

FEDERAL LEGISLATIVE BRIEF



Support Common Sense Regulatory Reform

Background

Regulatory pressure continues to be a significant issue of concern for Michigan credit unions. Credit unions must comply with many new and revised requirements from the NCUA, BCFP and a host of other prudential regulators.

Over-Regulation Impacts Credit Union Members

The regulatory burden under which credit unions operate stifles their ability to fully and efficiently serve their members and leaves the financial system underserved. Since 2008, credit unions were subjected to more than 190 regulatory changes from 15 federal agencies. The cost of regulatory burden on credit unions has increased to more than \$7.2 billion, according to a study commissioned by CUNA.

The study collected data on three types of costs related to regulation: staff costs, third party expenses and depreciation of capitalized costs. The largest component of regulatory expense was for staff, with 74% of staff costs driven by regulation. The study also found dramatic evidence of differential impacts by credit union size. Cost impacts were much more significant at smaller asset credit unions as opposed to larger credit unions.

This level of regulation limits credit unions' ability to serve their members. Regulatory changes require staff time and credit union resources expended to comply with the change through forms and disclosure changes, data processing systems reprogramming and staff retraining. Many credit unions have a small number of employees, and time spent on regulatory compliance is time away from member service. When regulation aimed at big banks to curb the abuse of consumers restricts or prevents credit unions

from offering services, consumers lose affordable access to financial services and tools that help them manage their finances in their daily lives.

Finally, in its supervisory role, the BCFP has used its authority to admonish and penalize credit unions for engaging in practices consistent with longstanding statutory directives and guidance from their prudential regulator. Through these actions, the BCFP circumvents the will of Congress and harms consumers by creating an uncertain operating environment for credit unions and their members.

BCFP in Need of Reform

Credit unions strive to provide consumers with access to a wide variety of high quality, affordable financial services. Michigan credit unions embody the spirit and philosophy of "people helping people." The increasing volume and complexity of federal regulation hampers this mission and philosophy, diverting and draining resources and placing restrictions on products that aren't appropriate or even aimed at community-based institutions. Broad and excessive regulation has also led to increased consolidation of credit unions, which further limits consumer choice and the positive effects of marketplace competition.

Congress, in the Dodd-Frank Wall Street Reform and Consumer Protection Act (P.L. 111-203), specifically granted the BCFP the authority to exempt certain institutions or groups from their rules. Despite the clear legislative intent expressed by Congress, the BCFP continues to include credit unions in its regulations even though credit unions weren't part of the problem leading to these new regulations.

Several structural changes could also lead to better governance of the agency and better industry interaction. The BCFP continues to operate without appropriate levels of congressional oversight and should be subject to the appropriations process and the accountability that it brings. The Bureau's authority is vested in a single Director, and changing its governing body to a multi-person, bipartisan board would make the BCFP more representative of the diverse perspectives of the financial services sector over which it governs.

Legislative Status

On June 8, 2017, the U.S. House of Representatives passed H.R. 10, the Financial Choice Act of 2017. The bill included several credit union-supported provisions, including changing the BCFP leadership to a five-person commission and bringing it under the appropriations process. The reforms also included the TAILOR Act (instructing the agency to account for size and risk when regulating entities), and the Operation Choke Point provision (giving flexibility to credit unions to serve their members' mortgage needs by allowing mortgage loans held in portfolio to be exempt from the Qualified Mortgage (QM) rules) and the Examination Fairness provision.

Following passage of the Choice Act in the House of Representatives, the U.S. Senate Committee on Banking, Housing and Urban Affairs introduced S. 2155, the Economic Growth, Regulatory Relief and Consumer Protection Act in November of 2017. Given the bill's focus on small- and medium-sized financial institutions, including credit unions, it received early and significant bipartisan support. Michigan's U.S. Senator Gary Peters cosponsored the bill, and both he and U.S. Sen. Debbie Stabenow supported it. The bill included a credit union-specific provision to grant credit unions parity with banks by reclassifying 1-4 non-owner occupied real estate loans made by credit unions as residential instead of business loans, to get them out

from under a credit union's member business lending cap. This provision, according to CUNA, should result in up to \$4 billion in additional capital credit unions could lend. In addition, the bill offered regulatory relief via changes to mortgage servicing and lending rules, protection for credit union employees who report suspected elder financial abuse, and requirements on the U.S. Treasury to study cyber risks. S. 2155 passed both chambers of Congress and was signed by the President on May 24, 2018.

MCUL Position

MCUL and CUNA supported the Choice Act and strongly supported passage of S. 2155 in the Senate, as both bills represented meaningful and beneficial reform for credit unions. Although a good start, neither bill completely addressed the unnecessary and constantly growing burden placed on credit unions. We support continued efforts to reform government and regulatory structure where necessary and strongly urge Congress, the NCUA, BCFP, and other regulators to adopt additional relief measures in the future, including:

- Clear exemptions for responsible community financial institutions from future BCFP rules and regulations.
- Relief from existing processes and regulations, and accountability for size and risk when regulating entities.
- Change the current BCFP structure so that its authority is vested in a five-member, bipartisan board, rather than a single individual.
- Place the BCFP's funding under the appropriations process to ensure the concerns of credit unions and their members are being heard through their elected representatives.