



On CUNA's audio call, NCUA Deputy Executive Director Larry Fazio and CLF Director Owen Cole detailed market conditions preceding the NCUA's action on corporate credit unions. From left: Kathleen Thompson, CUNA SVP/Associate General Counsel for Compliance and Legislative Analysis, Fazio, Cole, Mary Dunn, CUNA SVP & Deputy General Counsel, Susan Newton, Executive Director of the AACUL, and Brad Miller, Executive Director of the ACCU. (CUNA Photo)

CUNA Corporate CU Session Draws Thousands

Close to 3,000 credit unions tuned in for CUNA's audio conference call last week on issues surrounding the National Credit Union Administration's (NCUA) corporate credit union aid plan. Research from CUNA's Center for Professional Development has shown that credit unions, on average, have five people sit in on such informational sessions—meaning the CUNA broadcast reached almost 15,000 people interested in the latest developments.

First on the agenda of the audio conference, CUNA President/CEO Dan Mica told participants that while CUNA recognizes federal regulators had no choice but to take action on behalf of the corporate credit unions, CUNA opposes the means chosen to

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Alternatives to Premium Assessment Urged by CUNA

CUNA continues to urge federal regulators to consider alternatives to their plan to assess a share insurance premium to help fund a stabilization plan for corporate credit unions.

CUNA has expressed great concern that the National Credit Union Administration (NCUA) has not adequately explored a complete range of choices available or ways the plan could be less of a cost burden to credit unions already coping with tough economic conditions.

"We are fully aware of and troubled by the pressures that the agency's decision will have on credit unions. Our view is that other choices can and must be explored, immediately, to mitigate the impact on credit unions," CUNA President/CEO Dan Mica said.

He added, "There is a wide range of alternatives that the agency can and must consider."

Among them, Mica identified:

- ▶ Allow credit unions to tap the U.S. Treasury Department's TARP (Troubled Asset Relief Program), as soon as possible to deal with the corporate credit union liquidity emergency. This may require a statutory change and CUNA will sound out federal lawmakers to assess support;
- ▶ Use the Central Liquidity Facility (CLF) to provide the funding. CUNA is currently analyzing CLF's legal

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Mortgage Market Rescue ...A Precise Approach

One of the more significant threats facing credit unions on Capitol Hill is the prospect of legislation that would permit bankruptcy courts to modify mortgages, an action known as “cramdown.” Supporters of this legislation say their intention is to help borrowers who have received predatory loans.

As member-owned institutions, credit unions easily endorse actions to ease the hardship of families about to lose their homes because of the subprime mortgage crisis. But as financial cooperatives whose job it is to protect members’ ownership interests, credit unions have to oppose well-intended legislative initiatives that have inadvertent dangers to credit union operations.

“The problem,” says CUNA Vice President of Legislative Affairs Ryan Donovan, “is that Congress is trying to use bankruptcy reform as a miracle cure for all mortgage banking problems, without fully taking into consideration implications for other borrowers, and other sectors of the market.”

Since November 2007, CUNA has discussed credit union concerns with Democratic Sen. Richard Durbin (D-Ill).

CUNA has emphasized the plan must be limited and targeted. It must be designed specifically to help those who have been battered by toxic mortgages, while limited in duration and scope.

So far in the new 111th Congress, as far as CUNA and credit union interests are concerned, legislative proposals for bankruptcy reform currently under consideration are a disappointment because they lack the limits CUNA has recommended over the last sixteen months.

Donovan criticizes the bills in the pipeline now for being much too broad because they relax bankruptcy rules for all—not just toxic—mortgages. There also is no expiration date, which CUNA argues is shortsighted and blind to the

market disruptions it could cause.

Clearly, these shortcomings could be remedied by amendments as the legislation moves through Congress—but Donovan says there is real cause for concern.

“We certainly understand and appreciate the desire of many in Congress to help homeowners suffering hardships aggravated by the economic crisis,” he said, “but it is also important for Congress to understand that while the options under consideration—allowing any mortgage to be altered—may have a positive effect for a small number of borrowers, it would have a negative effect for the market as a whole. It could encourage otherwise healthy borrowers to embrace bankruptcy in order to gain a windfall in this dysfunctional market.”

Credit unions have a lot of company in opposing a free-for-all approach to mortgage bankruptcy rules. Mortgage and commercial banking organizations are up in arms. In fact, there are signs that the liberal eligibility standard is an issue of growing political sensitivity on Capitol Hill. That’s likely what was behind the decision by Democratic Congressional leaders in late January to postpone a final vote on the mortgage bankruptcy reform proposal.

Originally, the mortgage cramdown bill was expected to be included in the Treasury’s \$800 billion economic stimulus bill. However, when the drafts of the stimulus bill were released, they did not contain cramdown language. Democratic strategists working on the stimulus legislation said the mortgage bankruptcy reform proposal is so controversial it likely would reduce support for the bill. President Barack Obama wanted the stimulus legislation to pass Congress with a healthy bipartisan margin.

During negotiations last year, Democrats appeared amenable to CUNA’s concept stressing a targeted approach



“The problem, is that Congress is trying to use bankruptcy reform as a miracle cure for all mortgage banking problems, without fully taking into consideration implications for other borrowers, and other sectors of the market.”

**-Ryan Donovan,
Vice President of Legislative Affairs**

to the issue, providing cramdown only for those borrowers with nontraditional mortgages. However, in the ensuing months as the market crisis deepened, sponsors seemed more inclined to support the kind of controversial unlimited legislation now gathering support on Capitol Hill.

“They see what has happened in the market and are sympathetic,” Donovan says. “However, this is a very serious piece of legislation and it will be catastrophic if it is enacted in its current form.

We must continue to inform Congress that credit unions cannot support these bills as they are currently written.”

The issue of how to ease bankruptcy rules for homeowners caught in the subprime quagmire was recently before the House Judiciary Committee. In late January, the committee approved—on a party line vote—H.R. 200, the “Helping Families Save Their Homes in Bankruptcy Act of 2009,” sponsored by the committee’s chairman, Rep. John Conyers (D-Mich).

Sen. Durbin, one of the Senate's most influential members, has introduced similar legislation (S. 61). The Illinois Democrat argued in a recent statement that there is nothing radical or unusual about bringing all mortgages under bankruptcy laws. He said it simply updates the statute.

"Today," the senator pointed out, "virtually every type of personal debt, including vacation homes and family farms, can be restructured in bankruptcy with the exception of mortgages on a primary residence." "This exception," he continued, "dates to the 1970s when most mortgages were fixed rate, long-term agreements between local bankers and their neighborhood customers."

Durbin said the mortgage market today is strikingly different, and that his proposal will "help the bankruptcy code catch up with these changes."

CUNA vigorously challenges this view and seeks to convince Congress that a bankruptcy amendment allowing anyone to modify a home loan, regardless of financial circumstances, is a ticking bomb. It not only impacts mortgage loans but all loans that can be modified in Chapter 13.

CUNA believes such an amendment would be a mistake in the current crisis because it would further undermine investor interest in mortgage-backed securities, increase cost of mortgage loans for future borrowers, and present additional challenges in rebuilding the secondary mortgage markets.

CUNA has pointed out that even though credit unions did not make the types of loans that triggered the mortgage crisis, credit unions are impacted by the current breakdown. Donovan said reports from credit union executives note instances where members who are up to date on their home payments, and still employed, suddenly stop payments simply to activate foreclosure because they no longer want to make large mortgage payments on houses that have dropped precipitously in value.

In discussions with Congress, CUNA urged restricting the bankruptcy relief option to mortgage loan agreements se-

cured by the debtor's principal residence. It also proposed three other criteria for eligibility.

CUNA favors limiting the option to "subprime" loans that a court determines contain large interest rate re-sets; loans with negative amortization; or loans that involve fraudulent underwriting standards no individual could be expected to repay. Adoption of such amendments not only would provide relief to debtors, but prohibit the re-emergence of some of the abusive and shady practices that have created so much hardship in the current crisis. CUNA also believes the mortgage bankruptcy provisions should expire in five years.

Donovan said it is difficult to know whether the current mortgage bankruptcy relief proposal will be easier to defeat in the upcoming omnibus appropriation bill than it might have been in the stimulus legislation. He pointed out that both are must-pass bills, and both are sprinkled with hundreds of inducements that members of Congress cannot easily give up, even if they are unhappy about other provisions.

He notes the controversial mortgage bankruptcy reform concept most likely has acquired more exposure and political sensitivity because of the House hearings in recent weeks. There has also been vast media coverage. Donovan concedes lobbying against the proposal is a delicate exercise in the current economic environment.

"We didn't make the types of loans that caused the crisis. However, we're on the same side of the issue as those who did. As a result, we run the risk of being tainted by our position on this issue, even though, by all accounts, credit unions have lent responsibly."

But, Donovan said, credit unions have a good case against the mortgage bankruptcy proposal, which simply is too sweeping to be implemented at a time of perilous uncertainty in the nation's economic history. 🏠

 **CUNA Legislative Affairs**
http://cuna.org/gov_affairs/index.html

CUNA's Legislative Affairs Department brings you "Legislative Issues A-Z" with updated information on the bills that affect credit unions most.

Among the topics found there:

Appropriations

- ▶ Central Liquidity Facility
- ▶ CDFI
- ▶ CDRLF
- ▶ Small Business Administration
- ▶ World Council of Credit Unions

Bank Taxation

- ▶ Community Bank Legislation
- ▶ Limited Liability Company Banks
- ▶ Subchapter S Corporation Banks

Consumers

- ▶ Payday Lending
- ▶ Phishing

Housing

- ▶ Administration Proposals and Initiatives
- ▶ Federal Housing Administration
- ▶ Flood Insurance
- ▶ Government Sponsored Enterprises
- ▶ Mortgage Bankruptcy
- ▶ Mortgage Debt Cancellation
- ▶ Predatory Lending
- ▶ RESPA Reform
- ▶ Regulation Z

Regulatory Issues

- ▶ Credit Union Data Collections Initiatives
- ▶ Interest on Sterile Reserves
- ▶ Overdraft Protection
- ▶ Regulatory Restructuring
- ▶ Unrelated Business Income Tax (UBIT)

Small Business

- ▶ Credit Union Small Business Lending
- ▶ Small Business Administration
- ▶ Small Business Health Plans
- ▶ Servicemembers Civil Relief Act
- ▶ Student Lending

Taxation

- ▶ Credit Union Tax Exemption
- ▶ Unrelated Business Income Tax (UBIT)
- ▶ Troubled Assets Relief Program

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

Your Attendance at the GAC is Critical



The CUNA GAC: Bold Action is Needed!

The CUNA Governmental Affairs Conference is fast approaching. I know you have been getting some of our e-mail promotions. But let me make a different, *personal* appeal to you and your board if you have not yet made plans to attend. I cannot say this strongly enough: We really need you with us in Washington in a year that is shaping up to be unlike any other we have seen in recent memory.

We have all heard the talk of change. But consider this: The change that is coming portends a dramatic shift in favor of government activism and intervention. The term I hear again and again is "bold action." Case in point: The mortgage "cramdown" amendment to the Bankruptcy Code is now moving rapidly through Congress. However you feel about the amendment (CUNA is opposed), it is indicative of the activism and urgency now at work in Washington. More action looms on interchange fees, overdraft protection, regulatory restructuring, and of course, on the regulatory side, we are dealing with the ramifications of NCUA's assistance to the corporates. Against this powerful headwind, we too must be bold. That means turning out as many as we can possibly muster for the GAC to ensure our priorities are heeded and our interests—your interests—are protected. With the numbers we bring together, no other event but the GAC makes that kind of political impact. I know the economy is affecting everyone's decision-making. But if you have the capability, please plan to participate. Visit gac.cuna.org and register now to attend. I thank you for it.



Daniel A. Mica
President & CEO
Credit Union National Association



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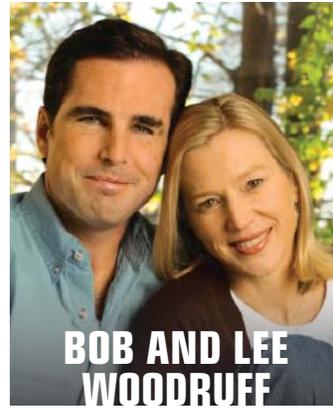
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GAC Kick-Off Sunday Event

Gary Sinise & the Lt. Dan Band

The **Lt. Dan Band** was formed by actor/musician Gary Sinise and Chicago composer Kimo Williams. Sinise is best known for his role as Lt. Dan in *Forrest Gump* and for his starring role in the TV series *CSI: NY*. The band has completed six tours for the USO and performs regularly for troops stationed around the world. *Presented by CUNA Councils*



>> Notes Bearing Interest

Bellco CU Wins a Round in UBIT Suit

A federal court in Washington denied the government's motion to dismiss or delay a suit challenging Internal Revenue Service (IRS) policies toward credit unions on unrelated business income taxes. The suit was filed last May by Bellco CU of Greenwood Village, Colo. Bellco seeks a \$199,000 refund for taxes paid 2001-2003.

IRS lawyers requested the complaint be dismissed, or stayed, until the IRS completed its audits of Bellco's tax returns.

CUNA General Counsel Eric Richard praised the court's ruling. "It was rightfully a losing argument. The Internal Revenue Code specifically allows taxpayers to bring refund suits after their refund requests have been pending for six months," he said.



Eric Richard

However, Bellco is still awaiting a trial date. The U.S. District Court judge had scheduled the trial for Aug. 31, but on Dec. 22 vacated that date without giving a reason.

CUNA's Richard said the credit union moved one step closer to compelling the IRS to adopt a reasonable position on UBIT. He said Bellco has a strong case "essentially seeking to right a wrong that IRS committed by forcing cooperatively owned, not-for profit, credit unions to pay taxes on some of the financial services they offer."

In a related case, the trial date for an Appleton, Wisc. credit union is coming up. Community First CU filed a complaint against IRS in January 2008, seeking a \$54,000 refund of UBIT taxes on income from several insurance products. May 11 is the scheduled date of that trial. 🏠

Fryzel: CUs Should Receive TARP Aid

National Credit Union Administration (NCUA) Chairman Michael Fryzel contacted Timothy Geithner as he assumed his job at the U.S. Treasury Department and asked the new Secretary to take a "fresh look" at including credit unions among financial institutions that receive funds from the Troubled Assets Relief Program (TARP).

"Although I can understand the initial actions that the Treasury Department has taken to help large banks, insurance companies, and other major financial institutions that have failed," Fryzel wrote in a letter to Geitner, "I am concerned about the second-place status into which credit unions and other smaller financial institutions have been placed."

He asked the Secretary to bear in mind in future decisions the key role that credit union have played in the nation's financial system over the years, including times of crisis.

Fryzel also cited a need for the Treasury to allow the National Credit Union Share Insurance Fund to establish a guarantee for credit union deposits in non-interest bearing transaction accounts, parallel to authority granted to the Federal Deposit Insurance Corp. 🏠



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

Update on FASB Fair Value Disclosure Plan

The Financial Accounting Standards Board (FASB) slowed its effort to revise rules for disclosing financial statements, but the objective remains a priority.

FASB decided not to finalize a proposed FASB Staff Position (FSP) on FAS No. 107, regarding disclosures for financial instruments. The proposal would have required disclosures based on fair value and on "incurred loss amounts."

The accounting standards agency is seeking an acceptable alternative for granting more emphasis on fair value accounting in its disclosure rules for financial instruments.

The board said it would issue a new staff position that would require disclosures of fair value measurements for financial instruments within the scope of FAS 107. The new version would not require disclosures for "incurred loss" amounts, according to the agency.

Additionally, the proposed staff position paper would reiterate qualitative disclosure requirements in Statement No. 107, and FASB statement No. 157, Fair Value Measurements, according to the board.

The proposed staff paper is expected to be released sometime soon, and will be open for a 30-day comment period. The proposal would apply for interim and annual periods ending after March 15, 2009, according to the announcement.



>> Regulatory Affairs

CUNA Urges CU Comment on Corporate CU Reform

Credits unions are encouraged by CUNA to share all their concerns and questions regarding a possible restructuring of the corporate credit union system.

In a Comment Call, CUNA notes that the National Credit Union Administration (NCUA) asks many questions on very narrow issues in its advance notice of proposed rulemaking (ANPR) regarding the structure and operations of corporate credit unions.

However, CUNA advises credit unions should not feel required to address each question individually or to limit their comments to just the issues that NCUA has presented. "Any concerns or suggestions are welcomed," CUNA Deputy General Counsel Mary Dunn says.

The NCUA ANPR asks series of questions on a broad range of topics, such as:

- ▶ The role of corporates in the credit union system;
- ▶ Appropriate capital requirements for corporates;
- ▶ Corporate investment authority and limits; and
- ▶ Asset liability management.

CUNA asks credit unions to send comments as soon as possible. They are due to the NCUA April 6. 🏠

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

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- ▶ 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...

CUNA Corporate CU Session Draws Thousands

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fund the corporate credit union stabilization.

Mica told participants that alternative funding approaches must be explored. He underscored CUNA is doing just that. He emphasized that all members of the NCUA board have encouraged CUNA to developed feasible alternatives.

NCUA Deputy Director Larry Fazio and Central Liquidity Facility (CLF) Director Owen Cole participated in the session to detail the agency's stabilization actions and address the costs to the National Credit Union Share Insurance Fund (NCUSIF).

Fazio said there will be a \$1 billion immediate cost for the capital provided to U.S. Central and \$3.7 billion loss revenue for the deposit guarantee, resulting in a replenishment of the 1% deposit and an insurance premium for all federally insured credit unions, under the current funding mechanism.

Current law requires the NCUA to replenish its share insurance fund in the calendar year during which it drops below a required level. In a related event, however, the House Financial Services Committee approved a CUNA backed bill that would, in part, extend that period to five years.

Audio conference listeners also heard from Scott Waite, CFO of Patelco CU, San Francisco, and chairman of CUNA's Accounting Task Force, Terry West, president/CEO of VyStar CU and chairman of CUNA's Corporate Credit Union Taskforce, Bill Hampel, CUNA Chief Economist, Eric Richard, CUNA General Counsel, and Mary Dunn, CUNA Deputy General Counsel.

The recorded webinar is available on the CUNA website. 🏠

 **Archived Audio Conference**
http://cuna.org/initiatives/corp_stabilization/member/audio.html

Alternatives to Premium Assessment Urged by CUNA

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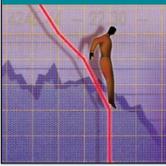
obligations and whether there may be opportunities for additional approaches or flexibility;

- ▶ Permit credit unions to pay the assessment from reserves rather than running it through CUs' income statements; and
- ▶ Assess the premium in stages, rather than all at once. For example, split the premium into two or more equal parts, and allow credit unions to pay over time. CUNA is currently exploring the accounting and regulatory permissibilities of this approach.

Mica noted that the late 2009 time-frame that the agency has set for assessing a premium gives the NCUA, and credit unions, the opportunity to flesh out and choose among better alternatives.

CUNA also has posted to its website a link to consolidated resources addressing the agency's stabilization plan. The link includes information on the NCUA's plan, CUNA's call to action and analysis, related *News Now* stories, and more.

 **NCUA's Corporate Stabilization Program**
http://cuna.org/initiatives/corp_stabilization/



>> The Marketplace

CU 2008 Report Shows Economy's Strain

The good news for credit union year-end figures is that membership growth is up. Other than that bright spot, the numbers show that credit unions, like all financial services providers, are being buffeted by tough economic conditions.

Steve Rick, CUNA senior economist, said latest monthly loan quality numbers indicate credit unions are feeling more of the back-lash from the credit and housing crisis. December statistics revealed that the overall loan delinquency rate climbed to 1.42% from 0.96% in July.

He said considering a forecast of a 9% national unemployment rate by year-end—up from the current 7.2%—the credit union loan delinquency rate could hit 2% in 2009. That would be the highest since 1986.

On asset quality, the latest numbers

revealed that credit union 60-day-plus delinquencies rose slightly to 1.4% from 1.3% in November.

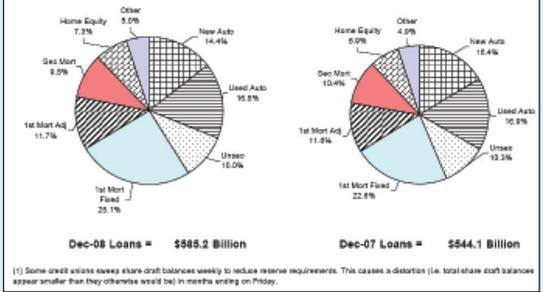
The overall capital-to-asset ratio remained at 11% during 2008, with the total dollar amount of capital at \$90 billion.

The CUNA figures also show that credit union balance sheets in 2008 increased borrowings by \$14 billion—a 49% rise from December of 2007. Rick said this increase was matched by a \$14 billion rise in investment portfolios—a 6.7% jump over the year.

Credit unions also bought more longer-term investments in 2008. The percent of the investment portfolios with less than a one-year maturity fell to 55% from 61%.

There was an optimistic note in the

Distribution of credit union loans



latest figures. Credit union balance sheets rose 7.5% in 2008 despite the recession. This was up 6% from a year earlier. Rick said this resulted from a 7.6% surge in mortgage portfolios in 2008, compared to 6.5% year-earlier.

Year-end membership for the credit union system in 2008 is estimated at 92.5 million. That would be a 3.5% increase over the previous year. ■

CUNA Research & Statistics
<http://advice.cuna.org/>

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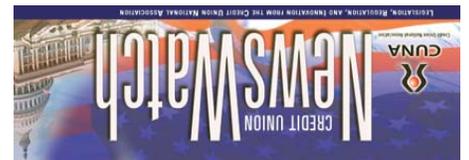
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Published 23 times per year by Credit Union National Association, Inc., 601 Pennsylvania Ave. NW, South Bldg., Suite 600, Washington, DC 20004
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