



At its open meeting Thursday, the NCUA board will reveal its plan for corporate credit union reform, as well as its proposed 2010 budget. Next month, the agency has already indicated, it will take on revisions to its community charter rule. From the October meeting, board member Gigi Hyland (left) and General Counsel Bob Fenner are shown behind the 10-lb. conversion document considered at that meeting. (CUNA Photo)

Eyes on CU Corporate Rule

The time is almost here: the National Credit Union Administration (NCUA) Thursday will release its draft plan for restructured corporate credit union regulations, and Chairman Debbie Matz has said they will reflect some of the input collected during recent town hall-style meetings.

CUNA is concerned about the pending rule's ability to strike the right balance between addressing safety and soundness issues, such as sufficient capital, and achieving a corporate credit union structure that credit unions will want to support and use, CUNA Deputy Counsel Mary Dunn said. CUNA will closely analyze the NCUA proposal and form a comprehensive comment.

Matz previewed the corporate credit union proposal during the recently held American Association of Credit Union Leagues annual meeting.

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CUNA Secures 21-Day Fix

With the Nov. 6 signing of the CUNA-sought H.R. 3606, the CARD Act Technical Corrections Act, President Barack Obama helped resolve a situation that had plagued credit unions since the original Credit Card Accountability, Responsibility and Disclosure (CARD) Act was signed in May of this year.

The CARD Act incorrectly implied that a 21-day late notice requirement applied to all open-end credit. CUNA disputed this implication, arguing that lawmakers had always intended to apply the provision to credit cards only. H.R. 3606 confirms this belief, clearly stating that the late-notice provision applies only to credit cards.

The original act would have prevented credit unions from granting biweekly payment plans or sending consolidated billing statements to their members and would have forced them to change payment due dates for members that had previously chosen due dates based on their specific financial circumstance. CUNA, the state leagues, and several individual credit unions worked closely with lawmakers to fix the language of the CARD Act and avoid these potentially costly circumstances.

Credit unions "would still be reeling from the unintended consequences of this law" had the leagues and individual credit unions not made their voices heard, CUNA President/CEO Dan Mica said.

Mica also thanked the House, Senate and President Obama

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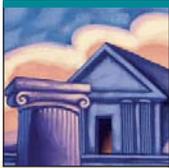
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>> Legislative Affairs

Overdraft Issues Should be in Regulators Hands

The Federal Reserve's final rule on overdraft protection plans, issued last week, should give Congress pause before it proceeds further with the various legislative proposals that are now pending, according to CUNA. CUNA's position has always been that a regulatory approach to these issues is far preferable to these legislative initiatives.

Starting July 1, the Fed rule will require the consent of consumers before they can be charged overdraft fees for ATM and one-time debit transactions.

CUNA has supported such an opt-in feature if it is limited to debit and ATM transactions. However, CUNA only backs this feature if limited to new members, due to the potential operational difficulties of retroactively applying such a requirement to existing member relationships.

Although backing a regulatory approach to overdraft rules, CUNA continues congressional conversations on pending legislation in both the House and Senate and has prompted about 20,000 individual

email messages to federal lawmakers.

Also, representatives from the League of Southeastern Credit Unions and various Alabama credit unions presented their congressman, House Financial Service Committee ranking minority member Spencer Bachus, with letters from hundreds of credit union members who greatly value the overdraft service.

The overdraft debate in Congress will begin again this week, with the Senate Banking Committee holding a Tuesday hearing. ☛

Senate, House Have Reg Reform Plans

Sen. Christopher Dodd (D-Conn.) last week released his discussion draft for financial regulatory overhaul, and Dodd's legislation appears to have much in common with the House's concept of regulatory reform.

As currently written, both bills would allow the National Credit Union Administration to preserve its role as sole safety and soundness regulator for credit unions.

However, Dodd's bill would consolidate the Office of the Comptroller of the Currency, the Office of Thrift Savings, and other federal authorities into a single financial institutions regulatory administration.

While both bills would strip the Federal Reserve of some of its powers, Dodd's bill goes the furthest, removing banking supervisory power from the Fed and focusing that agency on monetary policy. Frank's bill would grant the Fed continued supervision over banks, and would also allow it to monitor for systemic risks.

Both bills seek to guard consumers through the creation of a consumer financial protection agency that would have broad authority to investigate and react to abuses by financial institutions, and Dodd would look to fold the NCUA's consumer protection powers into this agency. Formal markup of the bill could begin in the first week of December.

The House legislation is currently working its way through committee, and CUNA is working with Rep. Barney Frank (D-Mass.) to modify this bill before it moves on for a full House vote. ☛

CUNA Secures 21-Day Fix

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for quick work on the bill, adding that the signed legislation "gives credit unions the opportunity to go back to doing what they do best: Serving their members with affordable and needed financial services."

"Credit unions can continue the practices of sending members consolidated billing statements, changing payment due dates for members who had previously chosen a due date based on their specific financial situation, and continuing bi-weekly payment plans—all essential tools consumers use to manage their finances in the ways that best suit their needs," Mica noted. (See page 3 for CUNA's comprehensive compliance information.)

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<http://cuna.org/events/gac10/index.htm>



A CUNA How-to: 'Un-comply' with Old 21-Day Rule

The CARD Act Technical Corrections Act has raised questions about what steps credit unions should take to “un-comply” with the former terms of the 21-day mailing provision. Now that President Obama has signed H.R. 3606, a “technical correction” to original CARD Act, CUNA is taking on those questions.

The new law makes clear that a 21-day late notice mailing requirement only applies to credit card accounts and, as CUNA argued all along, not to all open-end credit. “Now it’s like the requirement never existed for the rest of open-end loans,” explains Mike McLain, CUNA’s senior compliance counsel and assistant general counsel. A Fed attorney has assured CUNA the change will be duly reflected in rules when they are issued.

So what should credit unions, having



Mike McLain

spent the summer struggling to comply with the burdensome 21-day rule mistake, do next? McLain says:

▶ Credit unions that simply followed a permitted temporary solution to put a special

notice on their periodic statements about the 21-day period can now stop except for credit cards;

▶ Credit unions that listed several upcoming due dates on current periodic statements to make sure a member had plenty of notice also can just discontinue the practice and continue to list only current months’ due date;

▶ Credit unions that took such comprehensive actions as changing due dates

to the end of the month or altering bi-weekly payment plans will have to make their own business decisions on whether they want to revert to what they did prior to Aug. 20.

However, McLain emphasizes there are certain situations where the 21-day notice will continue beyond credit card programs. “Some credit unions provide a grace period for repayment before charging any finance charge on certain open-end loans. In that case, the credit union must give the member 21 days to take advantage of the grace period, not to be confused with a courtesy period,” McLain emphasized.

For more from McLain, use the resource link below. 📄

CUNA Compliance Information
<http://www.cuna.org/newsnow/09/wash110209-5.html>

Matz Says Exams ‘Show Flexibility’



Debbie Matz

National Credit Union Administration Chairman Debbie Matz defended the agency’s work of balancing the lending needs of a weakened economy with the need to ensure the “safety and soundness” of its insured institutions in a letter to Reps. Barney Frank (D-Mass.) and Walter Minnick (D-Idaho).

Matz, responding to the legislators’ letter requesting that federal regulators “show some temperance” during their examinations of financial institutions, said that the NCUA is drafting a supervisory letter to encourage credit union examiners to “show flexibility” if a credit union that is under financial stress “demonstrates adequate long-range strategic planning that would enable the institution

to weather broader economic difficulties.”

Matz also detailed some ways that the NCUA is giving leeway for credit unions and their members through supporting residential real estate mortgage loan modification programs and commercial real estate loan workouts.

In other news, Matz, addressing the American Association of CU Leagues last week, said the agency will be strengthening supervision of key risk areas, and named those as over-concentration in fixed-rate mortgages, increased indirect loan delinquencies, and member business loans. 📄

Eyes on Corporate CU Rule

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According to Matz, the new corporate rule will prevent the over-concentration of assets in any one type of investment, will modify capital standards to make them more consistent with Basel 1, and will establish new limits on cash flow mismatches to ensure that any asset/liability gap does not pose an excessive risk. The corporate rule, which will also prohibit so-called “golden parachutes” for high-ranking executives and recommend that corporate credit unions provide annual disclosures of the total compensation packages of all senior staff members, will be released for a 90-day comment period. 📄

NCUA Corporate Stabilization Plan
http://www.cuna.org/initiatives/member/corp_stabilization/media_points.html

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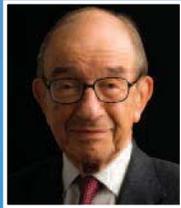
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Alan Greenspan
Former Chairman of the Federal Reserve



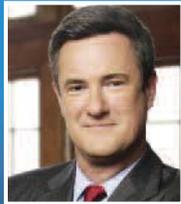
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Captain of the Maersk Alabama, hijacked by Somali pirates



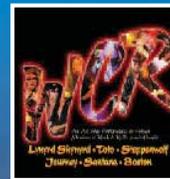
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>> Regulatory Affairs

CUNA Conference Spotlight BSA Violations

At CUNA's recent Bank Secrecy Act (BSA) conference in San Francisco, the National Credit Union Administration (NCUA) highlighted common violations for 2009, and for the most part, they mirrored the experience of the prior year. Trends in 2009 violations are as follows:

Training

▶ NCUA is finding that training is not documented, isn't comprehensive and isn't done often enough. Training should be done at least annually, especially for low risk credit unions. Every credit union board and senior management should be educated on, at the very least, the general aspects of BSA.

▶ Examiners are looking for documentation of BSA training and would like to see some sort of testing mechanism in place to determine staff's comprehension of training (although testing is optional). Credit unions should keep records of the type of training provided and a list of individuals trained.

Independent Testing

▶ NCUA is finding that credit union independent testing is not frequent enough and would like to see it executed at least every 12 to 18 months. Sometimes testing also isn't extensive enough and doesn't cover all operations.

▶ Independent testing should include transactional testing. Credit unions may bring in an outside auditor or swap audi-

tors with other credit unions. They should use the Federal Financial Institutions Examination Council's (FFIEC) BSA/AML manual (see link below) as a guide for their independent testing.

Internal Controls

▶ NCUA is finding that credit union risk assessments are not being updated as needed and that anti-money laundering (AML) systems are inadequate. The riskier and more complex a credit union's profile, the more robust its AML system needs to be.

Data Quality Errors in CTR/SAR Filings

▶ NCUA is seeing some of the same errors in currency transaction reports (CTRs) and suspicious activity reports (SARs) — incomplete forms, and blank narratives on SARs.

▶ NCUA also urges credit unions to use the BSA E-filing system and refers credit unions to the Financial Crime Enforcement Network's (FinCEN's) most recent SAR Activity Review (see link) that highlights the benefits of BSA E-filing.

"What's New"

The NCUA mentioned the FFIEC BSA/AML Examination Manual revision is scheduled to be issued in early 2010. There are some new sections added. NCUA also flagged recently issued FinCEN guidance on such things as revised CTR Exemption Rules and the most recent SAR Activity Review: Trends, Tips and Issues (Issue 16). 

What's New from OFAC

Also at the CUNA Nov. 1-4 Bank Secrecy Act conference, credit union participants heard the latest from the Office of Foreign Assets Control (OFAC):

▶ OFAC has finalized its Economic Sanctions Enforcement Guidelines, which were effective Nov. 9. They outline factors that will be considered in determining an appropriate enforcement response to an apparent violation of an OFAC sanctions program. This final rule supersedes all previous enforcement guidance issued by OFAC, and applies to all persons and entities subject to any of the sanctions programs administered by OFAC;

▶ OFAC is preparing to change its regulations to mandate electronic filing of blocked and rejected transaction reports and is currently beta-testing the new system; and

▶ OFAC highlighted changes to its Iranian and Cuban sanction programs. For example, accounts of individuals who are simply traveling to Iran no longer need to be restricted, as long as the underlying transaction is not prohibited; and OFAC has issued a general license allowing Cuban Americans to send remittances to close relatives in Cuba.

 **FFIEC BSA/AML Manual**
http://www.ffiec.gov/bsa_aml_infobase/pages_manual/manual_online.htm

▶ Seeking CU Comment...

These issues are open for public comment. Credit unions are asked to submit a copy of their comment to CUNA.

Federal Reserve Board

AGENCY DUE DATE	PROPOSAL	CUNA DUE DATE
November 20, 2009	Second Regulation Z Credit Card Proposal CUNA Comment Call: http://www.cuna.org/download/rcc_101409.pdf	November 10, 2009
December 24, 2009	Regulation Z HELOC Proposal CUNA Comment Call: http://www.cuna.org/download/rcc_093009a.pdf	December 10, 2009



>> Notes Bearing Interest

▶ The Front Burner

The most viewed news stories on cuna.org during October 2009 reveal the hottest issues for credit unions. Access the complete stories and register to receive daily credit union news headlines at www.cuna.org/news_now/top10.

10 CEOs at two troubled CUs replaced

The CEOs at two credit unions in Las Vegas have been replaced, according to local media reports.

9 Changes to CARD Act in view

CUNA has advised leaders of the House Financial Services Committee that credit union members may face increased costs and reduced services if technical corrections to the Credit Card Accountability, Responsibility and Disclosure (CARD) Act are not made.

8 Compliance: What an accelerated CARD Act date would mean

Credit unions, faced with the specter of a bill that would accelerate the effective date of the Credit Card Accountability, Responsibility and Disclosure (CARD) Act, have been seeking guidance on what should be done now to prepare for the possibility, said Kathy Thompson, Credit Union National Association senior vice president for compliance.

7 Film director: Take your money out of a bank, put it into a CU

A Michigan filmmaker is encouraging consumers to take their money out of banks and put it into credit unions.

6 21-day fix scheduled for House vote Tuesday

A bill intended to fix a troublesome 21-day disclosure provision in the Credit CARD Act is scheduled to be considered by the House tomorrow.

5 Suze Orman: Switch cards to CUs

Consumers with credit cards might want to think about doing a balance transfer to a credit union, personal finance expert Suze Orman said on MSNBC's "Morning Joe" program.

4 Corporate CU sues U.S. Central over 'excess capital'

In legal documents filed late last week, Wisconsin-based Corporate Central CU is seeking the reimbursement of \$6 million in excess investments from U.S. Central FCU.

3 Senate fixes 21-day CARD Act problem

Just two weeks after House members approved H.R. 3606, the CARD Act Technical Corrections Act, by voice vote, their colleagues in the Senate voted by unanimous consent to ratify the bill.

2 CARD Act corrections pass House via voice vote

The House of Representatives approved by a voice vote H.R. 3606, the CARD Act Technical Corrections Act, which was introduced by Rep. Peter Welch (D-Vt.) last month.

1 New Dodd bill would set overdraft rules

Sen. Christopher Dodd (D-Conn.), who heads the Senate Banking Committee, unveiled his new bill Monday that would limit the fees financial institutions can charge on overdraft protection services.

Recovery is Key in Corporate Discussion

National Credit Union Administration (NCUA) Chairman Debbie Matz called a special meeting recently to discuss wide-ranging issues related to the treatment of corporate capital. CUNA President/CEO Dan Mica seized the opportunity to urge this point: Going forward, the NCUA should leave a door open to future capital recoveries if the magnitude of losses at the corporate credit unions is not as great as the agency has estimated.

Matz issued a statement after the meeting in which she pledged that the NCUA would immediately begin analysis of the information gathered on corporates and "take a fresh look at the capital depletion issue and its component parts, and make certain that NCUA is proceeding in a way that satisfies all legal, policy and accounting requirements."

The session provided a frank and open discussion of the NCUA's decision to deplete capital in Western Corporate CU and U.S. Central CU and the consequences of that decision. Also discussed were possible approaches to mitigate the impact of that decision. ■

 **NCUA's Corporate Stabilization Program**
http://www.cuna.org/initiatives/ncua_corp_action.html



California League President Bill Cheney and CUNA President/CEO Dan Mica talk before the NCUA meeting on corporate issues. Also in attendance were: Utah League President Scott Simpson, CUNA Accounting Task Force Chair Scott Waite, and CUNA staff. (CUNA Photo)

>> CUNA Update

NewsWatch: Shifting to Online Delivery

In March 2010, CUNA's *Credit Union NewsWatch* will be available to all members online only. *NewsWatch* Editor Lisa McCue said continuous improvements to the publication make timely delivery more essential than ever.

"*NewsWatch* strives to complement CUNA's daily online news service, *News Now*, by giving comprehensive summaries of recent key events—tying together all the threads for credit union readers, as well as providing in-depth articles not available elsewhere.

"In our attempt to best serve our members, CUNA has decided both to reduce production costs and improve

delivery time by making *NewsWatch* an online publication," McCue said of the change.

NewsWatch has been available to readers in pdf format on an opt-in basis. It can be accessed either from CUNA's web site or delivered directly to CUNA members via email at no cost. CUNA urges readers to use the resource link below now to transfer print subscriptions to a timely and simple email delivery system. 

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 Lisa McCue, Washington Editor
 Phone: (202) 508-6766 • Fax: (202) 638-7716 • newswatch@cuna.coop
 CUNA E&S, P.O. Box 431, Madison, WI 53701-0431; or call (608) 232-8045
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