

CUNA Small Credit Union Committee
Meeting Minutes
Via Teleconference
August 18, 2009

Roll Call

	Present	Unable to Attend		Present	Unable to Attend
Frank Michael	x		Lora Michael		x
John Graham	x		Gary Parker		x
Trisha Baker	x		Horacio Peralta		x
Phyllis Cochran	x		Steven Schlundt		x
Jeff Green	x		Scot Tsuchiyama		x
Eunice Johnson Rodgers	x		Bob Hoel		x
Reta Kahley	x		Todd Spiczenski	x	
Phyllis Kunze		x	Mike Schenk		x
Vicki McIntosh	x		Mary Dunn	x	

Washington Update – Mary Dunn joined the call to update the committee on the important issues facing the industry.

NCUA Chair – Deborah Matz is being sworn in as the NCUA Chair on Monday, August 24. This is significant for credit unions. Ms. Matz has real concerns that NCUA is run effectively and efficiently. The agency should be the facilitator for credit unions to continue to be able to serve the members’ needs. NCUA should do better by credit unions and government agencies as a whole.

Credit Card Act - This is one of the top issues CUNA Washington is dealing with. CUNA has been attempting to get relief on the 21-day rule with no luck so far. This rule is going to be a difficult one for the credit union system. Dunn added that there was not much opportunity to neither weigh in on this nor provide input to the Senate.

Staff is pushing for an implementation phase and identifying ways to make it easier on everybody. The Federal Reserve has been approached to possibly limit the scope of the rule to only credit cards, but it’s a no go. Everyone has until February to comply. The Reserve is sympathetic but the statute has limitations.

There is an alternative to CUs meeting the 21-day rule and that is providing on the monthly statement the date payments are due. Payments made after the 21-day date can be charged a late fee and also can be noted on credit reports as late. This isn’t a total relief but gives credit unions more time in the long term.

Dunn added there should be an understanding by NCUA examiners and the Federal Reserve not to write up credit unions that are making an effort to comply. No relief is in sight by the Reserve at this time. There is no litigation possible nor can the statutes be challenged.

Email update sent on August 18th by Dan Mica – the Federal Reserve Letter:

See attached Letter

I wanted to update you on our efforts to pursue relief for credit unions regarding the 21-day rule as it applies to open-end lending other than credit cards under the Credit CARD Act:

- Yesterday I received a response from my recent letter to Fed Chairman Ben Bernanke. The Fed indicated it feels its ability to provide relief is constrained by the CARD Act's legislative language. This means the rule's open-end lending provisions will take effect as scheduled this Thursday, August 20.
- The Fed did, however, continue to acknowledge in its response that CUs have the option for a "short period of time" (still undefined) after August 20 to provide the required disclosures elsewhere on or with the consumer's statement indicating the consumer's payment will not be treated as late for any purpose if received within the allowed 21-day window. This approach would allow the CU to assess late fees if the payment is made after the 21-day period.
- We recognize the Fed's response is limited and further relief is necessary. We are proactively seeking it in Congress, meeting with members and staff in key congressional districts to enlist their support. But the approach outlined in the Fed's letter at least provides more time for CUs to comply and for CUNA and the leagues to work on achieving a legislative solution. We are also working on developing a legal interpretation to support these efforts. We'll have more details for you on that later this week.
- Today I also contacted NCUA Chairman Fryzel and urged him to write NCUA examiners this week to make clear the agency will not write up credit unions if they are making a good-faith effort to comply with the 21-day rule in a reasonable amount of time. We are also planning to work with NASCUS on a similar message to the FTC, which will be enforcing the law for state-chartered credit unions.
- While we have been exploring the possibility of litigation, we feel with the advice of outside counsel there are significant hurdles to success in challenging the 21-day rule, and a direct attack on the statute would be counterproductive, causing potential delays in any relief from Congress. Accordingly our focus will remain on pressing our case with the regulators and working with leagues and CUs during this recess to seek legislative relief as expeditiously as possible when lawmakers return to Washington.

New Agency – CFPA: Mary then provided some information on the CFPA and CUNA's stand and role. This agency will be devoted to consumer protection and will oversee all types of organizations that deal with consumers. It is not meant to only oversee financial institutions, but also check cashers, payday lending, possibly insurance companies that offer consumer financial products and more.

The consumer protection side of agencies that are already in existence, including NCUA may have their personnel transferred to CFPA. It hasn't been determined how the agency will be paid for but there may be assessments from examinations performed that will pay for some of it.

Dunn added that CUNA plans to work WITH the administration and Capitol Hill to identify areas of the new area that credit unions could be affected by. There are 9 principles that have been approved that will help support the agency and that should help the agency embrace credit unions. She outlined the top four (4) of the 9:

- 1) NCUA retain enforcement and examinations – CFPA will write the rules but carrying them out will still remain under NCUA;
- 2) If CFPA is tasked to write the federal regulations; ALL rules in that area should pre-exempt the state requirements;
- 3) There should be streamlining and regulatory reduction under CFPA. This is in the best interest of the consumer – less burden on the institution and consumer both.
- 4) Outlining how the agency will be paid for – credit unions should NOT be required to pay for CFPA. There should be some type of appropriations or an assessment on those that are not regulated.

Dunn went on to say that more details on these principles will be shared with credit unions in the future.

The latest legislation before Barney Franke doesn't have credit unions under CRA. Thrift & Supervision are not under Franke's proposal. The projected timeline for this bill before the House would be early fall (October) and end of the year before the President.

Corporate Stabilization:

The insurance costs to credit unions are targeted to be spread out. This issue will be the 1st one on the agenda of the new Chair, Deborah Matz.

Dunn then took questions. Chairman Michael asked if the letters credit unions sent on the above issues had any affect. Dunn noted that they helped in a positive in Congress and with the Federal Reserve.

Vicki McIntosh then asked how many were opposed to the new agency, CFPA. Dunn answered that the ABA, Community Banks that are unregulated are definitely against. Also those insurance companies who have consumer products are not in favor. The mission for CUNA is to keep the agency using an open eye and realizing the regulatory burden that faces credit unions, especially the smaller ones. If they treat all the same, the overall burden will hit the smaller institutions much harder. CUNA is working to not have credit unions treated carte blanc. McIntosh asked that when it's approved and it's realized it's not good going forward, can agencies pull out? Dunn replied, yes there is that flexibility.

Rogers then asked if all of NCUA will fall under CFPA. Dunn replied that only the consumer protection part will be moved. She isn't sure of who or what all that includes, but the safety and soundness piece will remain under NCUA. There could possibly be two sets of examiners. With no more questions, Chairman Michael thanked Mary for taking the time to be on the call.

Small CU Task Force Report – Update & Summary of Feedback

Todd Spiczenski brought the committee's attention to the two-page summary and the several questions at the bottom of each page. Based on their feedback, the top key issues were identified and ranked. Two separate areas were noted and used to sort the information: a) type of issues; b) common issues sited within area of concern.

The top 88% showed that compliance and regulations were most important. The corporate stabilization issues were down on the list. Spiczenski stated that if the committee was comfortable with the results and with what was listed as the root and symptom problems, the next step would be to begin drafting the next report.

The committee reviewed the four questions on the most commonly cited within areas of concern and all were in agreement these looked good and covered what they thought needed.

As for the information on page 2 and the proposed "tier", someone asked if it makes sense to break these down and identify the top vote getters. Chairman Michael asked why the corporate issue is not more significant. John Graham noted that it's a concern but there is no control over it and that credit unions are past the initial shock and are dealing with it. He also added that he agrees with the percentages outlined.

Reta Kahley stated that while the corporate stabilization is important to credit unions, it's a one-off thing and won't continue. The smaller credit unions are concerned with their own survival. McIntosh added that most small credit unions have good capital. Chairman Michael added that small credit unions not at the bottom of their game. Future access of services by the corporate

system may be key to smaller credit unions – if the re-capitalization of the corporate system happens, it'll be a much bigger burden than to the larger credit unions.

Spiczenski added that the timing is better than what it was four months ago and that the bigger picture seems to be the ongoing issues not the one time items. Other committee members stated that if the corporates fold, it could change the overall status for all credit unions. With no further questions, Spiczenski proposed that he and Schenk begin working on a draft report to share with the committee.

Chairman Michael asked that as a part of the report to identify the barriers that exist in solving the root problems. What is keeping credit unions from getting them done? Some of the committee answered the following possibilities: a) Rogers: limited resources to pool from, can't offer the salaries – too much competition in these economic times, b) McIntosh: too many hats worn for the type of salary that's needed to be commensurate for job seekers; c) Graham: aging demographics of some boards, good managers but may not want to deal with; d) Michael: ½ of mergers in California happen when the CEO retires. Graham added that there is an assumption that all mergers are happening with smaller credit unions but even the larger credit unions are considering mergers these days. Spiczenski added that the majority still remains in the smaller asset categories, but more mergers of equals – mid-size credit unions are happening.

Schenk and Spiczenski will focus their first draft on the items identified on the current list. It'll be a good start.

Chairman Michael noted that he had just received the new Filene report that has some very interesting data on mergers. Most of the committee has not seen the report but would be interested in getting a copy. He shared one interesting set of data: 90% are under 10M in assets; 10% between 10M & 100M in assets with ½ of 1% in the 100M asset category. The explanation for the merging into \$100M or smaller could be the comfort level between these credit unions and the “big boys” don't think it's worth it.

Spiczenski offered to contact Filene to see about getting the report for the committee. Didn't think there would be a problem in doing this.

One final note – is the committee has ideas on the barriers that exist in solving the root problems, to please send them to Todd or Mike so they can begin the draft.

With no other business or issues, the meeting was adjourned.

Future Conference Calls

Date	Time
Tuesday, September 15	2:00 pm Eastern
Tuesday, October 20	2:00 pm Eastern
Tuesday, November 17	2:00 pm Eastern
Tuesday, December 15	2:00 pm Eastern