CREDIT UNION NewsWatch

CUNA Credit Union National Association

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


*CUNA Deputy General Counsel Mary Dunn (second from left) participates in the Consumer Federation of America's 23rd Financial Services Conference held Dec. 2-3 in Washington, D.C. , where she underscores the credit union difference during a session on the impact of reform on high-cost credit. Also shown: Pam Banks (far left), Consumers Union, Laura Udis, Colorado Uniform Consumer Credit Code (second from right), and CFA's Jean Ann Fox.* (CUNA photo)

# CUNA Urges CUs' Reg Z Comment

Comments are due Dec. 23 on the Federal Reserve Board's (Fed) proposal to add consumer protections and disclosures for mortgages under Regulation Z, and CUNA is urging credit unions to get involved in this critical dialogue.

As a general matter, CUNA has expressed strong concerns that the Fed's piecemeal process for amending Reg Z has imposed staggering costs and burdens on credit unions. It also has caused confusion for credit union members—a situation that CUNA says will only be compounded come next July when authority for the disclosure rulemaking switches to the new Consumer Financial Protection Bureau (CFPB). Not only is more regulatory activity expected, but many of the recently amended Reg Z provisions may be changed again when the bureau implements requirements of the Dodd-Frank Wall Street Reform and Consumer Protection Act that combine disclosures currently required separately under the Truth in Lending Act and the Reasl Estate Settlement Procedures Act. CUNA

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# CUs Paying Lower Fees Than Banks

While the current high costs of National Credit Union Share Insurance Fund (NCUSIF) assessments are, as CUNA Chief Economist Bill Hampel said, "the unfortunate consequence of the worst financial crisis in the U.S. since the 1930s," a CUNA white paper authored by Hampel has found that the deposit insurance fund assessments charged by the National Credit Union Administration (NCUA) over the last three years have averaged 25% lower than the assessments that the Federal Deposit Insurance Corporation (FDIC) has charged to banks during that same time period.

The white paper reveals that FDIC assessments levied since the beginning of 2008 have totaled 47 basis points (bp) of total deposits, equivalent to 52 bp on insured deposits. The NCUA's total assessments have totaled 41 bp of insured shares over that same time period, a number that is nearly one-fifth below the amount charged by the FDIC, the paper points out.

The NCUSIF premiums and Corporate Credit Union Stabilization charges levied by the NCUA will likely average eight bp per year until 2021, for a total of 90 bp. Projected FDIC assessments could total 144 bp by 2021, a full 50%

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# >>Governmental Affairs

## OIG Finds Fault With Supervision

Inadequate examination procedures and quality control oversight by the National Credit Union Administration (NCUA) contributed to the failures of 10 credit unions, the NCUA's Office of the Inspector General (OIG) reported in a recently released review of NCUA material loss reviews.

The OIG identified examiner deficiencies in quality control efforts in the NCUA's supervision of New London Security CU, High Desert FCU, and St. Paul Croatian FCU. The OIG also found that the NCUA used inadequate examination procedures during its inspections of these credit unions, as well as its inspections of Huron River Area CU, Center Valley FCU, Cal State 9 CU, Eastern Florida Financial CU, Clearstar Financial CU, and Ensign FCU.

While the actions of these credit unions, including poor strategic planning and oversight, as well as outright fraud, "greatly contributed" to the failures, the OIG noted that more stringent oversight by the NCUA could have helped avert many of the troubles that ultimately felled the 10 credit unions.

Much of the substantial losses that were recognized by the National Credit Union Share Insurance Fund could have also been avoided if the NCUA had taken adequate action, the OIG said.

## What Lies In A Lame Duck Session

While the exact end date of the 2010 congressional session is still not known, Congress may adjourn as soon as Dec. 17, and CUNA is working to move legislation that would lift the member business lending (MBL) cap forward during this session by continuing its discussions with Senate leadership. CUNA Vice President of Legislative Affairs Ryan Donovan said that CUNA's MBL vehicle must be legislation "that can get through the Senate and be passed with at least 60 votes."

Credit unions should also keep an eye out for action on proposed deficit reduction moves that were recently presented by the President's Commission on Fiscal Responsibility. Though credit unions are not specifically mentioned in their proposal, tax expenditures are noted as one way that the deficit may be reduced.

The official opening day for the 112th Congress is Jan. 3.

## CUNA Urges CUs' Reg Z Comment

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has shared these concerns with the Fed Chairman Ben Bernanke, U.S. Treasury Secretary Timothy Geithner, and Elizabeth Warren, who has been appointed by President Obama to help launch the CFPB.

CUNA has noted to the financial policymakers that during the last several years the Fed has issued a "seemingly endless" number of changes to Reg Z disclosure rules, as well as numerous other consumer protection regulations. The burden of the constant stream is dramatically compounded by regulatory burdens imposed by the other federal regulators. Just since 2008, credit unions and other financial institutions have been subjected to new, and very significant, requirements with regard to mortgage lending, credit cards and other types of open-end lending, Internet gambling, the Bank Secrecy Act, the Fair and Accurate Credit Transactions Act, gift cards, overdraft protection plans, student loans, and accounting.

Regarding the Dec. 23 comment date, CUNA, working closely with CUNA Mutual, has been raising awareness of the negative aspects of the Fed's proposed disclosures that would be required for credit insurance and debt cancellation and suspension products. CUNA and CUNA Mutual have launched parallel grassroots operations to encourage credit unions to report their concerns with the proposals to the Fed. Credit unions are also asked to address how these proposed disclosures will discourage consumers from purchasing payment protection products.  CUNA and CUNA Mutual staff also met Dec. 2 with Fed attorneys to discuss these issues and future meeting are expected.

**OPERATION COMMENT**
*http://capwiz.com/cuna/issues/alert/?alertid=18902551*

## CUs Paying Lower Fees Than Banks

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above the total amount to be assessed by the NCUA.

However, CUNA noted that both of these assessment estimates are derived from the NCUA and FDIC's current expectations regarding future losses from failed institutions and the performance of various legacy assets, and these estimates could change if the economic recovery is weaker or stronger than currently expected.

The NCUA at its November meeting projected an NCUSIF assessment ranging from zero to 10 bp and a Temporary Corporate Credit Union Stabilization Fund assessment of 20 to 25 bp, bringing the estimated total assessment for 2011 to 30 to 35 bp.

**CUNA WHITE PAPER**
*http://www.cuna.org/econ/member/download/NCUSIF_FDIC.pdf*

# >>Governmental Affairs

## NCUA Extends Corp. CU Amendment Comment Deadline

The National Credit Union Administration (NCUA) has extended the due date for comments on amendments to its corporate credit union rules until Jan. 28.

CUNA and credit unions urged the NCUA to extend the comment period and CUNA President/CEO Bill Cheney said that CUNA appreciates the NCUA's "responsiveness to the needs of the credit union movement for more time to fully evaluate this important proposal."

Credit unions and other parties were previously required to file their comments by late December. The corporate credit union amendments were proposed in late November.

The NCUA amendments would limit credit union membership in corporates to one at a time and change some internal control requirements. The NCUA has also proposed "voluntary" Temporary Corporate Credit Union Stabilization Fund (TCCUSF) assessments for privately insured credit unions and non-credit unions, such as credit union leagues, that are members of a corporate.

## NCUA Creating New Resolution Tool

A pilot Loss Share Program is being developed by the National Credit Union Administration (NCUA), under which NCUA support would be given to an acquiring institution's purchase and service of pools of loans.

The plan aims to increase the number of tools available to resolve large, complex financial institutions. The program will allow the NCUA to gauge cost benefits of overseeing loss-share agreements that have eight- to 10-year time horizons.

The NCUA program will be similar to the Federal Deposit Insurance Corporation's (FDIC) program, which allows the FDIC to reimburse the acquiring financial institution a percentage of any loan losses.

NCUA Chairman Debbie Matz said that the pilot program "represents an innovative and sensible effort by NCUA to minimize losses to the NCUSIF and foster a lower-cost, market-based solution to the problems associated with failures."

## 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 Justice** | |
|---|---|---|
| **AGENCY DUE DATE** | **PROPOSAL** | **CUNA DUE DATE** |
| January 24, 2011 | ANPR: Web Accessibility Guidelines Under the ADA *http://www.cuna.org/reg_advocacy/reg_call/rcc_111810a.html* | January 3, 2011 |
| | **Federal Reserve Board** | |
| **AGENCY DUE DATE** | **PROPOSAL** | **CUNA DUE DATE** |
| January 31, 2011 | Fed Proposes CARD Act Clarifications *http://www.cuna.org/download/rcc_110210.pdf* | December 7, 2010 |
| December 27, 2010 | Appraisal Independence *http://www.cuna.org/download/rcc_110110.pdf* | December 17, 2010 |
| December 23, 2010 | Protections/ Disclosures for Reg Z Mortgage Loans *http://www.cuna.org/download/rcc_100110.pdf* | |
| | Send Comments Using CUNA's Operation Comment *http://capwiz.com/cuna/home/* | December 23, 2010 |

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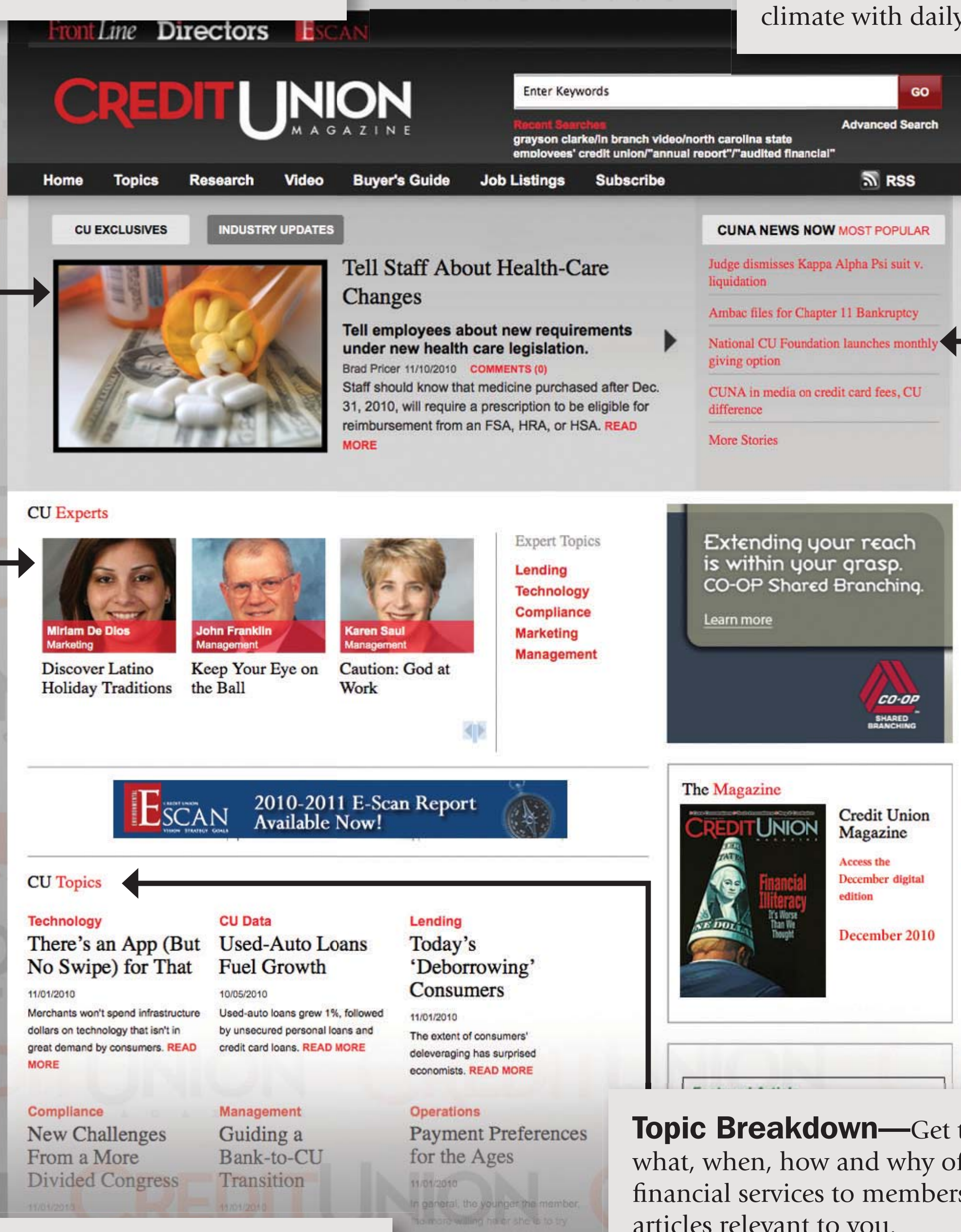


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“The 2011 Governmental Affairs Conference is fast approaching, and the time has never been better to attend. As credit unions welcome many new members of Congress, this is our opportunity to show them what credit unions mean to consumers and the advantages we offer to consumers versus banks. In the drastically different Congress of 2011, educating the newcomers about credit unions will be especially important. And even in this closely divided Congress, we see opportunities for issues like capital reform for credit unions. I urge you and your board to make every effort to attend the 2011 GAC and add to our political strength on Capitol Hill.

With your help, we will not only envision success, we will make it happen. I look forward to all that we will accomplish together as we work to ensure a future in which credit unions can serve their members to the very best of their abilities.”

– Bill Cheney,
CUNA President and CEO

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# >>Regulatory Affairs

## NCUA Stands Behind CU Tax Status

Debbie Matz

National Credit Union Administration (NCUA) Chairman Debbie Matz wrote a firm letter of support for the federal credit union tax exemption saying that its loss would have a "tangible and negative effect" on the safety and soundness of credit unions. In a letter to CUNA, Matz said that as chief regulator of federal credit unions her concerns about any repeal of the federal tax exemption extend also to the very existence of credit unions as they are known today.

"Not only would there be a tangible and negative effect on the safety and soundness of credit unions, but I also believe such a change would necessitate a significant re-examination of the not-for-profit cooperative business model currently employed by credit unions," Matz wrote.

She was writing in response to a communication from CUNA President/CEO Bill Cheney regarding a recent report by the National Commission on Fiscal Responsibility regarding possible changes to the country's tax code. Although the report has failed to secure the 14 votes needed to move on to Congress, one recommmndation could conceivably bring about debate of the credit union tax exemption, although credit unions are not specifically cited in the report. While deeply concerned about the commission's tax report, CUNA has emphasized that the suggestions it contains are in the very earliest stages of recommendation and have a long road ahead before any are made policy.

## Government Wants CU Websites Accessible

The Department of Justice (DOJ) issued an advance notice of proposed rulemaking (ANPR) to set standards for web accessibility of "public accomodations ," which includes credit unions, under the Americans with Disabilities Act (ADA). Under the ADA, a wide range of entities are designated "places of public accommodation," such as restaurants, retail stores, theaters, and private schools, in addition to financial institutions.


The DOJ issued the ANPR in response to concerns that the many websites of public accommodations that lack accessible features are difficult or impossible for individuals with disabilities to use.

Specifically, the DOJ is considering amending its regulations—which currently do not address web accessibility—to require credit unions and others that provide products or services to the public through websites to make their sites accessible to and usable by individuals with disabilities under the legal framework established by the ADA. The DOJ proposes an effective date of six months for new websites and two years for existing websites.

The DOJ wants comments by Jan. 24, and CUNA is seeking credit union comment by Jan. 3.

**CUNA COMMENT CALL**
*http://www.cuna.org/reg_advocacy/reg_call/rcc_111810a.html*

## NCUA Open to Assessment Ideas

In the aftermath of CUNA voicing concerns about the National Credit Union Administration's (NCUA) projected 2011 Temporary Corporate Credit Union Stabilization Fund assessment of 20 to 25 basis points (bp), the agency's chairman said the NCUA is open to suggestions on possible ways to address the corporate credit union system's liquidity needs so that the estimated assessment can be reduced.

Matz said the NCUA was "certainly open" to suggestions, and would "at least listen" to see if any suggestions were workable. She made her remarks at the Association of American Credit Union Leagues annual meeting in Dallas.

In ten town hall meetings throughout October, NCUA officials cautioned that corporate stabilization assessments would be higher in 2011 and 2012 due to the need to repay medium-term notes that were issued in 2009 to preserve liquidity in the corporate system. However, after the NCUA revealed its projection at the November open board meeting, CUNA President/CEO Bill Cheney contacted the agency to express concern that the assessment seems to be front-loaded and could perhaps be spread out to have less immediate impact on credit unions.

The NCUA has projected total dual assessments of 20 to 35 bp for 2011. Increasing losses at natural person credit unions could require a National Credit Union Share Insurance Fund assessment ranging from zero to 10 bp. This, combined with the TCCUSF assessment, could collect up to $2.7 billion in funds.

# >>Notes Bearing Interest

## Boston Globe Says Banks Need CU Competition

A Nov. 26 *Boston Globe* editorial recommended that consumers that are fed up with banks shifting their own losses to customers via fee increases move their accounts to credit unions.

"Credit unions, nonprofit cooperative financial institutions owned by their members, tend to offer lower fees and higher interest rates, at least for savings accounts," the *Globe* said. "And while credit unions haven't been immune to the economic tumult faced by the big banks and occasionally have fee increases of their own, they generally don't feel the same pressure that big banks do to maximize short-term returns."

"If consumers vote with their wallets, credit unions could apply some much-needed competitive pressure to the banking behemoths," the newspaper added.

The *Globe* noted that U.S. banks may have already lost about $6.3 billion in overdraft fees due to the effects of the Dodd–Frank Wall Street reform package and the Consumer Protection Act. Both of these pieces of legislation have cut into banks' fee income.

## FinCEN Plan Allows Limited SAR Sharing

New Financial Crimes Enforcement Network (FinCEN) rules expand the ability of certain financial institutions to share Suspicious Activity Report (SAR) information with most affiliates and clarify the scope of the statutory prohibition against the disclosure by a financial institution or by a government agency of a SAR or any information that would reveal the existence of a SAR.

FinCEN Director James Freis in a release said that the FinCEN expansion, which will become effective 30 days after it is published in the *Federal Register*, will protect from financial crime and will be consistent with industry efforts to strengthen enterprise-wide risk management. The rules will also promote the reporting of even more useful information to FinCEN and law enforcement investigators, Freis added.

## CU Earnings See Slight Increase in 3Q

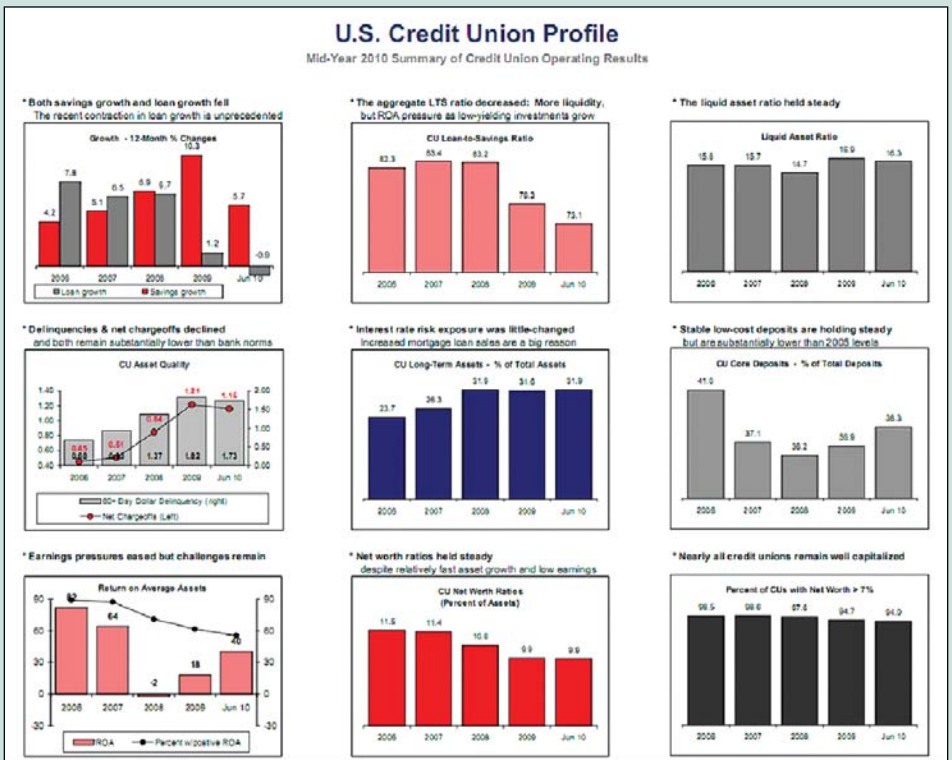
CUNA Chief Economist Bill Hampel last week noted that the growth in loans, assets, savings, net income and net worth seen by credit unions during the third quarter is "further confirmation that the worst of the financial crisis is behind us."

Used-vehicle loans grew by 1.8%, unsecured loans increased 1.4%, and real estate loans rose 0.1%, while the delinquency ratio appears to have stabilized at 1.74%.The net charge-off ratio also fell 0.03% during the quarter, totaling 1.13%.

Return on average assets increased to 0.45% from second quarter's 0.40%, and credit union membership also reached 90.8 million during the quarter.

Assets increased to $903.9 billion, total shares rose to $779.9 billion, and net income increased to $3.0 billion during the quarter.The third quarter call report compilation, which was released by the National Credit Union Administration, also found that delinquency has leveled off and loan losses are falling.

"The big challenge for most credit unions going forward will be building loan volume, rather than having to deal with rising loan losses," Hampel added.




* source: CUNA

# >>Special Report

## Filene Study: How to Draw Important Gen Y'ers

Edward Filene

The Filene Research Institute released an interesting new study on what credit unions can do to attract young, "Gen Y," members—who will, after all, dominate the work force by the year 2020. In 10 short years Gen Y'ers will comprise 40% of all workers—while older consumers, traditionally loyal to credit unions and small banks—will slide blissfully into their retirement years. Gen Y, by the way, is loosely defined by birthdates ranging from the mid-1970s to the early 2000s.

So, what's a credit union to do to attract these younger consumers with their borrowing and savings needs? The Filene study, which generated 1,400 responses and is called "Big, Small or Online? Young Adults' Evolving Financial Presence," made the following findings:

- 22% of Gen Y use an online bank as their primary financial institution;
- 40% say a recommendation from friends or family played a role in their opening an account; and
- Gen Y places a premium on account features and interest rates—in the immediate term.

Online bank customers say they have the best combination of the features and fees and that online services suit them best. The strength of this sentiment shows that "personal" service really means "suitable" service, said Filene. In the case of Gen Y, that service is often offered online.

Study author Rob Rubin, founder and CEO of Facilitas, urges credit unions, "Take honest stock of the competition from online banks and big banks alike. Only then can you double down on the services that will make your financial institutions the one of choice among Gen Y."

**Filene Research Institute**
*http://filene.org/*
**Filene Study**
*http://filene.org/publications/detail/youngadultfinancial*

# >>CUNA Notebook

## SAFE Act Registration Starts in January

### *Webinar help available*

The SAFE Act—or the Secure and Fair Enforcement for Mortgage Licensing Act—requires credit union mortgage loan originators and their employing institutions to register with the Conference of State Bank Supervisors' National Mortgage Licensing System & Registry (NMLS)—and that registration begins January 2011.

Credit unions, and others, must comply with the registration requirement within 180 days after federal regulators provide public notice that the NMLS is accepting initial registrations. The first step will be for the credit union itself to register in early 2011 and then its covered employees will individually register. Registration is expected to run until mid-2011.

Once the system is up and running, credit unions will be required to ensure that their mortgage loan originators are properly registered and prohibit any employees who are not registered from performing any mortgage loan origination duties. Residential mortgage loans, including home equity loans, are covered by the SAFE registration rules.

CUNA is offering a Dec. 9 webinar to help credit unions prepare for the upcoming registration process. In additions to hearing from a CSBS representative, participants also will be given a demo of the process that needs to be followed, as well as instructions. Also, Regina Metz, attorney with National Credit Union Administration, will provide a walk-through of the SAFE Act's regulatory requirements.

**SAFE Act Webinar**
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