



# UPDATE<sup>®</sup>

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**NAFCU's offices are closed today, Presidents Day.**

## NAFCU remains firm in opposing CFPA; members urged to contact senators

NAFCU President Fred Becker on Friday urged members to contact lawmakers during the Presidents Day recess and urge them to fight any proposal to subject credit unions to the regulatory or examination authority of a Consumer Financial Protection Agency, a key issue in the current debate on financial regulatory reform.

Senate Banking Chairman Chris Dodd, D-Conn., announced last week that he has enlisted Sen. Bob Corker, R-Tenn., to work with him in negotiating a committee bill on financial industry regulatory reform.

Corker, according to a Feb. 5 *American Banker* story, has called creating an independent agency a "nonstarter." The story says he wants also to ensure that consumer protection is approached in a manner that doesn't threaten safety and soundness.

NAFCU has remained firm in its view that consumer protections at federal credit unions should remain under the supervisory authority of NCUA. It supports a proposal such as the CFPA for dealing with providers that have so far escaped federal oversight and which are not federally insured. However, it believes that depository institutions' practices should be addressed by a consumer protection office within each prudential regulator.

Dodd said that, despite remaining questions, he is more optimistic that lawmakers can develop a consensus bill "to bring about the reforms the financial sector so desperately needs to prevent another economic crisis."

The announcement of the Dodd-Corker partnership came a week after Dodd reported an impasse in negotiations on reform between him and the committee's ranking

member, Sen. Richard Shelby, R-Ala. Corker, who had been negotiating systemic risk and resolution issues with Sen. Mark Warner, D-Va., issued a statement that he would continue his efforts to craft a compromise measure.

Dodd and Shelby were handling the CFPA matter; Dodd originally said he wanted a separate CFPA, and Shelby has opposed removing consumer protection matters from the prudential regulators.

### **☐ Warren presses on new agency**

Last week, Elizabeth Warren, chair of the Congressional Oversight Panel for the Troubled Assets Relief Program, wrote an op-ed for a *Wall Street Journal* blog that argues a CFPA is essential to restoring Americans' trust in financial institutions. She added that the reason a CFPA hasn't cleared Congress is that CEOs of the big banks seem determined to stop creation of any kind of watchdog.

Becker issued a response to the Feb. 9 post, agreeing that steps are needed to protect consumers. He added that Warren is right to target Wall Street CEOs and other financial wizards for the current crisis of confidence and economic freefall. But he said the current CFPA proposal, despite being well-intentioned, would end up hurting credit unions, already the most heavily regulated of financial institutions.

"Businesses that offer financial products not backed by the federal government, such as payday lenders, are a threat to consumers and the health of the entire financial services industry," Becker said. But as Congress has recognized, "credit unions did not cause the financial crisis."

## Senate jobs bill near, NAFCU eyes for MBL

NAFCU will be working in coming weeks to win support for including a credit union member business loan cap lift in a Senate jobs bill, but just what that bill will look like was thrown into doubt last week following reports from the office of the Senate Majority Leader.

Senate Finance Chairman Max Baucus, D-Mont., and Ranking Member Chuck Grassley, R-Iowa, on Feb. 11 released the draft of an \$85 billion jobs measure that would, among other things, renew expired business tax breaks, provide businesses an exemption from Social Security payroll taxes for hiring workers unemployed for at least 60 days and increase unemployment benefits in states with jobless rates above 6 percent.

Later, Senate Majority Leader Harry Reid, D-Nev., said he would put that proposal aside in favor of a narrower one. It would include a one-year extension of a highway law, a Build America bonds provision, a small-business tax program and a small-business tax credit bill from Sens. Charles Schumer, D-N.Y., and Orrin Hatch, R-Utah.

NAFCU sees the Senate Finance pack-

age as a positive step for credit unions. The bill doesn't yet include an MBL cap lift – though NAFCU is continuing to press on that – but it would extend through Dec. 31 the 90 percent guarantee in place under the economic recovery act on Small Business Administration 7(a) loans.

NAFCU President Fred Becker wrote the Senate Small Business Committee last month urging an extension. The association has also met with lawmakers and SBA Administrator Karen Mills to urge that the guarantee be continued. For now, it is set to expire at the end of this month.

"We are gratified that the Senate Finance Committee supports extending this key improvement to the SBA 7(a) program," Becker said last week.

As a Senate jobs bill progresses, he said, NAFCU will continue to press for the extension as it works to build lawmakers' support for also incorporating an MBL cap lift.

S. 2919 introduced by Sen. Mark Udall, D-Colo., and H.R. 3380 introduced by Rep. Paul Kanjorski, D-Pa., would double the credit union MBL cap to 25 percent of total assets. NAFCU supports both measures.

## Despite record snows, NAFCU on the job

The federal government, NAFCU and other businesses closed for four out of five days last week (and half a day the previous Friday) due to two successive snowstorms in the Washington, D.C., area, but association staff made good use of the Internet and the telephone in ensuring continued member service.

"Despite record snowfall, power outages and many personal inconveniences, NAFCU has continued to serve its members," said NAFCU President Fred Becker. "Our chief concern has been employee safety, but despite our building being closed I am proud to say that our members have continued to be served, and served well."

Becker noted, for example, that *NAFCU Today* provided news each day, Member Service Center staff stayed in touch with member credit unions and the government affairs team and others kept up communications on the latest happenings (and closings) in Washington and within the association. Compliance assistance continued via

e-mail, the phone and the NAFCU Compliance Blog, and NAFCU Services went forward with its planned Feb. 10 webinar for credit unions on 401(k) plans.

Two free, member-only events had to be rescheduled, however, as follows:

- ◆ **Feb. 16** is the date for the NAFCU Member Call-In (moved from last Wednesday).

- ◆ **March 30** is the date for the Fannie Mae webcast on how to become an approved lender.

Links to both events are available at [www.nafcu.org](http://www.nafcu.org).

Members may also notice a truncated *UPDATE* this week – three pages instead of the usual four. This issue was produced Friday, a workday cut short due to transportation issues in the region arising from late arrival for the federal government, Metrorail interruptions and limited access to a number of roads that bear much of the area's rush-hour traffic. We will resume our four-page format next issue.

## Online financial calculators available

**NAFCU Services Corporation is offering NAFCU member credit unions financial calculators** they can add to their Web sites to provide interactive education tools to their current and potential members.

Credit unions can choose from 30 embeddable financial calculators, all initially launched on CULookup.com, the credit union locator Web site created by NAFCU Services. They are free to NAFCU members and available to state-chartered credit unions for a modest fee.

"More and more consumers are switching to credit unions for better service, and providing financial calculators is just one more way credit unions can provide financial education to their members and highlight the distinctive solutions they offer in these areas," said NAFCU Services President David Frankil.

The calculators cover five categories – home/mortgage, savings, credit, retirement and auto. They can help credit union members identify and work toward financial goals.

They are available just in time for America Saves Week (Feb. 21-28), an annual opportunity for credit unions to encourage saving, debt reduction and wealth building. The calculators provide another way to capitalize on the goals of the week.

For more information on how to add them to your Web site, e-mail [info@culookup.com](mailto:info@culookup.com).

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## LICU capital rules revised for Treasury program

An interim final rule revising the rules on redemption of low-income credit unions' secondary capital was approved last week by the NCUA Board to facilitate the credit unions' participation in the Treasury Community Development Capital Program.

The CDC Program provides capital through the Troubled Assets Relief Program to credit unions and other institutions certified as community development financial institutions. The goal is to assist these institutions to expand lending in low-income areas. It allows CDFI credit unions to receive capital from the program equal to 3.5 percent of total assets. Those that might not qualify under regulatory standards can accept Treasury matching capital investments against private investments, dollar for dollar, up to that level. All CDFIs in the program must pay a 2 percent dividend to the program annually, with that dividend

rising to 9 percent after the first eight years.

The NCUA Board's interim final rule, approved by notation vote, permits an LICU to seek approval of its NCUA regional director to redeem all or part of government-funded secondary capital and matching secondary capital after it has been on deposit for two years. Additionally, secondary capital accepted under the CDC Program can be redeemed before interest rates assessed by the program rise to 9 percent. It also facilitates a CDC Program requirement by making CDC Program secondary capital senior to any required matching secondary capital.

NCUA Chairman Debbie Matz supported the launch of the CDC Program and is encouraging eligible credit unions to take part. The interim final rule will be published in the *Federal Register* with a 30-day comment period.

## Regulators issue guidance on small-biz lending

Financial institutions that lend to small business borrowers after performing a comprehensive review will not be subject to criticism for loans made on that basis, the federal financial regulatory agencies, including NCUA, said last week.

The regulators, in their interagency statement, noted the difficulty some small businesses are experiencing in obtaining or renewing credit. Though many of these cases may be the result of prudent decisions, "experience suggests that financial institutions may at times react to a significant economic downturn by becoming overly cautious with respect to small business lending," they wrote.

In determining the creditworthiness of small-business borrowers, financial institutions should "understand the long-term viability of the borrower's business and focus on the strength of a borrower's business plan to manage risk rather than using portfolio management models that rely primarily on general inputs."

Financial institutions should have "robust risk management practices to identify, measure, monitor, and control credit risk in its lending activities" they wrote. They also called on financial institutions to "promote a credit culture in which lenders develop and maintain prudent lending relationships and knowledge of borrowers."

## FinCEN rule would expand 314(a) access

A final rule giving European Union jurisdictions authority to request information from U.S. institutions under section 314(a) of the USA PATRIOT Act was approved by the Financial Crimes Enforcement Network and takes effect upon publication in the *Federal Register*.

The 314(a) program has allowed U.S. federal agencies to require credit unions, banks and thrifts to perform searches of member and customer account data with possible ties to money laundering or terrorist financing activities.

The final rule conforms the 314(a) pro-

gram with the Agreement on Mutual Legal Assistance between the U.S. and the European Union. Under the agreement and this final rule, law enforcement agencies in EU member states and the U.S. may submit information requests concerning significant money laundering or terrorist finance investigations to financial institutions in each other's jurisdiction.

The regulation also allows U.S. state and local law enforcement agencies the same access to the program available previously only to federal law enforcement agencies.

## Reg compliance webcast Wednesday

**Credit unions can still register for NAFCU's Feb. 17 webcast,** where NAFCU Director of Regulatory Compliance Anthony Demangone and his team will discuss upcoming regulatory compliance deadlines.

Joining Demangone in the program will be NAFCU Regulatory Compliance Counsels Sarah Loats and Steve Van Beek.

The webcast will cover, among other things, new Regulation Z provisions implementing Credit CARD Act requirements that take effect Feb. 22.

Also slated is guidance for complying with Regulation E and Truth in Savings Act changes regarding overdraft protection programs. That discussion will highlight the regulation's impact on credit unions without formal overdraft programs.

NAFCU's Feb. 17 webcast will air from 2-3:30 p.m. Eastern. For more information, visit [www.nafcu.org/webcasts](http://www.nafcu.org/webcasts).

## LICU capital rule on board agenda

**The NCUA Board will discuss the interim final rule for low-income credit union capital** at its Feb. 18 open meeting.

Also planned is a report on the National Credit Union Share Insurance Fund.

The meeting is set for 10 a.m.

## Matz to host Feb. 18 virtual town hall

**NCUA Chairman Debbie Matz will host a town hall webinar Feb. 18** at 3 p.m. Eastern to discuss several pending regulatory proposals, including strengthening the corporate credit union system and streamlining community charter applications.

The webinar is free and open to all credit unions. The virtual meeting will be archived and available for viewing on demand within two weeks following the event.

For registration information, check out the Upcoming Events section of NCUA's Web site ([www.ncua.gov](http://www.ncua.gov)).