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The Honorable Jim Jordan
Chairman, Oversight Subcommittee on Economic Growth,
Job Creation and Regulatory Affairs
Committee on Government Reform and Oversight
2157 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Jordan:

Thank you very much for the opportunity to submit comments on today's hearing, "Regulatory Burdens: The Impact of Dodd-Frank on Community Banking," with respect to the Dodd-Frank Act's impact on credit unions. The Credit Union National Association (CUNA) is the largest credit union advocacy organization in the United States, representing America's state and federally chartered credit unions and their 96 million members.

The Wall Street Reform and Consumer Protection Act (P.L. 111–203, H.R. 4173), also known as the Dodd-Frank Act ("the Act"), was signed into law by President Barack Obama on July 21, 2010. The size and scope of this law affects nearly every sector of the financial services marketplace. Hundreds of rulemakings were required by the law and many have still to be finalized or implemented. The Act's effect on credit unions, specifically, has been immense. As rulemaking continues, we do not know the full effect of the Act on credit unions. Nevertheless, the Act has added significant burdens to all financial institutions, including credit unions. This is not meant to imply that some of the law's reforms were necessary and beneficial. However, this multitude of new regulations has created a "crisis of creeping complexity," where credit unions must hire additional specialized employees just to ensure compliance with the law's many new requirements and reporting burdens. This is especially detrimental to the thousands of small credit unions that often have only one branch office and five or fewer employees. In this statement, I will detail some of the burdens that the Act has created for credit unions.

As member-owned financial cooperatives, credit unions have been praised by Administration, Congressional, and media figures as being prudently managed and not having caused nor contributed the housing collapse in 2007 and the subsequent Wall Street crash of 2008. Despite enduring collateral damage from unscrupulous financiers and mortgage brokers, credit unions continued to lend and assist their memberships and communities, and continue to do so, during this economic upheaval. In fact, millions of Americans have dumped their banks and joined credit unions since 2008.

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Credit unions greatly appreciate the attention that this subcommittee is giving to the ever-increasing, never-decreasing regulatory burden that they face. This "crisis of creeping complexity" is not just one new law or revised regulation that challenges credit unions but the cumulative effect of regulatory changes. This is not a new phenomenon. It has been building for over a decade. It certainly was not simply caused by the enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act; however, as the CFPB continues to promulgate and review the regulations under its jurisdiction as required by the Dodd-Frank Act and other statutes now subject to its jurisdiction, there will likely be hundreds of additional changes credit unions will be required to make, notwithstanding the fact that everyone agrees that credit unions did not cause or contribute to the financial crisis.

The costly and pervasive impact of these new rules on credit union operations, a number of which are detailed and complex, covering hundreds of pages, simply cannot be overstated. Because credit unions are financial cooperatives, owned by their members, costs a credit union bears to meet the multitude of wide-ranging regulatory training and compliance responsibilities are ultimately paid by their members. The diversion of funds to pay for compliance may mean members see lower rates on savings, higher rates on loans, and foregone or reduced services. For some credit unions, it may also result in pressure on earnings.

The burden of complying with ever-changing regulatory requirements is particularly onerous for smaller credit unions because most of the costs of compliance do not vary by size, and therefore proportionately are a much greater burden for smaller as opposed to larger institutions. If a smaller credit union offers a service, it has to be concerned about complying with most of the same rules as a larger institution, but can only spread those costs over a much smaller volume of business. Not surprisingly, smaller credit unions consistently say that their number one concern is regulatory burden. Problems fulfilling regulatory requirements are frequently cited when smaller credit unions seek to be merged.

Every time a new rule is implemented, a credit union must evaluate the rule and determine how to comply with it; the regulations themselves are not always clear about how to comply. Once the credit union management believes they understand what is necessary to achieve and remain in compliance, the credit union has to write new policies and develop appropriate procedures. They have to train their staff and often print new forms. In most cases, these rules are not changing how they offer services to their members but they do affect how much they are able to do for their members. There is no question about it: when a regulation is changed because some bad actor found a new way to take advantage of its customer or because some bureaucrat decided it was time for things to be done differently, it means that credit unions have to divert credit union member resources away from programs and services designed to help members.

One example of an area of continuing concern for many credit unions is the CFPB's remittances regulation. To its credit, the CFPB has taken a number of steps to listen to stakeholders during and after its rulemaking process. Despite some improvements, credit unions continue to have very significant concerns with the CFPB's remittance proposal. The final rule includes an

exemption level that is far too low to be effective. The agency's rule exempts transfer providers with 100 or fewer transfers a year under its authority in the Dodd Frank Act to determine "normal course of business" regarding international remittance transfers. However, 100 transfers per year is equal to approximately 8 transfers per month, or about two a week. We do not think that meets any reasonable notion of what constitutes "normal course of business," particularly since a number of credit unions have as many as 1,000 or more transfers per year, still only four per day. A number of these credit unions do not charge explicit fees to send remittances and some actually lose money in providing these services. There have been absolutely no examples of abuses we have been able to unearth regarding remittance services that credit unions provide. Nevertheless, a number of credit unions are considering exiting the service as a result of the requirements for new disclosures regarding exchange rates, fees, taxes, and the date money will be received (all of which may be difficult to determine), the required thirty minute waiting periods before a transaction can be sent, investigation and error resolution requirements and additional liability. We urge the Committee to work with the CFPB to revisit the exemption level and allow more credit unions and small banks to qualify for an exemption.

In another area earlier this year, the Consumer Financial Protection Bureau (the Bureau) issued a final "Ability to Repay" rule to implement provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act regarding the borrower's ability to repay a residential mortgage loan and establishing requirements for a qualified mortgage (QM) under the Truth in Lending Act, which is implemented by Regulation Z. On May 29, 2013, the Bureau finalized additional amendments to the rule.

These amendments made needed changes to the QM rule and were well received by credit unions. America's credit unions want to commend the Bureau for listening to the concerns of credit unions, and for incorporating many of our concerns into the new rule. Nevertheless, credit unions continue to have serious apprehensions about how the QM rule will be implemented and believe that it could have the unintended effect of reducing credit union members' access to credit.

Credit unions have every incentive to evaluate a member's ability to repay because their members are also the owners. It is not in the interests of a credit union or its other members to lend money to a member likely to default. As a result, credit unions employ strong underwriting standards, consistent with the spirit of the QM rule. Credit unions also have a history of tailoring lending products to meet the needs and demands of their members. Credit unions have proven they can provide credit on fair terms to borrowers who cannot meet QM standards, but are good credit risks nevertheless. Congress and the regulators should encourage financial institutions to offer loan products focused more on the individual. Unfortunately, depending upon how the QM rule is interpreted by the prudential regulators and how it is utilized within the marketplace, the QM rule may stop this from happening. The unfortunate result will be that some members who would otherwise have qualified for a mortgage from their credit union may not receive loans.

Credit unions worry that the QM rule will make it all but impossible for credit unions to write non-QM loans because the standard, designed to be an instrument of consumer protection, may serve as an instrument of prudential regulation, effectively setting a bureaucratic standard for loan quality. Further, we have concerns that there may not be a viable secondary market into which credit unions can sell non-QM loans. If the prudential regulator will not permit credit unions to hold non-QM loans and the secondary market will not accept them, credit unions will not be able to write them. To the extent that happens, credit unions will not be able to meet the mortgage lending needs of a sizeable segment of their membership. In addition to these concerns, we also have specific views and concerns regarding the 43% debt-to-income ratio requirement, the 3% limitation on points and fees, the definition of rural and underserved area, and the bifurcated approach to the QM rule.

We encourage the Subcommittee to continue to exercise its critical oversight function. Closely scrutinize the proposals coming from the CFPB, NCUA and other agencies to ensure that these changes are not only within the intent of Congress but also have minimal adverse impact on the institutions serving Main Street. Ask the regulators how their proposals will impact the delivery of financial services to those they serve. Encourage the CFPB to use its exemption authority to exempt credit unions and other community based financial institutions from regulations designed to reign in the abusive activity of unregulated entities. In many respects, Main Street financial services providers, like credit unions, are consumers' and small businesses' last hope for receiving affordable and fair financial services. This is certainly the case with respect to credit unions because their users are also their owners. When Congress exercises its oversight function, it has been our observation that the rules tend to improve for financial services as well as consumers. Finally, we urge Congress to consider comprehensive regulatory relief for all financial institutions.

Best regards,

Bill Cheney
President & CEO