



Deborah Matz, shown here with CUNA President/CEO Dan Mica just before she testified at the Senate Banking Committee hearing on her nomination to the National Credit Union Administration board, said if confirmed she will be a strong CU regulator who will "always appeal to their commitment to their members." (CUNA Photo)

Matz Moves Closer to NCUA Chairmanship

Deborah Matz on July 22 took another step toward joining the National Credit Union Administration (NCUA) board by testifying before a Senate Banking Committee hearing on her nomination.

During her testimony, Matz told the assembled senators that a main goal of her tenure would be to establish a strong partnership with the industry while maintaining the "critical arms-length relationship" between a regulator and the regulated.

Matz previously served as executive vice president and chief operating officer of Maryland-based Andrews FCU, an experience that she said "sensitized" her "to the need for effective, rather >> [See page 2](#)

CFPA's Part in Reg Reform Balance

While debate on the Obama administration's plans for financial regulatory reform is set to continue through the end of this month, House Financial Services Committee Chairman Barney Frank (D-Mass.) last week announced that further consideration of legislation that would establish a Consumer Financial Protection Agency (CFPA) will be delayed until September at the earliest.

Frank had earlier expressed his intention to begin marking up CFPA legislation in July, and to have his panel vote on a bill before the summer district work period, which begins August 3. However, Frank pushed his schedule back to gain time to build support.

The CFPA legislation would create a powerful independent agency with extensive rulemaking, oversight, and enforcement tools. This agency would be tasked with the sole responsibility of protecting consumers from potentially harmful or overly risky financial products.

CUNA generally supports the aims of the CFPA, as long as the National Credit Union Administration would retain its existing authority over credit union affairs and no extra regulatory burden would be imposed on credit unions.

A bill recently introduced by Frank, H.R. 3126, would differ from the Obama plan by preserving the current federal bank- >> [See page 2](#)

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>> Legislative Affairs

CU Don't Need Exec Comp Bill

CUNA said credit unions should be exempt from any bill intended to set rules on executive compensation because of their not-for-profit, cooperative operational model.

The House Financial Services Committee has followed up on Rep. Barney Frank's (D-Mass.) introduction of H.R. 3269, the Corporate and Financial Institution Compensation Fairness Act, by scheduling a markup session for July 28.

The bill, which would address the compensation methods of both corporate and financial institution executives, is based on recently unveiled U.S. Treasury proposals and previous "Say-on-Pay" legislation, which passed the House in 2007. The legislation, as currently constructed, does not specifically limit executive compensation.

Portions of the bill direct the National Credit Union Administration (NCUA) and federal bank and thrift regulators to issue joint regulations to require all financial institutions to disclose information related to the structure of incentive-based compensation structures. These regulations would need to be issued within 270 days of the bill's enactment date. This portion of the bill would affect all credit unions, including those that are privately insured.

The NCUA would enforce legislation addressing federally insured credit unions, with the Federal Trade Commission taking responsibility over privately insured credit unions. ☰

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

Matz Moves Closer to NCUA Chairmanship

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than excessive, regulation.”

Matz, whom President Barack Obama nominated in May and intends to designate as chairman, would serve on the NCUA board for a second time. Her previous term was from mid-2002 until August 2005.

If confirmed as expected, Matz will fill a vacancy created by the expiration of Rodney Hood's term on the NCUA board.

Current chairman Michael Fryzel will retain a spot on the board but, as a Republican, will become the minority member on the three-person executive board. Gigi Hyland also will continue to serve on the board.

CUNA says Matz has strong credit union credentials, adding that Matz will continue her previously established role as “a solid and competent regulator” when she is sworn in. ☰



Before the June 16 open meeting, NCUA board members gathered for what may be their last group photo opportunity. From left: Vice Chairman Rodney Hood, Chairman Michael Fryzel, and board member Gigi Hyland. Hood's term expires. (CUNA Photo)

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CFPA Hanging in Reg Reform Balance

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ing regulators' enforcement authorities. Frank's bill would also postpone consideration of the proposed merger of the Office of the Comptroller of the Currency and the Office of Thrift Supervision into a prudential regulator, the National Bank Supervisory, until a later date.

Frank has scheduled a number of general regulatory reform hearings throughout this month and those dates have not changed. While the exact agenda had not been published at press time, the House Financial Services Committee has scheduled a pair of markup sessions for Wednesday and Thursday of this week.

Congressman Keith Ellison also recently introduced H.R. 3128, legislation that would attempt to strengthen and reform what he termed the “wholly inadequate” regulation and oversight of credit rating agencies.



>> Regulatory Affairs

Fed changes some mortgage, home credit line regulations

Recently proposed changes to the Federal Reserve Board's Regulation Z (Truth in Lending) would modify the disclosures required of lenders for closed-end mortgage loans and home equity lines of credit (HELOCs).

The Fed's proposal regarding closed-end home mortgages is aimed at increasing consumer awareness of potentially risky features, such as adjustable rates and prepayment penalties. The changes would apply to disclosures for all closed-end credit transactions secured by real

property, and would revise the annual percentage rate (APR) to include most fees and settlement costs. Lenders would also be required to provide a list of key questions that borrowers should ask about the home mortgage loan.

Lenders would also be required to furnish mortgage applicants with a "final disclosure" at least three days before the loan closing.

The Fed is working to make the required Truth in Lending disclosures consistent with the Department of Hous-

ing and Urban Development's required disclosures under the Real Estate Settlement Procedures Act, and a single unified disclosure could result.

The Fed has also changed portions of HELOC-related disclosures.

The Fed will accept comments on the proposed rules for 120 days following official publication in the Federal Register.

CUNA's Consumer Protection Subcommittee will review the proposals and CUNA will post a regulatory comment call on each of the proposals shortly. 

Mortgage Disclosure Improvement Act Compliance is July 30

On May 8, the Federal Reserve Board issued a final rule amending Regulation Z to implement provisions of the Mortgage Disclosure Improvements Act (MDIA). The MDIA broadens the requirements of the Fed's July 2008 final rule regarding "higher-priced" mortgage loans. But the rule covers a much wider range of mortgage loans than just the "higher price" loans. Credit unions must begin complying with these requirements by July 30—three days from now.

Under the Fed's rule, credit unions must make good faith estimates (GFE) of the required mortgage disclosures. The disclosure has to be on its way to a member in no more than three business days after receiving that member's application for a dwelling-secured, closed-end loan. Loan closing may occur on or after the seventh business day after the delivery or mailing of these disclosures. If the loan rate cited in the GFE changes more than 0.125%, a credit union must provide a corrected disclosure, which the member must receive by the third business day before loan closing. The rule does allow members to expedite closing to meet a bona fide personal financial emergency.

Credit unions must also disclose that the applicant isn't obliged to go ahead with a loan simply because disclosures were provided or an application was submitted.

The MDIA rules apply to all closed-end mortgage loans, including first and second mortgage loans and home equity loans secured by the member's principal dwelling and loans secured by a dwelling even when it is not the member's principal dwelling (such as a vacation home) and it applies to a refinancing of any of these loans. They don't cover home equity lines of credit, mortgage transactions secured by an interest in a timeshare plan, or temporary financing such as construction or bridge loans. They also don't apply to loans whose applications are received prior to the July 30 compliance date.

Credit unions also want to be aware that no up-front fee, other than for a credit report, may be collected until after a credit union provides the GFE. 

CUNA July 28 Session Delves into CARD Act

CUNA is giving credit union representatives an opportunity to hear in-depth analysis of concerns associated with the Credit Card Accountability, Responsibility and Disclosure (CARD) Act, as well pose their own questions, during a July 28 audio conference.

The 90-minute audio call, which begins at 1:30 p.m. (ET) on Tuesday, will connect credit unions with financial industry experts. Speakers scheduled for the conference include Federal Reserve Senior Attorney Benjamin Olsen, University of Wisconsin CU Chief Credit Officer Mike Long, BECU's Mary Davis-Wyne and Suzie Rao, and American Airlines FCU's Faith Anderson. CUNA Senior Assistant General Counsel Jeff Bloch and CUNA Assistant General Counsel and Senior Compliance Counsel Mike McLain will moderate the session.

The conference will cover portions of the CARD Act that are subject to an Aug. 20 compliance date, including the notice provision, which, in addition to credit cards, also covers general lines of credit, lines of credit associated with share draft and checking accounts, signature loans, and home equity lines of credit, and multi-featured, open-end lending programs.

Registration for the audio conference is at http://training.cuna.org/audio/T07289_fct.html.

 **CARD Act Audio Call Registration**
<http://training.cuna.org/audio/T07289>



CU's Carry Heavy Consumer Compliance Load July 2009 to August 2010

Does anyone question the compliance burden of credit unions? Show them this CUNA summary of thousands of pages of federal consumer regulations that must be addressed in the next 12 months. And this is just in the area of consumer rules! (For more detailed information, go to CUNA's e-Guide to Federal Laws and Regulations at cuna.org.)

How to use this summary? Compliance and IT staff can show it to their bosses to warn them of the challenges and expenditures ahead. CEOs can share it with their boards to show why

Proposed Regulations That Would Add To Consumer Compliance Requirements:

Mortgage loans and HELOCs:

At the end of July, the Fed proposed major revisions to Reg Z's closed-end mortgage lending and HELOC rules, with guidance on lenders' ability to reduce a borrower's credit limit. The Fed indicated it is working with HUD to make Reg Z and RESPA disclosures consistent. The comment period ends in December.

Overdrafts: In early 2009, the Fed proposed Reg E amendments on electronic funds transfers to require financial institutions to create an opt-in or opt-out system (yet to be determined) to provide accountholders with control over whether they authorize overdrafts and associated fees when using an ATM or making one-time debit transfers.

FACTA risk-based pricing notices: In mid-2008, the Fed and the FTC proposed rules to require a lender to provide certain consumers with special notices when, based in whole or in part on a credit report, it offers credit to the consumer on terms less favorable than the terms offered to other borrowers.

Appraisals: In 2008 NCUA and other agencies issued proposed "Interagency Appraisal and Evaluation Guidelines." The guidelines would be in addition to the Federal Housing Finance Agency's "Home Valuation Code of Conduct" that became effective May 1, which requires the borrower receive a copy of the appraisal three days before closing on the loan.

compliance costs steadily rise. And credit union leadership may want to share this summary with their legislators as evidence of the challenges--and burdens--credit unions face.

The new requirements are complex, confusing and in flux. Almost all demand new procedures, revised forms, data processing changes, staff training and even member education. The proposed creation of a Consumer Financial Protection Agency raises a key question: Will it make order out of compliance chaos and give meaningful information to consumers, or merely increase credit unions' very heavy regulatory burden?

*—Kathy Thompson,
SVP of Compliance and Legislative Analysis*

July 30, 2009 – Mortgage Disclosure Improvement Act of 2008 (MDIA):

Federal Reserve Board (Fed) amends its Truth in Lending Act's Regulation Z to require initial disclosures within 3 business days of application, prohibit collecting with the application any

fees other than for a credit report, etc. Congress created confusion by passing the MDIA two weeks after the Fed adopted Home Ownership Equity Protection Act (HOEPA) changes. (see Oct. 1 rules).

Aug. 1, 2009 – Identity theft red flag rules: Federal Trade Commission (FTC) implements red flag rules under the Fair and Accurate Credit Transactions Act (FACTA), requiring state-chartered credit unions to have written identity theft prevention programs. (National Credit Union Administration – NCUA – implemented similar regulations for federal credit unions in the fall 2008.)

Aug. 20, 2009 – Two credit card and open-end lending rules: Fed adopts Reg Z interim regulations to implement two provisions in the May 2009 Credit CARD Act to require change-in-terms notices for credit cards to be mailed at least 45 days in advance of increases in rates or fees, and to require periodic statements for all open-end credit to be mailed 21 days before the payment due date in order to treat the payment as late. The coverage of all open-end loans beyond credit cards was not discussed at all by Congress, the regulation is open for public comment only after its effective date, and the requirement has stymied credit unions on how to comply without making major and costly changes to their current lending programs.

Oct. 1, 2009 – More mortgage lending rules: Fed adopts Reg Z amendments issued under HOEPA to provide additional protec-

tions for borrowers of “higher priced loans,” as well as new advertising rules for *all* home equity lines of credit (HELOCs) and closed-end mortgage loans. These regulations were never re-issued to reconcile these changes with the MDIA changes to lessen confusion. See “*Proposed Regulations.*”

Dec. 1, 2009 – New Internet gambling regulations: Fed and Treasury Department jointly implement the Unlawful Internet Gambling Enforcement Act, but even the agencies concede the federal government can’t determine exactly what is unlawful, leaving it up to the private sector to try to figure out what payments should be blocked and which customers/members may be engaged in illegal Internet gambling. See “*Possible Legislation.*”

Jan. 1, 2010 – RESPA revisions: Department of Housing and Urban Development (HUD) implements changes to the Real Estate Settlement Procedures Act (RESPA) rules to revise the good faith estimate (GFE) form, limit changes that can be made in the estimates, and modify the HUD-1 settlement statement to allow the borrower to better compare that information with the GFE. See “*Proposed Regulations*” and “*Possible Legislation.*”

Jan. 1, 2010 – Overdraft rules: NCUA amends its Truth in Savings Act regulations to require disclosure of overdraft fees and return-item fees, both for the month and year-to-date (regardless of whether an overdraft program is advertised), and to prohibit balance inquiries at ATMs from including funds available through an overdraft. See “*Proposed Regulations*” and “*Possible Legislation.*”

Feb. 22, 2010 – Most credit card rules: Most of the provisions in the Credit CARD Act of 2009 will go into

Possible Legislation That May Change Consumer Compliance Requirements:

Internet gambling: Barney Frank, Chairman of the House Financial Services Committee, introduced legislation (H.R. 2266) in May 2009 to suspend the implementation of the Unlawful Internet Gambling Enforcement Act, scheduled for Dec. 1, but passage of this bill appears unlikely.

RESPA and mortgage lending: The House of Representatives passed the Mortgage Reform and Anti-predatory Lending bill (H.R. 1728) on May 7, 2009, which includes a provision that would suspend the new RESPA regulations (scheduled for Jan. 1, 2010), but Senate action on this bill appears unlikely in 2009.

effect on this date – expect the Fed’s Reg Z implementing rules to be finalized by year-end.

Overdrafts: House committee hearings have been held on the Consumer Overdraft Protection Fair Practices Act (H.R. 1456), which would require a consumer to sign up for an overdraft protection program before fees could be assessed and impose other disclosures.

A new consumer protection agency:

Congress is seriously considering the Obama Administration’s proposal to create a Consumer Financial Protection Agency (H.R. 3126) to take over all the rulemaking, examination and enforcement pertaining to federal consumer protection laws. House action is expected in September.

Spring 2010 – New mortgage staff registration requirements: The Secure and Fair Enforcement for Mortgage Licensing (SAFE) Act of 2008 requires the federal banking agencies and NCUA to finalize rules by July 29, so regulations are expected at any time to require certain employees involved in originating mortgage loans (including home equity loans) to register annually with a national database. Because the agencies have yet to work out operational issues, actual registration isn’t expected to be completed before next spring.

July 1, 2010 – Comprehensive changes to open-end credit rules: Fed’s major revision of Reg Z’s open-end credit rules goes into effect with an 18-month notice period, but with the enactment of the Credit CARD Act and its Feb. 2010 effective date, these rules will need to be reviewed.

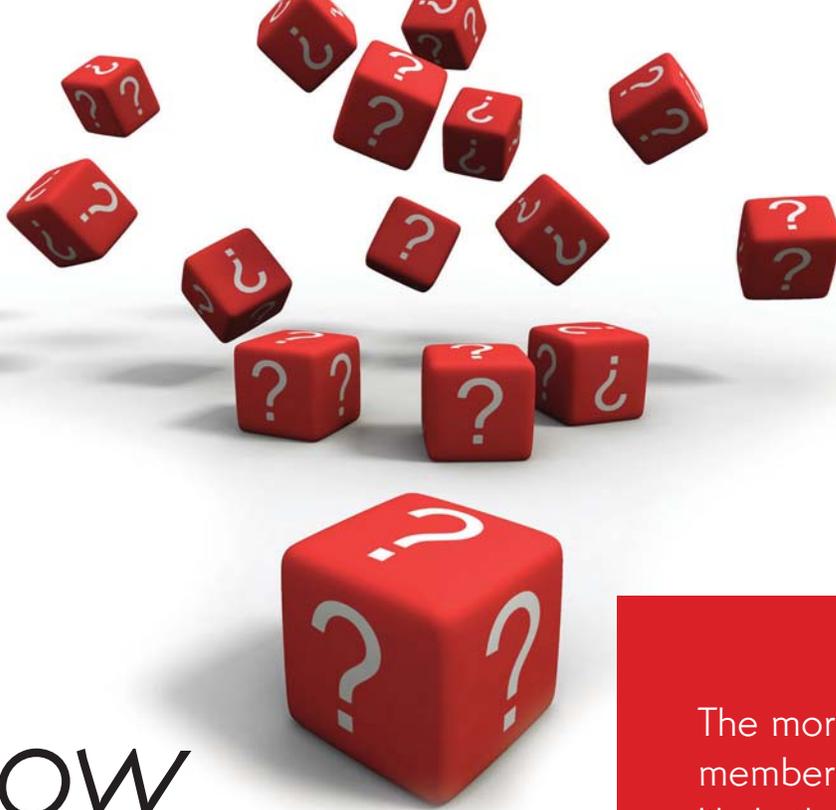
July 1, 2010 – Unfair or deceptive practices: NCUA and the Fed adopted rules to ban certain credit card practices, but are expected to rescind these rules because of the passage of the Credit CARD Act, which will shift the prohibitions into Reg Z, effective Feb. 22, 2010.

July 1, 2010 – More FACTA rules:

NCUA, FTC, and the banking agencies implement guidelines for furnishing accurate information to credit bureaus under provisions in FACTA, and issue regulations on when furnishers of information to credit bureaus must directly investigate a consumer dispute. See “*Proposed Regulations.*”

Aug. 22, 2010 – The last of the credit card rules:

Fed rules under the Credit CARD Act will determine what are reasonable and proportional penalty fees and charges, and how credit card issuers are to reevaluate every six months any interest rate increases they have imposed since Jan. 1, 2009. In addition, new rules on gift card fees and expiration dates go into effect.



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Plus, each of these onlineEDGE products helps us build awareness of the CEFCU difference.

Carrie Allen

New Media Developer
CEFCU

The Association for Financial Counseling and Planning Education awarded CUNA the 2008 Outstanding Consumer Financial Information Award for its suite of online financial literacy products for credit union members.



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>> Special Report

CUs Can Be Targets of Text Message Scams

A 2009 Cisco Midyear Security Report notes significant growth in text message scams and says that smaller financial institutions—like credit unions—have been the focus of many of the new threats. The research notes that such financial institutions most likely are targets for the scammers because members or customers have “higher levels of trust and familiarity” with them.

Cisco says text scammers hope that consumers savvy enough not to fall for e-mail phishing scams may still be gullible through their mobile phone. What’s more, Cisco says Internet criminals increasingly operate like successful businesses, borrowing the best strategies from legitimate companies. Fraudsters



are forming partnerships to boost their illegal profits.

Among the threats to be on the look out for:

- ▶ The text message scams— at least two or three new campaigns surface each week on handheld mobile devices, such as cell phones.
- ▶ Botnets—Networks used to launch an attack, botnets increasingly are rented out by their owners to fellow criminals to deliver spam and malicious software.
- ▶ Spam—A major vehicle for spreading worms and malware and clogging Internet traffic, spam encompasses everything from legitimate sales pitches to malicious websites. More than 180 billion spam messages are sent each day— about 90% of the world’s e-mail traffic.
- ▶ Worms—Credit unions interested in

using social networking need to be aware that the rise of social networking has made it easier to launch worm attacks. People who social network are more likely to click links and download content they believe were sent by people they know.

- ▶ Spamdexing—Packing a website with keywords or search terms so search engines will display the site more prominently, spamdexing also can send malware disguised as legitimate software.
- ▶ Insiders—Insiders who commit fraud can be contractors or other third parties as well as current or former employees. 🏠

 **CUNA CPF Fraud and Security materials**
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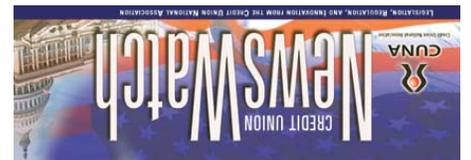
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