



UPDATE[®]

President eyes bank limits p.2

Jan. 25, 2010

In This Issue

NAFCU meets MBL attack

Calls banks on hypocritical, "shameless attack" p.1

Keep intensity up on CFPA

NAFCU urges members to maintain push for CFPA exemption p.1

Becker to speak at MACUMA

NAFCU president to talk CU issues at MACUMA meeting p.2

Warning called on RALS

CFA cautionary message mirrors NAFCU's p.2

Next NAFCU webcast Feb. 3

Discounts end Jan. 27 on webcast covering earnings, risk tolerances p.2

FHA proposes policy changes

Plan focuses on strengthening FHA capital reserves, promoting homeownership among underserved p.3

Mortgage transfer rule OK

NAFCU supports Federal Reserve rule, with changes p.3

NCUA seeks suit dismissal

Agency cites role as conservator in suit targeting U.S. Central p.3

Exam guidance out

NCUA says guidance on low-income CUs, CDCUs will apply to most p.3

☎ Member call-in Feb. 10 p.2

The NCUA Board is slated to meet

in open session 10 a.m. Friday, Jan. 29. The meeting agenda will be reported in *NAFCU Today* when it becomes available.

NAFCU hits banks' attack on MBL bill

NAFCU took on the "shameless attack" of the nation's banking trades last week by strengthening its call to Congress for inclusion of increased credit union member business lending authority in connection with any bill to promote employment or stimulate the economy.

Writing Jan. 19 to Senate Majority Leader Harry Reid, D-Nev., and Minority Leader Mitch McConnell, R-Ky., NAFCU Executive Vice President of Government Affairs Dan Berger urged the lawmakers to "refute the shameless attacks made by the banking trade groups against" S. 2919, the Small Business Lending Enhancement Act, and to ensure the bill's inclusion in any Senate bill on jobs or the economy.

The American Bankers Association and the state banking associations jointly sent a letter last week to the Senate leaders urging against any increase in credit unions' MBL authority. They called S. 2919 "unnecessary" and promised to oppose its inclusion

in any jobs bill. The Independent Community Bankers of America took similar action.

Berger said the effort was hypocrisy at its worst. "As if taking billions in bailouts and bestowing millions in bonuses were not enough," he wrote, "the massive hypocrisy of banks has reached new levels as they fight to prevent others from helping the same small businesses that they have turned their backs on."

Berger reminded that many small businesses have lost important lines of credit from other lenders and that the arbitrary 12.25 percent-of-assets limit on credit union MBLs keeps credit unions with sufficient capital from filling the void.

He added that, in keeping with President Obama's call for job creation that does not burden taxpayers, S. 2919, which would boost the MBL cap to 25 percent of assets, would facilitate more small business lending without costing taxpayers.

Becker: Keep pushing against CUs in CFPA

NAFCU last week urged members to remain vigilant against the extension of proposed Consumer Financial Protection Agency authority over credit unions.

NAFCU was encouraged by reports that Senate Banking Chairman Chris Dodd, D-Conn., may consider keeping consumer protection within the established regulators but cautioned nothing is decided. Dodd has not ruled out an independent CFPA.

The association continues to seek an exemption for all credit unions, noting that the NCUA, through its Office of Consumer Protection, should be charged with protecting credit union members.

"We need to continue to send a message to the Hill that credit unions didn't cause the financial crisis and shouldn't be bur-

dened with new regulations as a result of it," said NAFCU President Fred Becker.

☐ CUs not exempt from House CFPA

House Financial Services Chairman Barney Frank, D-Mass., noting inaccuracies in a Jan. 20 *New York Times* story on House-passed CFPA language, said credit unions would not be exempt from CFPA oversight but would remain subject to CFPA rules on lending and consumer practices.

"The exemption for [institutions with \$10 billion or less in assets] is only with respect to examination, which will continue to be the responsibility" of prudential regulators, he said. The CFPA would have back-up inspection authority and could take enforcement action.

President seeks limits on bank growth

President Obama on Thursday said he will seek new restrictions on the size and scope of banks and other financial institutions in connection with financial industry regulatory reform legislation.

The House-passed reform bill, H.R. 4173, already includes language that would permit regulators to restrict or bar large firms from engaging in excessively risky activities and, according to the president, lays the groundwork for Thursday's proposals. Senate Banking Chairman Chris Dodd, D-Conn., and Ranking Member Richard Shelby, R-Ala., have also agreed on a handful of priorities for their reform package, including an end to the "too big to fail" regime within federal bank supervision.

Dodd agreed with the president's concerns about excessive risk-taking and its impact on taxpayers. "Companies that choose to take such risks should do so on their own dime and not in a way that threatens the ability of our economy," he said. He said he looked forward to studying the proposals and that he "will give it careful consideration" as the panel works on reform.

Becker to keynote MACUMA meeting

NAFCU President Fred Becker will give his perspective on current credit union issues during a Metropolitan Area Credit Union Management Association meeting set for Feb. 8.

Becker will discuss the Consumer Financial Protection Agency and other legislative issues (overdraft protection, interchange fees) and regulatory issues.

Attention regarding the CFPA is currently on the Senate, where lawmakers are discussing a draft regulatory reform measure that would authorize a CFPA to write and enforce consumer protection rules for all credit unions. NAFCU maintains that CFPA oversight should be limited to unregulated financial services providers and that responsibility for consumer protection for credit unions should remain with NCUA.

Becker will also discuss NCUA's proposed corporate credit union regulation covering a vast number of issues regarding capital, governance and compensation. NAFCU is encouraging its members to provide their input to the association by Feb. 5 for its official comment.

The NAFCU president on Feb. 8 will

House Financial Services Chairman Barney Frank, D-Mass., welcomed the initiatives, noting they would be implemented by statute and that measures already in H.R. 4173 provide discretion to go beyond these when necessary.

The brief outline released Thursday addresses limits on institution scope and size, as follows:

◆ **Scope limits:** No bank or financial institution that contains a bank would be allowed to own, invest in or sponsor a hedge fund or private equity fund, or to own proprietary trading operations unrelated to serving customers.

◆ **Size limits:** There would be new limits on the growth of market share of non-deposit liabilities at the largest firms (on top of existing caps on deposit market share).

Currently, regulators cannot approve a bank's acquisition of new assets if that would leave it in control of more than 10 percent of deposits in all federally insured institutions in the U.S. The president did not detail how his proposal would limit market share.

also note NAFCU's efforts to encourage NCUA to clarify the merger process.

The MACUMA meeting is at the Key Bridge Marriott in Arlington, Va. For more, visit www.macuma.org.

CFA echoes NAFCU RAL concern

Warnings by NAFCU several years ago on the costs of refund anticipation loans are reiterated in a recent call for caution by the Consumer Federation of America and National Consumer Law Center.

The groups said that in 2008 RALs cost low- and moderate-income families more than \$1 billion in unnecessary costs.

NAFCU urged the IRS in 2008 to adopt a ban on tax return preparers' solicitation of taxpayers' consent to disclose or use their tax information to sell them RALs.

In 2006, NAFCU President Fred Becker hit the radio waves with a warning to consumers about the costs of RALs. Becker said RALs typically get to consumers just two weeks before refunds are sent. Such loans should be avoided, he said, or the consumer should seek a lower-cost credit union loan.

NAFCU webcast ties earnings, risk tolerances

Credit unions have until Jan. 27 to secure registration discounts for NAFCU's Feb. 3 webcast on how to maximize earnings while staying within risk tolerance levels.

Webcast speaker Emily Hollis, a partner for ALM First Financial Advisors, will discuss events that led to the current recession. She maintains that an understanding of these events is critical to abide by sound practices to measure, monitor and control risk, but not avoid it.

Hollis will help CUs assess:

- ◆ their ability to take on additional mortgage loans and more credit risk;
- ◆ whether to increase the portfolio yield through diversification into more complex securities; and
- ◆ overall benefits of acquiring additional risk.

The webcast runs from 2-3:30 p.m. Eastern. For more, visit www.nafcu.org/risktolerance.

Member Call-In Feb. 10

NAFCU members can call in Feb. 10 and hear the latest information on pressing Washington issues from NAFCU President Fred Becker and the association's senior staff.

The member-only call will cover the latest on the Consumer Financial Protection Agency, recent rulemaking from the Federal Reserve and NCUA and more.

The call, from 4-5 p.m. Eastern, is free, but registration is required; visit www.nafcu-training.org/callin.

NAFCU UPDATE

Chair, Board of Directors
Bradley W. Beal
President
Fred R. Becker Jr.

Editorial staff

Executive Editor
Jay H. Morris
Editor

Susan M. Broaddus
Associate Editor
Chrisalyn M. Santos

NAFCU UPDATE® is published weekly by the National Association of Federal Credit Unions to provide member-federal credit unions and their officials with the latest information that has an impact on their operations. Comments and inquiries should be directed to Editor. Fax to NAFCU's business offices: 703-524-1082. Phone: 703-522-4770. Send e-mail to update@nafcu.org. For daily news, visit NAFCU's Web site at www.nafcu.org.

FHA details pending, proposed policy changes

As he said he would during NAFCU's Dec. 10 webcast, Federal Housing Administration Commissioner David Stevens last week announced policy changes that aim to strengthen FHA's capital reserves while still promoting homeownership in underserved communities.

Stevens on Dec. 10 said FHA would release policy changes this month based on capital considerations, the impact on the market and its housing mission. As detailed last week, these would affect minimums for mortgage insurance premiums, minimum FICO scores and down payments for new borrowers, allowable seller concessions and enforcement.

Some of the changes are regulatory, while others will require congressional action.

For example, FHA is raising the up-front MIP to 2.25 percent and will seek legislative authority for a higher maximum annual MIP, now at 0.55 percent. If the higher maximum is approved, some of the increase to the up-front MIP will be shifted to the annual MIP, helping FHA raise capital while easing the impact on homebuyers.

Items slated for notice and comment will be published in the *Federal Register*. These include FICO score/down payment changes, a reduction from 6 percent to 3

percent in allowable seller concessions and new regulatory provisions implementing enforcement of certain indemnification provisions.

FHA will propose that a borrower with a FICO score below 580 (up from 500) be required to pay 10 percent down on an FHA-backed loan; those with 580 or higher would have to pay just 3.5 percent down.

FHA released Mortgagee Letters announcing the higher up-front MIP and increased monitoring by FHA of lender performance and compliance; go to www.hud.gov/offices/adm/hudclips/letters/mortgagee.

NAFCU backs mortgage transfer rule, with changes

NAFCU last week supported a Federal Reserve Board interim final rule on disclosures of mortgage transfers but urged two modifications to make it more workable for institutions that only rarely acquire loans or where a resale is being sought.

The rule, implementing a section of the 2009 Helping Families Save Their Homes Act, requires any person or institution acquiring more than one mortgage in a 12-month period due to a merger, acquisition or reorganization to notify the borrower that the mortgage has been transferred. It provides an exemption where loans are held fewer than 30 days.

NAFCU is urging changes to both provisions, as follows:

- ◆ apply the rule only to those acquiring more than five mortgages in one year; and
- ◆ exempt loans held for fewer than 60

days.

Dillon Shea, NAFCU's associate director of regulatory affairs, wrote that exempting institutions acquiring five or fewer loans a year would not undercut consumer protection concerns. "Such an exemption would be helpful for institutions that are not in the business of acquiring mortgages but which may do so on a very limited basis," he said.

He added that those planning to transfer acquired loans may need more than 30 days to find a buyer, even if they begin immediately making plans to do so. He also said the 60-day exemption would likely benefit consumers by avoiding confusion from multiple notices in a short period of time, an issue the Fed raised in proposing the 30-day period.

The interim rule took effect Nov. 20 but became compulsory Jan. 18.

NCUA seeks dismissal of U.S. Central suit

NCUA asked a U.S. district court to dismiss Corporate Central CU's suit against U.S. Central FCU, stating that as conservator it retains all rights and powers of the corporate's members and management.

NCUA, in its Jan. 15 response, said the Federal Credit Union Act provides no exception and that Corporate Central CU has offered none that would hold up to a 1957 Supreme Court finding regarding federal pleading standards.

"Based on the statutes' [sic] unambiguous language, in placing U.S. Central in conservatorship on March 20, 2009, the

NCUA succeeded to all rights, titles, powers, and privileges held by each of U.S. Central's members," NCUA wrote. "This includes Plaintiff's right as a member of U.S. Central to sue the NCUA as conservator of U.S. Central or U.S. Central for damages arising from Plaintiff's investment in U.S. Central."

Corporate Central CU in October sued U.S. Central for a \$6 million refund on its member capital shares. It says the refund was denied under a change in U.S. Central bylaws that prevented the return of the funds. NCUA is also named in the suit.

Supervisory guidance sent on LICUs, CDCUs

NCUA examination staff and the boards of all federally insured credit unions were sent an NCUA supervisory letter detailing the unique characteristics and challenges of low-income and community development credit unions.

The guidance, transmitted with NCUA Letter 10-CU-01, details what sets LICUs and CDCUs apart from other institutions.

It also reminds examiners that all federal credit unions are obligated to meet the financial service needs of people of modest means. "Therefore, most of this guidance will apply to most credit unions," it says.

The letter provides background on what is a low-income or community development credit union, membership characteristics, characteristics of a well-managed institution, strategic risk, credit risk and what to look at when performing a financial analysis.

Examiners are cautioned to recognize that the often-higher delinquency rates of LICUs and CDCUs do not always mean proportional charge-off rates.

"Examiners need to look beyond the financial ratios to analyze the credit union's financial condition accurately," the letter notes.

Flash shows CUs' optimism about 2010

Credit unions face a number of challenges in 2010 but remain largely optimistic about what the year holds for membership growth, loans, savings and net income, according to NAFCU's latest *Flash Report*.

The January *Flash* found that the majority of respondents believe that 2010 will represent yet another strong year for shares, but some expect the "flight to safety" to wane this year. Nearly two-thirds of respondents said share growth will either be as good as or better than last year.

Regarding loan growth, one-third stated that they expect to see an increase (33.9 percent) while only about one-quarter (24.2 percent) expect a decline. Almost half of the participating credit unions (46.8 percent) said they expect their member growth in 2010 to exceed that of 2009.

Credit unions were fairly split on their expectations for net income growth, but the optimists won out. Almost half (44.3 percent) of respondents said they expect net income growth to increase this year.

On the subject of asset quality, half of survey participants indicated that they expect their credit unions' delinquency ratios (loans 60 days past due) to remain the same, while 25.8 percent expect an increase and 24.2 percent expect a decrease.

One of the toughest challenges credit unions had to deal with in 2009 was the 15-basis-point National Credit Union Share Insurance Fund stabilization expense.

When asked what legislative item or regulation would have the biggest impact on their credit unions' bottom lines, respondents overwhelmingly (83.6 percent) cited an additional NCUA assessment related to corporate credit union stabilization.

To read the entire *Flash Report*, visit www.nafcu.org/flash.

Fannie Mae webcast set for Feb. 3

Fannie Mae will host an interactive webcast Feb. 3 to help lenders become more familiar with its newly revised Selling Guide.

The new Selling Guide has been restructured and rewritten to make it easier for lenders to do business with the government-sponsored enterprise, Fannie said recently. Lenders will learn how the guide is organized and see a demonstration of how to locate key information.

The webcast will also focus on:

- ◆ presenting legal requirements, representations and warranties, and business terms more clearly and concisely;
- ◆ reorganizing the content to achieve a logical flow of information and facilitate search capabilities; and
- ◆ enhancing Fannie's ability to incorporate future content changes more quickly.

The webcast will take place from 2-3 p.m.; go to www.efanniemae.com/lc/webseminars.jsp. To learn more about the NAFCU-Fannie Mae Alliance, visit www.nafcu.org/fanniemaealliance.

NAFCU's Demangone to co-host podcast

NAFCU's Anthony Demangone on Jan. 27 will begin co-hosting the monthly "Current Issues in Credit Unions" podcast, which discusses compliance challenges credit unions face on a daily basis.

Demangone, NAFCU's director of regulatory compliance, was featured last month as a special guest on the podcast, which was originally launched in 2006 by Robert Rutkowski of Weltman, Weinberg & Reis Co. Last month's episode discusses consumer counseling at credit unions and the challenges associated with overdraft service opt-ins.

He encourages credit unions to tune into the broadcasts, saying that it would be time well spent. "I always say credit union compliance officers need to take advantage of every relevant and accurate source of information that is available," said Demangone. "These podcasts are a perfect example. The individuals that [Rutkowski] features on the podcast know the law, and they know credit unions."

To listen to the latest podcast and access archived episodes, visit www.ciicu.libsyn.com. Listeners may also subscribe to the show via iTunes Music (www.itunes.com).