Summary of CUNA Testimony

Overview

Credit unions face a "crisis of creeping complexity" with respect to regulatory burden. Since 2008, credit unions have been subjected to 157 rule changes – almost all of those before the CFPB wrote its first rule.

The burden of complying with the ever-increasing, never-decreasing regulatory burden hits small credit unions disproportionately because the cost of compliance is often fixed, and smaller institutions must spread that cost over a smaller volume of business. Regulatory burden is regularly cited as the number one concern of credit union executives, and a primary driver of credit union consolidation.

Credit unions are frustrated because they feel that they are being forced to pay for the sins of other actors, even though they did not engage in the activity that caused the financial crisis, and they do not abuse their members. Yet, in most cases, CFPB rules apply to them just as they apply to the largest institutions, despite the fact that Congress conveyed broad authority for the CFPB to exempt credit unions and other classes of providers.

CUNA encourages Congress to exercise its oversight function over the CFPB and the NCUA to ensure that the concerns of credit unions are taken into consideration during the rulemaking process. CUNA also recommends nearly three dozen statutory changes or studies aimed at reducing credit unions' regulatory burden.

Concerns With Respect to the CFPB

CUNA notes that the CFPB has taken steps to solicit feedback from credit unions on its rulemaking, including establishing a credit union advisory council that meets quarterly. Nevertheless, CUNA identifies several concerns with pending rulemaking including the remittances proposals and the various mortgage lending proposals. CUNA also argues that the CFPB has far greater authority to exempt credit unions from its rulemaking and should use that authority because credit unions do not engage in the activity that caused the crisis and they do not abuse their members.

Concerns With Respect to the NCUA

CUNA credits the NCUA, federal credit unions' prudential regulator and the operator of the National Credit Union Share Insurance Fund, with recent efforts to reduce regulatory burden. Even still, the testimony identifies several areas of concern including NCUA's tendency to inappropriately exercise regulatory authority over state chartered credit unions and the expansion of the agency's budget at a time when other regulators have reduced their budgets.

Concerns With Respect to the Financial Accounting Standards Board

CUNA noted their concern with a FASB proposal that will affect the way credit unions report credit losses. 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.

Recommendations for Regulatory Relief

CUNA makes 35 recommendations for statutory changes and studies aimed at reducing credit unions' regulatory burden.

Highly Important Amendments to the Federal Credit Union Act

CUNA recommends that Congress enact legislation permitting credit unions to accept supplemental forms of capital, as has been proposed in H.R. 719 by Representatives Peter King (R-NY) and Brad Sherman (D-CA) and to increase the cap on member business lending, as has been proposed in H.R. 688 by Representatives Ed Royce (R-CA) and Carolyn McCarthy (D-NY).

Proposals to Enable Credit Unions to Better Serve Their Small Business Members

CUNA recommends seven proposals aimed at enabling credit unions to better serve their small business members. Some of these proposals have passed the House of Representatives in previous Congresses. Among the recommendations, CUNA encourages Congress to enact legislation to:

- Treat Non-Owner Occupied One to Four Family Dwelling Loans as Real Estate Loans
- Increase the De Minimus Business Loan Amount to $500,000
- 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

Other Amendments to the Federal Credit Union Act

CUNA recommends 13 amendments to the Federal Credit Union Act aimed at providing the NCUA with additional flexibility to regulate credit unions, providing federal credit unions with additional flexibility to serve their members, and to ensure that the NCUA budget receives adequate public oversight. Some of these proposals have passed the House of Representatives in previous Congresses. The testimony outlines proposals to:

- 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

Dodd-Frank Act Improvements

CUNA puts forward three modest proposals at improving the Dodd-Frank Act. Specifically, CUNA recommends Congress enact legislation to:

- Improve Coordination between the CFPB and the NCUA

- Codify the Credit Union Advisory Council
- Require SBREFA Panels for all CFPB Rules

Other Regulatory Improvements
CUNA offers four recommendations for improvements to other statutes that could provide regulatory relief to credit unions and, in some cases, small banks. CUNA asks 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

Studies
Recognizing that there are certain concerns that require additional investigation, CUNA identifies six studies that Congress should request from various agencies. CUNA asks Congress to:

- Direct the Treasury Department to Study 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

Additional Items
CUNA notes that putting together an exhaustive list of regulatory relief proposals is impossible. In addition to the items identified in the testimony, CUNA encourages Congress to continue to monitor the impact of the debit interchange regulation on small issuers, including credit unions, and to ensure that housing finance reform legislation address the concerns of community based financial institutions, including access to a functioning, well regulated secondary mortgage market that allows them to provide access to credit on the terms that their members expect and demand.

The testimony also includes a comprehensive memo related to the CFPB exemption authority and a list of regulatory changes to which credit unions have been subject since 2008.

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