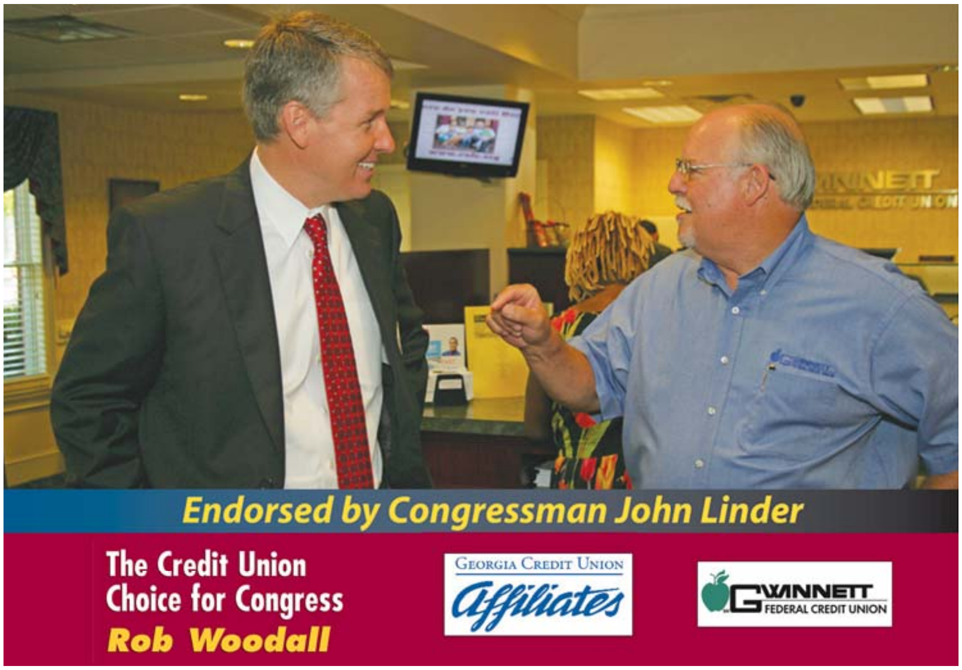
CREDIT UNION
NewsWatch

CUNA
Credit Union National Association

AUGUST 23, 2010

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



Credit unions have been exercising their political muscle this primary season and have helped credit union-friendly candidates find success in a number of primaries. Shown above is an example of a CU-backed mailing, this one supporting Rob Woodall in Georgia. (See related story this page: Pro-CU Candidates Gain Solid Footing.)

Rules Change as NCUSIF Level Drops

With the National Credit Union Administration (NCUA) anticipated to determine the premium for the National Credit Union Share Insurance Fund (NCUSIF) this fall, many are wondering how this will be influenced by the fund's normal operating level.

The normal operating level of the NCUSIF is an equity ratio that, under the Federal Credit Union Act, may range from 1.2% to 1.5% of insured shares. One percent of that total is comprised of credit unions' NCUSIF deposits. The remainder is made up of the retained earnings of the NCUSIF. Legislation that was passed last year now allows the NCUA to avoid imposing a premium if the NCUSIF's equity ratio falls below 1.2%.

The NCUA last month indicated that the fund's equity ratio could dip slightly below 1.2%. While the NCUA recently told *NewsWatch* that it would be required to publish a restoration plan in the *Federal Register* if the equity ratio falls below 1.2%, the NCUA did not give any details on what this

See page 3

Pro-CU Candidates Gain Solid Footing

August has been a strong month for credit union-backed candidates, with House and Senate hopefuls in Georgia, Colorado, Connecticut, and Washington State coming out ahead in their primary contests.

CUNA's Credit Union Legislative Action Council (CULAC) directly backed Washington senate incumbent Patty Murray (D), who will face Dino Rossi (R) in November. CUNA also supported Rob Woodall, who formerly served as chief of staff for Rep. John Linder(R) and is heavily favored to take over his former boss's seat in November.

Woodall was also heavily backed by the Georgia League and Lawrenceville, Ga.-based Gwinnett FCU. State league members were also active in Connecticut, where Democratic nominee Richard Blumenthal will face surprise Republican nominee and former World Wrestling Entertainment executive Linda McMahon for the Senate seat of retiree Chris Dodd (D).

Credit union backers Michael Bennet (D), Roy Blunt (R), Steve Cohen (D), and Jamie Herrera (R) have also moved on to their respective general election contests in Colorado, Missouri, Tennessee, and Washington.

Trey Hawkins, CUNA vice president of political affairs, said that CUNA and CULAC are excited by the prospects of all of these candidates come November.

>>Governmental Affairs

Fed Issues Changes to Mortgage Rules

The Federal Reserve Board last week made final rules that require financial institutions to notify consumers when their individual mortgages have been sold and prevent loan originators from receiving compensation based on a loan's interest rate or other loan terms.

The Fed also proposed a number of interim rules, including one that would require lenders to disclose how borrowers' regular mortgage payments can change over time. Credit unions and other interested parties have 60 days to comment on this proposal.

The Fed has also recently issued separate proposals that would enhance consumer protections and disclosures for home mortgage transactions under Regulation Z (Truth in Lending rules), improve some account disclosures, and prohibit certain unfair sale practices related to reverse mortgages. The National Credit Union Administration (NCUA) and various other federal agencies also issued reverse-mortgage guidance last week.

The Fed has also proposed revisions to escrow account requirements for higher-priced, first-lien "jumbo" mortgage loans. Specifically, this proposed rule would increase the annual percentage rate threshold used to determine whether a mortgage lender is required to establish an escrow account for property taxes and insurance for first-lien jumbo mortgage loans.

Various federal agencies are also working to address the structure of the mortgage system in general, and issues affecting mortgage-holders, backers and servicers will also be heard during a series of hearings slated for this fall.

Mortgage sale disclosure
http://www.federalreserve.gov/newsevents/press/bcreg/20100816c.htm

First-lien jumbo rule
http://www.federalreserve.gov/newsevents/press/bcreg/20100816a.htm

MDIA Disclosure
http://www.federalreserve.gov/newsevents/press/bcreg/bcreg20100816b1.pdf

Consumer protections and disclosures for home mortgage transactions
http://www.federalreserve.gov/newsevents/press/bcreg/bcreg20100816e1.pdf

Steering prohibition
http://www.federalreserve.gov/newsevents/press/bcreg/20100816d.htm

Reverse Mortgage Guidance
http://www.ncua.gov/news/press_releases/2010/JR10-0816ReverseMortgages.pdf

CUNA, CUs Continue MBL Press

Bill Cheney
CUNA President/CEO

With U.S. senators having until Sept. 13 to amend potential small business job-creation legislation, CUNA and credit unions continue the push for increasing the cap for credit union loans to small business members by meeting with legislators in their home districts over the ongoing summer congressional recess.

The Small Business Lending Fund Act is expected to be considered when the Senate returns from its current district work break. The bill includes $30 billion in government funds to encourage banks to lend more to small businesses, but does not yet include higher member business lending (MBL) authority for credit unions. CUNA estimates that a higher cap would quickly infuse at least $10 billion of new credit for small businesses into the economy—and at no cost to taxpayers.

CUNA, the leagues and individual credit unions support an amendment drafted by Sen. Mark Udall (D-Colo.) that would increase the MBL cap to 27.5%, up from 12.25%. CUNA President/CEO Bill Cheney has urged credit union supporters to continue their grassroots efforts to get the amendment included in the small business jobs bill.

"We are at a crucial point in our effort to expand the member business lending cap," Cheney says, adding that credit unions have "never been closer to success" on the issue.

CUNA CEO: Durbin Needs to Check CU Facts

CUNA President/CEO Bill Cheney said that credit unions should be commended—not condemned—for the way they offer credit cards to consumers, after Sen. Richard Durbin (D-Ill.) earlier this month expressed concern at the prospects of rising consumer fees at credit unions and other financial institutions.

In remarks made on the U.S. Senate floor, Durbin criticized credit unions for increasing annual fees on credit card accounts. However, Cheney urged Durbin to "take a more complete look at the facts regarding how credit unions and banks offer credit cards differently," including a July Pew Charitable Trust report *(NewsWatch, 8/2/10, page 7)* that found that the average annual fee of credit union-issued credit cards remained far below those charged by banks.

***NEWSWATCH* AUG. 2, 2010**
http://www.cuna.org/download/newswatch.pdf

>>Regulatory Affairs

Fed is Reviewing Check-Hold Rules

Within the 2,000 pages of the new financial reform law are some seemingly small rule changes of which credit unions should be aware. One such change is a provision amending the Expedited Funds Availability Act to raise the next-day-availability dollar requirement. The law will require depository institutions to make up to $200, rather than the current limit of $100, available the day after certain checks are deposited.

While it may look like a relatively minor change, it requires new disclosures, data processing changes and staff training for many credit unions. As currently required by the Federal Reserve's Regulation CC for changes that expedite the availability of funds, credit unions and other depository institutions would have to notify members or customers of the increase within 30 days of the effective date of the increase to $200. The provision goes into effect when the new Consumer Financial Protection Bureau is established, which is expected to happen sometime in 2011.

At the end of 2009, the Fed's staff assured CUNA that it planned to revisit the out-of-date Regulation CC, which implements the Expedited Funds Availability Act. The Fed said at the very least it would reconsider current check-hold exemptions in light of the need for depository institutions to better protect themselves from fraud due to the elimination of "nonlocal checks" that occurred in February 2010 when the Fed centralized all its check-processing operations in Cleveland. The regulation and the model forms have not yet been updated to correct the numerous references to "nonlocal checks."

Fall Sees New Semester, Student CARD Rules

Kids are packing to go away to school right now, but one thing they may not be loading up this year is a trunk full of credit card offers they received over the summer.

"Changes to Regulation Z that became effective last February will have a major impact on credit cards issued to college students," says Mike McLain, CUNA senior compliance counsel and assistant general counsel.

"Reg Z, which implements the Truth-in-Lending Act, generally prohibits a credit union, or any issuer, from delivering a credit card to anyone under the age of 21 unless there is a co-borrower, cosigner or guarantor over the age of 21 on the card who is jointly or secondarily liable and has income sufficient to make the required payments," explains McLain.

The exception is if an underage borrower documents an independent means to meet required minimum periodic payments. The revised Reg Z also addresses increases in lines of credit provided to borrowers under 21, McLain added.

"If a credit card is issued to an underage borrower along with a joint party, then the credit limit may not be increased without first obtaining the written agreement of the joint party that he or she will assume liability for the increase."

The new youth-card rules are among those authorized in the 2009 Credit Card Accountability, Responsibility, and Disclosure (CARD) Act. For more on the CARD Act rules, see the link below.

CARD Act Rule Analysis
http://www.cuna.org/reg_advocacy/member/download/fed_012910.pdf

Rules Change as NCUSIF Level Drops

From page 1

restoration plan would entail. NCUA Chairman Debbie Matz said late last month that credit union losses would be a central factor in determining the NCUSIF assessments.

The likely equity ratio of the NCUSIF at the time of the next premium will be around 1.19%, CUNA's Chief Economist Bill Hampel predicted. Once the premium is charged, bringing the ratio back above 1.2%, the ratio will likely fall gradually during the coming year, he added.

CUNA has said that charging a premium sufficient to bring the ratio all the way to 1.3% would be too large of a burden for credit unions in a time of depressed earnings. According to Hampel, "the primary consideration should be keeping the Fund's ratio above 1% so as to preclude any write-down of credit unions' 1% deposits. A beginning ratio of 1.25% should be more than adequate to that task."

3 great ways to get informed

Plus, all 3 events count toward the ***CUNA Volunteer Certification Program.***

1 CUNA Volunteer Institute

October 10-13, 2010 | Las Vegas, NV

I am moving forward... and staying on top of the relevant issues.

2 CUNA Supervisory Committee & Internal Audit Conference

December 5-8, 2010 | Las Vegas, NV

I am headed in the right direction... and gaining information for effective oversight.

3 CUNA Volunteer Institute

January 16-19, 2011 | Nuevo Vallarta, Mexico

I am on point... and qualified to understand a complex financial institution.

Find out more at training.cuna.org/VOLCONF

CUNA Volunteer Certification Program

I am a certified expert... and deserve all the recognition in the world for volunteering to direct a credit union. It's also a responsibility that can't be taken lightly.

The program will provide me with a convenient, practical way to become certified in the areas of credit union operations, governance, compliance, and more. Plus, through my studies and taking the online exams, I'll earn credentials as a Certified Credit Union Volunteer (CCUV) to prove I'm an accountable credit union volunteer.

Find out more at training.cuna.org/CCUV

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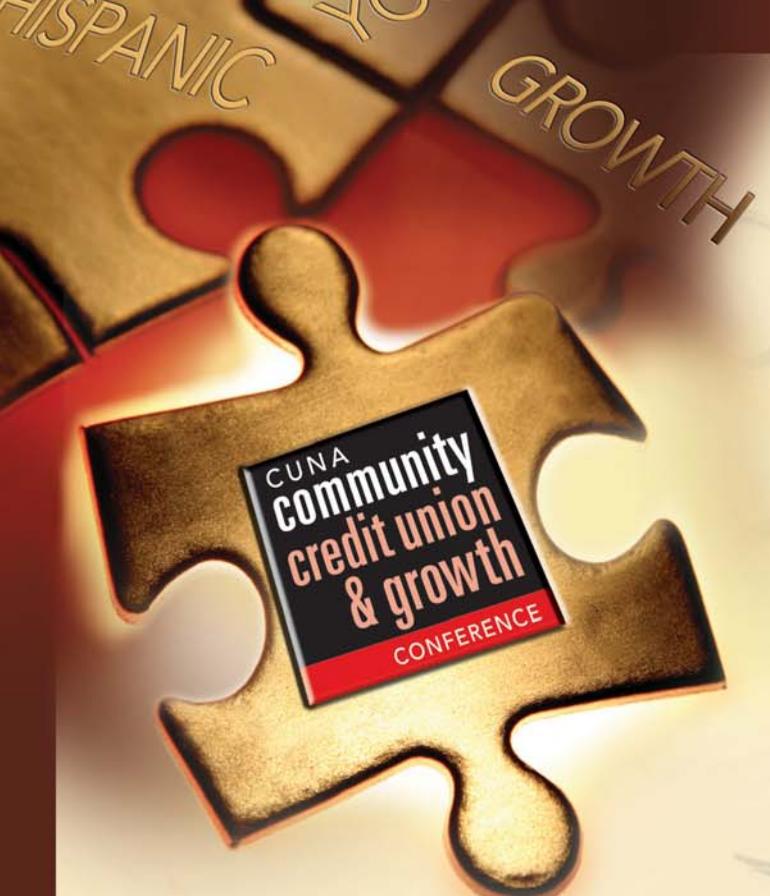

Is Your Credit Union Looking to Grow Membership and Revenue?

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- Discover Best Practices in Credit Union Efficiency
- Understand How to Turn Membership Growth into Revenue Growth
- The Old Credit Union Model is Gone: Learn to Reinvent Where Your Revenue, Loans and Members Come From
- Unlock Creative Membership Growth Strategies for Challenging Times

Community charter or not, you have a target market you want to reach. So get started at **The 2010 Community Credit Union and Growth Conference.**

October 6-9, 2010
Boston, MA

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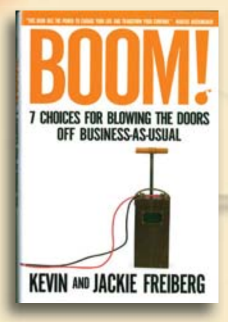
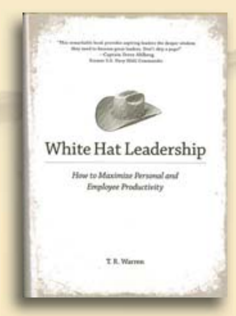
Keynote sessions:

Be a Player. Think Big, Act Bold. Own Your Success at Work!
Dr. Kevin Freiberg



The Guide to Successful Management: Responding to Organizational Culture
Ty Warren



Attendees receive complimentary copies of both books at the conference.

NEWLY RELEASED! The second of four white papers from the CUNA Community Credit Union Committee was recently released. Download *Best Practices in Credit Union Efficiency* and *Best Practices in Community and Market Development* today. Visit **cuna.org/initiatives/community_CUs/index.html** to learn more.

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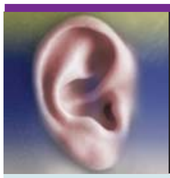

>>CUNA Confidential

How Much of Dodd-Frank Reform Applies to CUs?

The following chart provides rulemaking information for key provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act; more information is on CUNA's website at *www.cuna.org*.

No one knows how many new rules credit unions, banks or others will face under the Dodd-Frank law. CUNA's current estimate is far less than what some fear will be the case. As the Dodd-Frank law is implemented, rest assured CUNA will fight for interchange income and protect against undue regulatory burdens to the greatest extent possible.

http://www.cuna.org/download/dodd-frank_appdx.pdf

- For purposes of the rulemaking date column, the "designated transfer date" refers to the date the functions are transferred to the Consumer Financial Protection Bureau (CFPB), which is scheduled for between 6 and 12 months after the July 21, 2010 enactment date of the new law and may be extended until 18 months after enactment.
- Unless otherwise noted in the statute, credit unions and others are subject to statutory provisions as of the effective date of those provisions, even if the rules have not yet been issued. In those instances good faith efforts to comply will be important, if a credit union's compliance with a particular provision is challenged. Also, as with other comprehensive statutes, the agencies often miss regulatory rulemaking deadlines.
- The CFPB has very broad rulemaking authority, and we anticipate the agency will issue additional rules beyond those required under Dodd-Frank.

Regulation	Rulemaking Date (Agency)
Interchange	
Interchange: Reasonable and Proportional Fees for Debit Cards • The Federal Reserve Board (Fed) will write rules on debit interchange fees. Interchange fees for debit cards must be "reasonable and proportional" to the "incremental" cost of the individual transaction.	by 4/21/2011 (Federal Reserve Board - proposal anticipated in December according to Fed staff)
Interchange: Network Fees • The Fed may issue regulations for network fees, which are any other fees that the payment card -networks charge directly and receive, with respect to a debit transaction.	by 4/21/2011 (Federal Reserve Board proposal may be issued in December)
Interchange: Exclusivity and Routing • There is a prohibition on exclusive network arrangements and authority for merchants to determine routing of debit transactions. **Interchange -** http://www.cuna.org/download/dodd-frank_appdx.pdf#page1	by 7/21/2011 (Federal Reserve Board)
Executive Compensation	
Disclosure of Executive Compensation to NCUA • Credit unions with more than $1 billion in assets must report "executive compensation information" to NCUA. **Executive Compensation -** http://www.cuna.org/download/dodd-frank_appdx.pdf#page1	by 4/21/2011 (Federal Reserve Board, FDIC, OCC, NCUA, FHFA, SEC)
Lending	
New Appraisal Activities • Truth in Lending Act (TILA) § 129H prohibits a creditor from making a "higher-risk mortgage" to any consumer without first obtaining a written appraisal of the property involving a physical property visit by a licensed or certified appraiser. A second appraisal will be required in some circumstances if the borrower is buying a house that is being resold within 6 months of the seller's purchase. • The Home Valuation Code of Conduct will no longer be in effect, although new rules will address the issues outlined in the Code. • The agencies will have joint rulemaking authority to exempt certain loans for these requirements.	interim final rule by 10/19/2010; final rule within 18 months after designated transfer date (Federal Reserve, OCC, FDIC, NCUA, FHFA, Consumer Financial Protection Bureau (CFPB)
New TILA and RESPA disclosure • There will be new mandatory disclosures that will meet both the TILA and Real Estate Settlement Procedures Act (RESPA) requirements.	within 1 year after designated transfer date (CFPB)
Residential Mortgage Loan Origination Standards • New TILA § 129B will establish a duty of care for mortgage originators under the SAFE Mortgage Licensing Act and other applicable state and federal laws. Depository institutions shall establish and maintain proper compliance procedures.	within 18 months after designated transfer date (Federal Reserve Board)

(continued from page 6)

Regulation	Rulemaking Date (Agency)
Lending	
Prohibition on Steering Incentives • New TILA § 129B(c) will prohibit "steering incentives" or "compensation that varies based on the terms of the loan (other than the amount of the principal)." The Fed may waive or exempt the prohibition on upfront discount points, origination points, or fees.	within 18 months after designated transfer date (Federal Reserve Board)
Discretionary Regulatory Authority • There is discretionary regulatory authority to "prohibit or condition terms, acts or practices" related to mortgage loans which it finds to be "abusive, unfair, deceptive, necessary or proper to ensure that responsible, affordable mortgage credit remains available to consumers." The Fed may waive or exempt such requirements.	within 18 months after designated transfer date (Federal Reserve Board)
Minimum Underwriting Standards for Mortgages • TILA § 129C requires mortgage lenders to make "a reasonable and good faith determination, based on verified and documented information" that the consumer has a reasonable ability to repay the loan as well as applicable taxes, insurance (including mortgage guarantee insurance), and assessments. There will be safe harbor standards.	within 18 months after designated transfer date (Federal Reserve Board)
Mortgage Servicing • A creditor, in connection with the consummation of a consumer credit transaction secured by a first lien on the principal dwelling of a consumer—other than a consumer credit transaction under an open end credit plan or a reverse mortgage—must establish an escrow or impound funds for tax and hazard insurance payments. The Fed may prescribe rules on these criteria.	no specific date (Federal Reserve Board)
Timely Response to Consumer Complaints • The regulator should have timely response to consumers, which include response to a complaint, response received from covered persons, and any follow-up action.	no specific date (CFPB with other Federal agencies)
Expanded HMDA disclosures • Credit unions would have to report at least 13 new items under HMDA based on the dollar amount and number of mortgage loans.	no specific date (CFPB)
High-Cost Mortgages • There is a new definition for a "high cost mortgage" (i.e. a subprime mortgage). "Higher-cost" mortgages may not include a "balloon payment" or a scheduled payment that is more than twice as large as the average of earlier scheduled payments. The Fed may modify this definition. • The Fed may prescribe additional rules for certain high cost mortgages. **Complete CUNA Reg Reform Document -** *http://www.cuna.org/download/dodd-frank_appdx.pdf#page1*	no specific date (Federal Reserve Board)
Other Major Provisions for Credit Unions or Other Financial Institutions	
Amendment to Reg CC • The Expedited Funds Availability Act (Reg CC) will now require the first $200 (from $100) of a check deposit to be available by the next business day.	no rulemaking specified (however, the Fed is rewriting Reg CC and plans to have a proposed draft in September) (Federal Reserve Board)
Limits on Securitizations • Securitizers and originators, including credit unions, have to retain at least 5% of the credit risk of any asset that is transferred through an asset-backed security. Many credit union originated mortgages will fall under the "qualified residential mortgage" risk-retention exemption.	by 4/17/2011 (Federal Reserve Board, FDIC, OCC, HUD, FHFA, SEC)
Credit Ratings Agency Regulation • There will be a new Office of Credit Ratings within the SEC to administer the Nationally Recognized Statistical Rating Organization (NRSRO) rules for determining accurate ratings and to minimize conflicts of interests. • There is a civil liability standard for lawsuits against NRSROs by investors. • Federal agencies, including NCUA, will also need to replace references to NRSRO ratings in their regulations with an alternative system devised by those agencies.	by 7/21/2011 (SEC; Each federal agency for their own regulations)
Remittance transfers • Credit unions that offer remittances will be required to provide consumers with disclosures including the amount of money the consumer will receive (after fees and foreign exchange rates). • Exemption: International transfers where "a recipient nation does not legally allow, or the method by which transfers are made in the recipient country do not allow, the amount of currency that will be received . . ." • Exemption: Transactions initiated from a deposit account at a federally-insured credit union are exempt from the disclosure requirements for 5 years, with a possible additional 5 year extension. • Safe Harbors: There will be rules regarding liability for error resolutions and the "actions of agents."	no specific date for the disclosures rule; by 1/21/2012 for the rules for certain countries, errors, and cancel lations and refunds; within 5 years for the federally-insured exemption (Federal Reserve Board)
Permanent Increase in NCUSIF Share Insurance to $250k • NCUSIF insurance will be permanently increased to $250,000.	no rulemaking specified (NCUA)
Temporary Unlimited Insurance of Transaction Accounts • Non-interest-bearing NCUSIF-insured transaction accounts—e.g., share draft accounts which do not pay dividends are fully insured (i.e. without a maximum amount of deposit insurance) from the date of enactment. **Complete CUNA Reg Reform Document -** *http://www.cuna.org/download/dodd-frank_appdx.pdf#page5*	no rulemaking specified (NCUA, FDIC)

>>Notes Bearing Interest

GAAP Changes Could Cost CU Thousands

Mid Minnesota FCU's Pam Finch said recently that proposed changes to the Financial Accounting Standards Board's (FASB'S) Generally Accepted Accounting Principles (GAAP) could land her credit union with up to $40,000 in additional annual costs.

The proposed changes, made public in May in a FASB exposure draft, would modify GAAP by requiring most financial instruments to be measured at fair value. In addition, the changes would require loan-loss reserves to be measured on a forward-looking "expected loss" basis.

This differs significantly from the current method, which uses a historical "incurred loss" approach. FASB has informally stated that it would like to have a final rule in place by next summer. Credit unions over $10 million in assets are required to comply with GAAP.

Finch, who is the chief financial officer of her Baxter, Minn.-based credit union and also serves as CUNA CFO Council chair, said that while much of the increased cost associated with the GAAP change would be related to use of an outside firm to value her credit union's financial instruments, additional costs also are likely, such as costs related to increased resources necessary to gather and analyze information.

She shared her assessment during a CUNA audio conference, which also featured FASB and the National Credit Union Administration representatives.

CUNA urges credit unions to speak up during the comment period for these proposed changes, which ends Sept. 30.

CUNA Audio Conference
http://www.cuna.org/training-education/event/TA17280/

>>CUNA Notebook

Reg Reform Issues In Two-Day Audio Conference

Concerned by coming changes to debit interchange fee rules or the impact of the pending Consumer Financial Protection Bureau? CUNA staff will cover these and other changes during a pair of audio conferences on Aug. 24 and 25.

The overall impact of the new rules, and their implementation dates, also will be covered during the conferences. Changes to home mortgage lending rules, truth-in-lending requirements, credit union executive compensation, risk retention policies, and remittance policies will also be addressed, as will potential changes to the National Credit Union Share Insurance Fund and material loss review procedures.

Conference attendees may submit questions ahead of time via email at *training@cuna.coop.*

Aug 24: Financial Reform Act: Part 1
http://www.cuna.org/training-education/event/T018240/

Aug 25: Financial Reform Act: Part 2
http://www.cuna.org/training-education/event/T018250/

18-Month Economic Outlook

Economists are divided on the sustainability of the current economic recovery with some predicting a gradual positive trend toward full recovery and others expecting a second dip of a double-dip recession as soon as government stimulus programs expire.

CUNA economists are expecting a subdued recovery in 2010 and continued expansion in 2011, with a 3% growth rate for both years. Inflation is not an imminent threat in the near term, they say, but remains a risk three to five years in the future. But there are numerous barriers to economic recovery: rising foreclosures, falling consumer confidence, weak state budgets, falling home prices, slow job creation, and rising interest rates.

CUNA's E-Scan Report takes a look at the total picture.

2010-2011 E-Scan Report
http://www.cuna.org/products-services/detail.php?sku=29436