

State Bank and Credit Union Association Questionnaire

Introduction

The United States Government Accountability Office (GAO), an independent, legislative-branch agency, is examining the impact of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203 (Dodd-Frank Act), on community banks and credit unions. The Dodd-Frank Act became law on July 21, 2010 and federal regulators have written or are currently writing regulations to implement the Act's provisions. The following questions examine the potential benefits or challenges that the Dodd-Frank Act may directly or indirectly have on community banks and credit unions and their ability to lend to small businesses.

Please note: Although community banks typically have been defined as banks with less than \$1 billion in assets, we are focusing our analysis on banks with less than \$10 billion in assets because a number of Dodd-Frank Act provisions include exemptions for financial institutions with less than \$10 billion in assets.

Please provide the name of your association:
Louisiana Credit Union League

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Questions:

1. What is the impact of Federal Reserve's [Final Rule on Debit Card Interchange Fees and Routing](#) on your member institutions?
 - Positive
 - Negative
 - No Impact
 - No basis to judge/too soon to tell

Please briefly explain your response: The statute exempts any debit card issuer that, together with its affiliates, has assets of less than \$10 billion. There are no credit unions above that threshold in Louisiana, however, some exempt credit unions (small issuers) did have to add a second unaffiliated network to comply with the reg's prohibition on network exclusivity, which added compliance costs per card, along with staff time. Also, fee rates paid by retailer have decreased under these rules.

2. To what extent has the final rule on [Credit Risk Retention](#), effective February 23, 2015, increased or decreased mortgage lending by your member institutions?
 - Greatly increased
 - Increased
 - No Impact
 - Decreased
 - Greatly Decreased
 - No basis to judge/too soon to tell

Please briefly explain your response: This part of the regulations does not appear to have an impact on credit unions who do not sell securities.

3. CFPB's final rule on [Integrated Mortgage Disclosure under the Real Estate Settlement Procedures Act and the Truth in Lending Act](#) will become effective on August 1. Based on available information, to what extent, if at all, do you expect the rule to increase or decrease mortgage lending by your member institutions?
 - Greatly increase
 - Increase
 - No Impact
 - Decrease
 - Greatly Decrease
 - No basis to judge/too soon to tell

Please briefly explain your response: While the rule has been delayed until Oct. 3, several credit unions have indicated difficulty complying with the new regulations. The relatively quick turnaround time on this reg along with the other mortgage regulatory burden has been a great hardship. The fact that FI's will be making mortgages under the old forms at the same time as the new forms are rolled in causes extreme difficulty and confusion for staff and IT. The compliance burden is generally leading to institutions

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offering fewer options and choices for loans. It should be noted that CFPB missed a filing deadline and the implementation had to be postponed.

4. CFPB's final rule on [Loan Originator Compensation Requirements under the Truth in Lending Act](#) became effective in January 2014. To what extent has the rule increased or decreased mortgage lending by your member institutions?

- Greatly increased
 Increased
 No Impact
 Decreased
 Greatly Decreased
 No basis to judge/too soon to tell

Please briefly explain your response: Credit unions did not have to make major changes to their operations to comply with this rule. However, this did create a need for superfluous policies, procedures, amendments to loan contracts, and training. The cost is hard to measure when you factor in all the lost productivity, new forms, and compliance.

5. CFPB issued final rules relating to "ability-to-repay" and "qualified mortgage standards" (e.g. [Amending Ability-To-Repay and Qualified Mortgage Standards under the Truth in Lending Act \(Regulation Z\)](#)). To what extent have these rules increased or decreased mortgage lending by your member institutions?

- Greatly increased
 Increased
 No Impact
 Decreased
 Greatly Decreased
 No basis to judge/too soon to tell

Please briefly explain your response: This has made some mortgage loans that otherwise appeared to be viable loans, no longer being made by the credit union, or forcing the credit union to portfolio the loan. A credit union must price accordingly to hedge interest rate risk when placing a loan into portfolio, thus decreasing the willingness to make such a loan. This rule should be revised. Ability to repay required adherence to 8 underwriting factors and special payment calculations. Whole mortgage product line had to be evaluated against the reg: terms, rates, record retention. Even includes portfolioed loans which didn't meet FHA guidelines in the first place. It might be helpful for the GAO to review the flow chart to illustrate the confusion created and the burden of compliance

6. CFPB and the Federal Reserve issued final rules relating to mortgage servicing and escrow requirements (e.g. [CFPB-Mortgage Servicing Rules Under The Truth In Lending Act \(Regulation Z\)](#), [CFPB-Escrow Requirements Under the Truth in Lending Act \(Regulation Z\)](#) and [FRS-Providing A Separate, Higher Threshold For Determining](#)

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[Coverage Of The Escrow Requirement Applicable To Higher-Priced Mortgage Loans under Regulation Z, Truth In Lending.](#)) To what extent have these rules increased or decreased mortgage lending by your member institutions?

- Greatly increased
- Increased
- No Impact
- Decreased
- Greatly Decreased
- No basis to judge/too soon to tell.

Please briefly explain your response: This rule does not make sense under certain circumstances, particularly with manufactured homes where sometimes there will be two escrow accounts for property taxes. The compliance burden also makes it difficult. The additional escrow requirements led some institutions to offer fewer loan types. While the reg states some small services exemptions, a closer look reveals that they are minimal. CUs still had to devote energy to new procedures for error resolution and info requests; a plethora of new notices and notice deadlines; interest rate adjustment notices for ARMs; the addition of suspense accounts to comply with the prompt crediting of payments requirement; and modified payoff amount notices.

7. Regulators have issued several final rules related to appraisal activities (e.g. [Appraisals for Higher-Priced Mortgages](#) and [Disclosure And Delivery Requirements for Copies of Appraisals and Other Written Valuations Under the Equal Credit Opportunity Act \(Regulation B\)](#)). To what extent have these rule increased or decreased mortgage lending by your member institutions?
- Greatly increased
 - Increased
 - No Impact
 - Decreased
 - Greatly Decreased
 - No basis to judge/too soon to tell.

Please briefly explain your response: . Most credit unions were already in compliance with obtaining an appropriate appraisal and many did not have to make changes as most of their mortgage loans are considered “qualified”.

8. Are there additional mortgage-related Dodd-Frank Act provisions not covered in prior questions you believed had significant impact on mortgage lending by your member institutions?
- Yes
 - No
 - Uncertain

If yes, please briefly explain your response: **Many credit unions use third party vendors and attorneys as part of the closing process. A great deal of time was spent getting all parties to set standards that complied with the rules as a whole.**

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9. Do any of your member institutions engage in swaps or other over-the-counter derivatives trading?

- Yes
 No

9a. Regulators, chiefly CFTC, have issued several final rules on the trading of swaps. In general, what impact did these regulations have on your member institutions?

- Positive
 Negative
 No impact
 No basis to judge/Too soon to tell

Please briefly explain your response: [Click here to enter text.](#)

10. Federal regulators have issued several final rules related to proprietary trading (also known as Volcker rule, e.g. [FDIC / FRS / OCC / SEC – Prohibitions and Restrictions on Proprietary Trading and certain Interests in, and Relationships with, hedge Funds and Private Equity Funds.](#)) In general, what impact did these regulations have on your member institutions?

- Positive
 Negative
 No impact
 No basis to judge/Too soon to tell

Please briefly explain your response: **Not applicable to credit unions**

11. Has CFPB's supervision of nonbank institutions had a positive, a negative, or no impact on your member institutions?

- Positive
 Negative
 No impact
 No basis to judge/Too soon to tell

Please briefly explain your response: They haven't gone far enough in regulating non-banks. We are also concerned that the payday lending, small dollar loan rules will treat credit unions and financial institutions the same as payday lenders when that does not make sense. There should be different standards for a highly regulated financial institution versus a mostly non-regulated payday lender. CFPB does not supervise any of Louisiana's credit unions directly. However, the broad authority the bureau has to make and revise rules has created unreasonable burden in the form of the volume of regulations proposed and finalized. Credit unions are unique entities that did not contribute to the financial crisis of 2008 and beyond. Yet, our industry has been rolled in with all other financial institutions in terms of complying with the avalanche of regulations. A typical Louisiana credit union is below \$50 million in assets, has limited staff and resources, and tries to offer "big bank" services with a limited budget. They may not have a designated compliance officer on staff, and have to retain outside counsel or

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expertise to navigate the immense amount of technical changes that have been mandated. They have also spent large amounts of their training budgets on classes about the mandates. The GAO might want to conduct a study that examines how many 3rd party training providers are now wildly successful or are newly formed as a result of the CFPB's regulatory onslaught. In addition, although there is no formal measurement available, the GAO should consider the lost ingenuity, productivity, and member service as a result of the redirection of human resources to the business of compliance. A credit union might have had to amend a strategic plan that called for the addition of a service such as remote deposit capture in order to focus IT, compliance, and lending staff/resources on mortgage regulations that "globally punished" all mortgage lenders equally. Or on the other hand, a small credit union that was considering adding mortgage lending to its suite of services might now have determined that it cannot bear the regulatory burden and cost, therefore denying its membership a viable, low cost option.

12. Has CFPB's supervision of large banks had a positive, a negative, or no impact on your member institutions?
- Positive
 - Negative
 - No impact
 - No basis to judge/Too soon to tell

Please briefly explain your response: CFPB rolls small credit unions and small financial institutions into the same category as a large bank, they do not have an appreciation for a small financial institution. CFPB does not supervise any of our member institutions, but we must still remain aware at all times of the bureau's philosophy and treatment of the larger institutions as a future platform for rule making. The CFPB's supervision of other institutions falls downwards to small credit union via third parties, vendors, and others making CFPB standards for all financial institutions.

13. Since FDIC's final rule on [Deposit Insurance Assessment Base and Rates](#), have assessments paid by member institutions generally increased, decreased, or have they stayed about the same?
- Increased
 - Decreased
 - Stayed about the same
 - No basis to judge/Too soon to tell

Please briefly explain your response: **Not applicable to Credit Unions**

14. Regulators have issued final rules that remove references to credit ratings from their regulations and include methodologies for evaluating the credit worthiness for debt and securitization positions (e.g. [NCUA-Alternatives to the Use of Credit Ratings](#)). In general, do these rules have a positive, negative, or no impact on your member institutions?
- Positive
 - Negative
 - No impact

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No basis to judge/Too soon to tell

Please briefly explain your response: These changes are not detrimental to credit unions – but does require re-writing of internal policies and potential for training to understand new methodologies.

15. Regulators have issued final rules on remittance transfers (e.g. [NCUA -Remittance Transfers](#), [FRS – Collection of Checks and Other Items by Federal Reserve Banks and Funds Transfers Through Fedwire](#)) and [Electronic Fund Transfers \(Regulation E\)](#). In general, do these regulations to have a positive, negative, or no impact on your member institutions?

Positive

Negative

No impact

No basis to judge/Too soon to tell

Please briefly explain your response: Positive and Negative. Reg E disputes are often abused and can cause members a loss and fraud to the institution. The rules on payment systems in general do need to be modernized to ensure a modern payment system. Some of the newer technology like remote deposit capture, still have issues. The reg on remittance transfers caused many providers to discontinue the practice, or to stay below the 100 transfers per year to avoid the unmanageable burden. The reg attempted to place the responsibility on CUs to ensure that receivers in other countries complied and to provide recourse to members if they didn't.

16. The Securities and Exchange Commission issued the final rule on [Registration of Municipal Advisors](#). Did any of your member institutions fall under the definition?

Yes

No

16a. If so, what was the impact?

Positive

Negative

No impact

No basis to judge/Too soon to tell

Please briefly explain your response: **Does not apply to CU's**

17. Regulators have issued a final rules that revised risk-based and leverage capital requirements for banking organizations ([FRS / OCC – Implementing regulatory capital rules \(Regulations H, Q, and Y\)](#)). In general, does this regulation have a positive, negative, or no impact on your member institutions?

Positive

Negative

No impact

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No basis to judge/Too soon to tell

Please briefly explain your response: Still awaiting Risk-Based Capital from NCUA. As proposed it will negatively impact credit unions. Please see attached comment letter prepared by LCUL for the NCUA regarding NCUA proposed RBC rule making.

18. Have federal regulators assisted your member institutions to identify which provisions or rules related to Dodd-Frank Act are or are not applicable to them?

- Yes
 No
 Uncertain

Please briefly explain your response: The NCUA has created videos and provided guides for compliance with the Dodd-Frank provisions, and they do have a dedicated webpage that lists these resources.

18a. How effective or ineffective has this assistance been in saving time spent by your member institutions on reviewing rules?

- Very effective
 Effective
 No impact
 Ineffective
 Very ineffective
 No basis to judge/too soon to tell

Please briefly explain your response: LCUL does not have a basis to answer this question beyond anecdotal evidence that our members have accessed these resources and those of the CFPB website in order to understand what is required. LCUL's Compliance Helpline has fielded many calls on these topics, and has referred members to these resources, along with consulting with outside counsel. We also provide webinars and in-person training, which are well attended.

19. To what extent, if at all, have the Dodd-Frank Act rules promulgated so far increased or decreased **small business lending** by your member institutions?

- Increased greatly
 Increase
 No impact
 Decrease
 Decrease greatly
 No basis to judge/too soon to tell

Please briefly explain your response: In Louisiana, we are concerned about the impact of pending legislation that will require us to collect and report data regarding credit applications from minority and women owned businesses, as well as small businesses. In its April 11, 2011 letter, the CFPB indicated the purpose of 1071 is "to facilitate

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enforcement of fair lending laws and enable communities, governmental entities, and creditors to identify business and community development needs and opportunities of women-owned, minority-owned, and small businesses." We are concerned that this data collection will be over-reaching and will require additional manpower/payroll expense. At present, many credit unions have expressed concerns over potential increased Home Mortgage Disclosure Act (HMDA) data collection, and we can only assume that the same magnifying glass approach will be applied to small business. Here are just some of the proposed HMDA data collection categories: 1) Information about applicants, borrowers, and the underwriting process, such as age, credit score, debt-to-income ratio, reasons for denial if the application was denied, the application channel, and automated underwriting system results. 2) Information about the property securing the loan, such as construction method, property value, lien priority, the number of individual dwelling units in the property, and additional information about manufactured and multifamily housing. 3) Information about the features of the loan, such as additional pricing information, loan term, interest rate, introductory rate period, non-amortizing features, and the type of loan. 4) Certain unique identifiers, such as a universal loan identifier, property address, loan originator identifier, and a legal entity identifier for the financial institution. We also find it strange that the Consumer Financial Protection Bureau will be writing a regulation on commercial loans.

HMDA-like data collection and reporting requirements and increased focus on fair lending will have a significant impact on commercial loan processing.

20. To what extent, if at all, have the Dodd-Frank Act rule promulgated so far increased or decreased **consumer lending (e.g. credit for personal, family or household use)** by your member institutions?
- Increased greatly
 - Increase
 - No impact
 - Decrease
 - Decrease greatly
 - No basis to judge/too soon to tell

Please briefly explain your response: Too many regulations compel credit unions to focus on new and greater burden instead of lending funds to members. Credit unions hold a relatively small percentage of mortgage loan dollars in the US (although we are pleased that this number is increasing). When a credit union's resources are diverted away from its core business of making consumer loans, there is an immeasurable loss to the bottom line. A final Risk-Based Capital rule will undoubtedly contribute to strategic changes for credit unions, which could lead to decreased consumer lending.

21. What has been the impact of compliance costs or other regulatory resources used by your member institutions as a result of the Dodd-Frank Act rulemakings? \$16,635 per household as an estimate on the cost of regulations (federal) from CUNA economists. This is based on study by SBA showing that the cost of regulation on households has increased by 4.8% from 1995 to 2008. They assume that this has stayed at this rate and

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that households ultimately bear the entire burden of regulations. In short, the costs get passed on to the consumers.

22. Credit unions are exempt from certain rules by regulators. To what extent, if any, have these rules affected your member institutions despite the exemptions?

The rules still have an effect on the market place and credit unions, although exempt, are still affected, albeit indirectly. Interchange is a good example. The definition of exempt is “released from, or not subject to, an obligation, liability, etc.” In reality, a credit union is not truly “exempt” from most of the rules that are published. In truth, they are “exempt” from certain provisions of each rule, which are somewhat minor. The cost and burden of compliance is not smaller if the credit union still has to divert attention and resources to a regulation to determine what minute portions do not apply to their institutions. The very existence of so many “small entity” compliance guides on the CFPB website illustrates this point.

23. Is there any aspect of the Dodd-Frank Act that these questions did not cover that you believe will have a significant impact on your member institutions, either positive or negative?

- Yes
- No
- Uncertain

If yes, please briefly explain your response: Credit union mergers have increased greatly over the past 5 years, and many of these are attributable to a board of directors and a manager who cannot bear the burden of compliance and choose to turn over their institutions to a larger credit union. This is a great loss for consumers as their choices for financial services are slowly contracted, and as they lose the personalized member service they were able to receive at their local small credit union. In addition, credit unions have never requested tax payer dollars in order to “bail out” their industry. In the midst of the Dodd-Frank regulatory avalanche, credit unions were dealing with the effects of the Great Recession in the form of increased delinquency and charge-offs on their loan portfolios while paying assessments to the National Credit Union Share Insurance Fund to recoup the losses caused by corporate credit unions and credit union failures in the “sand states”. Although the CFPB has a credit union advisory committee, there is no evidence that the bureau considers the uniqueness and not-for-profit status of credit unions.