



With the U.S. Congress back in session, the issue of financial services regulatory restructuring came front and center during the first week of July. House Financial Services Committee Chairman Barney Frank (D-Mass.) says he wants to see action by August, while Rep. Paul Kanjorski (D-Pa.) urges a “deliberate” approach. Kanjorski is shown here (left) with CUNA President/CEO Dan Mica exiting the June 17 White House briefing on reform. (CUNA Photo)

CUNA Urges MBL Relief to Help Economy

Appearing on CUNA’s behalf, Allied CU President/CEO Frank Michael urged Senate legislators to help credit unions stimulate the economy by lifting the “arbitrary cap” on member business lending (MBL).

Testifying before a Senate subcommittee on financial institutions hearing on the effects of the economic crisis on rural credit unions and community banks, Michael said that granting the National Credit Union Administration authority to lift the current MBL cap would “safely and soundly” result in \$10 billion in new small business loans within one year.

Michael said that while CUNA supports “strong regulatory oversight of how credit unions make member business loans, there is no safety and soundness rationale” for the current rule that limits the amount credit unions may lend to their member businesses to 12.25% of a credit union’s total assets.

Michael also urged the assembled senators to “look for opportunities to provide exemptions from the most costly and time-consuming initiatives to cooperatives and other small institutions” as they move forward with their work on financial regulatory reforms. Legislators should also act to help credit unions avoid the “smothering effect” of increased regulatory scrutiny that is causing an

>>  See page 6

Reg Restructure Unfolds

After a July 4 District Work Break, Congress last week resumed its work on financial regulatory restructuring, with House Financial Services Committee Chairman Barney Frank (D-Mass.) introducing a bill to create the Obama administration’s proposed Consumer Financial Protection Agency (CFPA).

While Frank’s bill is very close to the Obama plan in that it seeks to protect consumers through the creation of an independent agency with a broad range of rulemaking, information gathering, supervisory, and enforcement tools, there are some key differences in the two approaches.

One difference is Frank’s intent to preserve the Com- >>  See page 6

Inside

2 | CUNA Confidential

Newest on corporate stabilization

6 | Interchange Fees

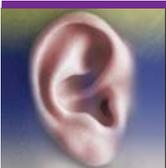
Key meetings scheduled

7 | Troublesome CARD Act Provision

CUs need more compliance time

8 | Treasury on CU Issues

Interested in CU input



Corporate Stabilization Fund Implementation Provides Relief to Credit Unions

The National Credit Union Administration (NCUA) may have slowed the pace of its posts on corporate credit unions from weekly to “as needed,” but that is not to imply that the corporate environment suddenly lacks dynamism. Much has happened since the last NewsWatch update on corporates and included here is a comprehensive compilation of events.

‘Helping Families’ becomes law

On May 20, President Obama signed the “Helping Families Save Their Homes Act of 2009” (Public Law No. 111-22, also known as “S. 896”) into law. Among other things, S. 896 establishes legal authority for the Temporary Corporate Credit Union Stabilization Fund (TCCUSF), a new fund created within the Treasury and administered by the NCUA. The new law also increases NCUSIF share insurance coverage from \$100,000 per member to \$250,000 per member until 2013. “The TCCUSF’s purpose is to spread out the costs to federally-insured credit unions (FICUs) of the NCUA’s Temporary Corporate Credit Union Share Guarantee Program and the forecasted losses at U.S. Central and WesCorp. The TCCUSF does so by assuming National Credit Union Share Insurance Fund (NCUSIF) liabilities related to that share guarantee and the predicted losses.” The NCUA board issued Letter to Credit Unions 09-CU-14 on June 24 in order to provide FICUs with guidance on the TCCUSF’s implementation.

Events to date

To briefly recap corporate credit union events so far this year, the NCUA instituted the Temporary Corporate Credit Union Share Guarantee Program



“Passage of S. 896, the Helping Families Save Their Homes Act, through the efforts of CUNA and others can be seen as the most important piece of credit union legislation since passage of the Credit Union Membership Access Act in 1998.”

**—Michael Edwards,
Counsel for Special Projects**

on January 28, 2009 in order to help maintain corporate credit union liquidity. To pay for \$4.7 billion in related costs, NCUA announced a 51% NCUSIF deposit impairment and a 0.30% of insured shares NCUSIF premium on all FICUs.

On March 20, NCUA placed U.S. Central FCU and Western Corporate FCU (WesCorp) under conservatorship. The agency also announced an increased cost estimate--up to \$5.9 billion from \$4.7 billion-- based on the Pacific Invest-

ment Management Company’s (PIMCO) credit analysis of corporates’ residential mortgage-backed securities. The NCUA therefore increased FICUs’ NCUSIF deposit impairment to 69% from 51%. Including the then-applicable 0.30% of insured shares NCUSIF premium, until passage of S. 896 these agency actions would have resulted in a total cost to each FICU of 0.99% of insured shares.

CUNA: CUs need better info, less burden

The Freedom of Information Act documents that CUNA recently received indicate that PIMCO typically bases its residential mortgage-backed securities value estimates on factors including: (1) the type of each underlying loan (e.g., prime, Alt-A, subprime); (2) the servicer and originator of each loan (since many loans originated by the same institution perform similarly, etc.); (3) the current status of delinquencies in the loan portfolio; and (4) property location at the zip code level for each loan (if zip code information is available). PIMCO then estimates a loan-to-value ratio for each loan based on the above information and “information about the current housing market.” PIMCO apparently views negative equity as a major driver of mortgage loan defaults and believes that home mortgage loan-to-value ratios also drive the rate of housing price recovery.

CUNA worked extremely hard for passage of S. 896’s TCCUSF provisions in order to defray FICUs’ NCUSIF costs resulting from the possible losses forecasted by the PIMCO report and other analyses used by NCUA. These NCUSIF costs would have made over 100 FICUs newly subject to Prompt Correction Action, depleted FICU capital during a

severe economic downturn, and likely stifled the growth of many credit unions.

The TCCUSF operates by borrowing funds from the Treasury and uses those funds to assume the NCUSIF's corporate share guarantee liability and the U.S. Central capital note, thereby reimbursing the NCUSIF for its corporate-related costs. The new law and the TCCUSF allow the NCUSIF premium costs to be spread out over up to 8 years (or such longer period as the Board may determine under extraordinary circumstances) and allow costs related to replenishment of FICUs' 1% NCUSIF deposit to be spread out over 7 years (with the possibility of an extension, if necessary). It is possible that some of the losses on corporates' mortgage-backed securities that NCUA has forecasted may not actually materialize during this period; such a scenario could lead to a NCUSIF dividend at some point in the future if the TCCUSF is fully repaid.

NCUA guidance

NCUA Letter to Credit Unions 09-CU-14, which provides guidance regarding the implementation of the TCCUSF and its impact on FICUs' balance sheets, is broken into two main parts: (1) the five page letter itself which NCUA has indicated is targeted towards credit union CEOs; and (2) "Enclosure A," containing detailed guidance on accounting for the TCCUSF implementation, which NCUA has indicated is targeted towards credit union CFOs and accountants. Each FICU is also expected to receive an "Enclosure B" which will contain specific information about the value of that FICU's NCUSIF deposit following the "pass-back" discussed below.

TCCUSF implementation will result in FICUs' 69% NCUSIF deposit impair-

ment being "passed-back" and credited to each credit union's NCUSIF deposit account as a recapitalized NCUSIF deposit. FICUs will not "reverse" the NCUSIF deposit impairment they recorded in December 2008 or March 2009; rather, the "passed-back" money will count as "income" to each FICU and be reflected on June 30, 2009 call reports. NCUA has indicated that FICUs are not to "reverse" the NCUSIF deposit impairment—i.e. not to restate prior accounting statements—because the agency interprets generally accepted accounting principles as requiring each FICU to report that its "NCUSIF deposit was impaired and not fully refundable during the period January 28, 2009 through implementation of [S. 896 by the NCUA Board effective] June 30, 2009."

Letter to Credit Unions 09-CU-14 states that the previously announced NCUSIF premium of 0.30% of insured shares (calculated with share insurance up to \$100,000 per member) will be reduced to 0.15 % of insured shares (calculated with share insurance up to \$250,000 per member). For credit unions with greater than \$50 million in assets, the NCUSIF premium will be calculated based on shares as of June 30, 2009. For credit unions with fewer than \$50 million in assets, the NCUSIF premium will be calculated based on shares as of December 31, 2008.

The letter also says that FICUs' PCA obligations "will not change as a result of the stabilization expense entries made in either December 31, 2008 or March 31, 2009." FICUs with a net worth between 6 and 6.99% may apply for waivers of earnings retention requirements if the corporate credit union expenses were the reason that the credit union's net worth fell below 7%, and the credit union's net

worth will be above 7% on its June 30, 2009 call report (i.e. , after implementation of the TCCUSF). Similarly, it says that NCUA "will be receptive to approving" pro forma net worth restoration plans for FICUs that have a net worth below 6% as a result of the corporate credit union expenses if the FICU's net worth will be above 6% after implementation of the TCCUSF.

To reflect the temporary (until 2013) increase in NCUSIF insurance coverage from \$100,000 to \$250,000, FICUs with greater than \$50 million dollars in assets will receive their normal, semi-annual NCUSIF capitalization deposit adjustment notice in the fall, based on June 30, 2009 call report data. FICUs with fewer than \$50 million dollars in assets will receive their adjustment notices in spring 2010 based on December 31, 2009 shares.

Most important CU legislation in a decade

Despite the TCCUSF's relatively complex implementation, passage of S. 896 through the efforts of CUNA and others can be seen as the most important piece of credit union legislation since passage of the Credit Union Membership Access Act in 1998. This is because the NCUSIF costs defrayed by the TCCUSF would have had a material impact on the credit union movement's accumulated capital, leading to more credit unions being subject to Prompt Corrective Action and/or being forced to restrict growth or sell assets to maintain net worth ratios. While the degree to which the forecasted losses at U.S. Central and WesCorp will materialize remains to be seen, S. 896 and the TCCUSF have minimized the very real impact that the pre-S. 896 NCUSIF costs would have had on FICUs. ■

 **CUNA Corporate CU Resources**
http://cuna.org/initiatives/ncua_corp_action.html

How do I keep my credit union compliant?

challenge

The NCUA requires our credit union to prove our compliance training. We offer the training, but how do we ensure we keep this annual training fresh?



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Sallie Yourkovich
Program Specialist
Dominion Credit Union

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>> Governmental Affairs

Interchange Fees: Hot Topic Returns

Government intervention in setting interchange fees continues to be a hot topic in Congress, one which again may be bubbling to the surface. CUNA adamantly opposes efforts to artificially impose limits on a fee that is best dictated by free-market forces.

CUNA, as a member of the Electronic Payments Coalition (EPC), is scheduled to meet this week with U. S. Treasury Secretary for Financial Institutions Michael Barr to explain that legislation affecting interchange fees would adversely limit consumer options, competition and technological innovation. Interchange fees allow business costs, including the risk of consumer nonpayment, to be shared by the payments participants and, therefore, enables the system to operate efficiently.

The EPC argues interchange legislation is an attempt by the merchants to drive down their own cost of business at the expense of consumers and the financial institutions issuing

debit and credit cards. The EPC notes there is no evidence any reduction in interchange for merchants results in savings passed along to consumers.

Later in July, CUNA will participate in a similar issues briefing hosted by the Blue Dog Coalition, a group of fiscally conservative Democratic House members.

Under a new credit card law enacted in May, the Government Accountability Office (GAO) is ordered to submit a study to Congress on “the use of credit by consumers, interchange fees, and their effects on consumers and merchants.” The GAO is to review nine areas, including “the extent to which interchange fees allow smaller financial institutions and credit unions to offer payment cards and compete against larger financial institutions.”

CUNA Issue Summary: Interchange Fees
http://cuna.org/gov_affairs/legislative/issues/download/interchange_fees.pdf

Reg Restructure Continues to Unfold

From page 1

community Reinvestment Act (CRA) enforcement authorities that are currently held by existing federal banking regulators. As written, the Obama plan would place CRA oversight under the new CFPA.

Frank’s bill also seeks to address the roles of the Office of the Comptroller of the Currency and the Office of Thrift Supervision at a later date. The Obama plan would merge these two entities into the newly created National Bank Supervisory.

The National Credit Union Administration (NCUA) has moved to take a role in the evolving consumer protection issue by announcing its intent to create an NCUA Consumer Protection Office. However, U.S. Treasury Assistant Secretary Michael Barr recently told the Wall Street Journal that the NCUA would lose its independent oversight of consumer protection issues if the CFPA is established as it is set forth in the administration’s plan.

Congress’s financial regulatory reform work is ongoing, and Frank has scheduled a number of additional hearings throughout this month. He has also said that he would like to have completed legislation to the full House by August.

However, Rep. Paul Kanjorski (D-Pa.) has urged his colleagues to proceed with caution. Speaking during an interview with CNBC, Kanjorski said that acting in a more deliberate fashion should ultimately “create better standards and a better performance rate.”

CUNA is reviewing its policies toward many of the issues presented by regulatory restructuring, and CUNA President/CEO Dan Mica recently met with U.S. Treasury Secretary Tim Geithner to discuss many of the unique issues facing credit unions.

CUNA Urges MBL Relief to Help Economy

From page 1



Appearing on CUNA’s behalf, Allied CU President/CEO Frank Michael urged Senate legislators to lift the arbitrary cap on member business lending to allow credit unions to help stimulate the economy. Michael was testifying at a Senate subcommittee hearing on the effects of the economic crisis on rural credit unions and community banks. (CUNA Photo)

increasing number of small rural credit unions to merge with their larger counterparts.

While reiterating CUNA’s support of the overall goal of consumer protection that is sought by the Obama administration’s plans to create a Consumer Financial Protection Agency (CFPA), Michael warned that the addition of extra regulatory oversight would, in the case of his credit union, lead to a costly and burdensome regime of dual examinations.



>> Regulatory Affairs

CUs Need More Time on CARD Act Provision

Senate and House lawmakers should contact the Federal Reserve Board to urge an extended compliance date for a troublesome provision carried in the new Credit Card Accountability, Responsibility and Disclosure (CARD) Act, CUNA advocated while testifying last week before the Senate Banking Committee.

The hearing focused on "The Effects of the Economic Crisis on Community Banks and Credit Unions in Rural Communities." But CUNA took the opportunity to alert the panel that the Fed, while implementing the new law, must give credit unions more time to comply with a specific requirement in Section 106. CUNA has also been working directly with the Fed on the issue.

Section 106 prohibits creditors from claiming a payments as late unless that creditor adopts reasonable procedures to ensure that periodic statements are delivered to consumers no later than 21 days before the payment due date. CUNA has been raising an alert that the provision is "very problematic" both because it is one of the very few provisions that apply to all open-end credit, not just credit cards, and because the upcoming Aug. 20 effective date sets a difficult, if not impossible, compliance timeframe.

If the section is to apply beyond credit cards and also cover general lines of credit, lines of credit associated with share draft and checking accounts, signature loans, and home equity lines of credit and--of particular concern to credit unions--to multi-featured, open-end lending programs, then a longer compliance timeframe is imperative, CUNA urges. 🏠

 **CUNA Testimony**
http://cuna.org/gov_affairs/legislative/testimony/index.html

Compliance Challenge

Q: June, the compliance manager at ABC FCU, was asked to quickly revise the credit union's lending policy to add information concerning requirements of the Mortgage Disclosure Improvement Act of 2008 (MDIA) that become effective on July 30. June knows the MDIA covers only certain mortgage loans. What types of mortgage loans are covered by the MDIA?

- A.** Only "higher-priced" mortgage loans.
- B.** Only HOEPA loans.
- C.** All mortgage loans regardless of whether they are closed-end or open-end.
- D.** All mortgage loans except for Home Equity Lines of Credit (HELOCs), temporary financing and timeshare financing.

A: The correct answer is D. Use the link below to find out why and to find out more.

 **CUNA's Compliance Challenge**
www.cuna.org/compliance/member/comp_challenge/06_09_challenge.html

CUNA E-Guide on Truth in Lending and Reg Z
www.cuna.org/compliance/member/eguide/eguide_regz.html

Fed MDIA Disclosure Requirement
<http://edocket.access.gpo.gov/2009/pdf/E9-11567.pdf>



Comment on FACT Act Issues Due Aug. 11

CUNA is seeking credit union input on proposed changes to the Fair and Accurate Credit Transactions (FACT) Act that would require regulators to define the circumstances under which a credit report issuer would investigate disputes regarding the accuracy of a report.

If adopted by the National Credit Union Administration, the revisions would apply to federally chartered credit unions. Similar provisions proposed by the Federal Trade Commission would apply to state-chartered credit unions.

Among the issues raised by the proposal, CUNA is asking credit unions to comment on the following:

- ▶ When and how often do furnishers provide account opening dates to credit bureaus? Would the lack of an account opening date, or other specific information, cause issues for a bureau that is evaluating a consumer's creditworthiness or compromise the integrity of the information?
- ▶ Should some credit products or services be exempted from these guidelines?
- ▶ Would small institutions be affected if furnishers provided more information, such as account opening dates? Should small institutions be approached differently?

 **CUNA Comment Call**
http://cuna.org/reg_advocacy/reg_call/2009_comment_calls.html

CUNA Comment Letters
http://cuna.org/reg_advocacy/comment_letters/comment_letters09.html



>> Special Report

CUNA Continues High-Level Meetings: Treasury Eager to Discuss CU Issues

CUNA continues its engagement in high-level meetings with key members of the Obama administration. Most recently, CUNA President/CEO Dan Mica met with U.S. Treasury Secretary Timothy Geithner to discuss pressing issues facing credit unions.

Discussion topics included member business lending and alternative capital, but the meeting also was an important step taken by CUNA to ensure that credit unions have a place at the negotiating table as the government and Congress move forward to restructure the financial regulatory system.

Mica reported that Geithner showed an "intense interest" in credit union-specific issues, and that the Treasury

Secretary said he looked forward to working with CUNA to address these issues. Moreover, Geithner indicated that Treasury recognizes a need to get input from credit unions and other outside sources as it works to correct perceived deficiencies in the current financial regulatory structure.

In recent months, Mica and other CUNA officials have participated in a number of important meetings with government officials. Mica represented credit unions recently when President Obama unveiled his financial regulatory restructuring plan at the White House. Other meetings have involved such prominent players as new U.S. Treasury Assistant Secretary for Financial Institu-



U.S. Treasury Secretary Timothy Geithner (left) and CUNA President/CEO Dan Mica recently met to discuss some of the top issues facing credit unions today. Geithner told Mica that he looks forward to working with CUNA. (CUNA Photo)

tions Michael Barr, Deputy Assistant Secretary for Consumer Protection Eric Stein, and Mario Ugoletti, recently named as director of the Office of Financial Institutions, and Elizabeth Warren, who chairs Congress's Troubled Asset Relief Program oversight panel. 🏠

CUNA Video
http://www.cuna.org/download/video/nn_070109.html

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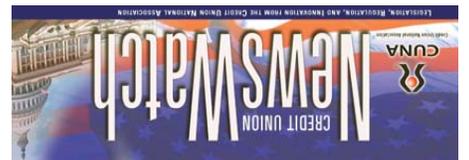


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