



CUNA Corporate CU Task Force Chairman Terry West (right), CEO of Vystar CU in Jacksonville, Fla., leads the group through its second meeting delving into the issues surrounding the NCUA's corporate credit union stabilization plan. The task force reaffirmed strong support for using the CLF and TARP funds as a back up to help fund corporate credit union liquidity. Task Force Member Bob Allen, CEO of Teachers FCU, Farmingville, N.Y., is shown left; CUNA General Counsel Eric Richard is center. (CUNA photo)

CUNA Parses Stimulus for CUs

CUNA has been studying the Obama administration's economic stimulus package signed into law last week. Of particular note are provisions that could benefit credit unions by widening member business lending (MBL) opportunities.

Credit unions engaged in Small Business Administration (SBA) 7(a) and 504 lending would benefit from an increase in the percentage of a loan that the SBA can guarantee. The stimulus package raised it to 90% from 85%. Credit unions benefit from the increase because the guaranteed portion of such loans does not count toward the MBL cap of 12.25% of assets.

Other SBA provisions in the package:

- ▶ Allow small businesses to refinance existing debts under the SBA's 504 program;
- ▶ Provide \$30 million for the SBA's microloan program, which provides loans and technical assistance for low-income entrepreneurs and laid-off workers starting their own business; and
- ▶ Reduce to zero the fees for borrowers on SBA-backed loans.

Credit unions also should note several agricultural and mortgage lending provisions that could encourage lending. For instance, credit unions could benefit from an increase in mortgage lending stimulated by a tax break provided to first-time homebuyers.

Also, Federal Housing Administration (FHA) reverse mortgage Home Equity Conversion Mortgage (HECM) loan limits are raised to \$625,000 from \$417,000. HECM are available only through an

>> [See page 3](#)

Work Continues on Corporate Plan Alternatives

CUNA and its Corporate CU Task Force continue to investigate possible funding alternatives to the National Credit Union Administration's (NCUA's) corporate stabilization plan. The task force by late last week completed its third brain-storming session to detail reasonable ways to make the plan less of a burden on credit unions.

CUNA also executed a survey in which credit unions weighed on whether or not to seek access to funds from the federal government's Troubled Asset Relief Program (TARP).

CUNA's poll attracted almost 1,400 responses.

The findings:

- ▶ Sixty-six percent of respondents strongly opposed an >> [See page 3](#)

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Women hit hardest



Overdraft Protection Programs: A Look at Truth in Savings and Reg E

Overdraft protection programs have been popular for years with both credit unions and their members (as well as banks and their customers). Nevertheless, these programs continue to be controversial, drawing both legislative and regulatory scrutiny for the last several years. Credit unions, you'll want to be prepared to see the House Financial Services Committee take the issue up again some time in 2009. It's pretty likely.

Consumer groups have often argued that overdraft transactions are nothing more than a high-cost form of lending aimed at low income consumers. However, CUNA has always supported the ability of credit unions to offer overdraft protection plans as a means to help their members resolve short-term financial problems. These programs, when used appropriately by members, serve as a valuable alternative to overdrawing share accounts, and spare members the embarrassment and additional fees associated with returned checks and electronic fund transfers (EFTs).

Every credit union's overdraft ("bounce") protection or "courtesy pay" program is different. Some credit unions automatically enroll eligible members in the service, while others require members to sign up. Some advertise their services, and some do not. What the programs have in common is the discretionary imposition of a flat fee charged whenever an overdraft is paid by the credit union. Institutions usually charge the same amount for paying an overdraft as they would if they returned the item unpaid. Each credit union's program is subject to the institution's written overdraft protection policy and should not be confused with overdraft lines of credit that are governed by Regulation Z (e.g., transfers from a credit card account, a home equity line of credit, an overdraft



"CUNA has always supported the ability of credit unions to offer overdraft protection plans as a means to help their members resolve short-term financial problems."

**- Valerie Moss,
Director Of Compliance Information**

line of credit, or from another account).

More than just checks and share drafts

In the past, institutions generally provided overdraft coverage for check transactions. More recently, the service has been extended to cover overdrafts resulting from ATM withdrawals, debit card transactions, and other electronic fund transfers (EFTs).

As you know, last December, the Federal Reserve Board amended Regulation DD (Truth in Savings) to require banks to disclose on periodic statements the aggregate dollar amounts charged for overdraft fees and for returned item fees (for the statement period and the year-to-date). Under the present rules, only institutions that promote or advertise

the payment of overdrafts must disclose aggregate amounts. However, this will change when the new Reg DD rule becomes effective on Jan. 1, 2010.

The revised Reg DD also requires banks that provide account balance information through an automated system (e.g., ATM, website, telephone response system) to provide a balance that does not include overdraft protection funds. The rule permits the disclosure of an additional balance that includes the discretionary overdraft protection funds as long as the institution prominently states that the balance includes these additional amounts. These changes are designed to ensure that consumers are not confused or mislead about the available amount of funds in their accounts when they request an account balance.

Regulation DD doesn't apply to credit unions. However, the National Credit Union Administration (NCUA) is required to issue substantially similar regulations for credit unions under Part 707 of the agency's regulations. So, credit unions should definitely review the new Reg DD provisions. CUNA expects the NCUA to issue a proposed amendment to Part 707 fairly soon in order to conform to the Fed's recent changes. The Fed's changes are effective January 1, 2010, and credit unions can expect NCUA to adopt the same timetable. So, stay tuned.

ATM and debit card transactions

In December 2008, the Fed also proposed an amendment to Regulation E (Electronic Fund Transfers) to provide consumers a choice regarding their institution's payment of ATM withdrawals and one-time debit card transactions that overdraw a consumer's account. Unlike the Reg DD changes, this Reg E proposal would be applicable to credit unions as

well as banks.

The Reg E proposal replaces a previous proposal addressing overdraft services issued by the Fed, the Office of Thrift Supervision, and NCUA last May. That proposal was issued under the Federal Trade Commission Act's provisions on unfair or deceptive acts or practices (or "UDAP") and would have required institutions to provide consumers with the right to opt out of overdraft protection plans.

Under the UDAP proposal, the opt-out right would have applied to overdrafts resulting from all methods of payment, including checks, ACH transactions, ATM withdrawals, point-of-sale (POS) debit card transactions and recurring payments; and would have prohibited institutions from assessing fees where the overdraft occurred as the result of a debit hold placed on the consumer's account that exceeded the amount of the transaction. These UDAP provisions would have applied to federal credit unions, not state-chartered. However, they were never finalized and have been replaced by the Fed's proposal on overdrafts under Reg E. The Reg E amendments will apply to all credit unions and banks.

The Fed's Reg E proposal offers two alternative approaches to providing consumers a choice regarding the payment of ATM and one-time debit card overdrafts by their financial institution:

- ▶ An opt-out approach where the institution gives the consumer an initial notice and a reasonable opportunity to opt out of the institution's overdraft service.
- ▶ An opt-in approach which would prohibit an institution from imposing a fee for paying overdrafts unless the consumer affirmatively consents (or opts in) to the service.

ATM transactions would include those at both proprietary and foreign ATMs; and debit card transactions would include those at point-of-sale (POS) with a merchant, online, or by telephone. These choices for consumers would not be required for other types of

transactions under the overdraft plan, such as checks, automated clearinghouse (ACH) transactions, and preauthorized EFTs. Under the previously proposed UDAP rules, financial institutions would have been required to provide consumers with the right to opt-out of all types of overdraft transactions.

The proposed rule would apply to both automated overdraft programs and to non-automated, ad-hoc accommodations, but will not apply to overdrafts paid by a line of credit under Regulation Z.

In addition, the proposal would prohibit institutions from imposing an overdraft fee when the account is overdrawn because of a hold placed on funds in the consumer's account that exceeds the actual transaction amount. The proposal would be limited to debit card transactions in which the actual transaction amount generally can be determined within a short period of time after the transaction is authorized, such as at gas stations and restaurants.

Please give us your feedback

Comments are due to the Fed by March 30, 2009. We at CUNA would like credit unions and leagues to share their comments with CUNA before that date so that we may incorporate your concerns in our letter to the Fed. For more information, please see CUNA's Comment Call on the new proposal available at http://www.cuna.org/reg_advocacy/.

Please note that the joint agency guidelines on overdraft protection plans issued in February 2005 will still be in effect after this proposed rule is finalized. The guidelines address safety and soundness considerations, legal risks, and best practices regarding these programs.

And, as always, send your compliance questions along to us at cucomply@cuna.com 📧

 **CUNA's e-Guide to Federal Laws and Regulations (See: Electronic Fund Transfers and TIS)**
<http://www.cuna.org/compliance/member/eguide/index.html>

 **CUNA Regulatory Advocacy's comment call on the new Reg E proposal**
http://www.cuna.org/reg_advocacy/reg_call/rcc_011309.html

Work Continues on Corporate Plan

 From page 1

infusion of TARP funds into natural person credit unions to bolster their capital.

▶ Sixty-two percent opposed using TARP to purchase credit unions' troubled assets.

Survey participants were more favorable toward setting aside TARP funds to backstop the NCUA's guarantee of deposits by credit unions in corporate credit unions. Forty-two percent favored this, while 29% came out against it.

Credit unions showed more ambivalence about TARP funds injected to help stabilize corporates or to buy their troubled assets. When asked if CUNA should advocate for these approaches, about one-third indicated a high level of agreement, about one-third had neutral views, and the remaining third reported a high level of disagreement.

CUNA President/CEO Dan Mica has said credit unions need to gain access to TARP funds now in case they need them in the uncertain future.

The legislation that set up TARP last year included credit unions as eligible institutions, but as implemented by the Treasury Department to date, credit unions have not been included. 📌

RESPA RULE
 <http://edocket.access.gpo.gov/2009/E9-852.htm> <<http://edocket.access.gpo.gov/2009/E9-852.htm>>

CUNA Parses Stimulus for CUs

 From page 1

FHA-approved lender and are the only reverse mortgage insured by the government.

FHA, Fannie Mae and Freddie Mac loan limits will equal 2008 levels of 125% of median home prices up to \$729,750.

REVOLUTION



JUNE ²¹/₂₄ 2009
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MONDAY | **OPTIMISM CAN TAKE YOU ANYWHERE**
JUNE **22** 20**09**

BERT JACOBS CO-FOUNDER AND CHIEF EXECUTIVE OPTIMIST OF LIFE IS GOOD, INC.

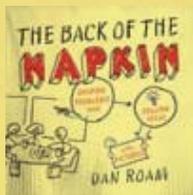
In the 1980s, Bert and John Jacobs were hawking their T-shirt creations out of their van. Today, Life is Good tops \$100 million a year in sales, carrying out a mission “to have greater positive impact on human culture than any consumer brand in history.” If you aspire to do well by doing good, don't miss this session!



TUESDAY | **THE ECONOMY AND ITS IMPACT ON CREDIT UNIONS**
JUNE **23** 20**09**

BILL HAMPEL SVP RESEARCH, CHIEF ECONOMIST, CREDIT UNION NATIONAL ASSOCIATION
MIKE SCHENK VP ECONOMICS & STATISTICS, CREDIT UNION NATIONAL ASSOCIATION

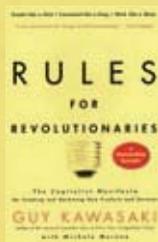
What's the outlook for the economy and credit unions into next year? How long and deep will the economic slowdown be, how will it affect credit unions, and what's our best response? Two credit union economists will provide valuable insights into our economic challenges.



TUESDAY | **BACK OF THE NAPKIN: SOLVING PROBLEMS AND SELLING IDEAS**
JUNE **23** 20**09**

DAN ROAM AUTHOR OF THE BACK OF THE NAPKIN: SOLVING PROBLEMS AND SELLING IDEAS WITH PICTURES

How can you describe complex concepts, solve difficult problems and sell others on breakthrough ideas? Forget the PowerPoint and use pictures. Dan Roam demonstrates how anyone—regardless of artistic talent—can use pictures to meet challenges in this unique, refreshing and effective way.



WEDNESDAY | **RULES FOR REVOLUTIONARIES**
JUNE **24** 20**09**

GUY KAWASAKI AUTHOR OF RULES FOR REVOLUTIONARIES: THE CAPITALIST MANIFESTO FOR CREATING AND MARKETING NEW PRODUCTS AND SERVICES

In this entertaining session, Guy draws on his experience with Apple and other world class companies to discuss how to innovate, improve and create revolutionary new products and services.



>> Governmental Affairs

Fryzel Says Agency Open to Alternatives

Chairman Michael Fryzel of the National Credit Union Administration (NCUA) said the agency will continue studying alternative approaches to funding its corporate stabilization program, disclosed last month.

Fryzel said all options must be “responsible and realistic” and meet statutory requirements. He made the observation during a 90-minute NCUA webcast February 12.

The webcast reviewed the details of the agency’s plan that would provide \$1 billion to U.S. Central FCU, and a guarantee for all corporate deposits through this month. The guarantee would be provided through December 2010 for corpo-



rates that sign an agreement with NCUA.

The agency currently plans to fund it through a premium to federally insured credit unions, an approach that CUNA maintains presents too much of a burden on credit unions in tough economic times.

CUNA is seeking alternatives, and Fryzel in his webcast said the agency is still open to new approaches.

NCUA Executive Director Dave Marquis, one of the speakers at the webcast, said agency research indicated that based on an average net worth of 11.1%, fewer than 175 credit unions will be “significantly impacted” by the impairment to the NCUSIF. ■

NCUA WEBSITE
www.ncua.gov <<http://www.ncua.gov/>>

House Could Vote Soon on Deposit Insurance Bill

A House vote could come soon on legislation to make permanent the \$250,000 share and deposit insurance ceiling, according to Ryan Donovan, CUNA’s vice president of legislative affairs. Donovan said it could come after the House returns this week from its District Work Period.

The temporary hike in the share and deposit insurance limit was part of the Emergency Economic Stabilization Act of 2008. The pending bill to make it permanent is H.R. 786.

The current version of the House bill includes two provisions suggested in a letter from CUNA on Feb. 3. They would:

- ▶ Extend to five years from one year the time the National Credit Union Administration (NCUA) has to restore its insurance fund to statutory required levels; and
- ▶ Increase to \$6 billion from \$100 million the NCUA’s borrowing authority from the Treasury Department, to allow NCUA to manage the NCUSIF.

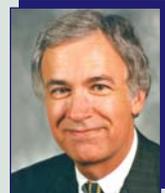
The first provision has become especially important in light of the NCUA’s plan to fund its corporate stabilization action with a share insurance premium. Current law requires NCUA to replenish the NCUSIF within the year that the fund drops below 1.2% of insured deposits. CUNA is working to develop funding alternatives for the NCUA’s plan.

NCUA’s current borrowing level was set 38 years ago. ■

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

Kentucky High Court Takes Up FOM Suit

The Kentucky State Supreme Court agreed to review an appeals court field of membership (FOM) ruling that went against credit unions. The issue: Do state regulators have authority to grant FOMs based on state Area Development Districts (ADDs)?



Eric Richard

The suit was filed in May 2006 by Home Federal Savings and Loan Association against the Kentucky Department of Financial Institutions (DFI). The bank plaintiff argued that state law does not permit community-based FOMs for state-chartered credit unions. It claimed that the ADD would equal a community charter.

An appeals court ruling, handed down in November, upheld a lower court decision that the DFI had exceeded its statutory authority when it approved geographic fields of membership for six state-chartered credit unions between 2000 and 2005.

CUNA filed a “friend of the court” brief last April. CUNA General Counsel Eric Richard said CUNA got involved because the lawsuit was part of a pattern in which bankers have been challenging community charters in state courts around the country.

Wendell Lyons, president of the Kentucky CU League, said that his group is encouraged that the high court granted Discretionary Review.



>> Notes Bearing Interest

▶ The Front Burner

The most viewed stories on cuna.org during January 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.

10 Altered bankruptcy bill clears House panel

The House Judiciary Committee approved mortgage bankruptcy reforms but made a few changes as it marked up its bill (H.R. 200).

9 NCUA asks Geithner for TARP aid for CUs

As Timothy Geithner assumed his new job as U.S. Treasury Secretary, he was contacted Tuesday by the federal credit union regulator about asset relief funds for credit unions.

8 Members among Heartland breach victims

Some credit unions reported that their members have been affected by the Heartland Payment Systems breach.

7 Class action suit filed in Heartland breach

A class action lawsuit was filed against payment processor Heartland Payment Systems over the data breach it publicly announced Jan. 20. The breach affected credit unions and their members nationwide.

6 NCUA's package gets national media attention

The National Credit Union Administration's corporate stabilization plan generated nationwide press coverage.

5 More CUs report Heartland breach impact

Media were reporting about credit unions whose members were among those whose accounts are impacted by the far-reaching data breach at Heartland Payment Systems.

4 CUNA Mutual offers advice on Heartland breach

CUNA Mutual Group is providing guidance to its Plastic Card Insurance policyholder credit unions regarding the Heartland Payment Systems breach.

3 Demand prompts GM's pilot expansion to 50 states

Credit unions and General Motors announced that their four-state pilot of "Invest in America," a loan incentive program for credit union members, is expanding to all 50 states;

2 NCUA approves stabilization efforts for corporates

The National Credit Union Administration (NCUA) took steps to "enhance and support" the corporate credit union system.

1 Card processor's breach may be the largest yet

Card payments processor Heartland Payment Systems announced that its processing system was breached last year by a malicious software program in what could be the largest data breach to date, with possibly more than 100 million credit cards compromised.

Mica Addresses MACUMA on Options

CUNA President/CEO Dan Mica spoke Feb. 9 at the monthly meeting of the Washington, D.C.-based Metropolitan Area CU Management Association (MACUMA) and said credit unions should be deliberative about backing a plan to re-capitalize corporate credit unions.

Reiterating the CUNA message, Mica said the best approach right now is to consider a range of options, rather than focusing on one.

Mica acknowledged during the speech that some institutions are urging a legislative solution centered on the Central Liquidity Facility (CLF). He said this is a logical option, but that it made better strategic sense to consider others, too, as CUNA is currently doing. ■

House Vote Coming on 'Cramdowns'

The House is expected to vote this week on H.R. 200, a bill that forces credit unions and other mortgage lenders to accept a lower principal on a mortgage loan by a bankruptcy court. The vote comes as 4,200 credit union representatives come together in Washington, D.C. for the 2009 CUNA Governmental Affairs Conference.

CUNA opposes HR 200 – or any similar bill – which forces credit unions to accept unlimited "cramdowns" on mortgage loans. H.R. 200 is overly broad in its application, scope, and duration as it applies to all mortgage loans, unfairly grouping a loan made with strong underwriting standards – such as those made by credit unions – with a loan made in an unscrupulous manner.

Credit unions acknowledge that bankruptcy is a legitimate option for eligible borrowers who have no other way to address their indebtedness, but CUNA stresses that the Bankruptcy Code must fairly balance the rights of both credit grantors and borrowers.



>> Special Report

ID Fraud Victims Up, More Women Hit

The number of identity fraud victims rose 22% to 9.9 million in 2008, but the amount stolen went up only 7% to \$8 billion, according to a survey by Javelin Strategy and Research.

The report by the Pleasanton, Calif. firm said the cost to consumers also was down. The average loss last year decreased 31% to \$496, the lowest level since 2005 when it was \$718 per incident.

The lower cost per incident can be attributed to faster detection, lower fraud amounts, and to quicker resolution times, industry efforts and consumer education, added Javelin.

Women were 26% more likely than men last year to be victims of identity fraud, according to the study. It said the gender disparity resulted because women are making more purchases in stores

than men.

Crooks are moving faster to cash in on the stolen information. The study said 71% of the fraud incidents began less than one week from when the data was stolen—up from 33% in 2005. “The dramatic increase points to more sophisticated attacks by fraudsters, and a rising number of ‘attacks of opportunity,’” according to Javelin. It defined these as incidents where people or businesses leave data exposed.

The report said that “low tech” methods to steal information remained the most popular option among identity crooks. Lost or stolen wallets, check-books, and credit and debit cards were the most likely thefts of choice.

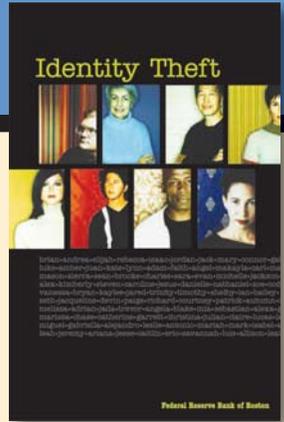
“These avenues totaled 43% of all incidents in which the method of access

was known,” according to the report.

“In a down economy, criminals tend to be opportunistic and creative in their approaches to stealing identity information and depositing malware on computers” said Tom Wills, senior security analyst at Javelin, in the report.

Additional information is available on identify theft in a brochure circulated by the National Credit Union Administration (NCUA), and the federal bank and thrift regulators. The updated brochure is, “You Have the Power to Stop Theft.”

 **Federal Reserve ID Theft Brochure**
<http://www.bos.frb.org/consumer/identity/idtheft.pdf>



Celebrate 100 Years of CU History
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A TRADITION OF PEOPLE HELPING PEOPLE



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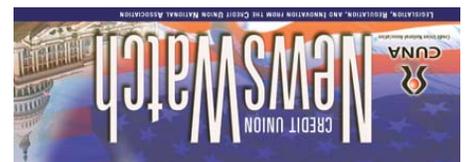


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