CUNA
Credit Union National Association

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The Honorable Steve Chabot	The Honorable Nydia Velasquez
Chairman	Ranking Member
Committee on Small Business	Committee on Small Business
House of Representatives	House of Representatives
Washington, DC 20515	Washington, DC 20515

Dear Chairman Chabot and Ranking Member Velasquez:

On behalf of the Credit Union National Association (CUNA), I am writing to thank you for holding today's hearing, "Damaging Repercussions: DOL's Overtime Rule, Small Employers, and their Employees." CUNA represents America's state and federal credit unions and their more than 100 million members.

CUNA has continually expressed concerns with the Department of Labor's (DOL) changes to the Fair Labor Standards Act, (FLSA) which increased the threshold for overtime pay eligibility by approximately double the previous rate, from $23,600 annually to $47,476 annually. This final rule will not only create regulatory burdens for credit unions when a disproportional percentage of employees are swept into the new threshold, but it will also create unintended negative consequences for those it aims to help, as well as credit union members. Credit unions in rural and underserved areas, as well as small credit unions particularly will face compliance and regulatory burdens as a result of the rule.

This Rule Adds to Regulatory Burden of Smaller Credit Unions

The DOL's rule magnifies the challenges credit unions are already facing due to an unprecedented amount of regulatory burden over the past several years. In the United States, there are approximately 2,700 credit unions with five or fewer employees, nearly 3,000 with less than $20 million in assets, and approximately 4,000 with less than $50 million in assets. A recent study conducted by Cornerstone Advisors showed regulatory costs now account for 30% of total operating expenses at smaller credit unions, and the financial impact of regulation on credit unions has increased by 40% since 2010. Consequently, smaller credit unions have seen concerning attrition rates over the past several years. The attrition rates for credit unions with less than $100 million in assets (75% of all credit unions), have consistently risen above the levels experienced during the Great Recession and its aftermath. 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%. <u>Regulations such as the overtime final rule will only add to this heavy regulatory burden small credit unions are facing</u>.

Prior to the DOL's release of the overtime rule, the Small Business Administration (SBA) Office of Advocacy also recognized that small businesses would face challenges because of this rule. The SBA stated that the DOL has not effectively weighed less burdensome alternatives to the proposed rule. In a letter to the DOL, the SBA Office of Advocacy wrote, “DOL’s proposal more than doubles this salary threshold. Based on small business feedback, Advocacy believes that these changes will add significant compliance costs and paperwork burdens on small entities, particularly businesses in low wage regions and in industries that operate with low profit margins. Small businesses at our roundtables have told Advocacy that the high costs of this rule may also lead to unintended negative consequences for their employees that are counter to the goals of this rule.”

When small financial institutions face new rules like the overtime rule, costs grow due to an increased need for resources, additional time spent on compliance, and potential costs for outside consultants, such as employment lawyers. Alternatively, the large Too Big to Fail banks have more resources to quickly come into compliance with such rules. Accordingly, compliance costs are greater for the very financial institutions who exist to serve the exact same group this rule is intended to help: the middle class. Furthermore, credit unions in rural and underserved areas, who are more likely to be impacted by this rule, may also have to reduce products and services when they face regulatory burdens, and they could be the only financial institution serving that community.

Small Credit Union Employees and Credit Union Members May Also Face Unintended Detrimental Consequences as a Result of Rule

CUNA also has concerns about some of the less readily apparent unintended consequences that could result from the DOL overtime rule. For example, employers who have unexpected expenses as a result of realigning resources may become unable to hire new employees, be forced to convert full-time positions to part-time, or be forced to change exempt positions to non exempt. Employees could also lose flexibility and other “perks,” despite a small increase in compensation, if resources are limited. Ultimately, the unintended negative consequences associated with the DOL's rule, which cause credit unions to have fewer resources, may diminish any benefit the rule provides to employees now falling under the new threshold.

Changes to the size of credit union staff, or hours of operation, would affect credit union members as well. Limiting credit union staff or hours may make it more difficult to keep branches open during convenient times for working families. For example, if credit unions have to close on weekends or have shorter hours, this could affect the ability of members to receive service. Credit unions that have to limit work hours and training opportunities may also offer fewer products and services. Limited resources could impede efforts to expand credit union products or service offerings, and inhibit innovation. Credit unions may be forced to spend more of their members’ resources without necessarily adding any additional value to members.

Credit unions exist to serve their members, and the products and services they offer are often the best and most affordable options for middle class families. We do not believe the DOL properly weighed the burdens of this rule, against the services credit unions provide to their communities. Our analysis of the DOL's overtime rule is that the unintended consequences and additional regulatory burdens placed on credit unions, outweigh the good intentions of the rule.

On behalf of America's credit unions, thank you again for holding this hearing. We look forward to continuing to work with the Committee, and appreciate your efforts to find meaningful regulatory relief for credit unions and their members.

Sincerely,

Jim Nussle
President & CEO