



Senate Majority Leader Harry Reid (D-Nev.) said last week at an event co-sponsored by CUNA that the Senate will certainly take on financial services regulatory reform this year. However, he warned against a congressional overreaction to the current economic crisis. "We all know that we have to have more regulation," he said, "but we don't want to overdo it." He made his remarks at a National Journal "Power Breakfast." (CUNA photo)

## Senate Vote on CU Amendment Expected This Week

The Senate is expected to take up its housing bill again early this week—legislation that may be the vehicle for an important credit union provision to address the cost of the corporate credit union stabilization plan.

A vote on S. 896, the Helping Families Save Their Homes Act, had been expected Friday. But Sen. Christopher Dodd (D-Conn.) declared on the Senate floor that there would be no votes in the Senate that day. The delay, in part, was meant to give the legislation's sponsors a chance to get a handle on the number of amendments that are being proffered for consideration.

Dodd also said a couple of other things that perked credit union ears. First, he underscored the impor-

>>  See page 2

## Senate Rejects 'Cramdowns'

Last week as the Senate moved toward final action on S. 896, the Helping Families Save Their Homes Act, it voted 51-45 to reject an amendment that would have allowed bankruptcy judges to modify—or "cramdown"—existing mortgage loan terms.

CUNA strongly opposed a House-approved version of the mortgage bankruptcy provisions and worked closely with key senators and their staffs to improve the bill.

CUNA's work in the Senate was meant to narrow the scope of the cramdown provision and mitigate its impact on credit unions in case Congress passed a bill containing that authority. In other words, if Congress passed such legislation, CUNA wanted to neutralize its impact on credit unions.

Ultimately, because of a political divide, the bill's sponsors could not get enough votes to pass the contentious cramdown language. However, CUNA's legislative affairs department feels strongly that CUNA's good faith effort to work with Senate leadership on the bill has enhanced a very beneficial relationship for credit unions in that body.

CUNA continues to work for passage of the credit union amendment to S. 896. It would address the cost to credit unions of the corporate credit union stabilization plan and enact other improvements, such as greater borrowing authority for the National Credit Union Administration.

Inside

2| Predatory  
Mortgage Bill  
House vote coming soon

3| UBIT Lawsuit  
Court questions IRS  
premise

7| Financial  
Literacy  
Education is a growing  
concern

8| Special Report  
CUNA urges: Check  
disaster strategies



# >> Legislative Affairs

## Card Protections Get House Backing

The Credit Cardholders' Bill of Rights Act (H.R. 627) passed the House 357-70 last week and the Senate may take up its comparable bill (S. 414) as early as this week.

For the most part, both the House bill and its Senate counterpart track credit card best practices that were adopted by federal regulators and go into effect next July. Both the regulators' rules and the legislation would ban double-cycle billing, universal default and prolonged payment periods, among other consumer-averse practices.

CUNA generally supported a version of the bill approved earlier in April by the House Financial Services Committee because it so closely mirrored the new regulations credit unions will have to follow beginning in July 2010. Also, as CUNA has noted, credit unions largely do not engage in the types of practices outlined in the legislative prohibitions.

The bills do go a little further than the regs, however. For instance, the lawmakers' plans would provide greater protections for underage consumers and would limit some fees. 🏠

## House to Vote on Predatory Mortgage Bill

The House this week may take up legislation to rein in abusive and predatory lending practices. H.R. 1728, the Mortgage Reform and Anti-Predatory Lending Act of 2009, cleared the House Financial Services Committee last week. The authors of the bill are Reps. Brad Miller (D-N.C.), Mel Watt (D-N.C.) and Committee Chairman Barney Frank (D-Mass.).

CUNA supports the bill's intent, although it has warned lawmakers that the legislation could conflict with regulatory actions already in place to curb abusive lending. CUNA President/CEO Dan Mica has urged House leaders to consider "only those statutory changes which are absolutely essential" and noted

some parts of the bill would be more appropriately targeted at the mortgage brokerage industry.

Key provisions of the bill would ban yield spread premiums, require originators to disclose the compensation received from the transaction, and require all loans in mortgage refinancings to provide a net tangible benefit to the consumer. The measure also calls for new federal rules requiring creditors to retain an economic interest in a material portion--at least 5%--of the credit risk of each loan the creditor transfers, sells, or conveys to a third party. Federal regulators would have the authority to make exceptions. 🏠

### Senate Vote on CU Amendment Expected This Week

▶ From page 1

tance of the amendment to allow credit unions to spread out over eight years the cost of a premium assessment resulting from losses at wholesale corporate credit unions. And he also highlighted CUNA's support for the bill.

Dodd and Sen. Richard Shelby (R-Ala.), who are chairman and ranking Republican member of the Senate banking panel respectively, are sponsoring the amendment that also would:

- ▶ Create a Temporary Corporate Credit Union Stabilization Fund;
- ▶ Increase National Credit Union Administration (NCUA) borrowing authority; and
- ▶ Extend the higher share and deposit insurance coverage levels, first set as a temporary measure in October 2008 as part of the Emergency Economic Stabilization Act. 🏠

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##### News Now LiveWire

- ▶ U.S. Central's evp of asset/liability management, Dave Dickens, has left the company, effective immediately. More in Friday's News Now. 18 hours ago
- ▶ A Connecticut low-interest student loan bill, developed by the state's credit unions and governor, was introduced in the state assembly. 19 hours ago
- ▶ House Committee OKs CUNA-backed TARP reform measure--increases NCUA borrowing authority, provides 5-yr. restoration to replenish NCUSIF. 2 days ago
- ▶ NCUA has posted accounting bulletin on corporate stabilization plan. Find here <http://tinyurl.com/cb7na5>. Read News Now Thursday. 2 days ago
- ▶ NCUA Bd Member Hyland: "all other reasonable alternatives" to fund corporate assistance plan and reduce assessment on CUs must be considered 2 days ago
- ▶ more...



# >> Governmental Affairs

## Corporates' MBS Reviews Released

The National Credit Union Administration (NCUA) released results of the analyses reviews of all private label mortgage-backed securities (MBS) at Western Corporate FCU (WesCorp) and U.S. Central FCU.

That analyses—by Clayton Fixed Income Services, Inc.—shows the range of estimated credit losses for U.S. Central under optimistic, base and pessimistic scenarios are \$0.6 billion, \$2.2 billion, and \$6.5 billion, respectively. WesCorp has an optimistic loss level of \$3.0 billion, a base of \$5.6 billion and a pessimistic loss level of \$7.9 billion.

The Other-Than-Temporary-Impairment (OTTI) charges to be reflected on the March 31 statements for U.S. Central is \$2.3 billion and for WesCorp is 5.8 billion. This will result in an extinguishment of all Paid-in-Capital (PIC) and Membership Capital Accounts (MCA) at WesCorp. For U.S. Central, all PIC and 63% of MCAs will be exhausted. The March 31 financial statements are expected to be released by each corporate this week, NCUA said.

CUNA continues to make every effort to urge NCUA to consider alternative approaches to extinguishment. 🏠



## UBIT Judge Ponders Government's Premise

A district court judge's pre-trial decision in an unrelated business income tax—or UBIT—case not only came out in favor of the plaintiff credit union's witness list, it also questioned the premise of the government's tax arguments.

The case involved is Community First CU v. United States of America. The Appleton, Wis. credit union filed suit in January 2008 in the U.S. District Court for the Eastern District of Wisconsin against the United States seeking a refund of \$54,000 in taxes paid in UBIT on income from several insurance products.

Community First CU contends that the revenue from sale of the products is "substantially related" to the purposes and functions of the tax-exempt, state-chartered credit union. May 11 is the date set for a jury trial.

Last week, U.S. District Court Judge William Griesbach rejected the request of the government to disallow certain of the credit union's witnesses, but also did not block any defendant witnesses.

Notably, the judge also used the occasion to question aspects of the government's intended line of testimony to support the Internal Revenue Service's UBIT position. For instance, Griesbach wrote:

"The unstated, but apparent, premise of the government's argument is that credit life and GAP insurance could (emphasis is the judge's) be substantially related to a credit union's tax-exempt purposes if they were offered at lowered rates. That is, no one argues that credit and GAP insurance isn't related to the business of credit unions—the argument is simply that the premiums charged are too high."

Noting that the credit union has said that 51% of its expenses take the form of dividend payouts to member deposits, the judge went on to ponder that members are "actually the beneficiaries of the insurance products in more ways than one."

"It would be one thing if there were allegations of lavish executive perks or waste," the judge wrote adding that, instead, it appears the bulk of the premiums "is actually going into the pockets of the members who are depositors."

If that's the case, Griesbach said, it seems the government's objections to cost are "crippled."

## Loan Mod Agreements Available Online

The agreement lenders and servicers must execute in order to participate in the Obama administration's loan modification program is now available on a number of associated websites.

Fannie Mae, the "financial agent" charged—along with the U.S. Treasury Department—with managing the program, recently posted the agreement form on its website. It is also available on the Freddie Mac website and at a government website named after the administration's loan modification program, "Making Home Affordable."

Also available at those sites is online guidance regarding the loan modification program, including some recently updated information. As noted April 9 in *News Now*, both Freddie Mac and Fannie Mae have substantial roles both in the refinance and the modification components of the administration plan meant to mitigate foreclosures. 🏠

 **Making Home Affordable**  
<http://www.hmpadmin.com/>

**Freddie Mac Website**  
<http://www.freddiemac.com/>

**Fannie Mae Website**  
<http://www.fanniemae.com/index.jhtml>

# REVOLUTION



JUNE <sup>21</sup>/<sub>24</sub> 2009  
BOSTON <sup>MA</sup>



POWERED BY CUNA

## FEAR IS NOT REVOLUTIONARY

**IN THE HARD ECONOMIC TIMES** OF THE 1930S, THE BANKS RETREATED. ED FILENE ADVANCED. HE CONTRIBUTED \$1 MILLION TO THE CREDIT UNION MOVEMENT, SPARKING THE REVOLUTION THAT HELPED SPUR OUR NATION'S RECOVERY.

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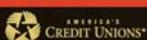
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## **HOT** TOPICS FOR YOUR DISCUSSION

**THIS MAY BE ONE OF THE MOST DIFFICULT YEARS MOST OF US WILL EVER HAVE TO FACE IN A LIFETIME OF CREDIT UNION INVOLVEMENT. TO KEEP YOU AND YOUR BOARD UPDATED ON THE CHANGING LEGISLATIVE AND REGULATORY LANDSCAPE IN WASHINGTON, ADDITIONAL SESSIONS HAVE JUST BEEN ADDED TO THE CONFERENCE LINEUP.**



### **CRITICAL ISSUES UPDATE AND Q&A WITH DAN MICA**

**COME TO BOSTON** to engage in crucial discussions and develop a disciplined approach to the challenges ahead. Other new pressing-issues sessions will include:

- **TARP 101** – What has the Treasury Department's Troubled Asset Relief Program done for the banks and how does that impact credit unions?
- **LEGISLATIVE/REGULATORY UPDATE** – Learn about the latest developments on key policy issues such as regulatory restructuring, bankruptcy, spreading out credit unions' costs associated with the corporate credit union network, and interchange fee income.
- **NET WORTH RESTORATION PLAN PRIMER** – What are the issues in developing a net worth restoration plan?
- **FACING UP TO PROBLEMS IN THE CREDIT UNION SYSTEM** – How will NCUA's approach to assisting the corporates affect your credit union?
- **"HOW TO" ON THE OBAMA MORTGAGE MODIFICATION PLAN**
- **NEW EXAMINATION ISSUES** – What could be the hot-button issues for your credit union's next examination?

**PLUS,** the following previously scheduled sessions will address the economic and compliance issues facing our movement:

- **LEADERSHIP AND STRATEGY IN A WHOLE NEW WORLD OF FINANCIAL SERVICES** with Mark Sievwright, Fiserv
- **CURRENT COMPLIANCE CHALLENGES** with Kathy Thompson, SVP & Assoc. General Counsel, Credit Union National Association



# >> Regulatory Affairs

## U.S. Credit Unions Tell Russian Counterparts of Challenges

A delegation of U.S. credit union executives at the Third Russian CU Forum in Sochi in late April said it is a tough time for credit unions in this country, as it is for financial institutions worldwide.

The delegation included Anne Cochran, president/CEO of the Louisiana Credit Union League and member of the World Council of Credit Unions' board; Eric Richard, CUNA executive vice president and general counsel; and Rod Taylor, president/CEO of Barksdale FCU, Bossier City, La.



CUNA General Counsel Eric Richard described U.S. credit union challenges to 160 credit union leaders attending the Russian CU League annual general meeting in late April. He told forum attendees "We did not contribute to the current crisis, but we are suffering collateral damage from it," and noted CUNA has been urging credit unions to take a calm and restrained approach to the situation. Richard (right in photo) and CUNA were prominently featured in a Russian newspaper. (CUNA photo)

"If we in this room have any advantage over our competitors, it is that we represent financial institutions that are member-owned and member-operated," Cochran told the group. And Richard outlined in detail the struggle U.S. credit unions currently face and drew parallels between the U.S. and Russian situations, while Taylor addressed the importance of capital and the value of member ownership. 🏠

## NCUA Spotlights Loan Mod Scams

A National Credit Union Administration (NCUA) regulatory alert highlighting loan-modification and foreclosure-rescue scams says credit unions filing Suspicious Activity Reports (SARs) can help law enforcement identify the activities. The NCUA alert backs up a recent, similar Financial Crimes Enforcement Network (FinCEN) advisory.

According to FinCEN, the current economic environment has spurred a spate of such fraud schemes. Under the pretense of helping homeowners modify their mortgage obligations, schemers skim off money, equity, and in many cases, the home itself.

The NCUA said credit unions may intersect with these scams in two ways:

▶ Persons or entities perpetrating loan modification/foreclosure rescue scams may seek the services of credit unions for the purpose of receiving, depositing or moving funds relating to the scams; and

▶ Credit unions may become aware of such scams through their interactions with members who have become victims.

FinCEN requests the term "foreclosure rescue scam" be included in the narrative portions of all relevant SARs filed. 🏠

 **NCUA Regulatory Alert**  
<http://www.ncua.gov/news/express/xfiles/09-RA-05.pdf>

## ▶ Seeking CU Comment...

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

### NCUA

AGENCY DUE DATE	PROPOSAL	CUNA DUE DATE
30 days after published in the Federal Register May 26, 2009	Unfair or Deceptive Acts or Practices Rules	May 22, 2009
	Truth in Savings Act Proposal for Overdraft Plans and Electronic Disclosures	May 15, 2009

### Federal Reserve Board

AGENCY DUE DATE	PROPOSAL	CUNA DUE DATE
30 days after published in the Federal Register May 26, 2009	Proposed Rule: Credit Union Reporting	May 15, 2009
	Reg Z Open-end Credit Rules	May 22, 2009
	Proposed Disclosures for Private Student Loans	May 15, 2009



# >> Notes Bearing Interest

## The Front Burner

The most viewed news stories on [cuna.org](http://cuna.org) during April 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/newsnow/top10](http://www.cuna.org/newsnow/top10).

### 10 NCUA advisory addresses changes in Corporate CU Share Guarantee Program

The NCUA issued another media advisory to provide information on recent changes to the Temporary Corporate Credit Union Share Guarantee Program.

### 9 Senate card bill includes NCUA emergency borrowing

Voting 12 to 11 in favor of a credit card best practices bill, the Senate Banking Committee passed legislation Tuesday that included consideration of amendments important to credit unions, including creating NCUA emergency lending authority.

### 8 NCUA releases summary of PIMCO report

The NCUA released a summary of the analysis of the Pacific Investment Management Company LLC (PIMCO) on the residential mortgage-backed securities held by corporate credit unions Friday.

### 7 NCUA memo guides on delaying NCUSIF write-downs

In a memo Friday to regional directors and examiners, shared with CUNA, the NCUA is providing guidance to field staff on an accounting bulletin (AB 09-02) released earlier in the week addressing corporate credit union issues.

### 6 Limited services, smaller numbers among CUNA recommendations

A revamped corporate credit union system would be most effective if it offered limited services (leading to reduction in the number of corporates), served a national field of membership, met stronger capital requirements, and included a prescribed number of "outside directors" who could "contribute diverse experiences" to a corporate's board, CUNA said in its comment letter to the NCUA.

### 5 NCUA reiterates: Flexible stance on impairment accounting

The NCUA intends to issue an accounting bulletin stating the agency will be flexible about when a credit union books the cost of the premium being assessed to replenish the National Credit Union Share Insurance Fund (NCUSIF).

### 4 FASB acts on mark-to-market, OTTI

The Financial Accounting Standards Board (FASB) Thursday adopted rule changes on mark-to-market accounting and on treatment of the "other-than-temporary impairment" (OTTI) of assets.

### 3 NCUA says guidance coming on 'extinguishment'

The NCUA intends to issue its next accounting guidance on corporate credit union issues Friday as part of its weekly release of information on the corporate situation.

### 2 NCUA provides deeper info on corporate analysis

NCUA Chairman Michael Fryzel Friday released a summary of the agency's analysis of the distressed securities held by U.S. Central FCU (U.S. Central) and Western Corporate FCU (WesCorp).

### 1 More accounting guidance sent to NCUA examiners

NCUA examiners received additional clarification today regarding credit unions' flexibility in booking the National Credit Union Share Insurance Fund (NCUSIF) deposit impairment, according to NCUA.

## Financial Literacy: A Growing Concern

Credit unions, long-time supporters of financial literacy, are emphasizing that such knowledge is especially crucial now because of the current precarious economic climate. Congress again endorsed the cause in a recent House resolution backing last month as Financial Literacy Month.

Studies show the need for education continues. About 41% of adults polled recently graded their financial knowledge in the C, D, or F range, according to the 2009 Consumer Financial Literacy Survey. One thousand adults age 18 and older participated.

The poll also reported: 26% admitted to not paying all bills on time; 32% said they have no savings, and 33% said they do not contribute any income toward retirement. The latter figure is up from 28% in 2008.

If the survey findings were applied to the general population, it would show that more than 58 million adults do not pay bills on time, 72 million have no savings, and more than 74 million do not contribute toward retirement.

Jim Hanson, CUNA's vice president of the Personal Finance Department, termed the results "disheartening, but certainly not surprising." He added: "There is no shortage of financial education materials available to consumers. The issue has often been about creating demand for financial education."

Sponsors of the House resolution hope it will give financial literacy the exposure it needs among the general public. The issue already is a priority effort among credit unions.

CUNA's Financial Literacy Task Force in 2008 found that nearly 80% of credit unions with \$10 million or more in assets offered financial education to adults or youth. More than half served both.



# >> Special Report

## CUNA, Leagues Checking Disaster Strategies

Credit unions are assessing options for protecting members and staff as reports of swine flu continue to spread. Many are checking out disaster response strategies used previously for floods, hurricanes and other state and national crises. And CUNA is reminding the credit union system of its many resources related to disaster planning.

Last week, the World Health Organization (WHO) raised its alert level to "phase 5," its second-highest level. News reports said declaration of phase 5 meant that WHO believes a pandemic is imminent and time to organize, communicate and implement planned mitigation measures is short.

Over the weekend the numbers of new cases appeared to be abating, but CUNA's and the leagues' message is credit unions must prepare to survive any contingency, to serve affected members and other citizens. 🏠

 **CUNA's Disaster Preparedness: Pandemic Information**  
[http://www.cuna.org/initiatives/disaster\\_prepare/member/pandemic\\_info.html](http://www.cuna.org/initiatives/disaster_prepare/member/pandemic_info.html)

**Other Important Disaster Preparedness Links**  
<http://cuna.org/newsnow/09/system043009-6.html>

## ESSENTIAL STEPS FOR PANDEMIC PREPAREDNESS

Update your business continuity plan to prepare for a pandemic.

Experts suggest these steps:

- ▶ **Create** a high-level disaster recovery team responsible for operations, marketing, security, human resources, and information technology (IT).
- ▶ **Teach** employees about proper personal hygiene for disease prevention and "social distancing."
- ▶ **Prepare** multiple backups for employees in key positions.
- ▶ **Develop** multiple options for communicating with employees and members.
- ▶ **Stockpile** supplies, including disinfectant, disposable gloves, surgical masks, and food and water for employees who opt to stay on-site.
- ▶ **Document** responsibilities, policies, and procedures in an easily accessible format.
- ▶ **Examine** electronic services that would aid members, including ATMs, shared branching, and online banking.
- ▶ **Update** IT systems to enable telecommuting.
- ▶ **Verify** vendors' readiness, especially those you rely on for electronic services.
- ▶ **Be prepared** to direct members to remote channels.
- ▶ **Review** employee policies on absenteeism, benefits, and telecommuting.

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