

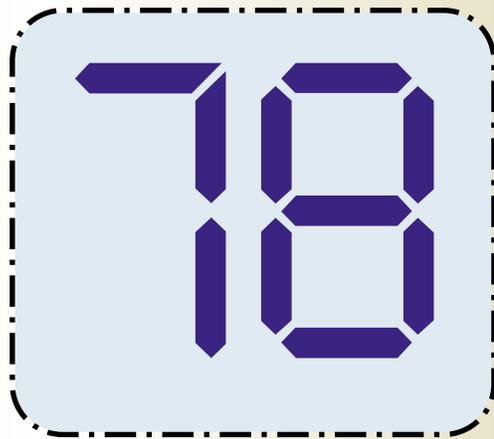


CREDIT UNION NewsWatch

LEGISLATION, REGULATION, AND INNOVATION FROM THE CREDIT UNION NATIONAL ASSOCIATION

AUGUST 15, 2005

CURIA Co-Sponsors Count



As of 8/12/05

The number of co-sponsors of the CU Regulatory Improvements Act (CURIA, H.R. 2317) officially stands at 78. But when the August congressional recess concludes and more than 22 state credit union leagues visit Washington in September, that number is expected to move beyond 80. For a complete list of co-sponsors, visit CUNA's website at <http://capwiz.com/cuna/issues/bills> (CUNA graphic)

CURIA: For Every CU

CURIA: Something for Everyone. That's the truth about the CU Regulatory Improvements Act (CURIA, H.R. 2317) and the name of a new four-color, eight-page informational piece available online through CUNA.

"CURIA deserves your support—it contains something for your credit union, and all credit unions nationwide," notes the introduction.

The brochure details how each type of credit union will benefit from passage of the comprehensive legislation: federal credit unions, state credit unions, large and small ones, community chartered ones, cooperatives serving the military, multiple group credit unions, and those investing in credit union service organizations (CUSOs).

CUNA's John McKechnie unveiled the detailed online CURIA analysis last week saying, "If there is one thing that CUNA >>

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Banks Weigh In on Conversion Lawsuit

Two major national banking groups and a host of state-level bank groups have weighed in on the Community CU conversion lawsuit with two key arguments that CUNA says ignore some facts in the case and seem to represent the interests of their own federal regulator.

Attorneys for 35 national and state-level trade associations representing bankers filed amicus briefs last week supporting the Plano, Texas, credit union, which seeks an injunction to reverse NCUA's decision invalidating the credit union's process for converting to a mutual savings bank.

America's Community Bankers, the Independent Community Bankers of America, the Texas Savings and Community Bankers Association, the Independent Bankers Association of Texas, and 31 other associations representing banks on the state level filed the briefs.

The bankers make two main arguments, according to Eric Richard, CUNA general counsel.

The brief says NCUA's action is illegal and "arbitrary and capricious" because it has disapproved the vote of the credit union's members "based on a bootleg 'requirement' that is not part of its rules, but rather is an extrapolation of >>

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Two senior staffers promoted at CUNA.

>> Legislation Tracker

Top Legislative Initiatives CUNA Is Currently Monitoring

Legislative Issues: A-Z
http://www.cuna.org/gov_affairs

BILL/ISSUE	SUMMARY	STATUS
Preserving CUs' tax status	CUNA and the leagues are diligently working to preserve CUs' historic tax status at the federal and state levels.	Ongoing advocacy.
CU Regulatory Improvements Act	Provides for expanded member business lending opportunities (up to 20%) and reforms NCUA's prompt corrective action system.	CURIA (H.R. 2317) introduced May 12 with expected 80 co-sponsors by early September.
CU charter conversions	Federal lawmakers look at NCUA's policies and practices involving charter conversions. CUNA opposes The Credit Union Charter Choice Act which strips NCUA of some authority over CU conversions.	The Credit Union Charter Choice Act (H.R. 3206) introduced July 12.
H.R. 1042, Net Worth Amendment for CUs Act	Addresses unintended consequence that could raise concern about the CU merger accounting; provides for "pooling" accounting method.	Passed House by voice vote June 13.
Regulatory relief	CUs remain most highly regulated and restricted of all insured financial institutions. CUs will have to fight this year to get risk-based capital requirements and prompt corrective action reform included.	The Financial Service Regulatory Relief Act (H.R. 3505) introduced July 28. Senate is drafting a bill.
H.R. 749, Expanded Access to Financial Services Act	Permits credit unions to provide money orders, wire transfer services and check cashing to all persons within their fields of membership.	Passed House by voice vote April 26. Referred to Senate Banking Committee.
Data security	The issue of security of personal information has exploded as breaches affecting huge numbers of consumers are exposed.	More than a dozen bills are circulating as Congress studies the ways to shore up data security.
Pension and savings reforms, including Social Security	CUNA is supporting legislative initiatives that will increase the savings rate. While CUNA has no position on whether there should be private accounts, it will be involved in Social Security discussions insofar as they may involve financial institutions offering them.	Congressional action pending. CUNA testified June 23 before a House subcommittee.
Community Development Financial Institution funding and location	The Bush Administration proposed cutting funding for the CDFI program and moving it under the Commerce Department as a block grant program. CUNA supports increased funding and opposes a shift to the Commerce Dept.	House passed \$55 million for CDFI June 30. Senate expected to approve same in Fall.
Deposit insurance reform	The House seeks to increase deposit insurance to \$130,000 and index the bank, thrift and credit union insurance funds thereafter, among other things. The Senate is looking at indexing the ceiling to inflation and providing \$250,000 coverage for retirement accounts.	House passed Deposit Insurance Reform Act I (H.R. 1185) May 4. Senate bill introduced late July with inflation-based index and \$250,000 coverage for retirement accounts.
Predatory lending	Predatory lending measures are on the congressional agenda. CUNA has specific requirements so as not to negatively affect subprime lending, as well as to protect consumers.	The Responsible Lending Act (H.R. 1295) and the Prohibit Predatory Lending Act (H.R. 1182) have been introduced in the House.
Housing government-sponsored enterprises reform	House and Senate banking leaders are considering creating a new regulator for Fannie Mae and Freddie Mac, and other reforms.	Federal Housing Enterprise Regulatory Reform Act of 2005 (S. 190) approved by Senate Banking Committee end of July.

Hood Coming Soon?



Debbie Matz

NCUA Board Member Debbie Matz's term ended Aug. 2, but you wouldn't be able to tell by looking around Washington. Matz continues her duties as a credit union regulator.

A replacement is not yet in sight—officially at least—and Matz has indicated she will continue to serve on the NCUA Board until her successor is confirmed. Her plans fall against the backdrop of another empty seat—that of former Chairman Dennis Dollar who tendered his resignation on April 29, 2004.

Rodney E. Hood is expected to fill that spot, and credit union observers are hopeful that the CUNA-backed nominee will be confirmed soon after Congress returns to session in September. Just before leaving Washington for August recess, federal lawmakers approved placement of some federal financial regulators, including John Dugan as Comptroller of the Currency and John Reich as director of the Office of Thrift Supervision. Some say that has cleared the way for Hood's approval. 🏠



Rodney Hood

Rule Would be a Burden

CUNA is concerned that an NCUA proposal to ensure the safety and soundness of the sale of nondeposit investments might be asking some credit unions for technical expertise they do not have.

CUNA says the agency's safety goal is praiseworthy. Its proposal, however, has a number of problems. It would be expensive for credit unions to comply with, and it would be redundant of other regulators' rules.

The rule would require some credit unions with brokerage arrangements to implement programs to monitor the compliance of the brokerage salespeople with applicable laws and regulations.

But, CUNA maintains in a comment letter to the agency, credit unions may not have employees qualified to do the job. It would take the time and expense of training an employee or hiring someone with the appropriate expertise. And why when securities industry regulators provide oversight of the operations of broker/dealers, the letter says.

CUNA asks the NCUA to postpone its interpretive ruling and to form a working group to study the complexities involved.

Read the complete comment letter on CUNA's website. 🏠

Comment Letters
http://www.cuna.org/reg_advocacy

What to do about LARs

When is a correct answer not a right answer? This month's Compliance Challenge offers one such case.

The Challenge poses this hypothetical: An influential public advocacy group requests a copy of a credit union's public Home Mortgage Disclosure Act (HMDA) Loan Application Register (LAR) to be sent electronically. What should a compliance officer do?

Technically, the credit union does not have to provide an electronic copy because it is only required to make the information available at its offices. But consider this, Compliance Challenge says: The request came from a *very influential* advocacy group. A credit union might just want to send the electronic—or even a paper—copy.

Before providing its LAR, a credit union **must** delete the following to protect the privacy of applicants and borrowers:

- ▶ The application or loan number
- ▶ The date the application was received, and
- ▶ The date action was taken

No matter what, a credit union may charge a reasonable fee for costs incurred.

Compliance Challenge
<http://www.cuna.org/compliance>



▶ Seeking CU Comment...

These issues are open for comment by the general public. Credit unions are asked to submit a copy of their comments to CUNA:

▶ RESPA Reform

Agency: Department of Housing and Urban Development
Due date: Sept. 1

▶ Post-Employment Restrictions for Certain NCUA Examiners

Agency: NCUA
Due date: Sept. 27

▶ Secondary Capital Accounts for Low Income CUs

Agency: NCUA
Due date: Sept. 27

▶ EGRPRA Review: Rules Regarding

Directors/Officers/Employees and Rules of Procedure
Agency: NCUA
Due date: Oct. 5

▶ Purchase of Assets and Assumption of Liabilities & Nonconforming Investments

Agency: NCUA
Due date: Sept. 27

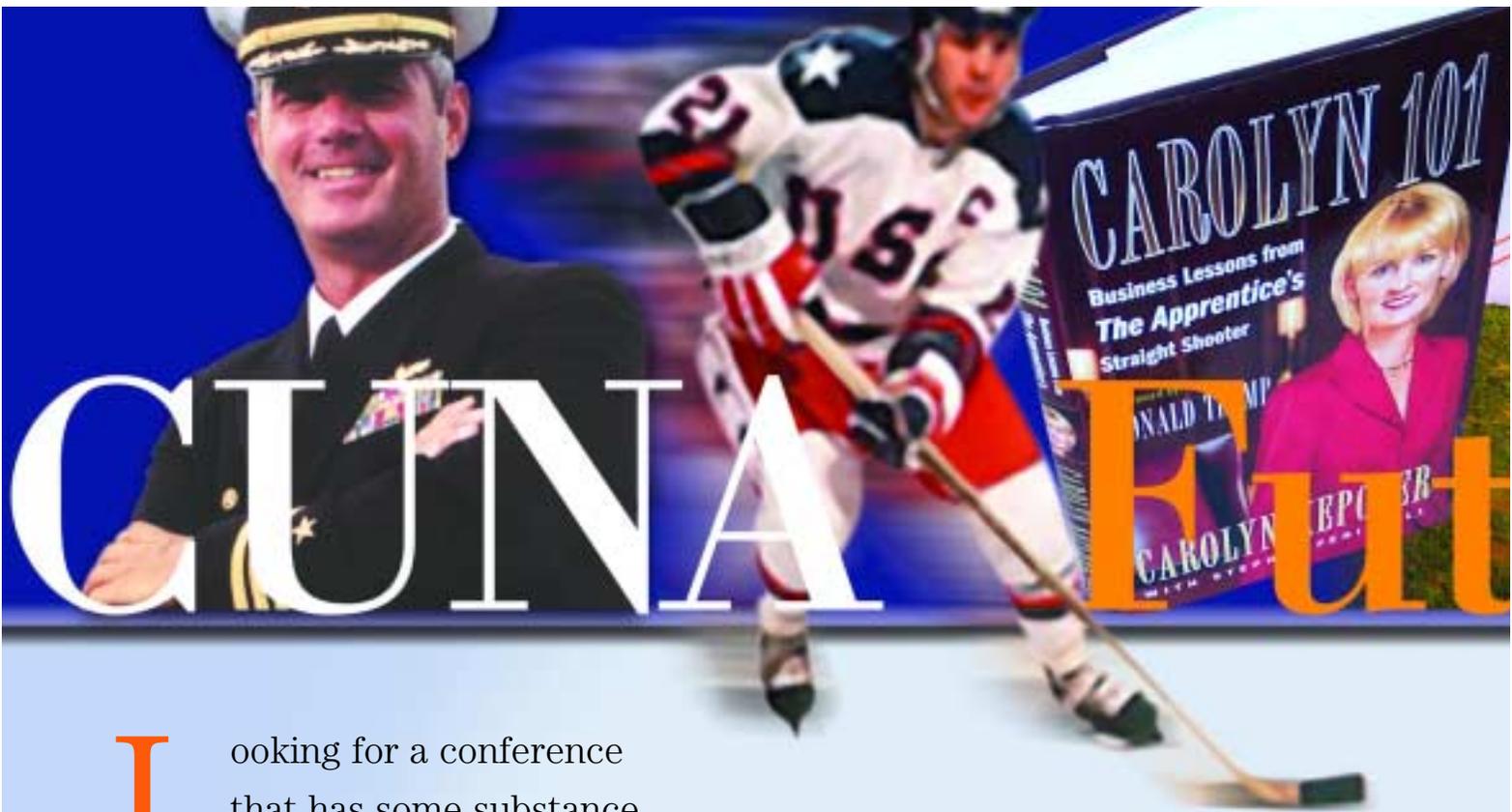
▶ Bylaw Revisions

Agency: NCUA
Due date: Oct. 13

▶ RegFlex Program Eligibility—Minimum Net Worth Requirements

Agency: NCUA
Due date: Sept. 27

CUNA Comment Calls
http://www.cuna.org/reg_advocacy



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See a real-life Miracle

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- Developing a Leadership Pipeline
- Succeeding as a Community Charter
- Indirect Lending: Making the Risk Worth the Reward
- Making The Grade: Board Competencies
- CEO Decision Making Pitfalls: Learning From Management Miscues

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>> Special Report

CURIA: For Every CU

▶ From page 1

has heard consistently from credit unions, it's that their members are 21st century consumers and they deserve 21st century service. "CURIA is what will get us there."

McKechnie is vice president of governmental affairs and special assistant to the president at CUNA. He notes that while there have been regulatory improvements over the years,

there has not been a broad piece of legislation for the movement in decades.

"Banks got theirs with Gramm-Leach-Bliley with no opposition from us," McKechnie says. "Now all credit unions have a stake in this credit union bill, and all have an opportunity to be active in getting it passed by Congress." ▲

Download "CURIA: Something for Everyone"
http://www.cuna.org/download/curia_ste_booklet.pdf

Chart of CURIA's (HR 2317) Benefits to Specific Types of Credit Unions

Type of CU	PCA reform	MBL reform	Federal land lease for CUs	Lease space in underserved areas	Expanding permissible investments in securities	Increase loan maturity from 12 to 15 yrs	Triple the 1% limit on CUSO investments	Exclude non-profit religious organizations from MBL limits	Permit check cashing & money transfer services to anyone in CU FOM	Grant NCUA more authority in permitting voluntary mergers involving multiple common bond CUS	Have greater field of membership flexibility in mergers and community charters	Permit expulsion of disruptive members	Option to impose term limits on board members	Reimburse volunteer directors for lost wages due to attending CU functions	Give NCUA more flexibility to set loan ceiling rates	Exempt CUs from pre-merger notification requirement of the Hart-Scott-Rodino Act	Allow exceptions from broker-dealer & investment-adviser registration requirements
Federal CUs	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
State CUs	•	•	•					•								•	•
Small CUs	•				•	•			•			•			•		
Large CUs	•	•			•		•		•		•					•	•
Community CUs	•	•							•		•						
CUs serving Military	•	•	•						•		•						
Multiple Group CUs	•	•							•	•	•						
CUs investing in CUSOs							•										

Online CURIA Resources

▶ **CURIA Summary and Analysis**
http://www.cuna.org/gov_affairs/legislative/issues/2005/curia.html

▶ **State-by-State PCA Reform Analysis**
http://advice.cuna.org/econ/pca_index.html

▶ **Online Video About CURIA**
http://www.cuna.org/initiatives/member/curia_video.html



>> Notes Bearing Interest

Community CU Replies to NCUA Conversion Brief

Calling it a “simple case of government overreaching,” attorneys for Community CU (CCU), a \$1.4 billion asset credit union in Plano, Texas, reiterated their arguments in the response in a brief in a U.S. District Court. It attacked NCUA’s response to its lawsuit, which seeks a reversal of NCUA’s decision invalidating the credit union’s membership vote on converting the credit union to a mutual savings bank.

Community’s members approved the conversion at a meeting in July, but NCUA invalidated the voting process on July 11, ruling that the disclosures were not proper and the credit union must start the conversion process over.

The credit union filed the lawsuit in July, saying the decision was “ar-

bitrary and capricious.” NCUA responded Aug. 2 with a brief arguing it had congressional authority to administer the conversion process.

The credit union denies the existence of any agreement between NCUA and CCU about how the disclosures would be displayed, and questioned why such an agreement wasn’t in writing.

CUNA and the National Association of FCUs have filed amicus briefs supporting NCUA’s decision and asking the court to uphold the disclosures process. The District Court has scheduled a hearing on the injunction request for Aug. 17.

Principles on CU-to-Bank Conversions

http://www.cuna.org/initiatives/conversion_principles.html

From page 1

language found only in the preamble that accompanied an NCUA rule, and thus lacks the force of law.”

“The bankers claim that NCUA bases its decision [invalidating the vote] on the preamble, not the text,” said CUNA’s Richard. “However the preamble explains what the text means.”

“The bankers’ argument ignores that there was a prior agreement between NCUA and the credit union about how the disclosures would be placed. An agreement with the regulator ought to be carried out,” Richard added.

The banks also argue that NCUA overreaches its authority by being inconsistent with other regulations of other agencies such as the Office of Thrift Supervision (OTS), which governs mutual savings banks.

However, says Richard, regulators can be consistent without being identical, especially if one of the other agencies has simply failed to address a topic.

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Mercer Joins CUNA Board



Paul Mercer

Paul Mercer has been elected by acclamation to the District 2, Class D position of the CUNA Board of Directors.

Mercer, president/CEO of the Ohio CU League, was the only candidate in the special election for the seat vacated when Bob

Walls moved from Delaware to become the president of the New Jersey CU League.

The position’s term will expire in 2007.

In another special election for the District 2, Class A CUNA Board position, there are three candidates:

- ▶ Stephen B. Sharp, president/CEO of Owensboro (Ky.) FCU;
- ▶ Cynthia Prestandrea, CEO/secretary of the board at Prince George’s Employees FCU, Upper Marlboro, Md.; and
- ▶ John A. Graham, president/CEO, of Kentucky Employees CU, Frankfort.

Ballots for that election are due back by Aug. 19. For more information about the CUNA Board elections, use the resource link.

CUNA Board of Directors
<http://www.cuna.org/cuna>

Two Senior Staffers Promoted at CUNA

CUNA this month announced the promotions of two senior staff members: John McKechnie from its governmental affairs department and Richard Gose of its political affairs department.



John McKechnie



Richard Gose

numerous banker assaults on the credit union movement,” McBride commented.

From political affairs, Gose has been promoted to senior vice president of political affairs and was formerly vice president of that department.

CUNA’s McBride said the promotion recognizes Gose’s efforts to develop new and better programs in the grassroots and political fundraising arenas. He noted that the Credit Union Legislative Advocacy Council (CULAC) is now the fifth largest political action committee in the country by contributions to federal candidates and has consistently been one of the largest and most active PACs for several years running.



>> The Marketplace

Security Solutions Website Introduced

To help manage the barrage of security threats credit unions and members face each day, CUNA has introduced a comprehensive suite of security-related resources on a new website.

CUNA's Security Solutions website covers four main security concerns for credit unions: physical security, network security, fraud prevention and business continuity.

Each section contains specific products, services, articles, educational training and consulting solutions available to credit unions to offer protection and help foster a safer, more prepared credit union environment.

The areas covered include:

- ▶ Physical security—covers issues such as robbery, loss prevention from physical damage, and unauthorized access to critical equipment and documents;
- ▶ Network security—combats the complex and ever-grow-

ing threats to information systems by helping keep networks operational and preserve the privacy, integrity and availability of electronic data. It also offers guidance on complying with applicable federal and state laws;

▶ Fraud prevention—provides resources to help outsmart potential identity thieves and phishers through proactive measures that safeguard members' identity and the credit union's intellectual property. This section also includes products and outside resources to help educate members on

safeguarding their identity; and

▶ Business continuity—assists credit unions with business continuity planning, testing and updating to help establish resources and a course of action to accelerate a return to "business as usual" after a crisis.

Visit CUNA's website for more information. 🏠



Security Solutions
http://strategicservices.cuna.org/sec_solutions/csa_sec_solutions.html



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