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# UPDATE<sup>®</sup>



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**April 26, 2010**

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## Senate reg reform debate draws near; NAFCU pushing for CUs' interests

NAFCU continues to press credit unions' best interests – including the prevention of unnecessary, costly new regulatory burdens – as the Senate nears action this week on the Restoring American Financial Stability Act, S. 3217.

A cloture motion was expected to be filed on the measure last week following action by the Senate Agriculture Committee on a derivatives bill that lawmakers hope to attach to the larger reform measure. The Senate could commence consideration of S. 3217 or amendments by Wednesday.

The committee-passed derivatives bill would impose "100 percent transparency" on over-the-counter derivatives trades, said Senate Agriculture Chairman Blanche Lincoln, D-Ark. The bill was cleared amid news that the Securities and Exchange Commission was filing suit against Goldman Sachs for allegedly fraudulent activity related to a 2007 derivatives product tied to subprime mortgages.

### ☐ Remittances, FHLB liquidity at issue

Over the past week, NAFCU has maintained steady communications with Capitol Hill in ongoing efforts to ensure any Senate-passed reform bill avoids harm to credit unions.

The association on Thursday joined with banking trades in a letter to Senate Banking Chairman Chris Dodd, D-Conn., and Sen. Daniel Akaka, D-Hawaii, urging support for conforming S. 3217's definition of "remittance transfer" with an internationally accepted standard.

The provision currently differs from one embraced by the World Bank and the Bank for International Settlements in 2007. NAFCU and the other trades

pointed out that, while intended to protect consumers, S. 3217's provisions on remittances "may have the unintended effect of driving many banks and credit unions out of the international electronic funds transfer business."

NAFCU is also urging changes to the bill's concentration limits to prevent a steep decline in the liquidity that could be released into the market by the Federal Home Loan Banks.

### ☐ Consumer agency fight continues

NAFCU also continues to press the case that, since credit unions did not participate in the practices that brought down the housing finance market and triggered the recession, they should not be penalized by new regulatory burdens enforced by a proposed consumer financial protection entity.

"As this bill nears action, credit unions need to keep up their contacts with senators and let them know that 92 million credit union members on Main Street don't deserve to foot the bill for the mistakes of Wall Street financiers," said Becker. "Moreover, they can't afford to take on the costs of a new consumer protection agency."

### Redesigned \$100 note unveiled

The federal government last week unveiled a new design for the \$100 note, which is slated to be issued Feb. 10, 2011.



Artwork from Treasury

The redesigned note boasts new security features, including a 3-D security ribbon and "bell in the inkwell." The security ribbon, on the front of the note, contains images of bells and 100s that change back and forth as the note is tilted.

Learn more at [www.newmoney.gov](http://www.newmoney.gov).

## Treasury seeks CUs' help in 'going green'

Treasury's Financial Management Service told NAFCU last week that it is seeking assistance from credit unions in handling the government's "going green, save green" transition with respect to federal business tax deposit coupons.

During an April 21 meeting at Treasury headquarters, FMS staff noted that the coupons will cease being used Jan. 1 of next year. The exception is businesses with \$10,000 or less in annual tax liabilities.

FMS will promote the transition to an all-electronic deposit system and is strongly encouraging credit unions to ensure they are able to help members still using the paper coupons make that transition.

Financial institutions are expected to save money due to the initiative. FMS estimates the cost to institutions that currently process the coupons at about \$140 million a year since they are prohibited by regulation

from charging fees for accepting the coupons. It says the per-transaction cost is between \$2 and \$8.

Other elements of the going green initiative, unveiled April 19, include:

- ◆ a move to full electronic delivery of federal benefit and retirement payments by March 1, 2011, for new enrollees and March 1, 2013, for existing check recipients; and

- ◆ elimination of the option to purchase paper savings bonds through payroll deduction for federal employees beginning this Sept. 30, and for the private sector beginning Jan. 1, 2011.

IRS plans to release a proposed rule in the coming weeks to formalize the requirement for electronic tax deposits; a final rule is expected in August. The agency plans to conduct outreach to business on the final rule in the fall. A webinar is also planned.

## Garnishment reg would note benefits exemption

The Treasury Fiscal Service, Social Security Administration, Department of Veterans Affairs and others have jointly proposed a rule providing financial institutions guidance on the execution of garnishment orders when they affect accounts holding federal benefit payments.

Certain federal benefit payments are exempt from garnishment, but financial institutions are required to comply with garnishment orders. The proposed rule is aimed at facilitating compliance without harming account holders who may have little else but federal benefit payments in their accounts.

The agencies, in their summary, said the proposal responds to recent technology and debt collection developments that have led to an increase the freezing of accounts with federal benefits payments.

The proposed rule would require an institution receiving a garnishment order to determine whether exempt federal benefit payments had been deposited within 60 days before it received the order. If so, the institution would have to ensure that the account holder has access to the lesser of the sum of those payments or the current account balance.

NAFCU's regulatory staff note that the proposal is designed only to address situations in which financial institutions receive

garnishment orders on accounts containing federally protected funds.

The proposal was in the April 19 *Federal Register*. Comments are due June 18.

## Flood insurance reform awaits action

Lawmakers discussed the need for flood insurance reform last Wednesday, but the House Financial Services Committee failed to mark up a bill as planned.

Wednesday's hearing was held by the House Financial Services Subcommittee on Housing and Community Opportunity. Chaired by Rep. Maxine Waters, D-Calif., the panel heard from other members of Congress, federal flood insurance representatives and a number of interest groups, including home builders, real estate practitioners and the National Wildlife Federation.

Waters is promoting action on legislation that would increase NFIP policy limits, require revisions in the flood maps and include some easing on flood insurance requirements for homeowners who find they are located in a flood plain as a result of those changes.

Congress just passed and the president signed an extension of the NFIP through May 31. The last extension cleared in March.

## Small-dollar loans, 704 waiver slated

**NCUA's board will take up a proposed rule April 29 on short-term, small-dollar loans** and waiver provisions under current rules for corporate credit unions, the agency said last week.

The small-loan proposal would revise section 701.21(c) of the agency rules. That section addresses loan approval authority, fees and interest rates in accordance with NCUA's rules implementing the FCU Act usury ceiling.

The April 29 open meeting will also include a report on the National Credit Union Share Insurance Fund. A closed meeting follows on supervisory and personnel matters.

The board was also poised to meet in closed session last Friday on a supervisory matter.

## NCUA details 'green' progress

**NCUA, marking the 40th national observance of Earth Day, issued a statement Thursday**

detailing its progress with efforts to reduce the environmental impact of agency operations.

NCUA last fall began conducting an energy audit and proceeded with practices such as reduced energy consumption, recycling of materials and use of "green-certified" cleaning and maintenance materials. It credits its staff for the program's success.

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## Becker urges least-cost solution on legacy assets

NAFCU President Fred Becker urged NCUA Chairman Debbie Matz last week to ensure that the cost of resolving corporate credit unions' legacy assets is as low as possible for the National Credit Union Share Insurance Fund and insured credit unions.

Matz has said NCUA staff may present their recommendations regarding legacy assets to the board in June; a final rule on corporates would follow that.

In a letter to Matz that also addressed the agency's corporate share and liquidity guarantee programs, Becker said NAFCU "steadfastly believes . . . that the ultimate resolution of the legacy assets should ensure that credit unions are not asked to shoulder the cost in excess of what is absolutely necessary."

He also urged the agency to be more forthcoming about its plans regarding the wind-down of the Temporary Corporate Credit Union Share Guarantee Program and the Temporary Corporate Credit Union Liquidity Guarantee Program. NAFCU supports the programs.

The share guarantee program is currently set to expire March 31, 2012; natural person credit union deposits placed in the corporates before March 31 of this year, and having maturities of two years or less, are guaranteed. NCUA has the flexibility to keep such a guarantee going through 2014.

The liquidity program, meanwhile, is available to cover newly issued unsecured debt issued on or before June 30, 2010, and maturing by June 30, 2017.

## Feds seek input on housing finance system

NAFCU plans to comment on a request for input from the public by Treasury and the Department of Housing and Urban Development on how to establish a "more stable and sound" housing finance system.

The request for input, with comments due July 21, was published in Thursday's *Federal Register*. It is being initiated as the federal government considers the future of housing finance, including the roles of entities such as Fannie Mae and Freddie Mac.

The notice presents seven questions:

1. How should federal housing finance objectives be prioritized in the context of the broader objectives of housing policy?
2. What role should government play in supporting a stable, well-functioning housing finance system and what risks, if any, should the federal government bear in meet-

ing its housing finance objectives?

3. Should the government approach differ across different segments of the market, and if so, how?
4. How should the current organization of the housing finance system be improved?
5. How should the housing finance system support sound market practices?
6. What is the best way for the housing finance system to help ensure consumers are protected from unfair, abusive or deceptive practices?
7. Do housing finance systems in other countries offer insights that can help inform U.S. reform choices?

Responses will only be accepted online at [www.regulations.gov](http://www.regulations.gov). For more, get the notice at [edocket.access.gpo.gov/2010/pdf/2010-9309.pdf](http://edocket.access.gpo.gov/2010/pdf/2010-9309.pdf).

## FHA lender net worth rule kicks in May 20

A Federal Housing Administration final rule set to take effect May 20 will increase net worth requirements for approved lenders and eliminate the current FHA approval process for loan correspondents.

The rule, published in the April 20 *Federal Register*, is intended to aid FHA risk management. It takes effect May 20.

The final rule raises the current minimum net worth requirement of \$250,000 and sets initial minimums according to industry size standards set by the Small Business Administration.

The rule also eliminates FHA's current

approval of loan correspondents, or mortgage brokers, as of this Dec. 31 and provides that approvals under the current process will end about June 20.

After Dec. 31, correspondents will have to be sponsored by an FHA-approved lender in order to participate as third-party originators for FHA; they can also submit applications for approval as FHA lenders. Either way, the final rule ensures that an approved lender will be directly liable for FHA-guaranteed loans it facilitates.

Comments on the proposal are due to the FHA on May 20.

## AC Web Hunt offers discount, prize

**NAFCU last week kicked off an online Web Hunt** to give prospective Annual Conference & Exhibition participants a chance to earn a valuable discount and enter to win a grand prize.

Those interested can earn a \$100 discount on the current Annual Conference registration by visiting [www.nafcu-annual.org/webhunt.html](http://www.nafcu-annual.org/webhunt.html) and answering trivia questions relating to the conference. Participants will also be eligible for the grand prize drawing for a \$250 Discover gift card.

The deadline to participate is May 21; the grand prize drawing is set for May 24.

NAFCU's 43rd Annual Conference & Exhibition is slated July 20-24 at the Navy Pier Chicago. For more information, visit [www.nafcu-annual.org](http://www.nafcu-annual.org).

## 4 CUs make NACHA's top 50 receivers list

**Navy FCU, State Employees CU (Raleigh, N.C.), The Golden 1 CU (Sacramento, Calif.) and America First CU (Ogden, Utah) are on NACHA's list** of top 50 receivers of automated clearinghouse payments for 2009.

NACHA released this list and another for top 50 originators (no credit unions on this one) April 20. It said the top 50 originators accounted for 88.3 percent of total ACH transaction volume and 95.9 percent of all non-federal government ACH transaction volume last year. The top 50 receivers accounted for 55.6 percent of total ACH transaction volume.

Among the top 50 receivers, Navy FCU was 19th; State Employees CU was 31st; The Golden 1 CU was 44th; and America First CU was 49th.

In other data, NACHA said:

- ◆ the top 50 receivers accounted for 8.53 billion transactions, consistent with 2008 figures; and
- ◆ the top five receiving institutions made up 31.1 percent of total ACH volume, and the top 10 made up 38.9 percent.

## Webcast schools CUs on open-end credit rules

Credit unions were urged during a NAFCU webcast last week to closely examine the latest Federal Reserve amendments to Regulation Z affecting open-end credit accounts and to be conservative when implementing the rules.

Andrea Mitchell, counsel at Buckley Sandler LLP, was the featured speaker for the webcast, which focused on the Fed's amendments to Reg Z that go into effect July 1. In her remarks, she noted discussions she had with the agency regarding the rules.

The rules require credit issuers to include a Schumer Box on credit and charge card applications that lists the annual percentage rates for purchases, cash advances and bal-



*Mitchell notes challenges of implementing new Reg Z requirements. (NAFCU photo)*

ance transfers, Mitchell noted. Creditors must also disclose the penalty rates and the triggers for such rates. Fees for late payments, cash advances, over-the-limit transactions, foreign transactions and balance transfers must also be included in the box, she said.

Mitchell said regulators are closely monitoring convenience checks for unfair or deceptive acts or practices violations. She also said she expects the Federal Reserve to issue amendments for closed-end credit accounts.

The webcast will be archived for six months. For more information, visit [www.nafcuh.org/archivedwebcasts](http://www.nafcuh.org/archivedwebcasts).

## Becker hails National Volunteer Week

NAFCU President Fred Becker lauded volunteers for their contributions to the remarkable success of the credit union community during National Volunteer Week, which began April 18 and ran through Saturday.

This year's theme for National Volunteer Week, "Celebrating People in Action," recognizes individuals who have dedicated themselves to taking action and solving problems in their communities.

"Whether through their governance as board members, active membership on a committee or even serving as the staff of the credit union, credit union volunteers are proving each and every day that 'member-

owned and member-run' is not just a philosophy," Becker said in an e-mail to members. "Credit unions are vibrant, thriving institutions today – making a difference in the lives of more than 90 million Americans – in large part because of the dedicated and tireless service of volunteers."

National Volunteer Week was created in 1974 when President Nixon signed an executive order to establish the week as an annual celebration of volunteering. Every year since then, each U.S. president has signed a proclamation promoting National Volunteer Week.

This year's proclamation was signed April 16.

## FDIC proposes 'scorecard' for assessments

The FDIC Board recently proposed changes to its own rules on deposit insurance assessments that replace risk categories and long-term debt ratings with a new "scorecard" using more forward-looking measures, the agency said.

Actually, there would be two scorecards for FDIC-insured banks, one for larger institutions and another for highly complex ones. FDIC defines a highly complex institution as one with more than \$50 billion in assets and which is fully owned by a parent company with more than \$500 billion in assets. It would also apply to a processing

bank and trust company with more than \$10 billion in assets.

Each scorecard created would factor in a performance score (CAMEL rating) and loss severity score; the two would be combined for a total score, which in turn would be used to set an initial assessment rate. FDIC would continue to be able to raise assessment rates up to 3 basis points above or below base assessment rates without additional rulemaking.

FDIC hopes to eliminate pressures on the Deposit Insurance Fund that are driven by unanticipated increases in bank risk.

## FinCEN pushing e-filing under BSA

The Financial Crimes Enforcement Network issued a recent statement hoping to sway more depository institutions to electronic filing for their Bank Secrecy Act suspicious activity reports and currency transaction reports.

FinCEN said it began a "phased approach" April 16 to encourage paper filers to move to e-filing of BSA reports. It is encouraging such institutions to consider the benefits of e-filing, including greater streamlining of submission processes and enhanced audit and recordkeeping capabilities.

"We are continually enhancing the system to ensure that the filing process is efficient and user-friendly, and accomplishes our joint efforts to get important information relating to money laundering and terrorist financing to law enforcement in the quickest manner possible," FinCEN Director James Freis said in the statement.

FinCEN runs a free BSA e-filing system that is user-ID and password protected. Reports can be filed individually or in batches through a FinCEN secure network.

When e-filing is used, filed reports become available and searchable by law enforcement within two days.

FinCEN invites filers to learn more by contacting the BSA E-Filing Help Desk; dial 1-888-827-2778 and select option 6.

### Failed-banks list to 50

**The FDIC recently closed eight failed banks, raising the yearly total to 50** and estimating potential added costs to the Deposit Insurance Fund of \$984.7 million.

The largest institution in this group, Riverside National Bank of Florida, had \$3.42 billion in assets. Its resolution is expected to cost the DIF an estimated \$491.8 million.