



Common Sense Initiative

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Business Impact Analysis

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

Rule Contact Name and Contact Information:

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

Credit Union Share Guaranty Corporation Rules

Rule Number(s): 1301:9-3-01 (No Change); 1301:9-3-02 (No Change); 1301:9-3-03 (No Change); 1301:9-3-04 (No Change); 1301:9-3-05 (No change); 1301:9-3-06 (No change); 1301:9-3-07 (No Change); 1301:9-3-08 (No Change); 1301:9-3-09 (No change); 1301:9-3-10 (No Change); 1301:9-3-11 (No Change); 1301:9-3-12 (No Change); 1301:9-3-13 (No change); 1301:9-3-14 (No Change); 1301:9-3-15 (No change); 1301:9-3-16 (No change)

Date of Submission for CSI Review: November 4, 2021

Public Comment Period End Date: November 12, 2021

Rule Type/Number of Rules:

New/ ___ rules

No Change/ 16 rules (FYR? Yes)

Amended/ ___ rules (FYR? ___)

Rescinded/ ___ rules (FYR? ___)

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

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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.

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.

1301:9-3-01, Advancement and withdrawal of capital contribution by participating credit unions (*No change*) – This rule addresses the requirements that apply to the capital contributions of participating credit unions made to a credit union share guaranty corporation.

1301:9-3-02, Documents filed with the superintendent of insurance (*No change*) – This rule establishes when a credit union share guaranty corporation must file documents with the Division of Financial Institutions.

1301:9-3-03, Issuance and renewal of certificate of compliance (*No change*) – This rule requires a credit union share guaranty corporation to obtain a certificate of compliance from

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the Division of Financial Institutions prior to obtaining a license from the superintendent of insurance.

1301:9-3-04, Credit union share guaranty corporation activity (No change) – This rule sets forth the circumstances under which a credit union share guaranty corporation must notify the Division of Financial Institutions prior to assisting or aiding a participating credit union.

1301:9-3-05, Necessity of reinsurance or line of credit (No change) – This rule expands on and clarifies the language of ORC 1761.06(B) by setting forth conditions under which the Division of Financial Institutions may require a credit union share guaranty corporation to obtain reinsurance or a line of credit.

1301:9-3-06, Notice of termination, nonrenewal, or any other lapse of reinsurance or line of credit (No change) – This rule expands on the requirement set forth in ORC 1761.06(B) that a credit union share guaranty corporation must make certain notifications upon the lapse of that corporation's reinsurance or line of credit.

1301:9-3-07, Communication with regulatory significance (No change) – This rule defines "written communication with regulatory significance" as that term is used in R.C. 1761.06.

1301:9-3-08, Public representation of credit union share guaranty corporation's status or legal existence (No change) – This rule provides additional explanation as to prohibitions found in ORC 1761.06(D) against a credit union share guaranty corporation holding itself out as an agency of the state or federal government.

1301:9-3-09, Participating credit union financial information (No change) – This rule provides explanation as to the types of regulatory information submitted to a credit union share guaranty corporation that remains confidential in their possession.

1301:9-3-10, Qualified audit report of a participating credit union (No change) – This rule describes when notification to the Division of Financial Institutions and Department of Insurance is necessary as it pertains to a credit union share guaranty corporation's order that a participating credit union have its books and records audited.

1301:9-3-11, Normal operating level of guarantee fund (No change) – This rule expands on the requirements of R.C. 1761.10 pertaining to the operating level the guarantee fund established by a credit union share guaranty corporation.

1301:9-3-12, Credit union share guaranty corporation payout on shares (No change) – This rule expands upon ORC 1761.11(B) by requiring a credit union share guaranty corporation notify the Division of Financial Institutions and Department of Insurance when the proceeds of a liquidated credit union are insufficient to pay the full amount of each guaranteed share account.

1301:9-3-13, Approval of investments (No change) – This rule expands on the types of allowable investments for a credit union share guaranty corporation's funds.

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1301:9-3-14, Credit union share guaranty corporation annual report (No change) – This rule expands on the annual reporting requirement set forth in ORC 1761.16 as it pertains to a credit union share guaranty corporation.

1301:9-3-15, Actuarial study of capital adequacy (No change) – This rule expands on the requirement of ORC 1761.16(C) that a credit union share guaranty corporation be subject to an audit examination by the Division of Financial Institutions, which must include an actuarial study.

1301:9-3-16, Quarterly reporting (No change) – This rule expands on the reporting requirement of R.C. 1761.16(F), and requires a credit union share guaranty corporation to submit a quarterly report to the Division of Financial Institutions.

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.** R.C. 1761.04
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 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 rules are being maintained so the Division, as one of the primary regulators of Ohio’s only credit union share guaranty corporation, can better administer the Chapter 1761 of the Revised Code. The rules provide guidance and clarification on a number of provisions from the underlying statutes.
7. **How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?** Success is measured by the clarity and guidance that these regulations bring to stakeholders and the Division.
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?** No. *If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.*

Development of the Regulation

9. **Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.** Ohio currently has only one credit union share guaranty corporation, American Share Insurance. Management was notified at the beginning of the Division’s rule review process and was given an opportunity for review and comment.

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

- 10. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?** Upon review, the stakeholder was satisfied with the existing rules and the Division’s proposed no change package.
- 11. What scientific data was used to develop the rule or the measurable outcomes of the rule?** Not applicable. **How does this data support the regulation being proposed?** Not applicable.
- 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?**
- 13. Did the Agency specifically consider a performance-based regulation? Please explain.**
Many of the rules are performance-based, merely provide clarification of existing statutory requirements, or simply require Division notification upon the occurrence of certain events. Any regulations mandating compliance are necessary to carry out the provisions Chapter 1761 of the Revised Code
Performance-based regulations define the required outcome, but don’t dictate the process the regulated stakeholders must use to achieve compliance.
- 14. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?** The Division is not aware of any duplicative regulations.
- 15. 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.** As this is a no-change package, there will be no implementation other than continued application of the existing rules. The single stakeholder was notified of the Division’s no-change approach at the outset of the review process.

Adverse Impact to Business

- 16. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:**
 - a. Identify the scope of the impacted business community;** These rules apply to “credit union share guaranty corporations”, as that term is defined by Revised Code section 1761.01. There is currently only one such corporation in existence. **and**
 - b. Identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance,);** Primarily employer time. **and**
 - c. Quantify the expected adverse impact from the regulation.**
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

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“representative business.” Please include the source for your information/estimated impact.

1301:9-3-01, Advancement and withdrawal of capital contribution by participating credit unions – A credit union share guaranty corporation may need to expend minimal time and resources to comply with the written notification requirements of this rule. These notifications are necessary for the Division of Financial Institutions and Department of Insurance to adequately monitor the safety and soundness of such corporations and their participating credit unions.

1301:9-3-02, Documents filed with the superintendent of insurance – The only cost of compliance for a credit union share guaranty corporation would simply be to copy the Division of Financial Institutions on any documents required to be filed with the Department of Insurance. Such notifications are necessary to keep the Division apprised of any relevant regulatory communications.

1301:9-3-03, Issuance and renewal of certificate of compliance – This rule will not increase the cost of compliance as it merely provides additional detail as to the requirement set forth in ORC 1761.05(A)(7) that the Division of Financial Institutions certify a credit union share guaranty corporation is in compliance with Chp. 1761 of the Ohio Revised Code.

1301:9-3-04, Credit union share guaranty corporation activity – A credit union share guaranty corporation may need to expend minimal time and resources to comply with the written notification requirements of this rule. However, such notifications are necessary for the Division of Financial Institutions and Department of Insurance to adequately monitor the safety and soundness of these corporations.

1301:9-3-05, Necessity of reinsurance or line of credit – This rule would only result in a cost of compliance for a credit union share guaranty corporation in the unlikely event that the Division of Financial Institutions deems it necessary, in accordance with the conditions of the rule, that such corporation obtain reinsurance or a line of credit. Reinsurance or a line of credit would only be required by the Division if it was deemed actuarially or financially necessary to protect the solvency of a credit union share guaranty corporation's guarantee fund.

1301:9-3-06, Notice of termination, nonrenewal, or any other lapse of reinsurance or line of credit – A credit union share guaranty corporation may need to expend minimal time and resources to comply with the written notification requirements of this rule in the event there is a lapse in their reinsurance or line of credit. However, this rule only clarifies the contents of the notification required by ORC 1761.06(B). Additionally, such notification is necessary for the Division of Financial Institutions, and others, to adequately monitor the safety and soundness of a credit union share guaranty corporation.

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1301:9-3-07, Communication with regulatory significance – This rule will not increase the cost of compliance as it merely defines "written communication with regulatory significance" as that term is used in ORC 1761.06.

1301:9-3-08, Public representation of credit union share guaranty corporation's status or legal existence – This rule will not increase the cost of compliance, as it merely provides additional explanation as to the prohibitions found in ORC 1761.06(D) against a credit union share guaranty corporation holding itself out as an agency of the state or federal government.

1301:9-3-09, Participating credit union financial information – This rule does not impose a cost of compliance, as it merely provides clarification.

1301:9-3-10, Qualified audit report of a participating credit union – A credit union share guaranty corporation may have to expend minimal time and resources to comply with the rule's notification requirements. However, such notification of an audit to be conducted is necessary for the Division of Financial Institutions to adequately monitor the safety and soundness of these corporations.

1301:9-3-11, Normal operating level of guarantee fund – A credit union share guaranty corporation may have to expend minimal time and resources to comply with the regulatory notification requirements of the rule. However, such notifications are necessary for the Division of Financial Institutions and Department of Insurance to adequately monitor the safety and soundness of these corporations.

1301:9-3-12, Credit union share guaranty corporation payout on shares – A credit union share guaranty corporation may need to expend minimal time and resources to comply with the written notification requirements of this rule. However, such notifications are necessary for the regulators to adequately monitor the safety and soundness of these corporations.

1301:9-3-13, Approval of investments – A credit union share guaranty corporation may need to expend minimal time and resources to comply with the rule requirement that prior written approval of the Division of Financial Institutions is necessary before investing in certain companies not enumerated by R.C. 1761.13.

1301:9-3-14, Credit union share guaranty corporation annual report – This rule expands on the annual reporting requirement set forth in ORC 1761.16 as it pertains to a credit union share guaranty corporation.

1301:9-3-15, Actuarial study of capital adequacy – This rule does not impose a cost of compliance as it merely clarifies the actuarial study requirement set forth in R.C. 1761.16.

1301:9-3-16, Quarterly reporting– A credit union share guaranty corporation may need to expend minimal time and resources to comply with the reporting requirements of this rule. Such reports are necessary for the Division to adequately monitor the safety and soundness of a credit union share guaranty corporation.

- 17. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?** As explained above, any adverse impact that results from these regulations is minimal and is necessary to ensure the safety and soundness of

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Ohio credit union share guaranty corporations such that their general statutory purpose can be met.

Regulatory Flexibility

- 18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? No. Please explain.** There is currently only one credit union share guaranty corporation in Ohio. Additionally, these rules must be applied evenly in order to ensure the safety of soundness of Ohio credit union share guaranty corporations, and to protect the interests of participating credit unions, members (aka depositors), and creditors of these 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 impose administrative fines or civil penalties on credit union share guaranty corporations for paperwork violations.
- 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 to answer questions via phone or email. Additionally, many of the most commonly requested forms and applications are available from the Division's website.