CUNA
Credit Union National Association

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The Honorable Sherrod Brown
Ranking Member
Committee on Banking, Housing and Urban Affairs
United States Senate
Washington, DC 20510

Dear Senator Brown:

On behalf of the Credit Union National Association (CUNA), I am writing regarding your recent Dear Colleague letter on the Consumer Financial Protection Bureau (CFPB). CUNA represents America's credit unions and their more than 100 million members.

Credit unions were created more than a century ago because most ordinary Americans had little to no access to safe, affordable financial services. The idea was that people could create economic freedom by pooling their savings and lending to each other. It's an idea that perseveres today through a system of nearly 6,000 state and federally chartered credit unions serving more than 100 million Americans. Since day one, credit unions have been a shining example of consumer protection in the financial services sector. They are naturally pro-consumer protection institutions because they are owned by the very members who rely on their services. It's a difficult concept for most in the profit-driven financial services sector – and the public policy sector – to understand. Credit unions live their motto, "People Helping People," every single day.

Credit unions have always accepted that they must operate in a regulated environment, and, in 2009 and 2010, we approached the legislative process that produced the Dodd-Frank Act with an open mind and constructive ideas. We met with then-Harvard Law School Professor Elizabeth Warren and other proponents of a consumer financial protection commission, and listened as they described the benefit a commission would bring to consumers. Unlike others in the financial services sector who dismissed the legislation immediately, we worked with Congress to improve the bill to ensure the structure of this new agency achieved its mission without impeding the important consumer protections credit unions bring to the market in the form of safe and affordable financial services offered by a cooperative financial institution.

Unfortunately, it has become apparent over the last six years that the new Consumer Financial Protection Bureau, led by a single director, not a commission as Professor Warren and President Obama proposed, is not working for America's credit unions or the more than 100 million members they serve. In fact, it has created a rigged system in favor of the behemoth banks who can afford to spread the cost of compliance with one-size-fits-all regulation over large economies of scale.

Since the beginning of the crisis, credit unions have been subject to more than 200 regulatory changes from more than a dozen federal agencies. These new rules total nearly 8,000 Federal Register pages, and counting. Even if a credit union is only tangentially impacted by the new requirements, they must read and understand any rule they are subject to, and determine whether there is an impact now or a potential one in the future. It is a lot to ask financial institutions, that collectively are smaller than each of the four largest banks in the United States, to comply with the same rules as the too-big-to-fail banks.

In 2014, at the urging of the Senate Banking Committee, CUNA commissioned a first-of-its-kind empirical study of the cost of regulatory burden on credit unions. This study found the total cost of regulation on credit unions in 2014 was $7.2 billion -- $2.8 billion more than the 2010 cost. The study also found dramatic evidence of differential impacts by credit union size. Cost impacts were much stronger at smaller credit unions, which spend on average 1.12% of assets on regulatory burden versus larger credit unions, which spend .33% of assets. This is because there are basic fixed costs associated with complying with regulations, and at larger credit unions these costs can be spread over a larger asset base. As new regulations are promulgated this dynamic will only exacerbate.

The disparity in the cost impact of regulatory burden has accelerated the consolidation of the credit union system (and also the banking sector), robbing consumers of financial institution choices. While the number of credit unions has been declining since 1970, the attrition rate has accelerated since 2010, after the Great Recession and the creation of the CFPB. Indeed, 2014 and 2015 were among the top five in terms of attrition rates since 1970, at 4.2% and 4.1%. Attrition rates at smaller credit unions have been especially high. In both 2014 and 2015, the attrition rate at credit unions with less than $25 million in assets (half of all credit unions are of this size) has exceeded 6%. There is an indisputable connection between both the dramatically higher regulatory costs incurred by small credit unions and the increases in those costs since 2010, and their higher attrition rates.

Like many trade associations, CUNA regularly surveys its members to ensure we are accurately representing their concerns before Congress and other policymakers. In our January 2017 survey, credit unions told us the following:

- Over half (55%) of the credit unions that have offered international remittances sometime during the past five years have either cut back or stopped offering them, primarily due to burden from CFPB regulations.
- More than four in 10 credit unions (44%) that have offered mortgages sometime during the past five years have either eliminated certain mortgage products and services or stopped offering them, primarily due to burden from CFPB regulations. Credit unions with assets of less than $100 million are the asset group most apt to have dropped their mortgage program altogether.
- TILA-RESPA Integrated Disclosure rules are far and away (80%) the single rule most negatively impacting credit unions that have offered mortgages. This is followed by the Qualified Mortgage rules (43%), Mortgage Servicing (30%) and HMDA rules (19%). TILA-RESPA serves as the most troublesome rule for all asset groups. (Notably, many credit unions have not even yet turned their full attention to the new requirements in the new HMDA rules.)

- One in four credit unions (23%) that currently offer HELOCs indicate they plan to either curtail their HELOC offerings or stop offering them in response to the new HMDA rules.
- The vast majority of credit unions (93%) that either currently offer payday/small-dollar loans or are considering offering them indicate they will likely no longer consider introducing these loans if there are increased regulations, will review the impact and then decide whether to continue/discontinue the currently-existing offering, or will likely discontinue the currently-existing loan product (without an impact review) if there are increased regulations.

  This is the hard data that describes the real world impact of the Bureau's rule-making on credit unions and their members, and it should be incredibly troubling to anyone who has the interest of consumers at heart.

Credit unions across the country want to work with Congress to better ensure they can continue to serve members with safe and affordable products and services, and not be forced to eliminate options. There is no question that the largest financial institutions, primarily those *who actually caused the financial crisis*, have benefited from a regulatory environment that rewards those who can afford high-powered lawyers, rather than those with a service-minded mission to empower lower-or-middle income consumers. Common-sense reforms must be put in place to better protect credit unions from this skewed system. Failure to address the defects in the CFPB structure allows the behemoth banks to continue to take advantage of this rigged system.

We reject the assertion in your letter that all who support a multi-person commission do so with the intent to undermine the goals and mission of the Bureau. Our history on this matter is clear and consistent, and our support for a multi-member commission represents a very reasonable improvement to a structure that has proved woefully flawed.

Further, we find folly in your argument that a commission would not be a better structure because the Senate has shown itself unable to fill other boards and commissions. Americans expect their legislative leaders to work it out in the interest of all consumers, not in the interest of political posturing. They should not have to pay a price because Senators are unable or unwilling to exercise a basic function of Article II of the Constitution.

We hope Congress engages in a robust debate over consumer financial protection; and we understand it is quite possible that debate will include the question of whether the CFPB should continue to exist. As we did in 2009, we will engage in the debate eager to represent our members and their members fiercely and steadfastly, weighing the benefits of all proposals offered to the reality of the current structure. We urge you to reconsider your opposition to a multi-person board at the CFPB and embrace other important improvements to ensure that consumers continue to enjoy important protections.

One-size-fits-all regulation has not worked for Main Street – local credit unions, small banks, and the consumers and small businesses they serve. It's created a rigged system favoring the largest institutions who can afford to comply with the "solutions" dreamt up in Washington – the very institutions that caused the crisis that hurt so many. This system is hurting consumers, costing them time and money, and limiting their choices. Now is the time for Congress to enact regulatory reform that works for credit union members.

On behalf of America's credit unions and their more than 100 million members, thank you for your consideration.

Sincerely

Jim Nussle
President & CEO