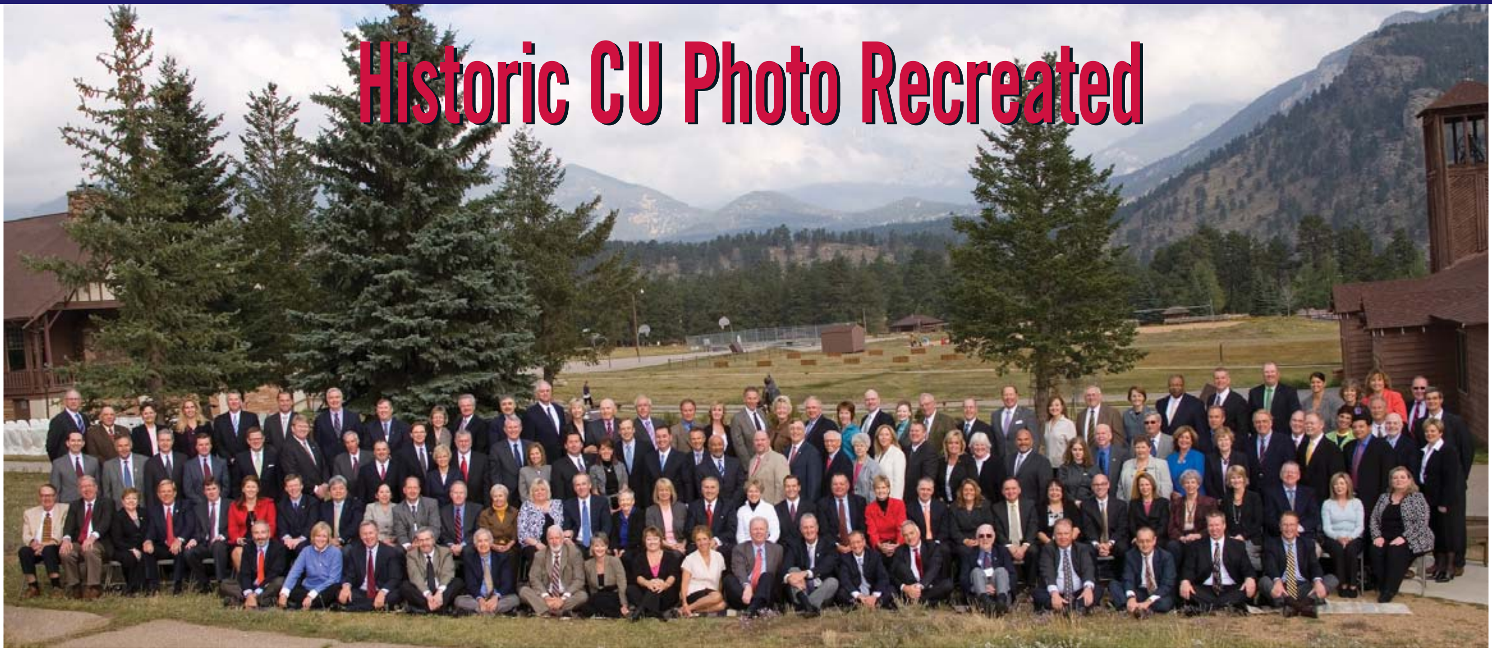
CREDIT UNION NewsWatch

CUNA Credit Union National Association

LEGISLATION, REGULATION, AND INNOVATION FROM THE CREDIT UNION NATIONAL ASSOCIATION

SEPTEMBER 21, 2009

Historic CU Photo Recreated



Leaders and supporters of the credit union movement gathered this month in Estes Park, Colo., to commemorate the founding of the Credit Union National Association (CUNA) there seventy-five years ago. One of the meeting's highlights was a group photo similar to an original photo of CUNA founders taken there in 1934. See page 7 for more. (CUNA Photo)

Data Shows No CRA Need for CUs

CUNA has contested a National Community Reinvestment Coalition (NCRC) report that unfavorably compares credit union lending practices to those of banks and advocates for credit unions to be placed under Community Reinvestment Act (CRA) rules, saying that the report is flawed and should be dismissed by policymakers.

The report, in which the NCRC analyzed Home Mortgage Disclosure Act (HMDA) data for credit unions and banks, concluded that credit unions lag behind banks on 64% of fair lending indicators that were examined. Mike Schenk, CUNA vice president of economics and statistics, said that the NCRC report does not statistically adjust for the fact that credit unions and banks do not serve the same groups of people, adding that credit union membership fields "cannot and will not perfectly reflect" the communities in which they are located.

According to Schenk, the NCRC study had an overly narrow focus on "prime" loans and the use of "disparity ratios" to measure lender effectiveness. Schenk also questioned the NCRC's motivation for the study, saying that the NCRC would benefit directly from an increase in the number of institutions that are subject to CRA.

The underlying data NCRC used to produce these disparity ratios clearly shows that credit unions outperform banks: it shows that credit unions approve mortgage loan applications at higher rates—usually much higher rates—and they deny applications at lower rates— usually much lower rates—compared to banks.

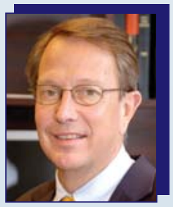
See page 6

Inside

Congress Countdown: What's to Come

According to the schedule released by the House Majority Leader earlier this year, Congress will be in session each week through the end of October, when it is "scheduled" to adjourn. We don't expect the target adjournment date of Oct. 30 to be met and expect Congress may wait until the Veterans' Day holiday in November to recess. Health care reform, financial regulatory restructuring, student lending reform, transportation funding authorization and the fiscal year 2010 appropriations are among the issues expected to be considered before the end of the session. Suffice to say: there is just an awful a lot on lawmakers' plates, and the safe bet is that the first session of the 111th Congress will adjourn closer to Christmas than Columbus Day.

As the Senate debates health care legislation, the House is poised to move forward on regulatory restructuring legislation, including a proposal to create a Consumer Financial Protection Agency. Under the House plan, the consumer protection functions of the Federal Reserve, National Credit Union Administration, Office of Thrift Supervision and the Office of the Comprtroller of the Currency would be combined and transferred to a new agency. Examination and enforcement authority for consumer protections would also fall under the CFPA. The new agency also would be responsible for regulating the financial products offered by entities not presently regulated at the federal level.



John Magill

CUNA has taken a "stay at the table" approach to this legislation because there is a likelihood that some form of the CFPA proposal will become law, and if the current proposal were enacted, it would be overly burdensome for credit unions. From that perspective, CUNA has approached Congress with suggestions for ways to improve the legislation.

CUNA's suggestions include retaining examination and enforcement authorities at the credit unions' prudential regulator, mandating that the CFPA take into consideration the burden its regulations place on financial institutions, and that the agency seek ways to eliminate duplicative regulations. CUNA has also called for the CFPA to have preemptive authority over state consumer protection laws.

CUNA has also lobbied against the so-called "plain vanilla" requirement, which would force financial institutions to offer a generic financial product before offering one that may better meet the needs of the member. This is one area where we have seen some movement. House Financial Services Committee Chairman Barney Frank (D-Mass.) has said that he opposes a plain-vanilla requirement, likening the probable result to requiring bars to serve food – they end up serving pickled eggs.

In the House, the CFPA is one of several regulatory restructuring bills expected to be considered during October. The Senate is expected to consider one omnibus restructuring bill; the CFPA will be just one part of the larger bill.

The administration would like to have regulatory restructuring signed into law by the end of the year, but that seems to be an aggressive goal at the present time. Nevertheless, as the economy recovers from the financial crisis, there is still considerable pressure on Congress to do something to improve consumer protections, and there is plenty of time for Congress to achieve this goal.

Legislative Issues A-Z
http://cuna.org/gov_affairs/legislative/issues/2008/index.html

CUs' 'Vibrant' Contributions Recognized

The House passed a commemorative resolution honoring credit unions and marking the 75th anniversary of Federal Credit Union Act, which CUNA called a fitting reminder of the credit union movement's contributions to the country.

Thanking the House for its recognition, CUNA President/CEO Dan Mica said it underscored that America's state- and federally chartered credit unions have a long and proud history of helping members improve their financial well being, especially in hard economic times-- whether during the Great Depression or in today's recessionary environment.

"The Federal Credit Union Act was instrumental in making this possible by opening the door to the development of a credit union movement that is truly national in scope. We are honored to have the House recognize all that this vitally important law enabled credit unions to achieve."

The House passed H Res. 556 by voice vote. It notably commends credit unions for their "instrumental role in helping hard-working people in the United States recover after the Great Depression," as well as their continued exemplification of "the American values of thrift, self-help, and volunteerism, carving out a special place for themselves among the Nation's financial institutions."

The national recognition preceded CUNA's 75th anniversary celebration last week in Estes Park, Colo.

>>Legislation Tracker

Top Legislative Initiatives CUNA Is Currently Monitoring

Bill/Issue	Summary	Status
H.R. 1479, Community Reinvestment Act (CRA)	CRA requirements were created to fight bank and thrift redlining. H.R. 1479, called a bill to "enhance" CRA, was introduced in the House in March and a hearing was conducted in September. CUNA strongly opposes expanding CRA requirement to credit unions stating that credit unions did not take part in the very practices that created the need for the CRA.	CUNA has urged members of Congress to oppose the bill, and submitted a statement for the hearing record.
H.R. 3380, Member Business Lending (MBL)	H.R. 3380, to raise the MBL cap to 25% of assets and exempt some loans made to businesses in underserved communities, was introduced by Reps. Paul Kanjorski (D-Penn.) and Ed Royce (R-Calif.) earlier this year.	CUNA strongly supports lifting the MBL cap of 12.25% and has repeatedly made its case to lawmakers that the change could quickly infuse to $10 billion of credit for small businesses in the first year.
Financial Regulatory Restructuring	The House, the Senate, and the Obama administration are currently discussing reforms of the federal financial regulatory structure, as well as the creation of a single federal agency, the Consumer Financial Protection Agency, that would be tasked with representing the best interests of consumers and ensuring that new and existing financial products are "safe."	CUNA is willing to support the CFPA legislation, provided some credit union needs are met. NCUA should retain its role as sole examiner and enforcer of consumer protection laws for its CUs. CUNA has also opined that the new financial regulatory setup should not stifle innovation. CUNA reviews financial regulatory proposals and expresses the credit union perspective to legislators as needed. Legislation to create the CFPA is currently awaiting action in the House.
Interchange Fees	H.R. 2695 and H.R. 2382, which would, respectively, allow retailers to negotiate the terms of interchange fees with financial institutions and would amend "truth in Lending" rules to address card program features such as premium and reward cards, have been introduced in the House. A similar bill, S. 1212, introduced by Sen. Richard Durbin (D-Ill.), has also been introduced in the Senate.	CUNA has said that changing the interchange fee regime would harm consumer choice, competition and technological innovation, and has urged legislators not to support any legislative action that would change the current interchange fee regime.
Overdraft Fees	Federal lawmakers have expressed interest in increased consumer protections related to overdraft protection plans. Rep. Carolyn Maloney reintroduced the Consumer Overdraft Protection Fair Practices Act (H.R. 946), which would set an opt-in requirement for the programs. Senate Banking Committee Chairman Chris Dodd is also reportedly drafting a bill that could require financial institutions to seek permission before they can enroll their accountholders in an overdraft protection program.	CUNA has alerted lawmakers to potential operational burdens associated with the legislation. CUNA encourages credit unions to adopt "best practices" standards including avoiding deceptive advertising and not promoting overdraft protection in a way that encourages consumers to frequently or regularly overdraw their account.
Mortgage Bankruptcy or 'Cramdown'	Mortgage bankruptcy legislation was passed by the House last year, but the provisions failed by a narrow margin in the Senate. Recently, House Financial Services Committee Chairman Barney Frank (D-Mass.) said he wants to get a mortgage "cramdown" bill, which would allow bankruptcy court judges to force modifications in existing home loans, through Congress next year.	Progress of this legislation may be closely tied with the progress of loan modifications efforts—the better the effort, the less likely the passage of a bill. CUNA has expressed concern at the prospects of amending the federal bankruptcy code to allow for broad loan-term modifications for homes in bankruptcy.
H.R. 3269, Executive Compensation	H.R. 3269, the Corporate and Financial Institution Compensation Fairness Act of 2009, which passed the House in late July, would look to ensure that compensation structures do not encourage excessive risk-taking.	CUNA and the National Association of Federal Credit Unions have advocated for credit unions to be excluded from these requirements, as credit unions are not responsible for the financial issues that the bill would address.
Preserving CUs' tax status	CUNA and the leagues continue to work to preserve CUs' tax-exempt status, in spite of bank lobby claims that CUs are growing beyond their means and should pay taxes.	CUNA opposes any moves to tax credit unions.

a world of

challenges

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Matz Keeps Focus on CARD Act Compliance Hurdles

New National Credit Union Administration (NCUA) Chairman Deborah Matz has begun her term by targeting the compliance issues that credit unions face as they grapple with the Credit Card Accountability, Responsibility, and Disclosure (CARD) Act.

Matz recently discussed the CARD Act, which seeks to prevent lenders from making arbitrary changes to interest rates and terms associated with credit cards that have an existing balance, with credit union officials and representatives of CUNA, CUNA Mutual Group, and National Association of Federal Credit Unions. Boeing Employees CU, Holy Rosary CU, American Airlines FCU, Missouri Central CU, and Justice Department FCU were also represented during the hearing.

Deborah Matz

According to Matz, the NCUA is attempting to treat issues with the 21-day rule included in the CARD Act through pursuing changes to legislation, and is working to gain Congressional support on the issue. CUNA, the Connecticut CU League, and other league representatives have also put great effort into finding a legislative fix to some of the problems caused by the CARD Act.

Matz has also called upon federal credit union examiners, asking them to help credit unions cope with any difficulties by demonstrating flexibility as credit unions develop their compliance programs under the new law.

U.S. Central Depletion is as Forecast

U.S. Central FCU's recently released audit disclosed $4.9 billion in other-than-temporary-impairment (OTTI) charges and $1.2 billion in expected credit losses related to investments as of Dec. 31, 2008.

The OTTI charge of $4.9 billion, which represents the difference between fair and book value, exceeded the expected credit losses by $3.7 billion.

Responding to the release of the audit, National Credit Union Administration Chairman Deborah Matz said that these capital depletion figures "have not changed" and do not affect "the depletion of capital," as the NCUA has "determined that all depletion would be based on credit losses, not mark-to-market losses, consistent with the new accounting guidance" released by the Financial Accounting Standards Board in April of this year.

CUNA also commented on the U.S. Central financial statement, saying that the reporting was completed under an accounting standard that has been revised and has forced the corporate credit union to record a larger OTTI charge than current accounting rules require. Matz has advised corporate credit unions to "consult with their auditors to determine the potential impairment" of any assets related to U.S. Central Federal Credit Union.

Significant for CUs, Government Lets UBIT Filing Date Pass

The U.S. Department of Justice had until Sept. 12 to appeal a decision that backed Community First CU in its suit against the Internal Revenue Service, seeking refund for unrelated business income tax (UBIT) paid on credit life insurance, credit disability insurance and Guaranteed Asset Protection (GAP)..

The government's decision to back off the lawsuit could have considerable impact on credit union UBIT issues. CUNA General Counsel Eric Richard said it could prove significant to the future of IRS UBIT opinions.

"Clearly, the government was unwilling to expose its reasoning to review by the Court of Appeals even though it had an absolute right to obtain this appellate review. Now accountants and tax advisors to credit unions have this court decision as substantial authority that UBIT is not due on credit life insurance, credit disability insurance and GAP."

Attorney Michael M. Conway of Foley & Lardner LLP, in Chicago, who represented Community First concurred: "Now accountants and tax advisors to credit unions have this court decision as 'substantial authority' that UBIT is not due on income" from these products.

Data Shows No CRA Need for CUs

From page 1

"This is true in almost every single demographic group analyzed, among every loan type analyzed and across each of the three years of data it analyzed," Schenk added.

Specifically, looking at 2007 approval and denial rates, NCRC data shows that credit unions outperform banks in 64 out of 72 of these metrics—89% of the total, Schenk said.

The House Financial Services Committee conducted a hearing on CRA issues last week. CUNA Senior Vice President of Legislative Affairs John Magill observed that the focus clearly was not on credit unions but rather on other issues, including federal funding for ACORN. However, he assured that CUNA will continue to watch CRA discussions on the Hill very closely.

CUNA : No CRA for CUs
http://cuna.org/press/press_releases/pk_mica_091609.html

Seventy-five years ago, pioneers of the credit union movement--including Edward Filene, Roy Bergengren and Claude Orchard--posed at the YMCA campsite in Estes Park, Colo. to record the founding of the Credit Union National Association (CUNA) on Sept. 10, 1934. The photo has become an icon in the credit union movement history. See page 1 for CUNA's modern recreation of the historic picture. (Photo provided by CUNA)

CU Leaders Gather at CUNA Landmark

About 150 credit union leaders gathered in Estes Park, Colo. last week to mark CUNA's 75th anniversary. They convened on the YMCA campground, the original site of CUNA's founding.

The following are excerpts from the meeting's commemorative remarks:

▶ **CUNA Chairman Kris Mecham** recalled that in 1934, before setting out for the Colorado meeting, credit union pioneer Roy F. Bergengren expressed his thoughts about the movement in a letter to his boss, Edward Filene. "I sincerely believe," Bergengren wrote, "that what we are going to do at Estes Park will have extraordinary consequences." Added Mecham: "Our early founders would be proud of their work, and they would marvel at how our system has grown and evolved…(Yet) we've maintained the same values as the pioneers initiated in those early days."

▶ **AACUL Chair Rosie Holub** noted that a primary purpose of the formation of CUNA in 1934, when there were only five sustaining leagues, was to develop the credit union movement in every state. "In the early days Roy Bergengren emphasized the importance of unity; it was difficult to achieve even then. Let us pledge, as did the credit union leaders, to work together cooperatively and collectively to achieve unity of purpose and voice."

▶ **Kathy Pelletier**, Bergengren's granddaughter, read portions of his moving speech delivered in Estes Park on CUNA's 20th anniversary in 1954. He said marking the anniversary was significant because "usury has existed all through the centuries because of the false assumption that the average man was not entitled to normal money credit." The solution was found "in the hitherto unsuspected capacity of the people to work together, to pool their savings, however small, and thereby to create normal credit for themselves without usury." He later concluded: "May our children and our children's children return to this spot, from time to time over the years, here to renew their inspiration to carry on the war for economic opportunity, which their ancestors started."

▶ **Bill Herring**, a CUNA board member, and **Catherine Herring** are both CEOs of Ohio credit unions, as well as being the son and daughter of early credit union organizer Louise Herring, who attended the 1934 Estes Park meeting. Each recalled their mother, sometimes called "the mother of the CU movement," who organized more than 500 credit unions. Bill said his mother and fellow founders saw the effect of the high cost of credit on every-day people. "The founders 75 years ago would be proud of CUNA today." Catherine noted her mother was never one to be shy or intimidated, especially when it came to credit unions. She said her mother summed up what was distinct about credit unions: "Their aim is to allow the average working person to exchange their paycheck for the maximum amount of goods and services."

▶ **CUNA President/CEO Dan Mica** said, "It is truly great to be part of the credit union movement. We have something special to be proud of." He added "We should honor and learn from the past, but we should not be chained to the past. There's still a lot of work to be done to educate the rest of the world about who we are and what we do. We have tomorrow's opportunity in front of us."

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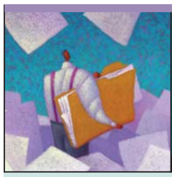

>>Notes Bearing Interest

Exec Pay Plans: Under the Microscope


credit union Directors newsletter

Executive Pay Plans Are Under the Microscope

Change is in the air for executive compensation plans, notes the most recent issue of CUNA's *Credit Union Directors* newsletter.

One agent of change is H.R. 3269, a bill introduced in the House this summer, portions of which direct the National Credit Union Administration and federal bank and thrift regulators to jointly issue rules requiring all financial institutions to disclose information related to the structure of incentive-based compensation. The House voted 236-111 in favor of a final measure that exempts financial institutions with less than $1 billion in assets, and that bill now awaits action in the Senate. CUNA has requested that all credit unions be exempted.

Another force for change, the article says, is recession. A Watson Wyatt survey pointed out that about 63% of corporate board directors believe U.S. companies should modify executive compensation plans to reflect new economic realities.

The article notes interesting trends revealed by a CUNA 2009-2010 CEO Total Compensation Survey Report. Among them:

- Base salary, on average, represents 84% of a CEO's total compensation among credit unions with $100 million or more in assets. The median salary this year is $198,491, up 10% from 2008. The median CEO salary for all credit unions this year is $72,000; and
- At credit unions with $100 million or more in assets, CEOs received a median $204,924 in total cash compensation—a 6.4% increase over the previous year.

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