-----Original Message-----
From: Suzanne Yashewski [mailto:syashewski@tcul.coop]
Sent: Tuesday, June 19, 2012 3:59 PM
To: CFPB_Public_PRA
Cc: Dick Ensweiler; Tom Haider
Subject: TCUL Comments on Regulator Costs and Burdens

June 19, 2012

Consumer Financial Protection Bureau
ATTN: PRA Office
1700 G Street NW.,
Washington, DC 20552

Sent via e-mail to: CFPB_Public_PRA@cfpb.gov<mailto:CFPB_Public_PRA@cfpb.gov>

Re: TCUL Comments on CFPB Notice and Request for Comments Regarding Compliance Costs and Regulatory Burdens

To Whom It May Concern:
This comment letter represents the views of the Texas Credit Union League (TCUL) regarding NCUA's proposal on streamlining regulations. TCUL is the official trade association serving approximately 500 federal and state credit unions and more than 7.4 million credit union members in Texas. TCUL appreciates the opportunity to comment on this very important issue.
While engaging in regulatory review, TCUL urges the CFPB to keep in mind the difference between credit unions and banks. Credit unions are not-for-profit financial cooperatives. Unlike most other financial institutions, credit unions do not issue stock or pay dividends to outside stockholders. Instead, earnings are returned to our members in the form of lower loan rates, higher interest on deposits, and lower fees. Additionally, many credit unions are very small, some with only 3-5 employees. With this in mind, we hope the CFPB will consider the unique impact regulations will have on credit unions, especially the very small credit unions, when the regulations are often written for the "too big to fail" banks.
It is likely no surprise, but regulatory burden is the biggest concern for credit unions today. Small credit unions in particular are utterly overwhelmed by regulatory compliance leaving basically no time to "run the business". As a result, TCUL appreciates the Consumer Financial Protection Bureau's [CFPB] efforts to collect information on the costs and effects of potential new regulations on credit unions. This request for comments is a good first step. However, credit unions remain concerned that in the future, CFPB will impose a range of new requirements and data collection responsibilities that unfairly burden credit unions with little to no benefit to consumers. Therefore, we strongly urge CFPB to continue to move towards easing regulatory burdens on credit unions rather than adding to the burdens. Specifically, we would like to see CFPB specifically exempt credit unions from regulations in areas where credit unions are not seen to be engaging in questionable practices.
It is impossible to address all issues in response to this general request for information. Therefore, we will address some of the primary concerns raised by Texas credit unions, and credit unions across the

country. At the same time, we request that CFPB set up a schedule to regularly review regulatory burdens.

Time Burdens

Although credit unions exist to serve members, a significant portion of credit union staff time is deflected away from service to its members. Instead, credit union staff spends much time learning, re-learning and implementing new regulations. Unfortunately, most of these new regulations are based on bad actions of banks and not in any way related to credit union practices.

Credit unions could better serve their members if CFPB would exempt credit unions from onerous regulatory requirements. In areas where regulations remain, we strongly urge CFPB to implement consistency throughout regulations so as to ease compliance.

Much confusion exists in the current regulatory arena because each regulation is drastically different (including definitions, language, timing, etc). The inconsistency requires devoting significant staff time to learn the fine details of each regulation and how each differs from the others. Implementing consistency would lower the cost and time required to train staff to comply.

Monetary Burdens

Concerns with regulatory burdens include more than just time, but monetary cost as well. We strongly urge the CFPB to diligently assess the cost associated with compliance with current and proposed regulations. Each time a regulation changes, credit unions must devote significant dollars to associated compliance costs such as staff training; printing and sending of new forms; new software purchase, implementation, and training; legal review; and more. Unfortunately, regulators often consider only a broad cost (not the details), and usually do not address cost from the perspective of a small financial institution.

Lending and Mortgage Related Rules

The cost of implementing regulatory changes to lending practices is a growing burden on credit unions. This burden is compounded by the piecemeal approach regulators have taken in the last few years resulting in a seemingly constant change to lending rules.

Each round of disclosures imposes significant cost and time burdens on credit unions. Consolidation would reduce the cost of compliance. For instance, fee disclosures under Reg Z should be simplified and consolidated with other account disclosures. Additionally, lending changes should be looked at together on a similar timeline to avoid changing disclosures, forms, etc multiple times in a short time period.

Remittance Rules

Credit unions have concerns with the final rule governing disclosures on remittances. Credit unions use third party vendors to complete transfers. As a result, credit unions don't have control over the entire process making compliance on the part of credit unions difficult if not impossible. The cost and time associated with attempting to comply with the proposed regulation would be cost prohibitive to credit unions, resulting in most credit unions discontinuing the service to members. Credit unions that do continue the service will be forced to contract with third party providers, likely raising the cost to members. TCUL requests that CFPB amend the rules to account for this.

Overdraft Rules

CFPB announced its intention to investigate overdraft protection programs. Credit unions need flexibility in dealing with overdrafts, and reasonable overdraft fees should be permissible. Please keep in mind that credit unions are not-for-profit cooperatives. At the same time, we are subject to earning pressures from regulators. A challenge is that, by statute, credit union capital or net worth may only be accumulated from retained earnings, such as fee income.

Many members value the overdraft program that is offered by their credit union. In fairness to all credit union members, it makes sense for the associated fees to be paid by the party who utilizes the services.

Drastically reducing overdraft fees will lead to part of the cost being borne by members who maintain a sufficient balance and therefore never utilize overdraft services.

We request that CFPB permit responsible overdraft programs, such as those at credit unions, to continue while focusing efforts to curb abuses by other entities engaging in questionable behaviors.

Regulation E, Electronic Funds Transfers As you may be aware, there have been a string of lawsuits against financial institutions accusing them of not properly portraying the required Regulation E [Reg E] notice on the outside of ATMs. In most cases, the notice was properly posted but had been removed by accident or intentionally without consent of the financial institution. The notice on the outside of the machine warning users of potential fees is the exact some information displayed on the screen. The consumer simply does not gain any benefit by a second notice in addition to the screen notice. Any perceived consumer benefit is greatly outweighed by the regulatory burden of posting the outside notice and ensuring that it stays in place day to day (as well as the legal risk for non compliance due to factors out of the financial institution's control). Therefore, TCUL urges CFPB to streamline Reg E by removing the dual notice requirement, and instead requiring only the on-screen notice.

Summary

In sum, we respectfully request the CFPB to consider exempting credit unions from agency rulemakings. In the very least, we urge CFPB to more closely examine the real costs of compliance in comparison to perceived consumer benefit before proceeding with regulatory changes.

Thank you for considering TCUL's suggestions to streamline and ease regulatory burdens on credit unions. If you have any questions, please feel free to contact me at syashewski@tcul.coop<mailto:syashewski@tcul.coop> or via telephone at (512) 853-8516.

Sincerely,

Suzanne Yashewski
SVP Regulatory Compliance & Legal Affairs Texas Credit Union League

----
