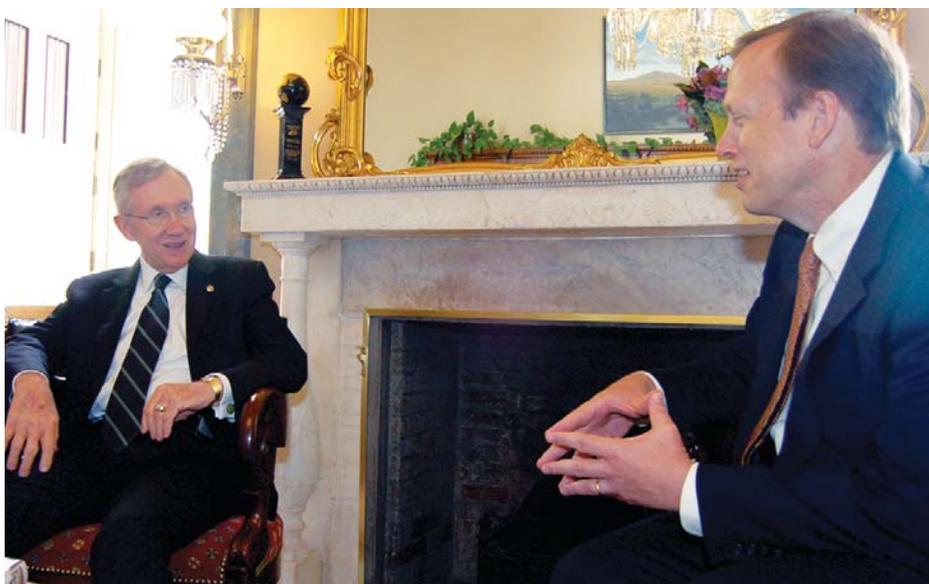


CREDIT UNION NewsWatch



AUGUST 2, 2010

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



CUNA's Bill Cheney discusses credit union issues with Senate Majority Leader Harry Reid (D-Nev.) during a recent meeting in the senator's suite of offices in the U.S. Capitol. A key element of their discussion: an increased cap for credit union member business lending. (CUNA photo).

CUs Have Gained a Lot of Ground on MBLs

The recent Capitol Hill battle that embroiled a small business jobs package has taken its toll on that legislation, but credit unions have been able to use the process to shine a positive light on increased member business lending, says CUNA Senior Vice President of Legislative Affairs John Magill.

CUNA and credit unions worked fervently to add a provision to a small business jobs bill that would increase credit union business lending authority to 27.5% of total assets, up from the current 12.25% cap. Sen. Mark Udall (D-Colo.) crafted an amendment proposing that increase and urged his colleagues in the Senate to add it to the body of the bill.

During the process, CUNA and credit unions have been able to make the case for increased MBL authority to lawmakers, >> ▶ See page 2

Executive Comp Plan, Overdraft Changes

The National Credit Union Administration (NCUA) at its July open meeting proposed limiting the so-called "golden parachutes" that can be provided to departing executives. Under an NCUA proposal, those deferred compensation arrangements would be prohibited for federally insured credit unions that are CAMEL Code 4 or 5 status or are otherwise financially troubled. Executives that are denied the so-called "golden parachute" payments would still be eligible to receive pension payments, however. The rules would not apply to existing contracts, but only to contracts that are entered into after the rule is in place, the NCUA said.

The NCUA also adopted an interim final rule amending its Truth in Savings regulations to reflect recent clarifications that were made by the Federal Reserve. Those changes, which took effect in June, address overdraft fees.

Technical changes to the NCUA's definition of "low income" were also approved during the meeting. (See link for CUNA summary.)

Both the NCUA's budget and the financial status of the credit union system in general were also covered during the meeting. The NCUA trimmed its 2010 budget, resulting in \$2 million in savings. That \$2 million in savings will be passed on to

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Panel removes ban from bill



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Operating level should never dip much below 1.2%

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Executive Comp Plan, Overdraft Changes

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federal credit unions in the form of a reduced 2011 federal credit union operating fee, the NCUA said. While the overall financial status of the credit union system remained consistent with the numbers presented last month, NCUA staff did note a slight increase in the number of CAMEL Code 4 and 5 credit unions, with a small decrease in the percentage of total shares that are held in those troubled credit unions. 🏠

 **CUNA Summary**
<http://tinyurl.com/2wqua33>

CUs Have Gained a Lot of Ground on MBLs

▶ From page 1

government officials and the media. The effort, in fact, gained the MBL increase the backing of the Obama administration.

“This is the closest credit unions have ever gotten in their pursuit for increased MBL authority. Lawmakers, and the nation at large, have learned how much this simple legislative change could do to help our nation and its small businesses,” says Magill.

“The overall bill may be a victim of politics. But credit unions have received attention and recognition on Capitol Hill, and we’ll be back at the first opportunity to finish the job,” Magill said.

CUNA estimates that more than \$10 billion in credit could become available if the MBL cap were lifted, even if just to 25%, and 108,000 jobs could be added to the nation’s job market. 🏠

UIGEA Tweaks Good for CUs

While CUNA and credit unions in general take no position on the legal status of online gambling, credit unions that are currently dealing with the costs and hardships imposed by the Unlawful Internet Gaming Enforcement Act (UIGEA) will be glad to know that legislation that could limit those burdens may soon see the House floor.

The House Financial Services Committee late last week approved H.R. 2267, the Internet Gambling Regulation, Consumer Protection, and Enforcement Act, which would allow the U.S. Treasury to license Internet gambling operators and would permit approved operators to accept bets from U.S. citizens.



This legislation would ease UIGEA-related compliance burdens, which many credit unions face, by supplying a list of approved Internet gambling providers that financial institutions could use to help determine what transactions to validate. UIGEA currently requires credit unions and other financial institutions to establish and implement policies and procedures to identify and block restricted internet gambling transactions, or rely on

those procedures established by the payments system.

It is not known when the gambling legislation will come up for debate or a full House vote. 🏠

Senate Panel Strips Interchange Ban from Bill

CUNA President/CEO Bill Cheney called it “an important victory” when Sen. Susan Collins (R-Maine) last week successfully offered an amendment to an appropriations bill and struck language that would have banned payment card networks from charging the federal government a credit card interchange rate higher than the lowest interchange rate available on the market.

Instead of the ban, the Collins language would require the Government Accountability Office (GAO) to study the feasibility of allowing the federal government to impose convenience fees for the use of credit cards for the purchase of goods and services.

Cheney said when the amendment was adopted by voice vote, “While we know the interchange battle will continue on other legislation, this is



U.S. Sen. Susan Collins (R-Maine), right, and Maine CU League President John Murphy are shown in this 2008 photo taken just before Collins addresses a delegation of Maine credit union representatives in Washington, D.C. (Maine CU League photo)

an important victory and we are very appreciative of Sen. Collins’s leadership on this issue.”

CUNA and the Maine CU League worked closely with Collins and her staff as they developed the amendment prior to the committee vote. 🏠



>> Regulatory Affairs

Matz: NCUSIF Shouldn't Go Much Lower than 1.2%



Debbie Matz

National Credit Union Administration (NCUA) Chairman Debbie Matz declared in July that she is against reducing the normal operating level of the National Credit Union Share Insurance Fund more

than a few basis points below 1.2%.

CUNA also does not support setting the normal operating level below the 1.2% statutory benchmark, but has recom-

mended that the NCUA set the operating level below 1.3%.

In fact, when the Federal Deposit Insurance Corp. (FDIC) announced plans in June to hold steady on the rate of insurance assessment it charges federally insured banks to the end of the year, and then apply a uniform three basis-point increase beginning Jan. 1, CUNA commended the flexibility of that approach.

CUNA said the plan indicates recognition of economic realities facing financial institutions and the FDIC's willingness to "hold off inflicting more pain" on banks through increased premiums at this time.

"This is the kind of flexibility that credit unions encourage the NCUA use, by allowing the NCUSIF normal operating level to be set closer to 1.2% to help to mitigate credit unions' NCUSIF costs, without going under the 1.2% statutory benchmark under which more premiums would be triggered," CUNA said.

Setting the operating level below 1.2%, however, would tip the equity level too far towards 1%. CUNA warns reducing the amount held in the fund to below 1% of insured shares would trigger replenishment. 

TCCUSF 'Clean' Audit is Encouraging

CUNA Chief Economist Bill Hampel, after reviewing the recently released "clean" audit of the Temporary Corporate Credit Union Stabilization Fund (TCCUSF), said credit unions can find the fund's unqualified audit reassuring even though it does not offer any new information.



Bill Hampel

The projected total cost of the corporate stabilization effort remains approximately \$7.5 billion, of which \$1 billion is the previous capital injection into US Central FCU, and \$6.5 billion is the accounting cost of guaranteeing all credit union non-capital deposits in corporate credit unions, Hampel said.

"These accounting costs are the National Credit Union Administration's (NCUA's) estimates of the ultimate actual costs of corporate stabilization. After all is said and done, credit unions will have to pay the actual costs that are eventually incurred as a result of troubled assets held by some corporate credit unions. This

year's 13.4 basis point (bp) assessment raised \$1 billion toward the final cost. In the next three to four years, we'll learn more about what the actual costs will be," Hampel said.

He added that it "would not be unlikely" to see assessments in the neighborhood of 13 bp for the next couple of years, followed by adjustments, either increases or decreases, in the last few years of the stabilization as actual losses become better known.

Last week, as the NCUA unveiled the audit results. Chairman Debbie Matz said the good report from KPMG LLP, the independent firm retained to conduct the audit, represents "an important validation of the soundness of this essential NCUA role." Last month, KPMG also gave the National Credit Union Share Insurance Fund (NCUSIF) a "clean" audit report, with auditors also certifying the "financial accuracy" of the NCUA's operating fund, its community development revolving loan fund, and its central liquidity facility.

Use the resource link below for more information. 

 **NCUA release**
<http://tinyurl.com/34czs98>

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 **CUNA Comment Call**
http://cuna.org/reg_advocacy/reg_call/rcc_070710a.html

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Analysis: Interchange Rule's Impact



Bill Cheney, President/CEO
Credit Union National Association

One of the most pressing and, indeed, controversial portions of the recently enacted financial regulatory reform is legislation that addresses interchange fees. That

legislation, which requires the Federal Reserve Board to write rules on interchange fees for debit card purchases, was strongly opposed by CUNA and credit unions. CUNA, with the help of its Interchange Working Group, continues to pursue as favorable an outcome as possible through its work with the Fed.

CUNA has analyzed portions of the legislation that will be of particular interest to credit unions.

Interchange Overview

The new interchange law amends the existing Electronic Fund Transfer (EFT) Act by revising section 920. It remains unclear whether the Fed's rule will set an actual interchange rate or set standards for determining whether interchange fees are "reasonable and proportional" to an issuer's costs. And there has been no definitive statement from federal authorities on how interchange rates will be regulated. The Fed has also not yet released a definitive timetable for the development and implementation of new rules, but CUNA estimates the final rule should be issued by mid-to late April. The effective date would likely fall in mid-to late-July 2011.

As noted, the interchange regulations will be implemented by the Fed,

not the new Consumer Financial Protection Bureau (CFPB), which will implement other laws, including other provisions of the EFT Act. However, the Fed will be required to consult with the National Credit Union Administration (NCUA) and other federal financial regulators, including the CFPB, as it crafts the interchange regulations.

Credit unions with under \$10 billion in assets are exempt from the Fed price-setting provisions, but CUNA remains concerned that the law does not require the marketplace to accommodate higher fees for smaller issuers and will continue to advocate on this issue on credit unions' behalf.

Interchange Specifics

1. Prohibitions on Exclusive Arrangements and Limits on Routing

The interchange law prohibits an issuer or payment card network from restricting the number of networks on which an electronic debit transaction may be processed to: one; or two or more networks that are owned, controlled or operated by affiliated entities, or affiliated with the issuer. The new rules will prohibit an issuer or payment card network from inhibiting a merchant from directing a transaction to any payment network that is enabled to accept and process the transactions.

Currently, payment network contracts may call for debit transactions to be directed over one network, but that will change under the rule. CUNA does not believe that small issuers should be pushed to participate in two independent networks, and CUNA is pursuing this and other related concerns with the Fed and other authorities.

2. Regulation of Network Fees

The regulatory reform provisions also give the Fed the ability to regulate payment network fees, which are not interchange fees that go to issuers but

are any other fees that the payment card networks charge directly and receive, with respect to a debit transaction. However, the Fed's authority in these matters would be limited to ensuring that these fees are not used to compensate an issuer regarding a debit transaction and not used to get around compliance with any of the restrictions of the interchange provisions.

3. Merchant Discounts Based on the Form of Payment

The Fed has not been directed to address these types of merchant discounts, but merchants are authorized to provide discounts to consumers based on how they pay for a good or service, such as by cash, debit card or credit card. Payment networks may not inhibit merchants from providing such discounts and may not penalize merchants for providing discounts, as long as they are consistent with federal and state regulations.

4. Transaction Minimums

Card networks now may not inhibit the ability of any person, including a merchant, federal agency, or institution of higher education, to set a minimum dollar value for the acceptance of credit (not debit) cards. The minimum charge may not exceed \$10 at this time, but the Fed will have the option of increasing the minimum at a later date.

5. Merchants' Acceptance of Cards

Merchants and others may not discriminate between debit cards within a payment card network or credit cards within a network on the basis of the issuer, effective immediately. There is no specific rulemaking or enforcement authority associated with these provisions but CUNA is discussing the matter with the Fed, payment networks and policymakers on Capitol Hill.

Use link to read complete analysis.

CUNA Analysis
<http://tinyurl.com/246xtre>



>> Special Report

Cheney: CU Advocacy in Congress, Media

CUNA leader Bill Cheney's formal introduction to Washington has remained a busy one, pressing the credit union cause during a slew of visits to key lawmakers.

The visits, including ones with respective Senate and House leaders Harry Reid (D-Nev.) and John Boehner (R-Ohio), focused on member business lending and other key credit union issues. Cheney also met with House Financial Services Chairman Barney Frank (D-Mass.) and Sen. Banking Committee Chairman Chris Dodd (D-Conn.), as well as National Credit Union Administration (NCUA) Chairman Debbie Matz and board member Gigi Hyland. Cheney also reached out to other members of



House Minority Leader John Boehner discusses the outlook for the congressional calendar with CUNA's Bill Cheney during a recent meeting. (CUNA photo)

Congress, presenting CUNA and credit unions' positions via a comprehensive letter on MBL legislation.

Cheney has also planned meetings with NCUA board member Michael

Fryzel and U.S. Treasury Assistant Secretary for Financial Institutions Michael Barr in the near future.

Cheney's credit union offensive continued in online and broadcast media, with an appearance in a *bankrate.com* story on interchange, Fox Business Channel on MBLs, and quotes in the pages of *Bloomberg BusinessWeek*. Cheney in his Fox appearance said that banker opposition remained the only true roadblock to lifting the MBL cap. "Bankers aren't lending and they don't want credit unions to lend, either," Cheney said. That same tone was repeated in *Bloomberg BusinessWeek*, where Cheney said that while credit unions are currently lending, they could do "a lot more," if allowed. 🏠

▶ Pew on CARD Reform: Two Steps Forward, but Challenges Remain

Times have changed since the Credit Card Accountability, Responsibility and Disclosure (CARD) Act of 2009 was signed into law, the PEW Health Group concludes in a recent study. The PEW report says many "troublesome" card practices—which were rarely found at credit unions—have disappeared from the market because of the law that targeted unfair and deceptive practices.

Table 1 of the PEW report may be of interest to credit unions. While "Key Findings at a Glance as of March 2010" shows some rates at both banks and credit unions increasing, credit unions remain the better deal for consumers by far. 🏠

👉 **CUNA Summary of the CARD Act**
http://cuna.org/compliance/member/eguide/eguide_regz_HR627summ2.html

👉 **PEW Health Group Report**
<http://tinyurl.com/23sazg5>

KEY FINDINGS AT A GLANCE AS OF MARCH 2010

All APRs and fees below are medians.

Excerpt

	Banks	Credit Unions	Comments
Purchase APR (Lowest Advertised)	12.99%	9.90%	Banks: Up 6% since 7/09 and 30% since 12/08. Credit Unions: No increase since 7/09.
Purchase APR (Highest Advertised)	20.99%	16.15%	Banks: Up 17% since 7/09 and 31% since 12/08. Credit Unions: Up 17% since 7/09.
Cash Advance APR (Lowest Advertised)	24.24%	11.40%	Banks: Up 20% since 7/09. Credit Unions: Up 12% since 7/09.
Cash Advance APR (Highest Advertised)	24.24%	16.00%	Banks: Up 14% since 7/09. Credit Unions: Up 16% since 7/09.
Penalty APR (where disclosed)	29.99%	17.90%	Penalty rate practices changed significantly since 7/09. New legal rules prohibit imposing penalty rate increases with little or no notice. Still, they remained common. 94% of bank cards and 46% of credit union cards included penalty rates. But almost half the bank cards stopped disclosing their actual penalty APRs.
Late Fee	\$39	\$25	No significant change in prevalence of late fees (99.76% of bank cards and 95% of credit union cards). Amount of credit union fee rose from \$20 in 7/09.
Overlimit Fee	\$39	\$20	Only one in four cards charged the fee, down from more than 80% in 7/09. No change in fee amount.
Cards with Rewards-Related Penalties	23%	0%	Five banks tied rewards accrual to payment status. At least one issuer takes away already-accrued rewards if a cardholder becomes 60 days or more past due.
Any Time, Any Reason Change in Terms	APR Existing Balances: No Cards APR New Transactions: All Cards	APR Existing Balances: No Cards APR New Transactions: All Cards	Nearly every card in 7/09 had any time, any reason change in terms policies. The Credit CARD Act affected this practice by prohibiting issuers from changing rates or other terms on outstanding balances (with very few exceptions). It also requires 45 days' advance notice before changing terms for new transactions.
Cash Advance Fee	4.00%	2.50%	Banks: Up from 3.00% in 7/09. Credit Unions: Up from 2.00% in 7/09.
Balance Transfer Fee	4.00%	2.50%	Banks: Up from 3.00% in 7/09 Credit Unions: No change since 7/09.
Annual Fee	\$59	\$25	Up from \$50 for banks and \$15 for credit unions in 7/09. No significant change in prevalence of annual fees. 14% of all cards had them in 3/10 compared to 15% in 7/09.
Overdraft Advance Fee	3.00%	None	No significant change in prevalence or median fee since 7/09.



>> Notes Bearing Interest

NCUA Cautions on Home Equity Schemes

The National Credit Union Administration (NCUA) has issued a regulatory alert urging credit unions to be aware of potential red flags signaling home equity fraud schemes.

The NCUA warning mirrors a recent advisory from the Financial Crimes Enforcement Network that highlighted reverse-mortgage fraud schemes sometimes related to the Federal Housing Administration's Home Equity Conversion Mortgage (HECM) program. The NCUA alert advises credit unions filing Suspicious Activity Reports (SARs) to include the specific term "HECM" in the narrative portions of all relevant SARs.

According to the NCUA, potential



criminals may use credit unions to receive, deposit or move funds as part of a

HECM fraud scheme. Credit unions may be made aware of these scams through discussions with members who have become victims. If members become victims of these scams, credit unions should "include all information available for each party suspected of engaging in this fraudulent activity" in their reports.

This information should include the individual or company name, address, phone number, and any other identifying information, the NCUA noted. Homeowners may be listed as suspects in the fraud if there is evidence that they participated in the fraud. 🏠

Regulatory Alert
<http://www.ncua.gov/Resources/RegulatoryAlerts/Files/2010/10-RA-09.doc>



>> CUNA Notebook



The National Credit Union Administration (NCUA) in its Letter to Credit Unions No. 10-CU-10 reiterates expectations that credit unions be prepared for disasters, natural or otherwise. The letter, "2010 Hurricane Season and Ongoing Disaster, Emergency, and Pandemic Preparedness and Planning," reminds credit unions to periodically review their pandemic preparedness and response plans.

The National Hurricane Center (NHC) predicts one of the most active hurricane seasons on record for the six-month season from June through November 2010. More storms means more risk that some will hit land. 🏠

NHC Hurricane Predictions
http://www.noaa.gov/stories/2010/20100527_hurricaneoutlook.html

Regulation Z Update; Other Consumer Lending Issues

Every financial crisis in the past has led to more regulation, but the current upheaval seems to beat them all in that area with 61 regulatory pronouncements made in 2009 and many more occurring and expected throughout 2010.

The extensive changes to the Federal Reserve's Regulation Z, which covers Truth in Lending Act rules and more, may be the biggest compliance challenge currently facing credit unions— affecting almost every type of consumer credit.

CUNA is offering a Sept. 1 webinar offering a Reg Z update as well as insight on other consumer lending issues. Featuring Bill Klewin, vice president

and staff director of the Lending Lab for CUNA Mutual Group, the session will also:

- ▶ Discuss changes to the credit disclosure rules;
- ▶ Review changes to multi-featured open-end lending;
- ▶ Detail what disclosures will be required for account opening tables, periodic statements, and changes in terms;
- ▶ Review substantive limitations published for open-end loans; and
- ▶ Identify proposed changes to the HELOC disclosures. 🏠

Register Here
<http://www.cuna.org/training-education/event/EW0910/>