



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Joseph Baker, Director

Business Impact Analysis

Agency, Board, or Commission Name: Department of Commerce – Division of Financial Institutions

Rule Contact Name and Contact Information: John Coady 614-644-6516
John.Coady@com.ohio.gov

Regulation/Package Title (a general description of the rules' substantive content):

Credit Union, 2023 5YR

Rule Number(s): 1301:9-1-02 (rescind); 1301:9-2-34 (amend)

Date of Submission for CSI Review: 10/24/24

Public Comment Period End Date: 11/7/24

Rule Type/Number of Rules:

New/___ rules

No Change/___ rules (FYR? __)

Amended/ 1 rules (FYR? Yes)

Rescinded/ 1 rules (FYR? Yes)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIPublicComments@governor.ohio.gov

Reason for Submission

1. R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- a. ☒ Requires a license, permit, or any other prior authorization to engage in or operate a line of business.
- b. ☐ Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.
- c. ☒ Requires specific expenditures or the report of information as a condition of compliance.
- d. ☐ Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.

Regulatory Intent

2. Please briefly describe the draft regulation in plain language.

Please include the key provisions of the regulation as well as any proposed amendments.

1301:9-1-02 (rescind):

This rule sets forth notice requirements the Division must follow when amending administrative rules dealing with credit unions. The amended rule streamlines these requirements.

1301:9-2-34 (amend):

The rule requires credit unions to report annually to the Division a list of "other real estate owned".

3. Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.

1301:9-1-02; Authorized By: 1733.41 Amplifies: 1733.41

1301:9-2-34; Authorized By: 1733.41 Amplifies: 1733.04

4. Does the regulation implement a federal requirement? No

Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program? No.

If yes, please briefly explain the source and substance of the federal requirement.

5. **If the regulation implements a federal requirement, but includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

Not Applicable.

6. **What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?**

These regulations are designed to create a safe financial system for Ohio consumers and for Ohio chartered credit unions. Section 1733.02 of the Revised Code delegates discretion and rulemaking authority to the Superintendent to assure that the supervision and regulation of credit unions may be flexible and responsible to changes in economic conditions and in practices within the credit union movement.

7. **How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?**

The Division will measure the success of the regulations by tracking rules that generate questions about interpretation from licensees and prospective licensees. Additionally, the Division will take note of questions and comments from staff regarding a rule's meaning or operation.

8. **Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?**

If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

No

Development of the Regulation

9. **Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.**

If applicable, please include the date and medium by which the stakeholders were initially contacted.

In October 2023, the Division sent an advance copy of the proposed rules to both the Ohio Credit Union League (OCUL) and American Share Insurance for review and comment. In turn, the OCUL circulated the proposed rules amongst a select group of their credit union members and solicited feedback.

On November 9, 2023, the Division sent another advance copy of the proposed rules to each Ohio chartered credit union via email for review and comment.

10. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

The Division received written comments from the OCUL, on behalf of its membership, and has met with the OCUL on multiple occasions to discuss industry questions, suggestions, and concerns.

The Division made a number of changes to proposed rules in order to address industry concerns.

The Division received no written comments directly from any Ohio chartered credit union in response to the email sent on November 9, 2023.

11. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

N/A

12. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?
Alternative regulations may include performance-based regulations, which define the required outcome, but do not dictate the process the regulated stakeholders must use to comply.

Given that these regulations are subject to their five-year review, every rule was reviewed and considered as part of the process. Most credit union rules and their corresponding provisions are necessary to protect the safety and soundness of these institutions. Additionally, the Division considered the proposed rules in connection with the National Credit Union Administration's (NCUA) rules that regulate federally chartered and/or insured credit unions. The Division's proposed rules seek to provide clarity and guidance to credit unions while making an Ohio charter an attractive alternative to a federal charter.

13. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

The Division is the primary regulator of state-chartered credit unions; the Division also made efforts to remove rules that restated requirements from the Revised Code.

14. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

The regulations have been available to stakeholders throughout the rule review process and will continue to be available to them through the Division's website throughout the JCARR process. Once finalized, the regulations will be brought to the attention of stakeholders at every available

opportunity. Additionally, Division staff will be trained on the regulations to ensure their consistent application.

Adverse Impact to Business

15. Provide a summary of the estimated cost of compliance with the rule(s). Specifically, please do the following:

a. Identify the scope of the impacted business community, and

These rules directly impact all state chartered credit unions in Ohio.

b. Quantify and identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance, etc.).

The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a representative business. Please include the source for your information/estimated impact.

1301:9-2-34 (amend):

Creating and submitting the required report will require an expenditure of time and resources. The amount of time needed to comply with this rule will vary for credit unions depending on the quantity of other real estate owned.

16. Are there any proposed changes to the rules that will reduce a regulatory burden imposed on the business community? Please identify. (*Reductions in regulatory burden may include streamlining reporting processes, simplifying rules to improve readability, eliminating requirements, reducing compliance time or fees, or other related factors*).

No.

17. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

The regulations are necessary to maintain the safety and soundness of Ohio chartered credit unions, and for the Division to meet its statutory mandate to ensure the laws relating to credit unions are executed and enforced. Recent news events, such as the collapse of Silicon Valley Bank (a California chartered state bank), Signature Bank (a New York chartered state bank), and Silvergate Bank (a California chartered state bank), demonstrate the continued need for effective regulation of depository institutions, as well as the widespread impact weak depository institutions can have on the economy as a whole. Certain rules are also necessary

to mirror federal regulations and to provide parity for Ohio's privately insured credit unions. The proposed changes to the regulations as part of this five-year review will not increase compliance obligations in a meaningful way.

Regulatory Flexibility

18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

No. These rules must be applied evenly in order to ensure the safety of soundness of Ohio chartered credit unions and to protect the interests of the members of these nonprofit cooperative institutions.

19. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

The Division does not typically fine credit unions for "paperwork violations"; instead, the Division focuses on ensuring compliance with regulatory requirements and curing safety and soundness issues.

20. What resources are available to assist small businesses with compliance of the regulation?

The Division widely publicizes to stakeholders the fact that its staff is available generally for assistance directly via phone or email. Additionally, because of the unique nature of the supervisory relationship, Ohio chartered credit unions have ongoing, long-standing relationships with certain Division staff. Finally, many of the most commonly requested forms and applications referenced in the rules are available from the Division's website.