June 1, 2017

The Honorable Richard Cordray
Director
Consumer Financial Protection Bureau
1275 First St. NE
Washington, DC 20002

Dear Director Cordray:

On behalf of the Credit Union National Association, representing America’s credit unions and their 110 million members, I am writing today to offer suggestions for the Consumer Financial Protection Bureau (CFPB or Bureau) about actions it could take to provide credit unions with greater ability to supply safe and affordable products and services to consumers.

Recently, in a House Financial Services Committee hearing, you testified that it is a daily concern to the CFPB how its rules are impacting credit unions. We are pleased to hear the CFPB recognizes the very important role credit unions play in serving consumers and are encouraged that our work is considered by the Bureau on a frequent basis. We hope as part of this analysis; you will seriously consider the feedback credit unions have provided to us about how CFPB rulemakings are impacting their ability to serve consumers. The attached suggestions would help improve the operating environment for credit unions.

Unfortunately, credit unions’ ability to provide their top quality and consumer-friendly financial products and services has been significantly impeded in the last several years by a regulatory scheme, which has favored the large banks and nonbank financial services providers that can afford to absorb regulatory and compliance changes. Based on our Regulatory Burden Study, we found that in 2014, regulatory burden on credit unions caused $6.1 billion in regulatory costs, and an additional $1.1 billion in lost revenue.¹ Even more alarming, these figures do not include the CFPB’s recent regulatory additions to the Home Mortgage Disclosure Act (HMDA) and Truth in Lending Act/Real Estate Settlement Procedures Act Integrated Disclosure (TRID) requirements, which credit unions tell us have caused the greatest increase in compliance cost but have yet to be precisely measured.

The CFPB regularly cites modest thresholds and accommodations it has provided in some mortgage rules and the remittances rule as proof that it is considering the impact its rules have on credit unions and their members. Regrettably however, credit unions continue to tell us that the accommodations the CFPB continues to cite are not sufficient exemptions and they do not fully take into consideration the size, complexity, structure, or mission of all credit unions. Outlined below is the feedback credit unions have given about certain areas where the CFPB has provided modifications.

Ability to Repay/Qualified Mortgage (ATR/QM)

The CFPB continues to cite the expanded qualified mortgage (QM) safe harbor for small creditors and small creditor exemption for those operating in rural and underserved areas as proof that it has helped credit unions continue to serve members. While there was some consideration for the smallest financial institutions, the expanded exemption for smaller creditors was provided after the ATR/QM rule was finalized, which created compliance burdens that were preventable. Some changes were also mandated by Congress in the Helping Expand Lending Practices in Rural Communities Act at the end of 2015. This is the type of action we would hope the CFPB would take on its own accord in the future.

Furthermore, in a recent survey of CUNA members, 43 percent cited the QM rule as most negatively impacting the ability to serve members with mortgage products. Therefore, these exemptions while a step in the right direction, did not provide full relief for many credit unions, who in some instances were forced to change their product offerings. All credit unions, not just the very smallest, have a different operating structure than banks and for-profit lenders, and the regulatory changes implemented by the CFPB must reflect this difference. Modifications in the ATR/QM rule for all credit unions would be appropriate to ensure they can continue to effectively serve their members.

Mortgage Servicing

The CFPB notes that it has tailored its servicing rules by making certain exemptions for small servicers that service 5,000 or fewer mortgage loans. However, the reality is that significant requirements under these rules are excluded from the exemption and must be followed by large and small servicers alike. Small servicers remain subject to requirements related to successors-in-interest, force-placed insurance and, in certain circumstances, early intervention requirements for borrowers in bankruptcy.

We continue to hear the most concerns about CFPB rules from the smallest credit unions, whom the CFPB claims to have helped most through its thresholds. In the recent survey of CUNA members, more than four in 10 credit unions (44%) that have offered mortgages sometime during the past five years indicate they have either eliminated certain mortgage products and services (33%) or stopped offering them (11%), primarily due to burden from CFPB regulations. Thirty percent of credit unions specifically cited the Mortgage Servicing rule as having negatively impacted their ability to serve members. Credit unions with assets of less than $100 million are the asset group most apt to have dropped their mortgage program altogether.

Home Mortgage Disclosure Act (HMDA)

While the 2015 HMDA final rule included exemption thresholds of 25 closed-end mortgages and 100 open-end mortgages (Home Equity Lines of Credit or HELOCs) from HMDA reporting, this can hardly be described as tailoring the rule to minimize the impact on small entities given that prior to the rule, credit unions were not required to report HMDA data on HELOCs. The new HMDA reporting requirements are particularly troublesome since many credit unions process HELOCs on a consumer platform and mortgages on a different lending platform, a point that credit union leaders repeatedly raised with Bureau staff during the rulemaking process. The CFPB further added to credit unions’ regulatory burden by drastically increasing the number of data points they must report to a level well beyond the data points required by the Dodd-Frank Wall Street Reform and Consumer Protection Act.

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CUNA’s recent survey of its members showed that nearly one in four credit unions (23%) that currently offer HELOCs plan to either curtail their offerings or stop offering them completely in response to the new HMDA rules. We are certain this is a conservative estimate since many credit unions have not fully turned their attention to implementing the new HMDA rules, given the other regulatory changes they have had their focus on in the past few years.

Credit unions have provided an abundance of data to the CFPB showing that the thresholds for HMDA compliance do not provide enough regulatory relief to credit unions, given the new HMDA reporting that must be completed. CUNA continues to urge the CFPB to provide an exemption from reporting on HELOCs, or at a minimum, a dramatic increase in the loan volume exemption thresholds. These changes would provide meaningful relief to credit unions. We also continue to strongly encourage the Bureau to reduce the number of required data points and to disclose which data points it intends to make public.

In general, we believe the 2015 HMDA final rule is prime example of a rule in which credit unions should be treated differently because of their field of membership restrictions and the absence of a discriminatory lending history.

**Remittances**

The CFPB regularly cites the exemption to entities that provide fewer than 100 remittances annually as an example of providing relief to small entities. However, of all its attempts to provide relief to small entities, this exemption threshold is probably the clearest example that the CFPB is simply not listening.

We have continually pointed out to the CFPB that the international remittance transfer final rule has crippled credit union participation in this market with over half (55%) of credit unions that have offered international remittances sometime during the past five years having either cut back or eliminating the service. Credit unions have told CUNA and the CFPB countless times that this rule has made it more expensive for members to remit payment and has drawn consumers away from using credit unions and into the arms of the abusers for which the rule was designed. No one should be satisfied with consumer protection rules that have this impact on consumers.

**Moving Forward**

Credit unions appreciate that the CFPB has not finalized any additional rulemakings this year. We are hopeful this means the Bureau is spending time reviewing data and feedback about the impact of its rules promulgated over the past several years, and considering improvements that will benefit consumers. In that regard, our attached suggestions provide a road map for steps the CFPB can take to relieve unnecessary regulatory burdens on credit unions. If the CFPB acts on our suggestions, we are confident that these common-sense reforms will benefit consumers the most when credit unions are able to more fully serve them.

In addition to this document, we are willing to work with the CFPB to provide any further detail or analysis necessary. On behalf of America’s credit unions and their 110 million members, thank you for your consideration of these important matters.

Sincerely,

Jim Nussle
President & CEO