

# CREDIT UNION NewsWatch



MARCH 28, 2011

Legislation, Regulation, And Innovation Online From the Credit Union National Association



NCUA board member Michael Fryzel (left), Chairman Debbie Matz (center), and board member Gigi Hyland (right) approve a proposed rule for a 60-day comment period to require federally insured credit unions to keep a written policy on interest rate risk management, as well as maintain an effective risk program. Read more about the results of the March 17 open board meeting on page 3. (CUNA Photo)

## New Interchange Bills Seek Delay

CUNA President/CEO Bill Cheney has called separate House and Senate bills that would extend the rulemaking timeline and effective date of proposed interchange fee regulatory changes “a ray of hope” for credit union members and other consumers.

Senate legislation (S. 575) introduced by Sen. Jon Tester (R-Mont.) would delay implementation of the Federal Reserve’s proposal for two years.

House legislation (H.R. 1081) introduced by Rep. Shelly Moore Capito (R-W.Va.) would delay the interchange rule effective date for one year.

Both bills proposed a regulator-led study of the interchange fee cap’s impact on card issuers, consumers, and merchants.

The bills, if passed, would mean that the debit card programs these members and consumers have come to appreciate “may

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## CU Grassroots Actions Push Key Bills

Credit union advocacy efforts on a member business lending cap lift, pending interchange fee rule changes, and other credit union issues followed legislators home last week, as credit unions and their state leagues met with their respective members of congress in individual district meetings and broader town hall-style meetings.

These district actions will seek to add to the growing list of cosponsors for the interchange and MBL bills.

Bills to delay the implementation of a cap for debit card interchange fees were introduced earlier this month in both the House and Senate. Sen. Mark Udall (D-Colo.) also introduced legislation that would establish a maximum MBL limit of 27.5% of a credit union’s total assets this month.

All three bills have gained substantial bipartisan support following their introduction.

CUNA has created a grassroots action alert to encourage credit union nationwide to contact their lawmakers to urge support of these vital pieces of credit union legislation.

These grassroots efforts have resulted in 35,000

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### 2 | New UIGEA Bill:

Legislation to reduce financial institutions' compliance burdens re-introduced

### 3 | NCUA Actions:

Proposes written rate-risk plans, reports CAMEL 4-5 improvement

### 6 | CUs Didn't Need Government Aid:

CUNA clears the air

### 8 | Compliance:

Do you know your NMLS rules?



# >> Legislative Affairs

## CUNA Asks CFPB Head to Join Interchange Fight

CUNA President/CEO Bill Cheney has said that he would “deeply appreciate” Consumer Financial Protection Bureau (CFPB) architect Elizabeth Warren’s input on the Federal Reserve’s interchange fee cap proposal, and added that he would be glad to meet with her to discuss interchange further.

CUNA also met with Warren on the interchange issue during the 2011 Governmental Affairs Conference.

Cheney also recommended that she consider adding a formal regulatory burden monitoring function to the CFPB’s pending Office of Community Banks and Credit Unions. Adding this function to the CFPB office would be “extremely well-received by credit unions,” Cheney added.

Warren recently told members of the House Financial Services Committee that the CFPB would work with credit unions as it pursues various rulemaking priorities, and said the agency would protect credit unions as it develops and revamps regulations. ■



CFPB architect Elizabeth Warren (right) is shown here talking with CUNA Board Chairman Harriet May (left) and CUNA President/CEO Bill Cheney (center) before Warren’s speech at the CUNA Governmental Affairs Conference early in March. (CUNA Photo)

## Internet Gambling Bill Introduced

The Internet Gambling Regulation, Consumer Protection, and Enforcement Act, which would allow the U.S. Treasury to license internet gambling operators and would permit approved operators to accept bets from U.S. citizens, was offered in the

House earlier this month.

The legislation was introduced by Rep. John Campbell (R-Calif.), with Rep. Barney Frank (D-Mass.) serving as its main co-sponsor.

Frank introduced identical legislation last year, but that bill did not come up for a vote in the full House.

The bill would supply a list of approved Internet gambling providers to financial institutions. This would ease Unlawful Internet Gaming Enforcement Act (UIGEA)-related compliance burdens for credit unions.

UIGEA requires credit unions to establish policies and procedures to identify and block restricted internet gambling transactions.



CUNA’s Bill Cheney thanks CUNA board member Ed Williams (center) for delivering the association’s viewpoint during a House hearing on Internet gambling legislation last year. That bill has been re-introduced. (CUNA Photo).

## New Interchange Bills Seek Delay

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continue unchanged, at least for the short term,” Cheney said.

The Fed’s interchange proposal offers a dual framework for determining interchange fees. One plan would provide issuers with a safe harbor of seven cents per transaction, and set a maximum interchange fee cap of 12 cents per transaction. A second alternative framework would cap the maximum interchange fee at 12 cents per transaction. These safe harbors and/or caps would be reevaluated by the Fed every two years.

Barring a delay, the new interchange rules would be finalized in April and would come into effect in July.

CUNA has repeatedly asked the Fed and Congress to “stop, study and start over” on potential interchange regulations. ■

🔗 S. 575

<http://thomas.loc.gov/cgi-bin/thomas>

H.R. 1081

<http://thomas.loc.gov/cgi-bin/thomas>

## CU Grassroots Actions Push Interchange, MBL

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congressional contacts on interchange and MBL legislation, with 25,000 of those contacts coming in the week since the dual Senate and House interchange bills were introduced.

A number of legislators have expressed interest in adding their name to the list of cosponsors once they return to Washington next week. Watch CUNA’s News Now this week for additional developments.





# >> Regulatory Affairs

## NCUA Proposes CUs Create Interest Rate Risk Plans

The NCUA has proposed a rule that would require federally backed credit unions to create written interest rate risk policies and develop individual interest risk management insurance programs.

The agency proposal would require credit unions' rate-risk policies to include procedures for identifying, measuring, monitoring, controlling, and reporting interest rate risk. The policies may be handled separately or may be incorporated into many of a credit union's existing policies.

The NCUA will monitor the rate risk programs during their periodic examinations.

Credit unions with under \$10 million in assets would be excluded from the proposed rule. Credit unions with \$10 million to \$50 million in assets would also be excluded if their holdings of mortgages and investments with lifespans of over five years is less than 100% of the credit union's net worth.

CUNA will carefully review the proposal and will oppose any superfluous requirements. 🏠



At its March 17 open board meeting, the NCUA considers requiring federal credit unions to create written risk policies. Board member Gigi Hyland (right front) notes sympathy for credit unions' existing regulatory burden, but adds that rate risk control is vital. NCUA Chairman Debbie Matz (to Hyland's right) encouraged credit unions to begin planning for the rule as soon as possible. (CUNA Photo)

## Corporate CU Investment Tech Changes Voted by NCUA

The NCUA during its March open meeting revised its definitions of the National Credit Union Share Insurance Fund's (NCUSIF) "equity ratio" and credit union "net worth."

The agency's equity ratio changes seek to clarify that the NCUSIF's equity ratio must be based solely on the financial statements of the NCUSIF alone without consolidation with other statements, such as those of conserved credit unions. The proposed net worth changes would allow credit unions to count special section 208 assistance provided by the NCUSIF as part of their net worth ratio.

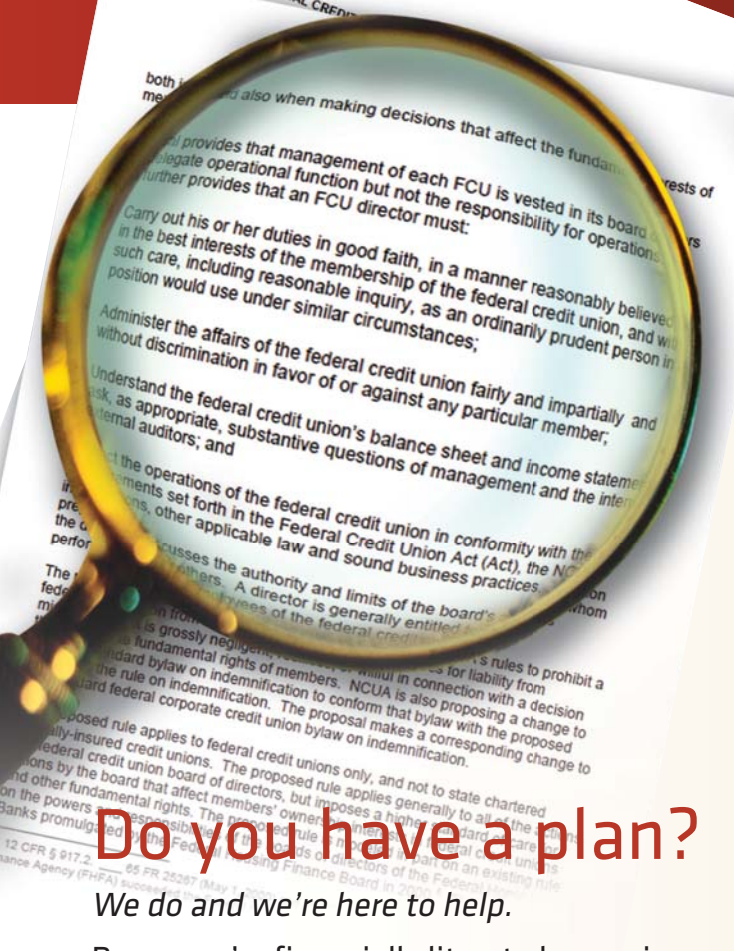
The NCUA also approved a final rule that assigns a zero risk-weighting to the NCUA Guaranteed Notes (NGNs), and also moved to allow corporate credit unions to invest in NGNs.

## ▶ CAMEL Code Numbers Improve Slightly

National Credit Union Administration (NCUA) CFO Mary Ann Woodson reported that there were 360 CAMEL 4 and 5 credit unions and 1803 CAMEL 3 credit unions as of Feb. 28, with both totals falling from their January numbers.

Camel 3, 4 and 5 credit unions represented 23% of total insured shares and held a combined \$172 billion in assets at the end of February, the NCUA CFO reported.

Woodson during her report added that the equity ratio of the National Credit Union Share Insurance Fund stood at 1.29% at the end of February, and the fund held \$758 billion in insured shares and \$1.2 billion in reserves at that time. While the NCUA had budgeted \$54.2 million to cover insurance loss expenses during February, the agency last month did not write off any of the NCUSIF's assets as insurance loss expenses.



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**After completing your chosen track, you must then pass the appropriate assessment(s) to earn the certificate.**

## Don't wait until it's too late.

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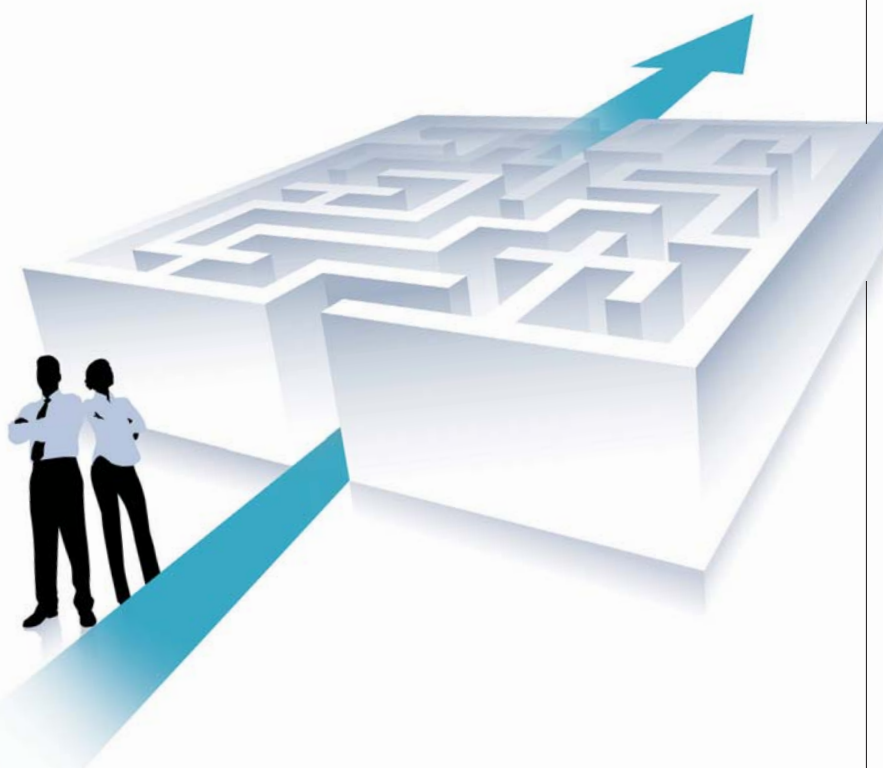
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October 30-  
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# >> Notes Bearing Interest

## ► The Front Burner

The most viewed news stories on [cuna.org](http://cuna.org) during February 2011 reveal the hottest issues for credit unions. Access the complete stories and register to receive daily credit union news headlines at [www.cuna.org/newsnow/top10](http://www.cuna.org/newsnow/top10).

### 10 Social media gets new focus at NCUA

The National Credit Union Administration, known already to "tweet" on Twitter, is enhancing its outreach through social media and has brought on a new employee to lead the charge.

### 9 Fed announces start of NMLS

The Conference of State Bank Supervisors' Nationwide Mortgage Licensing System & Registry has been upgraded to allow banks and credit unions to register their mortgage loan originators, and the system became fully active.

### 8 NCUA compensation plan must address CU concerns: CUNA

As the National Credit Union Administration prepares to look at executive compensation rules later this week, CUNA is urging the agency to consider credit unions' significant concerns before issuing any proposal.

### 7 Directors' fin. lit. requirements may be extensive

Larger, more complex federal credit unions may need to demonstrate a higher level understanding of financial risk to be in compliance with the National Credit Union Administration's newly adopted director fiduciary duties rule, CUNA Senior Vice President of Compliance Kathy Thompson has said.

### 6 CUNA: Two-year delay needed for interchange study

The U.S. Congress intended that small debit card issuers be protected from the rate regulations in the interchange law yet the Federal Reserve Board's implementation proposal fails to accomplish that goal, CUNA said in a comment letter.

### 5 House hearing hints of interchange rule delay

Several legislators called for a delay of implementation of the Federal Reserve's interchange fee proposal during a House financial institutions and consumer credit subcommittee hearing. Also prompting legislator concern about the impact on small issuers were comments from a Fed governor and earlier remarks by the Fed's chairman, as well as testimony from a CUNA witness.

### 4 Oakland Municipal is first CU closing of 2011

The National Credit Union Administration was appointed liquidating agent of Oakland Municipal CU, of Oakland, Calif., by the state's Department of Financial Institutions. It was the first liquidation of a federally insured credit union in 2011.

### 3 NCUA details fin lit requirements for FCU directors

The National Credit Union Administration in its letter to federal credit unions No. 11-FCU-02 sought to remind federal credit union directors of specific financial literacy requirements that will become effective later this year as well as their general responsibilities as credit union leaders.

### 2 Fed ends development of three Reg Z mortgage rule changes

The Federal Reserve announced that it would halt work toward finalizing three pending mortgage rulemakings under Regulation Z. CUNA President/CEO Bill Cheney had asked the Fed to drop these proposals and impose a moratorium on issues that will be under the authority of the Consumer Financial Protection Bureau.

### 1 2011 NCUSIF premium not a definite

The National Credit Union Administration said it may not need to assess a National Credit Union Share Insurance Fund premium on credit unions in 2011.

## New Bill's Focus is CFPB

The Responsible Consumer Financial Protection Regulations Act, introduced by House Financial Services Committee Chairman Spencer Bachus (R-Ala.), proposes that the Consumer Financial Protection Bureau (CFPB) be run by a five-member, bipartisan panel, rather than the single director as the current set up requires.

Bachus in a release said that the bill would ensure "a nonpartisan, balanced approach" at the CFPB. "Empanelling a five-member commission is an important first step in ending predatory financial practices without inappropriately limiting access to credit that small businesses and individuals want and need," he added.

Bachus released the bill shortly after his panel's hearing on CFPB oversight. CFPB architect Elizabeth Warren testified in defense of the new agency, saying that the country "would not be in the mess we are today" if the CFPB had existed six to eight years ago.



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# >> Special Report

## CUNA Asserts CU Record on TARP

CUNA wrote to Sen. Mary Landrieu (D-La.) to correct a mistaken impression she may have left about credit unions when she made a statement on the Senate floor about a small business bill she sponsored. That bill is the same one that Sen. Mark Udall (D-Colo.) used to focus Senate attention on legislation to increase the member business lending (MBL) cap. Udall proposed adding the MBL language to the small business bill as an amendment—a maneuver intended mostly to spotlight the advantages of the MBL increase to the economy and jobs market, and which carry no cost to taxpayers.

In her floor statement, Landrieu indicated that credit unions declined lawmakers' invitation to participate in the Small Business Lending Fund—through which Congress last year approved \$30 billion in taxpayers' money for small bank assistance.

"Credit unions did not seek to participate in the small business lending fund program for three reasons: credit unions did not want to take TARP money; under current law, credit unions could not have used funds from the small business lending fund as capital even if they had wanted to participate in the program; and, most importantly, credit unions did not need the money in order to increase their lending to the nation's small businesses," CUNA President/CEO Bill Cheney clarified. 🏠

## MBLs Touted in Floor Statements



Sen. Mark Udall

Sen. Mark Udall (D-Colo.) called on Congress to take "the common sense step of allowing credit unions to increase the amount of money they can lend to small businesses" in a statement delivered on the floor of the Senate earlier this month.

Udall recently introduced legislation that would increase the member business lending (MBL) cap to 27.5% of a credit union's assets.

Sen. Olympia Snowe (R-Maine) noted in her own statement that the cap lift is "a critical way" of creating more jobs in America, adding that the legislation would create 1,000 new jobs in her home state. CUNA estimates that the cap lift could provide \$13 billion to small businesses in the first year alone and create over 140,000 new jobs, at no cost to taxpayers. 🏠



Sen. Olympia Snowe

## Interchange Groundswell Advances

Members of the press and advocacy groups have come out in strength in recent weeks against the Federal Reserve's plan to cap debit interchange fees.

A *Wall Street Journal* editorial, for instance, charged that the interchange fee cap would reduce the amount of interchange fees charged by as much as \$14 billion, "in effect transferring the cost of debit cards from the merchants who pay the fees to the consumers who use them."

Advocacy groups such as the NAACP, the National Education Association and the U.S. Hispanic Chamber of Commerce also warned that the interchange rate cap could limit consumer access to debit cards. They echoed CUNA's call on the Fed to stop, study and start over on interchange fee cap legislation.

## CU Model Favors Consumers, CUNA tells Durbin

Credit unions are distinguished from all other interested parties in the ongoing interchange debate by having "the one demonstrated history of passing savings to consumers as part of a business model," CUNA said in a recent letter to the architect of the interchange fee cap on debit cards.

"Credit unions are different: the member-owned, not-for-profit structure is central to how they conduct business. At the end of the day, credit union members benefit when the credit union does well, and that benefit is reduced when the credit union is challenged," Cheney added.

The letter went to Sen. Richard Durbin (D-Ill.) when he chided credit unions for their alliance with banks and other financial services providers in the interchange fight.

**"Credit unions are different: the member-owned, not-for-profit structure is central to how they conduct business."**

—CUNA President/CEO Bill Cheney



# >> Compliance

## Who Can Be a NMLS Account Administrator?

Q.

If a credit union outsources its human resource functions to a third-party HR provider, can it designate this provider to serve as its account administrator on the Nationwide Mortgage Licensing System & Registry (NMLS)?

A.

No. Only a credit union employee can serve as an account administrator for purposes of compliance with the Secure and Fair Enforcement for Mortgage Licensing Act (SAFE Act). When creating an NMLS institution account, the credit union must identify two individuals as “NMLS account administrators.” These account administrators will have primary responsibility for the credit union’s account on NMLS, are authorized to speak to the NMLS Call Center on behalf of the credit union, and can set up additional sub-users for the institution’s account.

The SAFE Act regulations apply to credit unions and their employees, including volunteers, who act as mortgage loan originators. The rule refers throughout to “employees” and, according to NCUA, contemplates that only employees will serve as account administrators. An account administrator can delegate his or her authority to additional system users as necessary to comply with the registration requirements. However, there is nothing in the regulation or supplemental information to the final rule that suggests that the additional administrator could be a third-party HR provider. 🏠



**CUNA e-Guide: Mortgage Staff Registration**

[http://www.cuna.org/compliance/member/eguide/eguide\\_mlr.html](http://www.cuna.org/compliance/member/eguide/eguide_mlr.html)

**NCUA SAFE Act Resources**

<http://www.ncua.gov/Resources/SAFEAct.aspx>

**NMLS Resource Center**

<http://mortgage.nationwidelicencingsystem.org/fedreg/Pages/default.aspx>



# >> CUNA Notebook

## ▶ Seeking CU Comment...

*These issues are open for public comment. Credit unions are asked to submit a copy of their comment to CUNA.*

Department of the Treasury		
AGENCY DUE DATE	PROPOSAL	CUNA DUE DATE
April 25	Federal Government Participation in the ACH Network <a href="http://www.cuna.org/download/rcc_020211.pdf">http://www.cuna.org/download/rcc_020211.pdf</a>	April 15
Federal Reserve Board		
AGENCY DUE DATE	PROPOSAL	CUNA DUE DATE
April 14	Fair Credit Reporting—Credit Score Disclosures <a href="http://www.cuna.org/download/cl_031711.pdf">http://www.cuna.org/download/cl_031711.pdf</a>	April 8
April 14	Regulation B—Equal Credit Opportunity Act <a href="http://www.cuna.org/download/cl_031711a.pdf">http://www.cuna.org/download/cl_031711a.pdf</a>	April 8
Financial Accounting Standards Board		
AGENCY DUE DATE	PROPOSAL	CUNA DUE DATE
April 1	Credit Impairment Proposal <a href="http://www.cuna.org/download/rcc_031811.pdf">http://www.cuna.org/download/rcc_031811.pdf</a>	March 28