July 15, 2019

Director Kathy Kraninger
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552


Dear Director Kraninger:

The Credit Union National Association (CUNA) represents America’s credit unions and their 115 million members. On behalf of our members, we are writing in response to the Bureau’s plan to review rules that have or will have a significant economic impact upon a substantial number of small entities, pursuant to section 610 of the Regulatory Flexibility Act (RFA).

The RFA mandates federal agencies to consider the impact certain rules could have on small entities. Specifically, Section 610 of the RFA requires covered agencies to publish a plan for the periodic review (RFA Review) of rulemakings which have a “significant economic impact upon a substantial number of small entities.” Congress specified that the purpose of an RFA review is to determine whether such rules should be continued without change or should be amended or rescinded to minimize any significant economic impacts. The agency’s plan is required to account for the review of pertinent rulemakings within ten years after final action.

When conducting an RFA Review of a rulemaking, the reviewing agency must consider several factors, including:

1. The continued need of the rule;
2. The nature of public complaints or comments on the rule;
3. The complexity of the rule;
4. The extent to which the rule overlaps, duplicates, or conflicts with Federal, State or other rules, and
5. The time since the rule was evaluated or the degree to which technology, market conditions, or other factors have changed the relevant market.¹

According to the CFPB’s plan, the Bureau intends to begin its reviews roughly one year prior to the ten-year deadline for an RFA Review to be conducted. In addition, although not required by statute, the Bureau will solicit feedback from stakeholders via public comment on the rule under review. The public comment period will permit stakeholders to highlight regulatory issues and provide data relevant to the rule’s impact. The Bureau has also noted that the RFA Reviews will not replace other regulatory reviews conducted either at the discretion of the Director, such as the

¹ 5 U.S.C. 610(b).
2018 Calls for Evidence, or the assessments required by Section 1022(d) of the Dodd–Frank Wall Street Reform and Consumer Protection Act (Dodd–Frank Act).

CUNA is supportive of the CFPB’s plan to solicit stakeholder feedback during the RFA Review process. As you noted in your first public speech as director, “the best rules need the best processes”2 and we believe soliciting meaningful stakeholder feedback is always part of the best process. We look forward to engaging with the Bureau to ensure regulations are deliberate, appropriately tailored and targeted at bad actors harming consumers.

Credit unions have long encouraged the CFPB to conduct regular, extensive reviews of the regulations under its jurisdiction. These reviews should be aimed at streamlining requirements, eliminating outdated or superfluous requirements, and providing exemptions for certain community-based entities, such as credit unions and CUSOs, where appropriate. However, credit unions also believe it is critical that the Bureau keep in mind that any change to a regulation – even a change intended to reduce regulatory burden – likely comes at a cost to regulated entities. Therefore, we call on the Bureau to conduct robust cost-benefit analyses as part of its RFA Reviews to ensure any potential changes would have a positive impact when considering the overall regulatory landscape.

In addition, CUNA reminds the CFPB that, based on the statutory intent of the RFA, any RFA Review should be exclusively focused on the reduction of regulatory burden and the Bureau should entirely avoid the creation of any new, burdensome requirements on credit unions.

On behalf of America’s credit unions and their 115 million members, thank you for the opportunity to share our views regarding the CFPB’s RFA plan. If you have questions or require additional information related to our feedback, please do not hesitate to contact me at (202) 508-3629 or amonterrubio@cuna.coop.

Sincerely,

Alexander Monterrubio
Senior Director of Advocacy & Counsel

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2 Director Kathy Kraninger, “The Next Phase for CFPB: A Keynote Address from Director Kathy Kraninger,” April 17, 2019, Bipartisan Policy Center, Washington, DC.