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February 18, 2020

Comment Intake—PRA Office  
Consumer Financial Protection Bureau  
1700 G Street, NW  
Washington, DC 20552

Re: Information Collection titled, “Small Business Compliance Cost Survey under the Generic Information Collection Plan”; Docket No.: CFPB-2020-0008

Dear Sir or Madam:

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 Consumer Financial Protection Bureau’s (CFPB or Bureau) notice seeking comment on its “Small Business Compliance Cost Survey under the Generic Information Collection Plan.”

## Background

Section 1071 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) amended the Equal Credit Opportunity Act (ECOA) to require financial institutions, subject to a regulation to be issued by the CFPB, to compile, maintain, and report information about applications for credit made by women-owned, minority-owned, and small businesses. The Dodd-Frank Act prescribed no timeline for the CFPB to issue its rulemaking. Meanwhile, data collection – through this survey and other research – is expected to inform a future rulemaking.

The objective of the compliance cost survey is to solicit information from financial institutions offering small business credit products on the potential *one-time costs* to implement the 1071 data collection, and on potential responses to increased compliance costs. The current cost survey does not cover potential *on-going costs* from collecting and reporting data.

## CUNA’s Comment on the Data Collection Plan

CUNA has long asserted the CFPB should conduct a robust cost/benefit analysis prior to issuing any rulemaking that could impact credit union operations. The planned compliance cost survey of one-time costs associated with a small business data collection rulemaking should provide the Bureau with a useful data point to conduct such an analysis. However, as with any rulemaking-related data collection, CUNA believes it is critical for the Bureau to seek out and consider credit union-specific data and feedback. Credit unions are unique in the financial services industry as not-for-profit financial cooperatives with a statutory mission to promote thrift and provide access to credit for provident purposes. Despite this unique structure and mission, the Bureau has at times unjustifiably applied the data, feedback and trends of bank entities to credit unions. Treating all financial services entities as the same often results in outsized compliance burden for

community-based financial institutions. As a result, we strongly encourage the Bureau to seek feedback from credit unions on their compliance costs to ensure an accurate picture of the impact any new regulation would have on their specific operations.

As the Bureau has acknowledged, the pending compliance cost survey does not cover the on-going costs associated with a small business data collection. We strongly encourage the Bureau to conduct a survey of the potential on-going costs associated with compliance prior to issuing any proposed small business data collection rule. The on-going costs of compliance should be fully considered in order to reduce the likelihood of the Bureau needing to substantially revise or withdraw its rulemaking after final action due to unanticipated effects on the market.

### **Credit Unions Should Be Exempt from a Small Business Data Collection Rulemaking**

While CUNA does not object to the Bureau's plans to gather information on the compliance costs associated with a small business data collection, we would like to reiterate our position that the CFPB should use its authority to exempt credit unions from a small business data collection rulemaking. The high costs associated with Section 1071 compliance, particularly for smaller credit unions, would ultimately harm the ability of small business owners to obtain loans from their local credit union. This is particularly crucial since credit unions are already highly regulated in this market and subject to strict statutory limitations specific to them, such as caps on member business lending.

As the 1071 rulemaking moves forward, we caution the Bureau against adopting a rulemaking that would harm credit unions' ability to provide safe and affordable loans to small businesses. When rulemakings result in increased resources dedicated to regulatory compliance and in turn reduce the availability of affordable products and services from credit unions, consumers ultimately pay the price. The small business data collection is a clear example of when the CFPB should use its exemption authority in a broad and meaningful way to protect the financial well-being of consumers. Credit unions have shown no pattern or history of discriminatory lending that caused Congress to demand the study of the small business lending market in the first place. Instead, credit unions are often seeking ways to *increase* access to credit for small businesses, especially minority or women-owned businesses, not ways to decrease such access.

### **Conclusion**

On behalf of America's credit unions and their 115 million members, thank you for the opportunity to share our views on the Bureau's pending small business data collection compliance cost survey. If you have questions or need additional information related to our feedback, please do not hesitate to contact me at (202) 508-3629 or [amonterrubio@cuna.coop](mailto:amonterrubio@cuna.coop).

Sincerely,



Alexander Monterrubio  
Senior Director of Advocacy & Counsel