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NAFCU: Fix Wall Street, don't harm CUs

Regulatory reform could come up on the Senate floor this week, and NAFCU is urging anew that efforts to rein in harmful Wall Street practices not create new costs for credit unions and their 92 million members.

“We firmly believe that the largest risk-taking financial institutions, along with unregulated predatory lenders and mortgage brokers, should be brought within a more effective regulatory rubric, and we will support efforts to ensure that this is accomplished,” NAFCU President Fred Becker said in a letter to Senate Banking Chairman Chris Dodd, D-Conn., and Ranking Member Richard Shelby, R-Ala. “We do not, however, want to see good actors like credit unions bearing the cost and burden associated with this new regulation.”

Becker noted concerns specifically with the compliance costs of the Consumer Financial Protection Bureau proposed in the committee-approved reform bill. He said such costs for credit unions would “far exceed” those of a large financial firm hav-

ing thousands of employees, plus shareholders and access to capital markets.

The NAFCU letter, copied to all U.S. senators, was delivered last week against the backdrop of a meeting among President Obama and House and Senate leaders on reaching a bipartisan agreement on reform.

Treasury Secretary Tim Geithner also weighed in with an editorial in *The Washington Post* April 13. Geithner said the best way to protect American families is through an independent, accountable agency that can set and enforce clear rules of the road across the financial marketplace.

NAFCU is urging members to continue their contacts with senators on the impact of the proposed bureau on the nation’s not-for-profit credit unions.

Senate Majority Leader Harry Reid, D-Nev., said Thursday that he hoped to bring financial regulatory reform to the Senate floor for action this week. The measure is one of several he would like to see voted on prior to the Memorial Day recess.

NCUA urged to act on NCUSIF issues

NAFCU is urging NCUA to not wait until the fall to address pressing issues relating to the National Credit Union Share Insurance Fund and corporate stabilization.

In an April 13 op-ed for the *Credit Union Times*, NAFCU President Fred Becker said that in light of this year’s challenges, credit unions will be “better poised for success” if NCUA revisits the issue of the NCUSIF’s operating level and corporate stabilization earlier rather than later.

At NAFCU’s urging, NCUA in November provided an estimate of the assessments for the NCUSIF and corporate stabilization. “By July, it should have much better estimates,” Becker noted. “Further,

as soon as the NCUA has determined the cost of separating the legacy assets, it should have a reasonable estimate for all corporate stabilization costs.”

Becker also noted speculation that the total impact of disposing the legacy assets could be as much as \$13 billion. While the law provides up to seven years to pay back the funds borrowed from Treasury for corporate stabilization, that payback period could be extended by the Treasury secretary, he said.

He also reiterated NAFCU’s recommendation that NCUA consider allowing the fund’s equity ratio to drop below 1.2 percent.

NCUA alternative capital white paper out

NCUA Board Member Gigi Hyland released a white paper last week stating that affording credit unions the ability to raise supplemental capital that counts toward prompt corrective action net worth requirements is an appropriate policy consideration.

The paper was prepared by the NCUA Supplemental Capital Working Group, which is headed by Hyland.

It notes that any supplemental capital for credit unions should follow three public policy principles: preservation of the cooperative mutual credit union model, robust investor safeguards and prudential safety and soundness requirements.

NAFCU President Fred Becker said last

week that the association will continue to support this issue and strongly believes that mutuality should be preserved in any discussion on secondary capital. "This is a defining issue for our industry, and that is why NAFCU took the lead last year to secure an agreement with CUNA on specific legislative language and to work with lawmakers and regulators to address this important matter," said Becker.

He noted that after NAFCU submitted its alternative capital proposal to NCUA, the agency's chairman, Debbie Matz, advanced a proposal to lawmakers on the topic. "Going forward, enactment will require a concerted effort by the trades as well as NCUA," Becker said.

At-large ballots go out 26th; regional seats won

Nominations in NAFCU's 2010 board elections resulted in two regional winners Tuesday – and added one new face to the NAFCU Board for the next term – but two at-large seats are still in play.

Charlie Thomas, a volunteer at Mid-Atlantic FCU (Md.), and Richard Harris, president and CEO of Caltech Employees FCU (Calif.), are the winners in this year's Region II and V races.

Thomas, an incumbent, and Harris were the only candidates in each region who garnered the required number of nominating ballots to make it onto the official election ballot; that makes them the outright winners under the NAFCU Bylaws. They begin their terms following the close of NAFCU's annual business meeting this July in

Chicago.

The next step in this year's elections is voting for two at-large directors. NAFCU will mail official election ballots to its members April 26. Candidates are:

- ◆ Ed Templeton (incumbent), president and CEO of SRP FCU (S.C.);
- ◆ Bob Marquette (incumbent), president and CEO of Members 1st FCU (Pa.);
- ◆ Kenneth Herrera, a volunteer at U.S. New Mexico FCU (N.M.);
- ◆ Kevin McMahan, a volunteer at Sandia Laboratory FCU (N.M.).

At-large winners will be decided May 24, the deadline for returning completed ballots.

For more on the elections, go to www.nafcu.org/2010elections.

Berger: No arbitrary population limits for CUs

A proposed area should not be disqualified as a well-defined local community because it exceeds a particular population size, NAFCU told NCUA in response to a chartering and field of membership proposal.

Under NCUA's proposal, an area involving multiple jurisdictions may not have a population exceeding 2.5 million. NAFCU Executive Vice President of Government Affairs Dan Berger said this cap is arbitrary and goes against the intent and spirit of the Federal Credit Union Act.

NAFCU also views the proposed 100,000 cap on rural district population as arbitrary, Berger said. He urged adoption of

the Federal Housing Finance Agency's definition of rural district.

In other comments, Berger:

◆ objected to using the same criteria for a "well-defined local community, neighborhood, or rural district" and underserved area since the two differ;

◆ reiterated a call for NCUA to revise its policy on voluntary mergers involving community credit unions, removing restrictions on mergers with other charter types and on the retention of previous groups; and

◆ pressed anew for standardized emergency merger procedures and timelines.

Matz: There will be fewer corporates

NCUA Chairman Debbie Matz said last week that she thinks the corporate credit union system will emerge stronger but that there will be fewer corporates as a regulatory revamp takes hold.

In providing her insight on the future of corporate credit unions at a recent industry gathering in Grapevine, Texas, Matz noted that some corporates will be able to attain the capital thresholds in NCUA's proposed rule for restructuring the system. Others, however, will need to find a new business model, she said.

She said the future of the corporate credit union system depends greatly on the disposal of legacy assets and noted that the agency is "on the verge of a breakthrough" on a plan to do just that. "We will not move forward with a final corporate rule until after the plan for legacy assets is announced," said Matz. The rule is expected to be finalized this summer.

Natural-person credit unions will then be faced with the choice of recapitalizing the corporates or finding other ways to obtain the institutions' services elsewhere, she noted. She assured credit unions that after NCUA approves its final rule the corporates "will be much better positioned to protect your hard-earned capital."

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Hensarling takes up for CUs in CRA hearing

Rep. Jeb Hensarling, R-Texas, in a hearing Thursday on the Community Reinvestment Act disputed an assertion by the National Community Reinvestment Coalition that credit unions aren't doing their part to serve the underserved.

"Non-CRA covered credit unions and insurance companies have not been major actors in the subprime fiasco," NCRC President John Taylor testified in the House Financial Services subcommittee hearing, "but they have not served minority and working communities in a satisfactory manner." Taylor said this means fewer responsible loans and insurance products are made available in traditionally underserved communities.

Hensarling took issue with that, pointing to information from NAFCU and the Federal Reserve Bank of Dallas showing that credit unions have done a better job than CRA-covered banks in delivering mortgage loans to lower-income persons.

Taylor has long sought to expand CRA to credit unions and insurance firms. Asked by

Hensarling whether he, the NCRC or its affiliates receive monetary or other benefits from FDIC-insured, CRA-covered institutions, Taylor said they do.

NAFCU submitted a letter that was entered into the hearing record Thursday addressing credit unions' service to underserved persons despite statutory limits on whom they may serve. In that letter, the association detailed Home Mortgage Disclosure Act data showing that credit unions not only approved more mortgages for minority applicants than banks and thrifts in 2008, but they also provided those loans at lower rates of interest.

NAFCU President Fred Becker said in the letter that credit unions do not need to be made subject to the Community Reinvestment Act and actually serve as models for community reinvestment. "We believe that credit unions are an example of how depository institutions can reinvest in the community by providing minorities and those with lower incomes more reasonable mortgage loans," Becker wrote.

NAFCU seeks revisions to Credit CARD Act rule

Provisions in a Federal Reserve Board proposal on credit card penalty fees are problematic, especially for smaller institutions, NAFCU said in pressing for limits on a requirement for reevaluating credit card accounts following rate hikes.

NAFCU Associate Director of Regulatory Affairs Dillon Shea, responding to a Fed proposal implementing the final provisions of the Credit CARD Act, explained that two approaches prescribed for setting penalty rates are "unduly burdensome."

The proposed rule requires institutions to base credit card account penalty fees on the costs associated with card term violations or with deterring such violations. Institutions may also adopt a safe harbor fee. Shea said most credit unions would not find it feasible to implement the "fairly complex monitoring system" that would be needed to quantify certain costs associated with account violations.

"Consequently, the proposal will drive most institutions towards using the safe harbor fee," said Shea.

NAFCU also recommends that the Federal Reserve limit the requirement for

reevaluating interest rate increases and eliminate it when consumers' creditworthiness dips sharply. Shea wrote that requiring institutions to reevaluate increases more than three times in 18 months is of little use to the consumer.

Judge hears NAFCU-backed tax case

Oral arguments proceeded last week for a court case involving Hudson Valley FCU's suit challenging the application of New York's mortgage recording tax.

NAFCU is supporting Hudson Valley FCU in the case and filed a motion and brief as amicus curiae to uphold federal credit unions' tax-exempt status. While this is one case affecting one credit union, NAFCU wrote, the imposition of the mortgage tax would set a precedent that could be followed with respect to other FCUs in New York and elsewhere.

Justice Judith Gische accepted NAFCU's brief, and amicus briefs filed by the Department of Justice and by the New York League and CUNA, prior to the start of arguments on April 13.

Judge Gische is expected to render a decision within the next couple of weeks.

Flash: Serving underserved is key

NAFCU's latest *Flash Report* confirms that serving the underserved is important to NAFCU-member credit unions and that costs associated with Community Reinvestment Act-type requirements would undermine that service.

The April *Flash* found that two-thirds of surveyed credit unions currently have an underserved area as part of their membership. Of those credit unions, 97.2 percent have loans outstanding in those areas.

The survey also found that credit unions want to do even more for these communities. Just more than 40 percent of respondents said if the law were changed to allow all credit unions to once again add underserved areas, they would consider adding one.

Regarding the Community Reinvestment Act, an overwhelming majority (86.8 percent) of respondents said they do not envision CRA having any bearing on the number of loans they would make in their underserved areas.

For the full report (member only), go to www.nafcu.org/flash.

Free privacy form builder online

NCUA and other federal regulators on Thursday released a free, online form builder that credit unions, banks and thrifts can use to develop customized privacy notices that conform with the Gramm-Leach-Bliley Act.

The form builder is based on the model form that was published with a final regulation in the Dec. 1 *Federal Register*. Most provisions of the regulation took effect Dec. 31.

The online tool provides four templates to work with in building GLB Act-compliant notices. They vary to accommodate plans to provide an opt out or not, and to accommodate affiliated marketing or not.

For links to the form templates and final rule, go to www.federalreserve.gov/bankinforeg/privacy_notice_instructions.pdf.

Credit union 10-mile run raises nearly \$1 million for CMN

Credit unions raised \$923,000 for Children's Miracle Network in conjunction with this year's Credit Union Cherry Blossom 10-Mile Run, which took place April 11 in Washington.

About 20 NAFCU staffers were among the 15,000 participants who ran, walked or volunteered in this year's race.

Shown left to right: NAFCU President Fred Becker (right) presents Credit Union Miracle Day Chair Yuri Valdov with a piggy bank containing donations from NAFCU; runners take off under sunny skies at the start of this year's Cherry Blossom Run. (NAFCU photos)



AP, NAFCU: Tough economic conditions to continue

New economic survey findings from the Associated Press indicate that the U.S. will continue to wrestle with high unemployment and sluggish growth over the next two years, and NAFCU's latest forecast is even less optimistic.

The recent AP survey findings, which were derived from "forecasts of leading private, corporate and academic economists on a range of indicators," found that the unemployment rate will remain unusually high for a long time, declining only to 9.3 percent by the end of this year and down to 8.4 percent by the end of 2011.

NAFCU Chief Economist Tun Wai said those numbers "err a little too much on the most optimistic of economic scenarios." According to NAFCU's latest forecast, released April 9, the association is calling for unemployment to inch down to 9.5 per-

cent by the end of this year, and by the close of 2011, it will have only fallen to 9.3 percent. "The rate has been 9.7 percent since January and it will be a very long time until we see some significant improvement."

According to the AP forecast, the economy will grow 3 percent in 2010. "But even if the economy grows over 3 percent, that will still not be enough to counteract the high unemployment," Wai noted. "Growth must be much more robust in order to make a serious dent in the unemployment rate."

While economists that participated in the AP survey said that existing-home sales will rise to 5.4 million this year and to 5.9 million in 2011, NAFCU's forecast is, once again, less optimistic. "We are calling for sales to reach 5.3 million this year and to hit 5.7 million in 2011," Wai said.

FHA OKs e-signatures for mortgage insurance

The Federal Housing Administration announced recently that it is modernizing its mortgage insurance application process by allowing electronic signatures on third-party documents.

FHA said the aim is to make the application process "easier for borrowers and faster for lenders." The new, streamlined process, which applies to both FHA forward mortgages as well as Home Equity Conversion Mortgages (reverse mortgages), is detailed via a Mortgagee Letter on the Department of Housing and Urban Development Web site (www.fha.gov).

FHA Commissioner David Stevens said the move marks the beginning of FHA's efforts to use more electronic documents in the loan approval process. Stevens noted

that the agency intends to expand the number and types of documents with electronic signatures that the FHA will accept. The agency said it expects lenders to "employ the same level of care and due diligence with electronically signed documents."

To that end, it is important lenders make sure that the electronic signature and date are clearly visible in the document. Document retention requirements for electronic documents are no different than those for paper documents, FHA said.

The new application process is in accordance with Electronic Signatures in Global and National Commerce Act and the Uniform Electronic Transactions Act, as applicable.

Electronic payments up 2.6% in 2009

Automated clearinghouse payments reached 18.76 billion last year, up 2.6 percent from 2008, according to data from NACHA – The Electronic Payments Association.

The group also reported that unauthorized debits continued to decline, falling by 9.6 percent in 2009 from the previous year. Unauthorized debits constituted 0.02 percent of total network volume, NACHA said.

Janet Estep, president and CEO of NACHA, said the data reflect new NACHA rules and other enforcement efforts that went into effect in 2008. Internet-initiated ACH payments or "WEB" entries continued to surge in 2009, ending the year up 9.7 percent increase from 2008. Year-over-year comparisons show a significant, 13 percent decline in the number of unauthorized WEB debits, with an overall unauthorized rate of return at a nominal 0.04 percent.

42nd bank fails

The FDIC recently announced another bank failure, the 42nd this year and expected to cost the Deposit Insurance Fund \$130.3 million.

The failure of Beach First National Bank, a \$585 million institution in Myrtle Beach, S.C., marked the first South Carolina bank closing since March 1999. The Office of the Comptroller of the Currency appointed the FDIC as receiver of the bank.

A purchase-and-assumption agreement was entered into with Bank of North Carolina, of Thomasville, N.C.