNA is the nation’s largest credit union advocacy organization, representing approximately 90 percent of the 7,600 state and federal credit unions in the United States and their 93 million members.

<sup>2</sup> SECU of Maryland is a state chartered, federally insured credit union headquartered in Linthicum, MD. It serves 242,800 members and has \$2.09 billion in total assets as of December 31, 2010.

on lending products, and higher dividends on savings products. As a result, credit unions' motives and mission are very different from their counterparts in the for-profit financial sector. Credit unions have a special obligation to protect both the consumer needs of their members, as well as their business interests as owners of the credit union. The credit union structure also means the cost of compliance with unnecessary and unduly burdensome regulations impacts its members directly. Every dollar that a credit union spends complying with an unnecessary or overly burdensome regulation is a dollar that cannot be used to benefit the credit union's membership, which looks to the credit union for favorable loans and saving products.

During consideration of the Dodd-Frank Act, CUNA stated on a number of occasions that consumers of financial products, especially for consumers of products and services provided by currently unregulated entities, need greater protections. We believe that a consumer financial protection agency could be an effective way to achieve that protection, provided the agency does not impose duplicative or unnecessary regulatory burdens on credit unions and takes an active role in improving disclosures for consumers without making compliance more difficult for financial institutions. In order for such an agency to work, we said, consumer protection regulation must be consolidated and streamlined; it should not add to the regulatory burdens of those that have been regulated for decades and performed well, such as credit unions.

The fact is that credit unions are among the most highly regulated financial institutions in the United States; they are subject not only to many of the regulations with which banks must comply, but they are also subject to additional statutory and regulatory restrictions on capital, business lending and other activities. Credit unions' regulatory burdens continue to multiply with little or no apparent regard for the costs of each requirement or, more important, the cumulative impact on the institutions that must

comply. These concerns are compounded by the range of upcoming regulations credit unions will face under the Dodd-Frank Act.

We appreciate the attention that this Subcommittee has given to several of our concerns regarding the Dodd-Frank Act, specifically Section 1075 with respect to debit interchange regulation. We urge Congress to move swiftly to delay the implementation of the Section 1075 so that policymakers can study debit card interchange issues more thoroughly and develop meaningful changes that will not hurt small issuers – the institutions that Congress has already pledged to protect from the impact of the interchange rule.

We are grateful for the opportunity to testify today regarding legislative proposals to improve the structure of the CFPB. We have had a number of conversations with the staff at the Department of Treasury which is working to establish the CFPB, and we are encouraged by the staff's outreach and by the establishment of the Office of Community Banks and Credit Unions. Even still, credit unions remain concerned that the CFPB could significantly change, to the detriment of the members they serve, the regulatory environment in which they operate; therefore, we appreciate the opportunity to present recommendations to improve the CFPB structure.

### **H.R. 1121, the Responsible Consumer Financial Protection Regulations Act**

We have been asked to present our views on H.R. 1121, the Responsible Consumer Financial Protection Regulations Act. This legislation would replace the Director of the Consumer Financial Protection Bureau with a five person Consumer Financial Protection Commission (the Commission). Under this legislation, CFPB Commissioners would serve five year terms.

When the CFPB was initially proposed by the Administration in June 2009, the legislation provided for a five person board to govern what was then called the Consumer Financial Protection

Agency (CFPA). The administration's proposal further designated that one of the five seats would be designated for a national banking regulator. In response to that proposal, CUNA stated that the:

CFPA Board needs to be larger than what has been proposed, and there should be seats on the board statutorily designated for industry representatives, a state or federal credit union regulator, and consistent with our statement above, possibly a state consumer agency representative.<sup>3</sup>

Our concern here was that, under the Administration's proposal, there was no guarantee that the CFPA Board would include someone who had experience running a financial institution, specifically a credit union, and that without such experience, there would not be an appreciation for the totality of regulatory burdens facing credit unions.

If Congress decides to replace the CFPB Director with a Commission, we would encourage Congress to expand the size of the Commission beyond what has been proposed by H.R. 1121 and to include appropriate industry and regulator representation, including a seat specifically for a person with experience related to credit unions. Expanding the scope of experience in this manner would enhance the quality of regulation promulgated by the CFPB by ensuring both the consumer perspective as well as the industry perspective is represented in the decision-making process.

### **H.R. 1315, the Consumer Financial Protection Safety and Soundness Improvement Act**

We have also been asked to present our views on H.R. 1315, the Consumer Financial Protection Safety and Soundness Improvement Act. CUNA supports what we believe is the intent of this legislation: to achieve rules that balance consumer protection and the safety and soundness of institutions providing financial services.

H.R. 1315 would modify the voting procedure of the Financial Stability Oversight Council when voting to stay or set aside rules finalized by the CFPB by reducing the threshold for the Council to take

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<sup>3</sup> CUNA Letter to House Financial Services Committee Chairman Barney Frank. July 14, 2009. 5. [http://www.cuna.org/download/congress\\_letter\\_071409.pdf](http://www.cuna.org/download/congress_letter_071409.pdf)

action from a two-thirds vote of the Council to a majority vote of the Council, excluding the Director of the Bureau. The effect of this provision would be to reduce the number of members of the Council who must vote in favor of a petition to set aside or stay a final CFPB regulation from seven to five. We support this provision. Given the current financial crisis from which we are struggling to emerge, the threshold to prevent harmful regulation from going into effect should not be as high as a two-thirds vote of the financial regulators. Reducing the threshold would help balance consumer protection with safety and soundness concerns.

H.R. 1315 also makes changes to the conditions under which the Council can stay or set aside CFPB regulations by striking the requirement that the regulation or provision subject to petition by a Council member “would put the safety and soundness of the United States banking system or the stability of the financial system of the United States at risk” and replacing it with a requirement that the regulation subject to petition be “inconsistent with the safe and sound operation of United States financial institutions.” With respect to this provision, we believe there may be alternative ways to achieve an appropriate balance. In the context of reviewing CFPB regulation, what is missing from the statute is the ability of the financial regulators to review CFPB regulation in the context of overall regulatory burden, a serious and growing problem for credit unions. We could support legislation to expand the conditions that must be met in order for the Council to override a regulation if the Council determines a new rule would be unreasonably burdensome for financial institutions; the burden to financial institutions outweighs the benefit to consumers.

### **Legislation Affecting the CFPB’s Authorities Prior to the Appointment of a Director**

We have been asked to present our views on two discussion drafts related to the CFPB’s authorities prior to the appointment of a Director of the Bureau. The first bill would strike Section

1067(e) of the Dodd Frank Act which permits the prudential regulators to allow the CFPB to participate in examinations of large financial institutions before the designated transfer date. The second bill would delay the date for transferring regulatory authority to the CFPB until a Director has been appointed and confirmed by the Senate.

Much more important than details of when and how the CFBP ramps up is how it will function once fully operational. In that regard, we believe the CFPB should conduct its consumer protection mission in a manner that minimizes regulatory burden on financial institutions. Prior to the transfer date, there are likely to be no more than three credit unions subject to examinations under Section 1025. Credit unions, including the three largest, have not been the subject of widespread consumer complaints, and credit unions have prudential regulators at the state and federal level that are in a position to enforce consumer protection laws. We encourage Congress to permit and encourage the CFPB to assign the examination of larger institutions which have not had a history of consumer abuses to prudential regulators.

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

### **Other Recommendations for Improvements**

We would like to recommend improvements to other areas of the CFPB Title of the Dodd-Frank Act. We suggest the Committee consider legislation to index for inflation the thresholds under Section 1026 with respect to the examination of small banks or credit unions (and its companion threshold in

Section 1025), to enhance the Bureau's attention to the reduction of regulatory burden. Further, we suggest the Committee encourage the CFPB to establish a process to grant exemptions from its rules under Section 1022.

### *Indexing the Examination Thresholds*

Section 1026 exempts credit unions and community banks with \$10 billion or less in total assets from examination by the CFPB; examination for compliance with consumer protection laws for these institutions would be conducted by the federal prudential regulator which is the National Credit Union Administration, in the case of credit unions. Indexing this threshold (and its companion threshold in Section 1025) for inflation is critical to the intent of Congress in providing the exemption because without indexing these thresholds, significant erosion of the exemptions will occur in a relatively short amount of time. For example, if inflation were 3% per year, the initial \$10 billion level would fall to the equivalent of \$8 billion after just over 7 years. In addition to the thresholds under Section 1025 and 1026, the Committee should consider adjusting all similar thresholds in other areas of the legislation, including Section 1075 related to debit interchange regulation.

### *Enhance Attention to Reducing Regulatory Burden*

One of the objectives of the CFPB is to identify and address outdated, unnecessary and unduly burdensome regulation in order to reduce unwarranted regulatory burden.<sup>4</sup> The CFPB must also take costs and benefits of its regulations into account during its rule-making process.<sup>5</sup> We feel these are among the most important provisions in the Dodd-Frank Act.

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<sup>4</sup> Section 1021(b)(3)

<sup>5</sup> Section 1022(b)(2)(A)(i)

Combined with existing regulatory burdens, the increasing regulatory requirements pursuant to the Dodd-Frank Act and other government initiatives are among the major drivers of credit union consolidation. As we have testified before, we believe this is a crisis of creeping complexity. It is not any one particular regulation, mandatory information collection, or required form which makes it impossible for smaller credit unions to continue to exist. Instead it is the steady accumulation of regulatory requirements over the years which eventually add up until a straw breaks the camel's back. Credit unions are concerned that these creeping regulatory burdens not only take up an increasing share of credit union employee and volunteer time—often necessitating mergers with larger credit unions—but also stifle innovation in credit union financial services.

To that end, we encourage the Committee and the CFPB to take meaningful steps to address the regulatory burden of financial institutions which have been subject to regulation for decades. Specifically, we ask the Committee to:

- consider legislation which would require the federal financial regulators and the Bureau to report to Congress annually on steps they have taken in the previous year to reduce the regulatory burden on the institutions they supervise;
- hold an annual hearing to review the reports and to consider whether further Congressional action is needed to contain the regulatory burdens that are creating an operational drag on affected institutions;
- consider legislation to direct the Bureau to conduct a study and present recommendations on statutory and regulatory improvements to reduce regulatory burdens on financial institutions, consistent with the requirement under Section 1021 that the Bureau identify and address unnecessary, outdated and unduly burdensome requirements.

Let me be clear, we are not advocating the elimination of consumer protection regulations. Rather, we seek a regulatory regime in which consumer protection is maximized and regulatory burden is minimized. To that end, we have recommended to the CFPB that an Office for Regulatory Burden Monitoring be established. As we envision it, this office could be housed within the Office of Community Banks and Credit Unions and would be responsible for working with credit unions and community banks to assess the impact of regulatory burdens being imposed on these institutions. It would also coordinate with prudential regulators to assess the entirety of the regulatory burdens such institutions face. The new office could play a very significant role in assembling the CFPB's annual report to Congress on regulatory burdens that we are recommending above. While we believe the CFPB could establish this office without further legislative authority, if Congress were to direct the CFPB to establish the new office, we would strongly support it.

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

The Dodd-Frank Act directs the CFPB, within five years of the effective date of a significant rule or order to conduct an assessment of the regulation or order.<sup>6</sup> We supported this provision but we also encourage other major regulatory reviews, including a study of the range of consumer protection laws,

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<sup>6</sup> Section 1022(d)(2)

such as TILA, from the stand point of benefits to consumers versus costs of compliance to financial institutions.

*CFPB Should Be Encouraged to Establish a Process to Exempt Entities under Section 1022*

Finally, we note that the CFPB already has authority to exempt any class of covered entities or products from its rules.<sup>7</sup> We are not aware that a process for these exemptions has been established. We believe credit unions and the pro-consumer products they provide are the very type of entities that should be considered for exemptions, particularly from any onerous new rules. Given the fact that credit unions exist to provide favorable rates to their member-owners, we urge the Subcommittee to work with the CFPB to make the exemption process meaningful and timely.

**Conclusion**

Chairman Capito, on behalf of America's credit unions and their 93 million members, thank you very much for the opportunity to testify at today's hearing. I am pleased to answer any questions that the Members of the Subcommittee may have.

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<sup>7</sup> Section 1022(b)(3)