



NCUA: Time to Customize Approach to PCA

NCUA Board Chairman JoAnn Johnson explains the need for reforms to prompt corrective action during a House hearing on regulatory relief for financial institutions. From left, Johnson; Texas Department of Banking Commissioner Randall S. James; and Virginia Deputy Commissioner of Financial Institutions George Latham, who testified on behalf of the National Association of Credit Union Supervisors. (CUNA photo)

In her prepared remarks on credit union regulatory reform, NCUA Chairman JoAnn Johnson last week told the House Subcommittee on Financial Institutions and Consumer Credit that it is time to abandon a one-size-fits-all approach to Prompt Corrective Action (PCA) and give the NCUA statutory power to create a meaningful risk-based system.

The NCUA chairman said replacing the current PCA system with a risk-based plan would eliminate inequities now faced by credit unions with low-risk balance sheets. The current method for determining PCA relies on a leverage re-

quirement of net worth to total assets. The new plan, devised by NCUA at the request of lawmakers, incorporates a more risk-based approach to credit union capital standards consistent with BASEL I and II for commercial banks, said Johnson.

The subcommittee was conducting its second hearing on financial institution regulatory reform and included federal and state banking regulators. Johnson added in her testimony, "In recognition of the inherent limitations in any risk-based capital system, our proposal incorporates leverage and risk-based stan-

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CURIA Co-Sponsors Number 50

The ranks of co-sponsors for the Credit Union Regulatory Improvements Act of 2005 (CURIA, H.R. 2317) swelled to 50 after the U.S. Congress returned to Washington after the Memorial Day break.

The number stood at 29 as recently as May 20. CURIA garnered 69 co-sponsors in the 108th Congress.

Gary Kohn, CUNA legislative affairs vice president, said the increase in sponsors reflects the strength of lobbying that occurred while in their home districts and the impact of CUNA's recent Hike the Hill campaigns.

CURIA was introduced in the House May 12 by U.S. Reps. Ed Royce (R-Calif.) and Paul Kanjorski (D-Pa.). Two key provisions of the bill would implement a risk-based capital approach and raise the current threshold on credit unions' member-business lending.

The bill also would facilitate service to people of modest means by allowing credit unions to provide check cashing and money transfer services to those within their fields of membership who have not yet become credit union members.

CURIA, H.R. 2317

 http://www.cuna.org/initiatives/member/curia_video.html

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>> Legislative Affairs

CUNA Discredits Bankers' Misinformation

Meeting the bankers' most recent attack on credit unions head-on, CUNA President/CEO Dan Mica last week sent a letter to House Speaker Dennis Hastert (R-Ill.) warning that a recent communication by banking trade groups is loaded with misinformation about credit unions.

The CUNA letter greeted Speaker Hastert as he returned to his House duties after the Memorial Day recess. It served to correct "false impressions" contained in a letter from three banking trade groups dated May 26, according to Mica. Among the points he stressed to Hastert:



Dennis Hastert (R-Ill.)

▶ U.S. Treasury study documents that credit union business lending to

members has a lower default rate than such lending at commercial banks; there is a need for such lending that some small businesses say is not being met by banks.

▶ While credit unions want to and do serve low income individuals, federal and state laws have made it clear that other income groups should be eligible for credit union services as well.

▶ Data on bank performance does not present a picture that shows any competitive harm to banks. Rather, it is a picture that shows a highly profitable industry trying to use Congress and the regulators to stamp out consumer choice. 🏠

BANK ATTACKS: CUs Fight Back!
http://www.cuna.org/initiatives/bank_attack/index.html

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dards working in tandem."

The NCUA plan is contained in the language of the Credit Union Regulatory Improvements Act (CURIA, H.R. 2317), supported by CUNA to overhaul credit union regulations, and introduced in the House in May by U.S. Reps. Ed Royce (R-Calif.) and Paul Kanjorski (D-Pa.).

During the hearing, Johnson was asked by federal lawmakers whether her agency was arbitrary in its implementation of conversion rules when it invalidated the voting process of Community CU, Plano, Texas, citing failure by the credit union to properly handle conversion disclosures to its 225,000 members. Community CU is trying to convert to a mutual savings bank.

Johnson said it was the opinion of her agency that the Texas credit union didn't follow a disclosure agreement worked out with the agency. 🏠

▶ Fed Fee Study Bill Passes House

The House approved the CUNA-supported Business Checking Freedom Act of 2005 (H.R. 1224) that includes credit unions in the Federal Reserve's annual survey in order to make it easier for consumers to comparison shop when looking for financial services providers.

The legislation also would remove the prohibition on banks from paying interest on business checking accounts and would allow the Federal Reserve to pay interest on sterile reserves.

The credit union survey provision has been in the works for years and CUNA has worked closely with several members of Congress to expand the study to include credit unions, noted CUNA's Gary Kohn, vice president of legislative affairs.

The legislation also includes a provision that would add bounced-check protection and overdraft-protection programs to the current list of retail banking services and products, which must be included in annual reports to Congress on fees charged by financial institutions.



Legislative Issues 2005
http://www.cuna.org/gov_affairs

▶ UPDATE: Conversions

If bankers truly believe credit unions have such a sweet deal, then CUNA invites them to switch to a credit union charter.





>> Compliance

Top Three Compliance Issues

#1: Bank Secrecy Act

The Bank Secrecy Act (SARs, CTRs, Office of Foreign Assets Control, USA PATRIOT Act) has moved to the top of the list of compliance issues. That happened when NCUA and the banking agencies signed an agreement with the Financial Crimes Enforcement Network last fall to file quarterly reports on BSA examination efforts.

Credit unions are finding during their exams that the highest BSA compliance concerns for examiners are credit union staff training and independent testing. In addition to recently issued guidance on "Customer Identification Program" requirements and on managing the risks involved in serving money services busi-

ness, expect to see extensive new examiner guidelines for evaluating BSA compliance in June.

#2: FACT Act and ID Theft

The Fair and Accurate Credit Transactions (FACT) Act amended the Fair Credit Reporting Act in 2003. Regulations governing negative information notices and disposal of consumer information are already in effect. The Federal Trade Commission's rule on prescreened opt-out disclosures goes into effect on Aug. 1.

Credit unions still are waiting for rules on several key FACT Act provisions—including ID theft "red flag" guidelines, risk-based pricing notices, affiliate marketing and medical information.

#3: Privacy and Security

NCUA has amended its security regulation at Part 748 of the agency's rules and regulations to include response programs to address instances of unauthorized access to member information. Appendix B to Part 748 also has been added to provide federally insured credit unions with direction on how to meet the new regulatory requirements. The federal banking agencies issued similar guidance for the federally regulated banking institutions. NCUA's regulatory changes were effective June 1. ⬆

CUNA's e-Guide to Federal Laws and Regulations
<http://www.cuna.org/compliance/member/eguide/index.html>

▶ A Question About the Servicemembers Civil Relief Act

Question: Is a Department of Defense (DoD) contractor entitled by the Servicemembers Civil Relief Act (SCRA) to have the interest rate on his loans reduced to 6%?

Answer: Civilian contractors with the DoD are not covered by the Servicemembers Civil Relief Act, and may not benefit from the act's 6% interest rate cap on loans. Under Section 207 of the SCRA, as soon as an individual goes on active duty (or receives orders to report for active duty), that service member should be charged no more than 6% interest on obligations incurred prior to active duty.

Who is entitled to SCRA relief? Individuals who are: 1) in the military service of the United States; 2) on active duty; and 3) "materially affected" by virtue of active duty status.

Access the *Compliance Challenge* online to see if a DoD contractor can satisfy these requirements.

Compliance Challenge
http://www.cuna.org/compliance/member/comp_challenge/comp_challenge.html

The Hottest Compliance Topic Is...

"Any credit union that's been through an exam lately can tell you that the Bank Secrecy Act (BSA) is the hottest compliance issue around," says CUNA's Kathy Thompson, associate general counsel, in the May edition of *Compliance Challenge*.

CUNA will be formulating a comprehensive BSA compliance and training manual for credit unions, building off of existing CUNA materials.

CUNA is looking at recent interagency frequently asked questions (FAQ) that provide some additional nuance interpretations of credit unions' responsibilities under the USA PATRIOT Act's customer identification program requirements to see if any of them trigger any change in advice on CIP compliance, especially involving loan participations and indirect lending.

CUNA and the National Association of State Credit Union Supervisors (NASCUS) are co-hosting a two-day Bank Secrecy Act (BSA) compliance training program in Alexandria, Va., June 21-22.

The training program is available to credit union compliance staff, CEOs, agency policymakers and examiners. The program, featuring federal and state regulators and private sector consultants, will delve into the details about examiner focus, risk assessment, filing requirements and new areas of compliance concerns.

It will also include discussions on when to file Suspicious Activity Reports and Currency Transaction Reports and the documentation requirements in the new BSA environment.

Access the latest information on CUNA's website. ⬆

Bank Secrecy Act Compliance Seminar
http://training.cuna.org/on_site/BSAVA05_fct.html



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>> Regulatory Affairs

Agencies Rule on Medical Info Impact on Credit

NCUA, along with other federal bank and thrift regulatory agencies, last week issued interim final rules under the Fair Credit Reporting Act (FCRA). These create exceptions to the statutory prohibition against obtaining or using medical information in connection with credit eligibility determinations.

The interim final rules also address the sharing of medically related information among affiliates. According to Jeff Bloch, CUNA assistant general

counsel, state-chartered credit unions will now be able to take advantage of the exceptions in the rule. The effective date for these rules is in February 2006.

Section 411 of the Fair and Accurate Credit Transactions Act of 2003 (FACT Act) amended the FCRA to provide that a creditor may not obtain or use medical information in connection with any determination of a consumer's eligibility, or continued eligibility, for credit, except as permitted by

regulations or the FACT Act.

However, the FACT Act also requires the agencies to prescribe regulations that permit creditors to obtain and use medical information for credit eligibility purposes when necessary and appropriate to protect legitimate operational, transactional, risk, consumer, and other needs. A proposed rule was published for comment on April 28, 2004. ☞

Regulatory Advocacy
http://www.cuna.org/reg_advocacy

Capital Reform Encouraged at Financial Symposium

Contrary to what some banker groups would like Congress to believe, credit unions' safety and soundness regulation is considerable, and needs reform. That's the message CUNA Associate General Counsel Mary Dunn delivered during the Women in Housing and Finance's (WHF) May symposium on Capital Issues for Financial Institutions.

Dunn participated in a panel discussion about key aspects of NCUA's Prompt Corrective Action (PCA) proposal. The event happened in Washington, D.C., and included sessions on Basel I, Basel II, government sponsored enterprises and credit unions.

Dunn said Congress wants a net worth/PCA system for credit unions that is comparable to PCA for banks, but that also respects credit union distinctions.

"The problem with the current system is that net worth requirements are too high in relation to credit unions' relatively low risk," said Dunn. "In addition, credit unions do not have access to capital markets and may only build net worth through retained earnings."

She added NCUA's PCA reform proposal achieves a much needed balance between enabling credit unions to utilize capital more efficiently to better serve their members and maintaining safety and soundness. ☞



From left: Dave Marquis, director of NCUA's Office of Examination and Insurance; Mary Martha Fortney, executive director of the National Association of CU Supervisors (NASCUS); and Mary Dunn, CUNA associate general counsel. (CUNA photo)

▶ 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:

▶ **Amendments to MBL Rule (corporate capital, construction or development loan, and net worth definition)**

Agency: NCUA
Due date: June 20

▶ **Personal Commercial Solicitation on DoD Installations**

Agency: Department of Defense (DoD)
Due date: June 20

▶ **FTC Reviews Rules Under the Children's Online Privacy Protection Act**

Agency: Federal Trade Commission (FTC)
Due date: June 27

▶ **CAN-SPAM Act Rules**

Agency: Federal Trade Commission (FTC)
Due date: June 27

▶ **Check 21 Survey**

Agency: Federal Reserve
Due date: July 11

▶ **Fidelity Bonds and Insurance Coverage for FCUs**

Agency: NCUA
Due date: July 25

Comment Call
http://www.cuna.org/reg_advocacy/reg_call/2005_comment_calls.html



>> Notes Bearing Interest

CUNA: Record Profits Underscore Bank Hypocrisy

Never before has it been so lucrative to be a banker—and never have bankers been more hypocritical, said CUNA President/CEO Dan Mica after commercial banks and savings institutions reported another quarter of record profits.

Commercial banks and savings institutions insured by the Federal Deposit Insurance Corp. (FDIC) last month reported net income of \$34.3 billion for the first quarter of 2005, eclipsing the previous quarterly record of \$32.4 billion set in the third quarter of 2004.

In light of the FDIC report, Mica said, “It has never been as lucrative as it is right now to be a banker, or to hold as powerful a position in the financial services marketplace—or to be as hypocritical.”

He pointed out that bankers continue to oppose any legislation that will modernize credit union service to members—specifically the CU Regulatory Improvements Act (CURIA, H.R. 2317). All the while, he said, bankers are pushing for legislation that will provide them billions in tax relief.

Aside from the record quarterly profits, the FDIC numbers also show bank and thrift assets grew by \$178 billion in the first quarter of 2005, Mica pointed out. “If the banks continue that rate of growth for the remaining three quarters of the year, their assets will have grown by an amount greater—by \$44 billion—than all the assets of credit unions at the end of 2004!”

BANK ATTACKS: CUs Fight Back!
http://www.cuna.org/initiatives/bank_attack

Five CUNA Board Candidates Are Unopposed

Of the 11 nominations submitted and verified for eight CUNA Board seats, five are unopposed and will be elected to three-year terms by acclamation. Ballots for the CUNA Board of Directors will be accepted through Aug. 1.

For more information on the board elections, visit CUNA's website. This year's nominees are:

District 1:

Class B: John Prumo, president/CEO, GPO FCU, New Hartford, N.Y.; and Joseph Poerio, board member, Suffolk FCU, Medford, N.Y.

District 2:

Class C: Juri Valdov, president/CEO, Northwest FCU, Herndon, Va.

District 3:

Class A: Sandy Lingerfelt, president/CEO, Clinchfield FCU, Erwin, Tenn.

Class D: Mike Mercer, president/CEO, Georgia CU Affiliates.

District 4:

Class B: Allan Kemp McMorris, president/CEO, Oakland County CU, Waterford, Mich.; and Bohdan Watral, president/CEO, Selfreliance Ukrainian American FCU, Chicago.

Class D: David Adams, president/CEO, Michigan CU League; and Brett Thompson, president/CEO, Wisconsin CU League.

District 5:

Class A: Mary Shipe, president/CEO, Alhambra CU, Phoenix.

District 6:

Class C: Richard Ghysels, CEO, First Financial CU, West Covina, Calif.

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

▶ CU Grassroots Gets Busy



U.S. Rep. Mike Michaud (D-Maine) serves up freshly baked Maine lobster to Maine CU League President/CEO John Murphy during an event at Credit Union House on Capitol Hill last week. In addition to the Michaud event, Credit Union House hosted hundreds of credit union representatives and members of Congress during CUNA's Hike the Hill events. Among the state leagues participating in the busy week: California, Michigan, Minnesota, Nevada, Ohio, and Tennessee. Credit unions and leagues from forty-six states have scheduled to be in Washington, D.C. for Hike the Hill throughout 2005. (CUNA photo)

Grassroots
http://www.cuna.org/gov_affairs/grassroots/index.html



>> The Innovators

Report: Overdraft Program Can Save Members Money

A new "E-Scan Insight Series" report from CUNA reveals most credit unions that offer overdraft privileges do so primarily as a member convenience, with some, such as \$32-million asset Wauwatosa (Wis.) CU, estimating its program saved members \$92,000 in merchant fees in 2004.

The full report, *Checks & Balances: Credit Unions and Overdraft Privilege Programs*, is the first survey to take a look at the state of credit union overdraft privilege programs. It uses data from a March/April 2005 survey of share draft/checking of credit unions with \$1 million or more in assets.

The purpose was to gather data on credit union overdraft privilege programs, including specific questions regarding the details of how these programs operate, and to establish a baseline for credit union overdraft privilege operations.

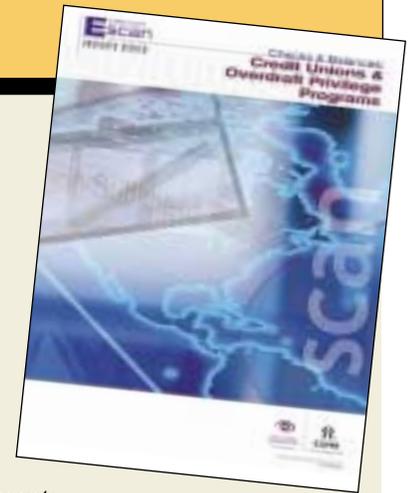
"The report suggests that overdraft privilege is a program that, when implemented with best practices in mind, can be a positive and valuable account feature for those members who

may need it," explains Vicki Joyal, CUNA vice president of research services.

Among the other overdraft privilege program characteristics examined in the report:

- ▶ How many credit unions offer overdraft privilege;
- ▶ Why they offer overdraft privilege;
- ▶ Use of vendors;
- ▶ Opt-in or opt-out enrollment;
- ▶ Account type availability;
- ▶ Fees, including amounts and frequency;
- ▶ Use of best practices.

The new "E-Scan Insight Series" report *Checks & Balances: Credit Unions and Overdraft Privilege Programs*, is available as a downloadable PDF file. For more information, visit CUNA's website, or call 800-356-8010, press 3, and reference stock number 26824P.



Checks & Balances: Credit Unions and Overdraft Privilege Programs

<http://buy.cuna.org/detail.php?sku=26824P>



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