Consumer Federation of America

1620 I Street, N.W., Suite 200 * Washington, DC 20006

Reducing Regulatory Burdens on Smaller Financial Institutions: Requirements the Consumer Financial Protection Bureau Must Meet

The Dodd-Frank Act requires the Consumer Financial Protection Bureau (CFPB) to follow many special -- and unprecedented -- procedures to ensure that smaller financial institutions do not face an undue regulatory burden. Smaller institutions have been granted safeguards, exemptions, and benefits designed to allow them to profit and thrive. The provisions in Dodd-Frank ensure that consumers are protected, while also guaranteeing that smaller financial institutions do not face unnecessary or duplicative requirements.

- **No supervision or enforcement authority over small banks and credit unions.** The CFPB has no authority to supervise smaller banks and credit unions with less than $10 billion in assets (§1025) or to enforce Federal consumer laws regarding compliance by these small depository institutions (§1026(d)(1)). Both of these significant regulatory tasks are handled by existing prudential regulators, including the FDIC, the Federal Reserve and the Office of the Comptroller of the Currency.

- **Reducing burdensome regulations is a major agency objective**. As one of only five statutory objectives that it must meet, the CFPB is required to identify and address "unduly burdensome regulations," which is a particular concern of smaller financial institutions. (§1021(b(3)) The CFPB is required to consult with prudential regulators and State bank regulators in order to minimize the regulatory burden upon lending institutions. (§1024(b)(2)(3))

- **Lengthy rule-making process to evaluate small business impact.** Like all agencies, the CFPB must thoroughly evaluate the potential impact of a rule on small businesses (under the Regulatory Flexibility Act). But the CFPB is one of just three agencies required to give small businesses a preview of new proposals and receive extensive feedback from small businesses before even giving notice to the broader public (under the Small Business Regulatory Enforcement Fairness Act). Furthermore, the CFPB must assess possible increases in the cost of credit for small entities and consider any significant alternatives that could minimize those costs. <u>No other financial regulator must comply with these mandates</u>. These requirements are likely to add at least six months to the rule-making process. (§1100G)

- **Other regulators have unprecedented veto over CFPB rules.** Even after the CFPB finalizes a regulation, any member agency of the Financial Stability Oversight Council (FSOC) that objects to a regulation can petition the FSOC to get it removed. The FSOC can stay or set aside any regulation passed by the CFPB that it deems to interfere with the "safety

and soundness" of the U.S. financial or deposit insurance system (§1023(a)). No other agency can have its rules overridden by other federal regulators.

- **Exemption authority for small banks and credit unions**. The CFPB may exempt any consumer financial services provider – including smaller providers -- from regulations. (§1022(b)(3)(A))

- **Consultation with small bank and credit union regulators.** The CFPB is obligated to consult prudential regulators that supervise small depository institutions and other agencies when proposing regulations (§1022(b)(2)(B)). Not only are regulators permitted to formally object to the rules, their written objections must be included in the rule-making record, along with the Bureau's response to their concerns. (§1022(b)(2)(C)).

- **Mandatory impact assessment of each rule.** The CFPB must assess the effectiveness of each rule it issues, within five years of implementation. As part of this assessment, the CFPB is required to ask for public comment on whether to change or eliminate the proposed regulations. (§ 1022(d))