



UPDATE[®]

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Nominating ballots due Tuesday

NAFCU mailed an official nominating ballot with the Nominating Committee's slate of candidates to members March 30 for two at-large and the Region II and V seats in this year's election. The nominating ballots are due back tomorrow.

Names in addition to the slate may be submitted, but all candidates, even those on the Nominating Committee slate, must receive at least five nominating ballots to be included on this year's official election ballot.

Only one nominating ballot may be returned per credit union for any one seat; ballots will be declared invalid if duplicate ballots are cast by the same credit union or ballots are cast by a member more than once.

Nominating ballots can be faxed to (202) 331-8049. For more, go to www.nafcu.org/2010elections.

Obama, lawmakers urged on reform

NAFCU President Fred Becker has urged President Obama and key members of Congress that credit unions or all not-for-profit organizations be excluded from the authority of the consumer entity proposed in a Senate Banking Committee-passed reform bill.

Becker, writing last week, said NAFCU stands ready to work for enactment of such an entity to oversee providers such as unregulated predatory lenders and mortgage brokers, but it does not support applying this entity to credit unions.

He noted that key members of Congress have already recognized that credit unions did not cause the current crisis or the collapse of the housing market.

Becker sent letters to the president as well as House Speaker Nancy Pelosi, D-Calif., House Minority Leader John Boehner, R-Ohio, Senate Banking Chairman Chris Dodd, D-Conn., and Ranking Member Richard Shelby, R-Ala.

Reform work could resume as early as

today with Congress' return to Washington. The White House is pressing for Senate passage of a final bill by Memorial Day.

Just what will come next is uncertain, but there were reports last week of compromises in the wings on some key issues, including consumer protections, in an effort to pave the way for a bipartisan bill.

Shelby was reportedly in discussions with Dodd over possible modifications to the committee-approved regulatory reform language creating a Bureau of Consumer Financial Protection.

One idea floated was to create a commission with regulatory agency representatives, and possibly some presidential appointees, that would be able to veto actions of the bureau.

By contrast, the committee-passed bill would give a systemic risk council the ability to veto such actions on a two-thirds vote.

The Senate is scheduled to reconvene today at 2 p.m.

NAFCU, Treasury meet on CU issues

NAFCU President Fred Becker and senior staff met last week with Treasury Assistant Secretary for Financial Institutions Michael Barr to discuss credit unions and related issues, including regulatory reform, share insurance reform and more.

Becker said the meeting, held April 7, provided a chance to highlight the significance of credit unions in today's economy and air their concerns over current regulatory and legislative matters. "We welcome continuing to work with Treasury and the Obama administration to advance our country's path to prosperity," he said.

Becker was accompanied Wednesday by

Executive Vice President of Government Affairs Dan Berger, Senior Counsel and Director of Regulatory Affairs Carrie Hunt and Director of Research Tun Wai. Barr's senior staff also attended.

Besides regulatory reform and share insurance, the group also touched on the following:

- the housing-related, government-sponsored enterprises;
- health of federal credit unions;
- credit union member business lending;
- alternative capital; and
- corporate credit unions.

For more on share insurance fund matters, see p.2.

Becker: Longer assessment period would aid CUs

NCUA Chairman Debbie Matz was urged in a letter last week from NAFCU President Fred Becker to consider the impact on credit unions' capital levels and return on assets in future decisions on share insurance and corporate stabilization assessments.

In the letter, copied to NCUA Board Members Gigi Hyland and Michael Fryzel, Becker praised the agency's efforts toward increased transparency with last year's estimates for 2010 assessments. NCUA estimated total costs of 15 to 40 basis points. However, Becker said NAFCU is concerned the industry will be unable to handle the high end of that range.

While agreeing with NCUA's concern about the rising number of CAMEL code 4 and 5 credit unions and rising levels of code 3s, the NAFCU president said it's also important to consider the impact of large assessments on credit unions at or below "adequately capitalized" and how assessments affect ROA.

"From a policy standpoint, NAFCU would like to know if NCUA has determined at what level the combined premium expense will be too much for credit unions

to bear in one year," Becker wrote. Based on discussions with members and a review of dollar-weighted ROA at federal credit unions, NAFCU believes many credit unions would be negatively affected if assessments exceeded 20 basis points.

Becker urged NCUA to utilize its stabilization act authority to spread future NCUSIF premium and stabilization assessments over several years.

He also asked that, if the fund level falls below its statutory 1.2 percent floor, NCUA consider a plan to restore it over time, ensuring it doesn't fall below 1 percent, and not keep to a 1.3 percent normal operating level.

Becker also urged that NCUA keep corporate stabilization expense low if it appears the expense to the NCUSIF will be high and that the agency give credit unions "clear justification" for policy decisions regarding assessments.

While NCUA cannot map out future assessments for accounting reasons, it would be helpful "at a minimum to give justification as to why natural person credit unions have to bear a particular assessment level," Becker wrote.

2nd liens, foreclosure mitigation under review

The House Financial Services Committee's hearing tomorrow on foreclosure mitigation will look at second liens "and other barriers" to principal reduction.

The panel anticipates testimony from Bank of America, JPMorgan Chase, Citigroup and Wells Fargo focusing on the banks' efforts to help homeowners avoid foreclosure.

The role of second liens in foreclosure mitigation efforts has been a key issue for more than a year. Last July, House Financial Services Chairman Barney Frank, D-Mass., and Senate Banking Chairman Chris Dodd, D-Conn., urged federal regulators to look into whether institutions were inflating the value of second mortgages on their balance sheets, which would discourage efforts to modify and restructure at-risk mortgage loans through programs such as the federal HOPE for Homeowners program.

Last year, NCUA finalized a rule change to permit federal credit unions to extend

maturities on second mortgages beyond the usual regulatory limit to help members under the federal Making Home Affordable program.

Incentives may have helped vehicle sales

Dealer incentives may have been a bigger factor in March vehicle sales than overall demand, NAFCU Staff Economist Katrin O'Connor said.

Research firm AutoData Corp. said vehicle sales surged from an annualized 10.4 million units in February to 11.8 million units, seasonally adjusted, with import sales garnering more market share.

Toyota, despite earlier declines due to bad publicity over safety recalls, offered record-high discounts in March. "Other automakers followed Toyota's lead in incentive spending. Even though Chrysler offered the highest discounts on vehicles throughout the industry, it was not able to increase sales during March."

Concentration risk guidance shared

Credit unions by now should be receiving copies of recent NCUA examiner guidance on the evaluation of concentration risk, sent recently as an attachment to NCUA Letter 10-CU-03.

In the letter, NCUA Chairman Debbie Matz encourages credit union officials to understand concentration risk in their balance sheets and how it is affected by their strategic plans; and to ensure that risk management practices reflect risk levels.

NCUA has stepped up its supervision of credit union concentration risks, particularly those created through mortgage lending and member business loan activity, especially for lower-CAMEL code credit unions apparently behind in due diligence.

The examiner guidance says the largest exposures in credit union balance sheets as of Dec. 31 were fixed-rate real estate loans (54 percent of all loans); MBLs (4.9 percent); loan participations (2.1 percent); construction and development loans (0.4 percent); and investments in mortgage-related securities (27.8 percent of all investments).

Matz also refers readers to an advisory on interest rate risk released this January by federal regulators. For Letter 10-CU-03, go to www.ncua.gov/news/express/xfiles/10-CU-03.pdf.

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BSA webcast aids credit union volunteers in compliance

Volunteers viewing NAFCU's Bank Secrecy Act webcast last Wednesday took a step toward fulfilling their own obligations for training under NCUA rules implementing the law, which seeks to identify and help fight illegal money laundering related to tax evasion, terrorism financing and more.

Judy Graham, an NCUA program officer, told attendees of the agency's requirements for ensuring proper policies and procedures for compliance with anti-money laundering rules and for ensuring training for staff and volunteers. Both of these requirements are ultimately the responsibility of the credit union board of directors.

She said training should be tailored to staff and volunteers according to their

specific BSA responsibilities. Policies and procedures should be reviewed at least once a year, and that will vary according to the credit union's size, complexity and risk for illegal money laundering activity. The review "should also cover not only the specific requirements of the Bank Secrecy Act but . . . the policies and procedures of the credit union," she said.

Failing to comply with BSA rules can bring fines and civil money penalties from NCUA and the Financial Crimes Enforcement Network, she noted. It can also bring jail time if the violations are great enough. In addition, failing to conduct the proper due diligence under BSA can leave the credit union vulnerable to reputation risk, financial risk and to money launderers themselves, which will



NCUA's Judy Graham (right) provided an overview on volunteer responsibilities under the nation's anti-money laundering law. At left is Jerome Bruce of NAFCU.

try to use institutions like credit unions as conduits in their schemes.

The file from the webcast, "2010 Bank Secrecy Act Overview for Volunteers," is archived online and will remain available for six months. Go to www.nafcu.org/archivedwebcasts.

CU wins UBIT case in district court

A U.S. district court ruled April 2 in favor of Bellco CU in a suit over unrelated business income tax on credit life and disability insurance and royalties from accidental death and dismemberment insurance.

The ruling, by the U.S. District Court for the District of Colorado, says credit insurance is directly related to at least one of two tax-exempt purposes of a credit union: creating thrift. (The other, argued by Bellco CU, is creating a source of credit for members at fair and reasonable rates of interest.)

Judge Christine Arguello, in her ruling, said the concept of thrift is tied to sound financial management. She said credit insurance "permits a borrower to guard

against certain difficult circumstances and to know that, if the unfortunate event of death or a serious disability occurs, the borrower's family and/or assets would be protected."

The credit union was found liable for UBIT on its share of profits in an indirect lending consortium. The court also found fault with Bellco for insufficient record-keeping.

Bellco CU, located in Greenwood Village, Colo., was asked by the IRS in 2007 to file UBIT reports for 2000-2005. It filed and paid the taxes but, in October 2007, filed amended returns and requested that the UBIT payments be refunded.

IRS has 60 days to appeal the April 2 ruling.

FHA rule ups lenders' net worth requirements

The Federal Housing Administration was poised last week to publish a final rule that sets higher net worth requirements for FHA-approved lenders, strengthens lender approval criteria and makes lenders liable for the oversight of mortgage brokers.

FHA said it is issuing the final rule as part of its effort to protect its insurance funds for its housing finance programs.

All FHA-approved lenders will be required to maintain at least \$1 million in net worth, up from the current \$250,000 minimum, beginning one year after the

rule's enactment. That is with the exception of small business lenders, which will be required to maintain at least \$500,000.

Net worth requirements increase three years after enactment, and they differ depending on whether lenders are participating in FHA's single-family or multi-family programs

FHA is revising its lender approval process to align with Fannie Mae and Freddie Mac. By Jan. 1, 2011, mortgage brokers will have to be sponsored by an FHA-approved lender to participate in FHA programs.

SEC eyes protections for investors in ABS

The Securities and Exchange Commission released a proposal Wednesday to set risk-retention and disclosure requirements regarding asset-backed securities, including privately issued mortgage-backed securities.

The draft proposal, which would apply to publicly and privately issued products, has three general components. The first would require issuers to file with the SEC standardized information about the specific loans in the pool; this is intended to enable investors to understand the underlying asset. Issuers would also have to file contractual cash flow provisions showing how borrowers' loan payments are distributed to investors, how losses are divided among them and when administrative expenses such as servicing fees are paid. Investors would have five days before having to decide on the investment.

The proposal would remove references to the ABS credit rating for shelf registration, replacing them with four new eligibility criteria, including certification by the CEO and risk retention. The sponsor would retain a 5 percent risk exposure.

A number of investor protections related to the registration requirements are also proposed.

The proposed rule, with appendix, is 667 pages long and awaits publication in the *Federal Register*.

NCUA details process for 2010-11 grants

The \$1.25 million appropriated to NCUA's Community Development Revolving Loan Fund for fiscal 2010-11 technical assistance grants has been allocated among several initiatives, and one of them has an application closing date of April 16.

There are eight initiatives in all:

- **Capital Plan:** This has the April 16 application deadline. A total of \$50,000 is available, and the maximum award is \$2,500. Applications will be approved as received.

- **Urgent Needs:** This has an open application period and will be funded from CDRLF earnings. The maximum grant will be \$3,000, and applications will be approved as received.

- **Building Internal Capacity/Building Technology:** The application period closes May 28. An aggregate \$250,000 is available, \$150,000 for the "building internal capacity" component and \$100,000 for the "building technology" component. The maximum award is \$5,000. Awards will be announced Aug. 6.

- **Financial Education:** The application period closes June 30. A total of \$300,000 is available; the maximum award is \$15,000. Awards will be announced Aug. 31.

- **Partnerships and Outreach:** The application period closes July 31. A total of \$300,000 is available, and the maximum award is \$15,000. Awards will be announced Oct. 15.

- **Student Internship/Job Creation:** The application period closes Dec. 31 or when funds are exhausted. A total of \$100,000 is available; the maximum award is \$5,000. Applications will be approved as received.

- **Staff Official and Board Member Training:** The application period ends Dec. 31 or when funds are exhausted. A total of \$125,000 is available; the maximum award is \$3,000. Applications will be approved as received.

- **Volunteer Income Tax Assistance:** The application period ends Dec. 31 or when funds are exhausted. A total of \$125,000 is available; the maximum grant is \$6,500. Applications will be approved as received.

Generally, any low-income-designated credit union which also has a Dun and Bradstreet Universal Numbering System number may apply for a CDRLF grant.

For more information, download the letter at the letter; go to www.ncua.gov/letters/2010/CU/10-CU-04.pdf.

FOMC minutes reveal uncertainties

Minutes from the Federal Open Market Committee's March 16 meeting revealed more of the group's concerns about the sustainability of the economic recovery but not enough to change NAFCU's interest rate forecast.

NAFCU Chief Economist Tun Wai noted that even though the FOMC welcomed good news on a number of economic fronts, it remained concerned about the labor market and consumer spending. "Though the FOMC's March 16 policy statement

expressed some concerns about the economy, the minutes show that some FOMC members believe the recovery is unlikely to be sustained without a 'substantial' pickup in jobs," Wai said.

The minutes also show that a vibrant discussion took place about when the best time is to begin raising rates again. "Although different views were expressed about this subject, it was ultimately decided that the risks of tightening at this time outweighed those of waiting longer," Wai said.

CUs' consumer credit share up despite February declines

Credit unions in February grew their share of the consumer credit market 4 basis points to 9.47 percent despite declines in revolving and non-revolving credit.

The Federal Reserve last week said total consumer installment credit for financial institutions fell an annualized 5.6 percent to a non-seasonally adjusted \$2.45 trillion. It followed a 5.2 percent increase in January.

Credit unions' consumer credit fell, but

the financial industry total saw a sharper decline. Total credit union consumer lending (which excludes real estate) fell an annualized 12.3 percent from \$234 billion in January to \$231.6 billion in February (seasonally adjusted). That was "notably better than the 17.2 percent annualized, non-seasonally adjusted decline reported by financial institutions overall," said NAFCU Staff Economist Katrin O'Connor.

Reg Z webcast discounts available

Credit unions will receive discounts if they register by April 14 for NAFCU's April 21 webcast, "New Regulation Z Amendments: Implementation of the Open-end Credit Provisions," on rule provisions that take effect July 1.

Andrea Mitchell, counsel for BuckleySandler LLP, is the webcast speaker. Mitchell specializes in counseling financial companies on regulatory compliance and risk management. In the webcast, she will address amendments to five areas of open-credit rules:

- credit and charge card application and solicitation disclosures;
- account opening disclosures;
- periodic statement disclosures;
- change-in-terms notices; and
- advertising provisions.

Mitchell will also discuss challenges credit unions will encounter in meeting the July 1 compliance deadline and the areas that pose the greatest risk of regulatory legal exposure.

The webcast, open to NAFCU members and nonmembers, is set to run 2-3:30 p.m. Eastern. For more information or to register, dial 800-344-5580, or go to www.nafcu.org/regz amendments.

FTC rules on free credit report offers

A Federal Trade Commission rule took effect April 2 with the aim of preventing consumer confusion regarding providers' "free" report offerings with the annual file disclosures required by federal law.

A consumer is entitled to one free file disclosure annually from each of the three national reporting agencies (Equifax, Experian and TransUnion) and consumers request these online from AnnualCreditReport.com. After the free report is provided, additional ones during the year can bring a fee in 2010 of up to \$10.50, maximum.

The final rule was called for by the the Credit CARD Act. It was published in the March 3 *Federal Register*.