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## Senate Banking reform mark-up begins *NAFCU pushes to ease impact on CUs*

The Senate Banking Committee is poised to begin mark-up at 5 p.m. today of the latest proposal to restructure the financial services industry, and NAFCU is not letting up in its efforts to lessen the potential impact on credit unions.

Last week, committee Chairman Chris Dodd, D-Conn., released his highly anticipated draft, a revision from the package he unveiled in November.

Though similar in scope, this 1,336-page reform draft would shift responsibility for consumer protection from all federal financial institution regulators, including NCUA, to a consumer protection bureau to be housed within the Federal Reserve. This independent bureau would possess rule-making authority over all financial institutions as well as enforcement and examination authority over institutions with \$10 billion or more in assets.

Dodd said the package is based on bipartisan ideals but does not enjoy bipartisan support. Indeed, Sen. Bob Corker, R-Tenn., who was in negotiations with Dodd until talks fell apart March 11, told *Congressional Quarterly* last week that he planned to offer “a number” of amendments as the package moves through committee. Without providing specifics, he spoke of “big policy differences” presented by Dodd’s reform package, which could refer to the reach of the proposed consumer protection entity.

#### ☐ NAFCU: Raise the threshold

Within hours following the release of Dodd’s reform plan, NAFCU contacted Senate Banking leaders urging them to raise the \$10 billion threshold to \$50 billion and index it for inflation.

Writing last Monday, NAFCU President

Fred Becker told Dodd and Ranking Member Richard Shelby, R-Ala., that three natural person credit unions – two serving the military – would fall within the bureau’s threshold and be made subject to its enforcement and examination authority. He warned that the burden presented by this new layer of regulation would lead to higher compliance costs, which would likely mean lower dividends and fewer services for the credit unions’ members.

“We also find it disconcerting that these not-for-profit military credit unions would potentially find themselves lumped into the same category as large for-profit financial firms and mortgage brokers under the current language,” said Becker.

The NAFCU president further noted that the proposal could impose a greater regulatory burden on credit unions than non-federally regulated entities like payday lenders and check cashers. He expressed hope that any final bill “recognizes the good actors such as credit unions, while reining in the unregulated entities in the financial services marketplace before they prey on consumers once again.”

Dodd’s draft bill also does not allow federal preemption of state consumer laws. NAFCU is urging an amendment during mark-up that would allow NCUA to preempt any state law that prevents or significantly interferes with credit union operations. The draft bill currently would permit a systemic risk council to overturn the bureau’s rules with a two-thirds vote.

Dodd reportedly hopes to complete mark-up by week’s end. Shelby said forcing the committee to vote on the proposal in a week is “unrealistic and undercuts the potential for bipartisan agreement.”

## NCUSIF at 1.23% until deposit adjustment is completed

The National Credit Union Share Insurance Fund closed 2009 at an operating level of 1.23 percent of insured shares, lower again than a previous estimate due to greater-than-expected growth in insured shares, 9.9 percent vs. a projected 8.5 percent.

That was the extent of NCUA's discussion of the fund's year-end results now that the agency has final figures for the period. But Mary Ann Woodson, NCUA's chief financial officer, said the fund is projected to return to an operating level of 1.26 percent once credit unions complete adjustments coming due for their 1 percent deposit.

The remainder of Woodson's report focused on the preliminary February financials, as follows:

- ◆ \$1.5 million was expensed for losses in insured credit unions;
- ◆ there were 337 CAMEL code 4 and 5 credit unions, down a net 20 from January;
- ◆ code 4 and 5 credit unions hold 5.72 percent of all insured shares;
- ◆ there were 1,663 code 3 credit unions, down two from January's total;
- ◆ code 3 credit unions held 13.89 percent of all insured shares, up 20 basis points from January;
- ◆ six insured credit unions have failed this year, at a cost to the NCUSIF of \$6.7 million;
- ◆ the fund's provision for natural person credit union losses was \$726.06 million at the end of February.

Agency staff have said that of the total

loss provision, \$596.9 million is unallocated to specific cases, unchanged from December.

No significant changes have occurred with the Temporary Corporate Credit Union Stabilization Fund.

The stabilization fund has total assets of about \$1.1 billion. It still owes Treasury \$690 million for the \$1 billion note for U.S. Central FCU. The fund's provision for corporate credit union losses remains at about \$5.3 billion.

### □ Future costs to CUs uncertain

There were no new projections last week on prospects for a 2010 insurance premium and a stabilization assessment, but in November staff did say credit unions should expect these and that future assessments will be made as well.

The staff in November provided estimates of this year's costs, suggesting that the NCUSIF premium could equal from 0.1 percent to 0.25 percent of insured shares and that a stabilization assessment could equal from 0.05 percent to 0.15 percent of insured shares.

Given last year's stabilization law, which permits future premiums and stabilization assessments to be spread over several years, NAFCU has urged NCUA to reconsider the 1.3 percent normal operating level set currently for the NCUSIF. NCUA Chairman Debbie Matz said the board will revisit the operating level this fall.

Next month, federally chartered credit unions are looking at paying an aggregate \$85.57 million in operating fees to sup-

port NCUA operations. The fees will help fund the NCUA operating budget, set at \$200.9 million, up 13 percent from last year. The NCUSIF overhead transfer rate is also higher, 57.2 percent (from 53.8 percent).

If NCUA's costs come in under budget, or if the agency collects more than it needs (possible, since FCU assets grew slightly more than projected last year), excess operating fees will be returned or used to reduce next year's fees.

## FOMC holds rates despite improved outlook

Economic conditions have improved since late January, but the Federal Open Market Committee voted last week to keep the federal funds rate at a range of zero to 0.25 percent, reiterating its intention to keep it there "for an extended period."

NAFCU Chief Economist Tun Wai noted that the FOMC's policy statement once again offered more optimism about the economy than the group's previous one. "The FOMC acknowledged that economic activity 'has continued to strengthen' since its two-day meeting in late January and that 'the labor market is stabilizing,'" Wai said.

Despite the upbeat tone of the FOMC's statement, Wai notes that the economy remains fragile, and the committee is understandably cautious. "The FOMC is unlikely to raise the federal funds rate until the end of this year at the earliest," he said.

## NCUA 6-year plan out for comment 60 days

An NCUA strategic plan covering 2011-2016, and stating an affirmative intent to promote transparency for the first time, was unveiled and released for a 60-day public comment period March 18.

The plan, released by the NCUA Board in its open meeting Thursday, expands the agency's goals from three to five and revises preexisting ones. Transparency is noted in goal 3, which is revised as follows: "To further develop a regulatory environment that is transparent and effective."

NAFCU President Fred Becker has been pressing NCUA for greater transparency since

last year, and he welcomed the board's inclusion of this factor in the agency's long-range plan.

"We will review the plan in full and intend to submit comments on this and other aspects of the proposed plan," said Carrie Hunt, NAFCU's senior counsel and director of regulatory affairs.

The plan, normally revised and reissued every three years, is late in coming. NCUA Chairman Debbie Matz apologized for that in Thursday's open board meeting, noting the agency has been focusing its efforts on various crises in recent months.

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## NCUA proposes cutting 4 RegFlex measures

The NCUA Board, voting 2-1, released a proposal Thursday that would eliminate four of the current 10 regulatory exemptions available to federal credit unions eligible for the agency's Regulatory Flexibility program.



*Frank Kressman (left) briefed the NCUA Board on a Regulatory Flexibility program proposal that would eliminate four out of 10 current exemptions. Board Member Gigi Hyland (far right) was the only dissenting vote on the proposal. (NAFCU photo)*

RegFlex was initiated in 2002 to allow federal credit unions that have received CAMEL ratings or 1 or 2 in their two preceding examinations and maintained a net worth classification (or risk-based net worth classification, if that applies) of "well capitalized" for the six consecutive, preceding quarters.

The rule has been amended six times since then but provides, overall, 10 exemptions from current regulatory restrictions or requirements on charitable contributions, nonmember deposits, fixed assets, member business loans and more. Thursday's proposal would eliminate the following:

- ◆ the exemption from the 5 percent-of-assets limitation on fixed-asset investments by FCUs with \$1 million or more in assets;
- ◆ the exemption from the requirement to obtain the personal guarantee from the borrower's principals for MBLs;
- ◆ the exemption from monthly and quarterly securities investment reporting that may trigger required stress tests for potential instances of severe market turmoil;

## Charter conversions target of proposed rule

Rule changes on the fiduciary duty of directors, indemnification of credit union officials or employees and more are contemplated in a proposed rule on conversions issued by the NCUA Board last week for a 60-day comment period.

The proposed rule would revise requirements in proposed conversions to bank charter through merger, conversions to mutual savings bank charters and conversions to non-federal share insurance.

In all cases, the proposal would require FCU directors to have an understanding of basic finance and accounting practices within three months of being seated; one factor driving this is the lack of defined federal standards for FCUs in this area.

In proposed conversions to MSBs, it

◆ the exemption from the 100 percent-of-net-worth limit on aggregate investments over which discretionary control can be delegated to a registered investment advisor.

NCUA Chairman Debbie Matz said she was at NCUA when RegFlex was first approved, but she said economic conditions today are vastly different and that credit unions, while overall well-capitalized, have less capital than they had eight years ago. She said NCUA is proposing this revision to be proactive in its oversight.

Board Member Michael Fryzel backed the proposal, but Board Member Gigi Hyland dissented over the proposed elimination of the discretionary control of investments provision. She said there is little information to show RegFlex-eligible credit unions are making use of the provision and said the agency should do further review.

NAFCU is preparing a Regulatory Alert for members.

would require that the vote on conversion be conducted by an independent entity and by secret balloting; the disclosure of estimated conversion costs to members; disclosure on the impact on availability of facilities; and the fact that NCUA does not approve or disapprove of conversions.

The proposal would also, for the first time, establish a specific process for proposals of insured-credit union mergers into banks. Members would have to be able to comment on the proposal, directors would have to obtain an independent appraisal of the value of the credit union, and NCUA could reject the merger proposal if requirements regarding documentation and member needs are not met.

NAFCU is preparing a Regulatory Alert.

## Webcast discounts end March 31

**Early-bird discounts for NAFCU's April 7 webcast on Bank Secrecy Act** training for volunteers end March 31.

The webcast will feature NCUA Program Officer Judy Graham, who specializes in BSA/anti-money laundering issues. The webcast provides volunteers a chance to receive training toward fulfillment of their BSA training requirements.

The webcast will be held April 7 at 2 p.m. For more information, visit [www.nafcu.org/webcasts](http://www.nafcu.org/webcasts).

## CULookup.com adds rate-comparison tool

**CULookup.com has recently added an online tool** for comparing interest rates at credit unions vs. banks.

The site incorporates the daily rate comparisons that credit unions can now access via NAFCU's Web site ([www.nafcu.org](http://www.nafcu.org)).

## NCUA grants first 2010 charter

**NCUA has granted its first federal credit union charter of the year** with the approval of Inspire Community Development FCU, which is located in Battle Creek, Mich.

The credit union is slated to open in May and will serve some 50,000 people who live, work, worship, volunteer, attend school and conduct business in Battle Creek.

## HAMP modifications continue rising

**More than 170,000 homeowners have been granted permanent mortgage loan modifications** through the government's Home Affordable Modification Program, according to recent Treasury and Department of Housing and Urban Development data.

Data from the HAMP program show the number of permanent modifications increased in February by 45 percent from January.

## CUs encouraged to build, use leadership institutes

Sixty-seven percent of companies believe their senior executives need to improve their leadership skills, and one way to facilitate that is to create an internal leadership institute, a NAFCU webcast speaker said last week.

Deedee Myers, founder and CEO of DDJ Myers Ltd., focused her webcast



Myers (right) spoke of creating leadership development institutes during last week's webcast. (NAFCU photo)

remarks on how credit unions can foster internal learning environments.

She said leadership development programs should align with the credit union's strategic plan. A program can be derailed

when the CEO is not committed to it or does not model its values., she added

This webcast, which will be archived for six months, is a preview of the NAFCU-DDJ Myers Advancing Leadership Series. The next course in the series, "Building an Executive Presence," will

be held Aug. 11-13 in Baltimore.

For the archived webcast, visit [www.nafcuh.org/archivedwebcasts](http://www.nafcuh.org/archivedwebcasts). For more on the series, visit [www.nafcuh-training.org/leadership](http://www.nafcuh-training.org/leadership).

## NAFCU seeks to keep student loans for CUs

Lawmakers should reject efforts to eliminate the Federal Family Education Loan Program as part of reconciliation on health care reform or any other form, NAFCU urged in a letter last week to House leaders.

"In the current economic environment, many Americans have found it difficult to get credit for a number of purposes, including higher education, and have turned to their credit unions for assistance," NAFCU President Fred Becker wrote in a letter to House Speaker Nancy Pelosi, D-Calif., and Minority Leader John Boehner, R-Ohio.

Going to an all-direct loan program, which the president has proposed, "could create new challenges for credit union members to get the aid that they need to attend schools in the United States," the NAFCU president wrote.

Becker said members appreciate and have grown accustomed to the personalized way in which credit unions serve their financial needs. Moving all federally backed education loans to a direct program stands to eliminate this benefit, he said.

## Flash: MBL a priority for NAFCU members

Roughly 60 percent of NAFCU members surveyed for the latest *Flash Report* said they offer member business loans, and about a third of those that do not indicated they will within 12 months.

Many NAFCU-member credit unions have seen increased demand for MBLs over the past two years, the *Flash* confirms: 59.4 percent said that member business loan applications in 2009 were up from the previous year. The report found that the majority of NAFCU-member credit unions are equipped and able to serve this increased demand.

Regarding the size of these loans, the *Flash* found that, on average, the vast majority of respondent credit unions' MBLs were in the larger-than-\$250,000 category (62.1 percent), followed by loans in the smaller-than-\$50,000 category (20.7 percent).

On why some credit unions do not offer MBLs, the *Flash* found that nearly three-fourths (72 percent) indicated a lack of in-house expertise, followed by too much risk (36 percent) and the regulatory burden involved (32 percent).

## Household wealth improves in 4Q, foreclosures down in February

Improvements in the stock market are helping Americans recover some of their lost wealth, as evidenced by fourth-quarter 2009 data from the Federal Reserve, which show household net worth rose 1.3 percent to \$54.2 trillion.

The gain in household net worth, which is the value of assets and investments minus debts, is "a positive sign," said NAFCU Staff Economist Katrin O'Connor, even though it represents a smaller increase than the 4.5 percent second-quarter gain and 5.5 percent third-quarter gain from last year.

For the October-to-December 2009 period, growth in stock portfolios delivered the biggest lift to net worth, with the value of stocks climbing by nearly 4 percent to \$7.7 trillion. "Higher home prices also helped a little," O'Connor noted. "The value of real estate holdings edged up 0.2 percent."

According to the Fed, household net

worth sunk as low as \$48.5 trillion in the first quarter of 2009. "As stock holdings and home values went south, net worth disappeared and consumer spending was crippled," O'Connor said.

This situation coupled with a tough credit environment caused many consumers to reduce their borrowing last year. Household debt, which includes mortgages, credit cards and auto and student loans, contracted at an annual rate of 1.75 percent in 2009, the Fed said. It was the first annual decline on record.

Looking ahead, O'Connor said that consumer spending will likely continue its steady but slow uptick this year as economic conditions improve gradually. "Consumers will need to see a more robust and prolonged increase in their net worth to really ignite the flames of spending," she said. "Until then, consumer spending will

reflect cautiousness about conditions."

### Foreclosures down 2%

U.S. foreclosure filings were down 2 percent in February, but a recent news report notes that a new wave of foreclosures may be just around the corner.

According to RealtyTrac data, there were 308,524 foreclosure filings in February. While February's data represents an improvement from January, it was also 6 percent above the level reported in February 2009.

The group's report coincided with a March 12 *Washington Post* article warning that the housing market "is facing swelling ranks of homeowners who are seriously delinquent." Citing data from the Mortgage Bankers Association, the article said that 5 million to 7 million properties are potentially eligible for foreclosure but have yet to be repossessed.