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National Association of Federally-Insured Credit Unions

May 9, 2017

Mr. Grady Hedgespeth
Assistant Director
Office of Small Business Lending Markets
Consumer Financial Protection Bureau
1700 G Street NW
Washington, D.C. 20552

RE: Credit Union Small Business Lending

Dear Mr. Hedgespeth:

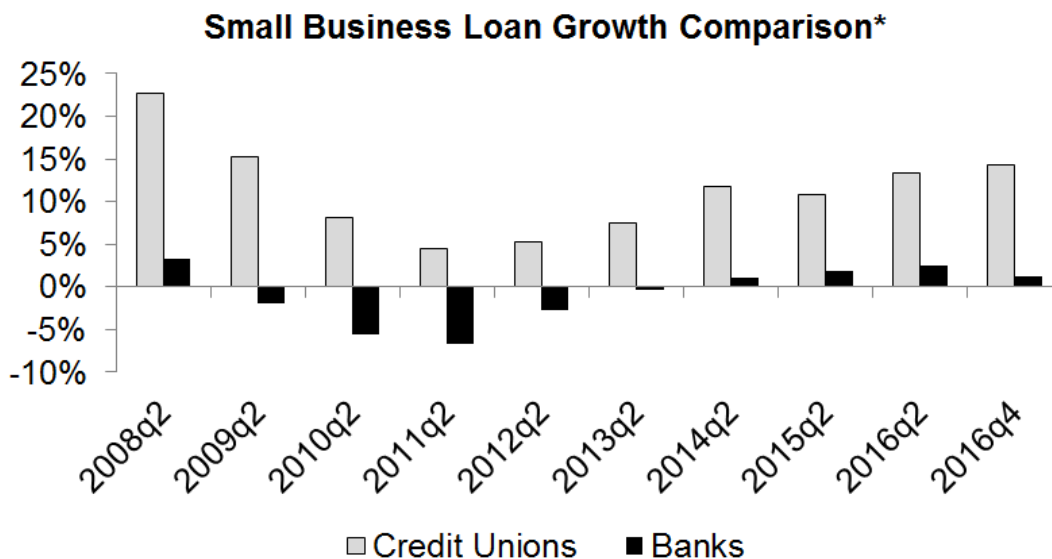
On behalf of the National Association of Federally-Insured Credit Unions (NAFCU), the only national trade association focusing exclusively on federal issues affecting the nation's federally-insured credit unions, I am writing to offer NAFCU's comments in anticipation of the Consumer Financial Protection Bureau's (CFPB or Bureau) field hearing on small business lending, which implicates Section 1071 of the *Dodd-Frank Wall Street Reform and Consumer Protection Act* (Dodd-Frank Act). NAFCU is concerned that future implementation of Section 1071 may yield confusing information about credit unions and further restrict lending activity as a result of increased compliance costs. Credit unions serve distinct fields of membership, and as a result, institution-level data related to women-owned, minority-owned, and small business lending substantially differs in relation to other lenders. Given the unique characteristics of credit unions and the limits placed on member business loans (MBLs), the CFPB should seek to exempt credit unions from any future rulemaking that compels disclosure of business loan information.

General Comments

Section 1071 of the Dodd-Frank Act assigns the CFPB the responsibility to issue implementing regulations for collection of small business loan data. In general, Section 1071 aims to facilitate enforcement of fair lending laws and enable communities, businesses and other entities to better identify the needs of women-owned, minority owned, and small businesses. Section 1071 requires financial institutions to collect and report information to the CFPB using systems and procedures similar to those currently used in connection with the Home Mortgage Disclosure Act (HMDA). Section 1071 requires every financial institution (broadly defined as anyone who engages in a "financial activity") to inquire of any businesses applying for credit whether the business is a small business and women or minority owned. Moreover, Section 1071 gives the CFPB considerable discretion to establish the requirements, define the scope, provide for exemptions, and protect the privacy of individuals.

Credit unions are bound by defined fields of membership, which means that MBL activity could be limited by geographic restrictions, employer groups, or other charter-specific language that defines who the credit union may serve. Furthermore, when Congress passed the Credit Union Membership Access Act (CUMAA) (P.L.105-219) in 1998, they put into place restrictions on the ability of credit unions to offer member business loans. Congress codified the definition of a member business loan and limited a credit union's member business lending to the lesser of either 1.75 times the net worth of a well-capitalized credit union or 12.25 percent of total assets. As a result of both MBL and field of membership restrictions, data about credit union business lending may appear skewed relative to other institutions. Accordingly, NAFCU believes that any information collection that mixes credit union MBL data with small business loan data from banks and other institutions would be misleading and unhelpful in achieving the statutory purpose of Section 1071.

While NAFCU acknowledges that taken on its own, Section 1071 is a well-intentioned provision, when added with other laws and regulations, future implementation of this provision could negatively impact credit unions originating MBLs and other commercial loans. A disclosure regime similar to HMDA could increase MBL underwriting costs and necessitate substantially increased spending on compliance resources. Furthermore, if the ultimate aim of Section 1071 is to promote small business lending, then credit unions have already achieved great success. For example, credit union small business loan growth has dramatically outpaced banks both during and after the financial crisis. Credit unions have maintained strong small business loan growth despite field of membership and other statutory restrictions; however, this trend may experience disruption if the CFPB sees fit to impose additional regulatory burdens.



Note: Bank small business loans as defined by FDIC "Consolidated Report of Condition and Income"; Credit union small business loans defined as member business loans; prior to 2010, FDIC small business loan data only reported in June; all figures year over year

Source: NCUA 5300 call report, FDIC "Statistics on Banking"

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NAFCU urges the CFPB to exempt credit unions from any future rulemaking under Section 1071 of the Dodd-Frank Act in order to offset existing regulatory burden and to preserve steady growth in MBL lending. Credit unions already face many legal restrictions that affect their ability to extend credit to small businesses. The creation of a new data collection regime potentially exceeding the complexity of HMDA would likely frustrate credit union efforts to originate MBLs at low cost to women-owned, minority owned and other small businesses within their communities. NAFCU also asks that the CFPB, in lieu of exercising its exemption authority, coordinate with the NCUA and U.S. Department of the Treasury to ensure that future Section 1071 implementation efforts accommodate the unique structure and purpose of credit unions. Doing so would ensure that future Section 1071 data from credit unions does not appear misleading or frustrate the statutory purpose of identifying the credit needs of small businesses.

NAFCU appreciates the chance to submit comments in advance of the CFPB's Field Hearing on Small Business Lending. NAFCU also looks forward to our scheduled meeting with your office on March 30 to further discuss opportunities for regulatory relief. Should you have any questions or concerns, please do not hesitate to contact me at amorris@nafcu.org or (703) 842-2266.

Sincerely,

A handwritten signature in black ink that reads "Andrew Morris". The signature is written in a cursive style with a long, sweeping underline.

Andrew Morris
Regulatory Affairs Counsel