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Final round of Credit CARD Act rules out

The Federal Reserve Board last week released proposed Regulation Z amendments that would take effect Aug. 22 and wrap up rulemaking under the Credit CARD Act.

The proposal, out for a 30-day comment period, is aimed at protecting credit card users from unreasonable late-payment and other penalty fees and to require card issuers to reconsider interest rate increases.

Here are the key provisions proposed:

◆ **Penalty fees:** The proposed rule would bar the assessment of penalty fees, including for late payments or going over the card limit, that exceed the dollar amount associated with the consumer's violation of account terms. For a \$20 minimum payment, a late fee could not exceed \$20, the Fed notes.

◆ **Inactivity fees:** The rule would ban such fees, including those assessed based on the consumer's failure to use the account to make new purchases.

◆ **Multiple penalty fees:** Issuers would be prohibited from charging multiple fees based on a single late payment or other violation of account terms.

◆ **New rate increases:** The proposal requires credit card issuers to inform consumers of the reasons for increases in rates.

◆ **Previous rate increases:** This applies to rate hikes implemented since Jan. 1, 2009. The proposed rule requires that credit card issuers evaluate whether the reasons for the increase have changed and, if appropriate, to reduce the rate.

The proposal is slated for publication soon in the *Federal Register*.

Kanjorski, Royce drive anew for MBL backers

Reps. Paul Kanjorski, D-Pa., and Ed Royce, R-Calif., the chief sponsors of the NAFCU-backed H.R. 3380 on credit union member business lending, circulated a new "Dear Colleague" letter last week in an effort to garner more House cosponsors, which have risen to 90.

The Kanjorski/Royce letter notes growing bipartisan support for H.R. 3380 and reiterates its potential for helping to spur more than 100,000 new jobs as a result of small businesses receiving needed capital from credit unions. The letter also cites 18 business and trade groups from outside the credit union industry that have signed on in support of their bill.

The letter came on the heels of a major development in the Senate, where Majority Leader Harry Reid, D-Nev., has signed on as an official cosponsor of S. 2919 introduced by Sen. Mark Udall, D-Colo. Both H.R. 3380 and S. 2919 would raise the

credit union member business loan cap from 12.25 percent to 25 percent of credit union assets. H.R. 3380 would also exclude loans of less than \$250,000 from credit unions' MBL calculations. NAFCU is continuing to press for both bills while also urging that a cap lift be included in any new jobs bill cleared by Congress.

☐ NAFCU rebuts ABA attack

Last week, NAFCU rebutted an American Bankers Association attack on proposals to lift the MBL cap. The ABA sent a letter to House Speaker Nancy Pelosi, D-Calif., and Minority Leader John Boehner, R-Ohio, that reiterated opposition to what they termed an "unnecessary expansion" of credit union lending authority.

"The level of hypocrisy being displayed by the banking industry has reached new heights," Dan Berger, NAFCU's executive vice president of government affairs, wrote lawmakers in response to the ABA letter.

CU shares above projection, loans slow in 2009

Total shares in federally insured credit unions grew an aggregate 10.5 percent in 2009, a full 2 percent above the agency's last best guess, while loans were up just 1.1 percent.

In releasing the data, NCUA noted credit unions' net worth closed 2009 at about 10 percent despite continued, slow loan demand and rising delinquencies. Membership was also up, growing by 1.5 percent for 2009.

Assets of insured credit unions grew 9.08 percent to \$884.8 billion in 2009. Loans rose to \$572.4 billion as shares grew to \$752.7 billion. Credit unions' investments rose 27.3 percent to \$210.9 billion, and net worth rose 1.9 percent to \$87.7 billion.

"Credit union membership growth is impressive and encouraging," said NCUA Chairman Debbie Matz. "The 'flight to safety' that landed new deposits at credit unions during the economic downturn

2009 CU financial trends*

Loan	Total year-end	Change
Unsecured		
credit card	\$ 34.9 billion	+ 6.6%
Other unsecured		
loans/LOCs	\$ 25.6 billion	+ 0.8%
New vehicle	\$ 75.3 billion	- 7.7%
Used vehicle	\$ 98.1 billion	+ 4.1%
1st mortgage		
real estate	\$217.1 billion	+ 4.4%
Shares	Total year-end	Change
Share drafts	\$ 85.1 billion	+15.6%
Regular shares	\$199.8 billion	+11.8%
Money market	\$158.7 billion	+23.5%
Share certificates	\$225.8 billion	- 0.2%
IRA/Keogh	\$73.4 billion	+13.5%

*NCUA data from CU call reports

continues, as evidenced by credit union share growth in several categories. However, these positive developments are tempered by recognition of ongoing mar-

ket stresses."

Key data released last week showed:

- ◆ loan delinquencies rising to 1.82 percent of total loans;
- ◆ an increase in the ratio of net charge-offs to average loans from 0.85 percent to 1.21 percent;
- ◆ net income at a positive \$1.7 billion (following a two-year decline).

NCUA said the net income figure includes National Credit Union Share Insurance Fund stabilization income and expense for 2009. It also said credit unions reduced operating expenses, with return on average assets growing 24 basis points from 2008.

Most of the last year's loan growth was for used-automobile, credit card and first mortgage loans. Most share growth was in regular shares, share drafts, IRA/KEOGH accounts and money market shares. The loan-to-share ratio was 76.05 percent as of Dec. 31, NCUA reported.

Home for new consumer regulator at issue

The Senate Banking Committee is revisiting the Federal Reserve's future role and considering whether a consumer protection regulator could be created within it.

Two weeks ago, Senate Banking Chairman Chris Dodd, D-Conn., was said to be considering inclusion of a Consumer Financial Protection Agency-like office within Treasury. Now the question is whether the Fed would be the right home for such a function. He said later that wherever a CFPA is housed, it will be independent.

Dodd, in the reform proposal he floated last fall, had sought largely to limit the Fed to conducting monetary policy; he had planned to merge the safety-and-soundness regulatory functions of the current bank regulators into one office.

NAFCU continues to press its case that federal credit unions should not be subject to the authority of an independent CFPA and that NCUA should retain supervisory authority over credit unions' consumer protection practices.

Rangel steps down, Levin steps up

Rep. Sander Levin, D-Mich., has succeeded Rep. Charles Rangel, D-N.Y., as acting chairman of the House Ways and Means Committee, House Speaker Nancy Pelosi, D-Calif., said last Thursday.

Rangel is taking leave from the chairmanship amid ethics charges in the House. Rep. Pete Stark, D-Calif., was reportedly set to succeed him, but the move was opposed by other Democrats on the panel.

14 selected to receive NAFCU Marketing Awards

NAFCU announced last week the 14 winners of this year's Marketing Awards competition, which showcases outstanding promotional programs and materials produced by NAFCU member credit unions.

The winners will be recognized this week at NAFCU's Strategic Growth Conference, slated March 9-11 at Bally's Las Vegas.

Meanwhile, members have until March 19 to submit their applications for the NAFCU Annual Awards Competition.

Winners will be honored during NAFCU's 43rd Annual Conference & Exhibition this July in Chicago. More at www.nafcu.org/awards.

2010 Marketing Award winners

◆ Best Lending Promotion	◆ Best Member Newsletter
Washington Gas Light FCU (Va.)	E53 FCU (N.J.)
Michigan State University FCU (Mich.)	Securityplus FCU (Md.)
◆ Best Membership Promotion	◆ Best Promotional Campaign
The New Orleans Firemen's FCU (La.)	Atlantic Financial FCU (Md.)
Mid-Hudson Valley FCU (N.Y.)	CFE FCU (Fla.)
◆ Best Product or Service Promotion	◆ Best Web Site
Premier FCU (N.C.)	Actors FCU (N.Y.)
Travis CU (Calif.)	Philadelphia FCU (Pa.)
	◆ Best Annual Report
	Valero FCU (Texas)
	Dow Louisiana FCU (La.)

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Members' input needed March 19 on overdraft

NAFCU is seeking its members' input by March 19 on the Federal Reserve Board's recent proposal clarifying Regulation E requirements on overdraft services affecting ATM and debit card transactions.

The Fed released its proposal about a week ago, and comments are due to the Fed March 31. In the proposal, the Fed says essentially that regardless of whether an overdraft can be prevented, a financial institution is barred from assessing an overdraft fee on an ATM or one-time debit charge unless consumer has been informed in advance of the policy and opted to be covered by it.

The Fed responded to NAFCU's related

concerns in a letter last week to association President Fred Becker, who said NAFCU continues to disagree with this approach.

The rule "fails to address the risk the rule poses to institutions that are contractually obligated to pay consumer transactions, even in cases of insufficient funds," noted Carrie Hunt, NAFCU's senior counsel and director of regulatory affairs.

The Fed's proposal treats negative balance fees in the same manner as overdraft fees. In addition, it includes Reg DD (truth in savings) clarifications to address a final rule issued in January 2009 that also affected overdraft programs.

For the Alert, go to www.nafcu.org/regulation.

NAFCU, NCUA continue dialogue on merger process

NAFCU is continuing its communications with NCUA regarding the agency's assisted merger process, including efforts to persuade the regulator to consider issuing a proposed rule, standardized procedures and timelines for action.

NAFCU President Fred Becker wrote the agency in early January on this issue. NCUA Chairman Debbie Matz recently acknowledged there is no rule on the process and said the agency is developing a uniform merger process for all regions to follow.

Becker's letter was spurred by concerns raised by member credit unions that have

been dissatisfied with some of the mergers executed over the past year. While understanding that NCUA must act quickly at times, he noted the lack of standardized procedures have left many credit unions out of "fair and equitable consideration."

Matz, in her Feb. 22 response, said each merger situation is "unique . . . and the potential partner's ability to absorb the merging credit union may, by default, limit the partner pool to a specific asset size." She added that the agency "will ensure that our processes are transparent and understandable for all credit unions who want to participate."

U.S. Central losses may up stabilization costs

U.S. Central FCU saw its credit losses for 2009 rise to \$1.8 billion in the fourth quarter, a development that may add to future costs for the Temporary Corporate Credit Union Stabilization Fund.

U.S. Central, which is under NCUA conservatorship, last week released fourth-quarter results showing it has depleted all of its retained earnings, paid-in capital and membership capital shares. NCUA has noted that many corporates have already written down all membership capital in U.S. Central. In such cases, U.S. Central's most recent write-down would not result in more write-downs of corporate capital on natural person credit union balance sheets.

The \$1 billion note that the National Credit Union Share Insurance Fund placed in U.S. Central early last year was moved to

the books of the stabilization fund under last year's stabilization act. Federally insured credit unions repaid \$333 million of that cost last year; the rest is set to be repaid over time. In the fourth quarter, U.S. Central charged another \$497.9 million to other than temporary impairment to earnings, which is what raised the year's total loss to \$1.8 billion.

"In theory, to the extent U.S. Central's charge-off exceeds membership capital accounts, stabilization fund liability increases," said Tun Wai, NAFCU's chief economist. "What we are seeing is the potential for growth in the total cost for stabilizing the corporate system, but it is a cost that could be carried over several years, depending on the performance of U.S. Central's investments."

Kohn to step down from Fed in June

Federal Reserve Board Vice Chairman Donald Kohn said last week that he intends to resign

from his position effective June 23.

Kohn has played a major role in shaping the Fed's strategy in combating the financial and economic crises. He was also instrumental in ensuring that credit unions had access to liquidity during the Y2K transition, noted NAFCU Chief Economist Tun Wai. "I think a lot of credit unions can appreciate the work he did in making sure credit unions were a key consideration of the Fed's planning," he said.

His replacement will be selected by President Obama and then submitted to the Senate for approval.

FFIEC updates retail payments booklet

The Retail Payment Systems Booklet has been updated and is available now for download.

The booklet was last revised in 2004 as a component of the FFIEC Information Technology Examination Handbook series. It focuses on risks and risk-management practices related to retail payment systems; its appendices address exam procedures and references to laws, rules and guidance. As revised, the booklet notes changes in technology and includes guidance on the Check Clearing for the 21st Century Act.

More at www.ffiec.gov.

3rd insured CU liquidated this year

NCUA has liquidated Mutual Diversified Employees FCU of Santa Ana, Calif., and accepted SchoolsFirst FCU's offer to purchase and assume its assets, loans and shares. Mutual Diversified is the third federally insured credit union closed this year.

NCUA said last week that Mutual Diversified's declining financial condition led to its closure. The credit union had \$6.1 million in assets and 748 members at closure.

Webcast addresses in-house training

NAFCU's March 17 webcast will focus on how to establish cost-effective, in-house learning environments.

Webcast speaker Deedee Myers, CEO of DDJ Myers, will show credit unions how to transform their current training programs. During the March 17 webcast, she will discuss:

- ◆ the dos and don'ts regarding in-house management training;
- ◆ formal and informal internal coaching programs; and
- ◆ the benefits of establishing a successful mentoring program.

This webcast is part of a series that previews the NAFCU-DDJ Myers Advancing Leadership Series.

Credit unions have until March 10 to take advantage of early registration discounts for this webcast. For more, visit www.nafcuh.org/leadershipprograms.

Other webcasts ahead are:

- ◆ March 30, "An Inside Look at Becoming an Approved Fannie Mae Seller/Servicer" (members only)
- ◆ April 7, "2010 Bank Secrecy Act (BSA) Overview for Volunteers"

For more information, go to www.nafcuh.org/webcasts.

Education

Openings remain for Regulatory Compliance School

It is exactly two weeks before the launch of NAFCU's 2010 Regulatory Compliance School, a program created by credit union professionals for credit union professionals interested in earning the designation of NAFCU Certified Compliance Officer.

There are a few slots remaining for this year's program, and with just two weeks left, now is the time to register.

This intensive course runs March 22-26 at the Gaylord National on the Potomac in National Harbor, Md. While aimed at those looking to earn NCCO certification, it's available to any credit union professional seeking an improved understanding of regulatory compliance matters.

NAFCU Director of Regulatory Compliance Anthony Demangone says all who attend the school will be glad they did. "The comprehensive overview of the regulations and laws that affect credit unions is extremely valuable – especially in today's regulatory environment."

The school, open to members and non-members, sold out in 2009 and 2008.

This year's curriculum will address five key compliance areas: lending, discrimination, share accounts, privacy and security. Industry experts will detail topics within these sections, such as new Credit CARD Act rules under Regulation Z.

More education in store

The Regulatory Compliance School follows a classroom format, close but not exactly like the Management Development Institute, with its blend of academic and practical topics of interest to credit union mid- and senior-level staff.

Additional programs ahead in 2010 will cover the latest issues affecting credit unions and their members. Live webcasts will also be held on special topics.

Remaining 2010 events include:

- ◆ Chief Executive Officers Conference, April 14-16 at the Hyatt Regency Savannah, Savannah, Ga.

- ◆ Volunteers Conference, May 20-22 at the Marriott San Antonio River Center, San Antonio

- ◆ 43rd Annual Conference & Exhibition, July 20-24 at the Navy Pier Chicago

- ◆ Building an Executive Presence (in the NAFCU/DDJ Myers Advancing Leadership Series), Aug. 11-13 in Baltimore

- ◆ Congressional Caucus, Sept. 19-22 at the Grand Hyatt Washington

- ◆ Regulatory Compliance Seminar, Oct. 12-15 at the Gaylord Texan in Dallas

- ◆ Management Development Institute, Nov. 15-19 in Durham, N.C.

For more, go to www.nafcuh.org/events.

NAFCU webcast provides overview of RESPA requirements

Real Estate Settlement Procedures Act provisions that took effect Jan. 1 underscore the need for credit unions to ensure their mortgage loan policies are precise, up to date and consistent with those of their brokers, according to a speaker in NAFCU's March 3 webcast.

Webcast speaker Suzanne Garwood, an attorney at Venable LLP, provided credit unions with an explanation of how to complete the good faith estimate form and Housing and Urban Development forms (HUD-1 and HUD-1A) established by the new RESPA rule.

Credit unions still need to provide members with a GFE within three days of receiving an application. Once members receive the form, the disclosure is binding for 10 days. She noted that because mortgage brokers may take a member's appli-



Garwood (right) and NAFCU Associate Director of Education and Events Cara Zarcone converse prior to the webcast.

cation and trigger the need for a GFE, it's important for credit unions to strengthen their relationship with brokers.

The new HUD-1 and HUD-1A forms have been updated to correspond with the new GFE, according to Garwood. She said the HUD-1 form is more flexible than the GFE form in that credit unions may add pages with additional information.

NAFCU photo

This webcast will be archived for six months. For more information, visit www.nafcuh.org/archivedwebcasts.

Orman says get a CU credit card

Consumer financial advisor Suze Orman told viewers of the Feb. 28 CBS "Sunday Morning" show that they should find a credit union credit card to avoid the high interest rates charged by major banks.

She noted that many banks are charging 30 percent interest on their credit cards. She continued, "Do you know by law federally chartered credit unions cannot charge more than 18 percent interest?"

CULookup.com, a credit union locator site maintained by NAFCU Services Corporation, allows consumers to search for credit unions in their areas. CUs, e-mail info@clookup.com for more.