



UPDATE[®]

NAFCU opposes House bill on credit cards

p.2

May 10, 2010

In This Issue

Work continues on reg reform

NAFCU maintains push to ensure CUs' best interests p.1

No TARP fee for CUs

Treasury's plan to recoup TARP costs does not include CUs. p.2

Gauging exec pay

FCUs are invited to participate in benefits/pay survey p.2

Next CUNA CEO announced

Bill Cheney to succeed Dan Mica . p.3

NCUA 2008-09 financials out soon

Agency cites accounting industry rules for delay in info release p.3

Comments sought

NAFCU needs member input by May 24 on garnishment rule p.3

Another LUA published

Tremont CU signed the agreement in April p.3

Employee benefits highlighted

Webcast shares strategies for measuring employee program effectiveness . . p.4

Slow recovery for vehicle sales

NAFCU points to slow labor, tight credit for sluggish vehicle sales p.4

☞ St. Paul Croatian FCU closed . . . p.3

☞ Swann reassigned p.3

☞ 7 more banks fail p.3

☞ Digital copiers pose risk p.4

NAFCU wins early revision to S. 3217

NAFCU and credit unions logged an early victory last week during debate on S. 3217, the Restoring American Financial Stability Act, through an amendment sponsored by Sen. Olympia Snowe, R-Maine, eliminating costly data collection requirements.

The Senate on Wednesday cleared Snowe's proposal to delete the bill's section 1071, which would have required that banks and credit unions report deposit account data to the Consumer Financial Protection Bureau. The reports, from each deposit-taking facility (including ATMs), were to provide the CFPB the number and dollar amount of deposit accounts, geocoding by census tract of each member's or customer's location and information on commercial vs. residential transactions.

Snowe said this would increase regulatory burden and provide "an extraordinarily large amount of data to the federal government." NAFCU President Fred Becker, writing Snowe in support of the change, said section 1071 "would simply be too costly and burdensome for many credit unions, especially smaller institutions, to comply."

☐ More than 130 amendments in queue

After about a week of slow-going work, the pace of debate and voting on amendments to S. 3217 picked up at mid-week only after Sens. Chris Dodd, D-Conn., and Richard Shelby, R-Ala., won passage of a compromise measure aimed at easing concerns about future wind-downs of large firms and burden on taxpayers.

At press time, some 130 amendments had been filed but not voted on. Here's a look at what NAFCU was pressing as it sought to ensure credit unions' best interests:

◆ **\$250,000 share insurance limit:** NAFCU wrote to support an amendment offered by Sen. Ben Cardin, D-Md., to make permanent the \$250,000 limit on federal share and deposit insurance. It's now set to drop to \$100,000 after Dec. 31, 2013.

◆ **CFPB coverage:** NAFCU was working in support of an amendment by Sen. Susan Collins, R-Maine, to add the NCUA Chairman to the Financial Stability Oversight Council created by S. 3217. NCUA would then be part of the body of regulators that could veto objectionable CFPB rules. Without this, credit unions would be unable to appeal rulemaking that might be harmful to their industry, said Dan Berger, NAFCU's chief lobbyist.

In other activity, NAFCU supported as "a positive first step" two amendments by Sen. Lisa Murkowski, R-Alaska, to exempt banks and credit unions with less than \$5 billion in assets from both the CFPB's enforcement and regulatory authorities.

It urged rejection of a proposal by Sen. Dick Durbin, D-Ill., to all banks and credit unions with more than \$1 billion in assets and making student loans to direct CFPB supervision.

◆ **Interchange:** NAFCU has worked steadily in recent weeks to prevent inclusion of interchange fee changes in S. 3217 (Durbin has offered three), and it continued Thursday in a letter penned jointly with CUNA, the Independent Community Bankers Association and the American Bankers Association. The trades said any interchange proposals for reg reform should be subject to public hearings.

NAFCU urged against an amendment offered by Sen. Tom Harkin, D-Iowa, to limit ATM fees to 50 cents. It is also watching for any move by Durbin to advance a modified cramdown proposal.

House bill mirrors Durbin credit-card proposal

A debit and credit card fee bill introduced last week by Rep. Peter Welch, D-Vt., would require the Federal Reserve Board to bar swipe fees on debit-card transactions and bar card companies from restricting merchants' ability to limit payment amounts.

Titled the Electronic Check Parity Act, the measure would also permit merchants to offer discounts to consumers for paying by cash, check or debit card instead of credit card.

NAFCU opposes the bill, noting that it will squeeze issuers such as credit unions, making it difficult for them to keep offering credit cards to their 92 million members.

The Welch bill is similar to language introduced by Sen. Dick Durbin, D-Ill., and cosponsored by Sens. Patrick Leahy, D-Vt., and Mary Landrieu, D-La., in connection with S. 3217, the Restoring American Financial Stability Act that the Senate is currently debating.

NAFCU has warned that this and other changes to interchange would benefit the largest card-issuing banks.

These measures, by capping or sharply reducing interchange fees, would also make it more difficult for credit unions to correct problems arising from large data breaches, most of which are due to retailers' and merchants' failure to protect consumers' account information.

Geithner: No plan to assess TARP fee on CUs

Credit unions are not included in the administration's proposal to assess fees to help recover costs of the Troubled Assets Relief Program, Treasury Secretary Tim Geithner told lawmakers last week.

In an exchange with Sen. Orrin Hatch, R-Utah, during a May 4 Senate Finance Committee hearing, Geithner reiterated that the fee would be aimed at large financial institutions that most contributed to the nation's financial crisis.

During the hearing, the second on the proposed TARP fee, panel Republicans – Sens. Charles Grassley of Iowa and Jim Bunning of Kentucky – suggested it's too early to set a fee since it's not known yet just how much of the TARP program will be recovered; Grassley reminded that the administration isn't required to submit a plan for recouping any deficit until 2013. Others, led by Sen. Mike Crapo of Idaho, said Fannie Mae, Freddie Mac, Chrysler

and General Motors should also be subject to such a fee if one is initiated.

Sen. Debbie Stabenow, D-Mich., opposes subjecting car makers to such a fee, and Geithner said they aren't included because they have already gone through bankruptcy and restructuring. Stabenow also wants an analysis of the so-called bank tax to find out how it would affect community banks and business lending. Sen. John Kerry, D-Mass., had concerns about its impact on access to credit, and panel members also noted a Congressional Budget Office analysis suggesting that the fee would be harmful here.

Geithner said the administration is nearing release of the proposed TARP fee. It will also soon unveil a package of tax incentives, a small business lending facility, improvements for the Small Business Administration and a program for the states, he said.

Rule allows Fed Banks to offer term deposits

The Federal Reserve Board has issued a final rule that, beginning June 4, will permit the Federal Reserve banks to take term deposits from eligible institutions such as federally insured credit unions and banks.

The final rule revises Regulation D, which sets reserve requirements, permits interest on reserves and allows the maintenance of excess balances. One overriding goal is to provide a mechanism that can be used to drain reserve balances and support the Fed's monetary policy activities.

Term deposits in a Federal Reserve Bank would not count towards an institution's Reg D reserving requirement or its contractual clearing balance, and they are not excess balances. Term deposits would be removed from an institution's Reg D reserve account for the life of the deposits.

The Fed expects to introduce this program by conducting small-value offerings in coming months.

The final rule was in the May 5 *Federal Register*.

Exec pay/benefits survey underway

NAFCU member and nonmember federal credit unions have until May 12 to submit responses in a survey on executive benefits and compensation being conducted jointly by NAFCU and NAFCU Services Preferred Partner Burns-Fazzi, Brock.

This is the fourth annual survey conducted of its kind, but this is the first time all federal credit unions have been invited to participate regardless of membership in NAFCU.

NAFCU President Fred Becker wrote to urge participation by all federally chartered credit unions. "The more we have, the better able we are to provide analysis and results relevant to your credit union's asset size and region," Becker wrote.

He added that each participant will receive a copy of the summary report, free of cost.

The survey seeks salary and benefit information for the CEO and up to as many as four other top executives, if applicable. It is being conducted by the independent research firm Clark & Chase Research Inc. It is sponsored by NAFCU Services and BFB.

For more information, or to sign up to take the survey and receive the free summary report, visit www.nafcu.org/2010BFBsurvey.

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Becker welcomes next CUNA president

NAFCU President Fred Becker last week congratulated Bill Cheney, currently president of the California/Nevada Credit Union Leagues, on his appointment to succeed Dan Mica July 5 as president and CEO of CUNA.

Becker called Cheney to congratulate him on his new position and to say that he looked forward to working in partnership with the new CUNA CEO. "Bill brings experience and insight that should serve him well in his new position."

Becker noted NAFCU's long history working with CUNA on major challenges facing credit unions. "As a result, together we have successfully had a number of significant accomplishments to the benefit of our industry. We look forward to working with Bill."

Cheney, who will leave his league post to head CUNA, has served as CEO of Xerox FCU (now Xceed FCU) in El Segundo, Calif., and before that was at Security Service FCU in San Antonio.

Audits on NCUA 2008-09 financials near end

NCUA expects audits of its financial statements for 2008 and 2009 to be completed within the next several weeks, agency Chairman Debbie Matz said recently.

Matz, speaking April 30 before a gathering of the Illinois Credit Union League in Chicago, said delays in the release are due in part to new accounting industry rules on commercial financial statements that were issued soon after NCUA established the Temporary Corporate Credit Union Stabilization Fund. She said debate continues today among accountants on how these should be interpreted and whether they

apply to federal regulators.

As NCUA has typically changed audit firms every three years, its 2008 and 2009 statements are being audited by two different firms, Matz noted.

Matz said she disclosed this information to "put an end to unfounded speculation over why NCUA's audits have been delayed" and that this delay "is in no way related to the health of the National Credit Union Share Insurance Fund."

"I assure all stakeholders: The federal Share Insurance Fund remains strong and robust," she said.

Agencies issue LUA with Tremont CU

NCUA recently released a Letter of Understanding and Agreement that cites insider abuse, self-dealing and more at the \$178.9-million-in-assets Tremont CU of Braintree, Mass.

The LUA was issued jointly by NCUA and Massachusetts' division of banks. It was signed last month by the credit union's interim president and CEO, Gary Fishlock.

NCUA said the credit union board voted to accept the LUA, "formally recognizing the credit union's condition and committing to make a sustained, conscientious effort to correct noted adverse conditions."

Additional problems cited in the document included poor loan quality, inadequate internal controls and weak management.

The credit union is being tasked with hiring independent consultants and firms to investigate abuses; initiating a search for a permanent CEO; reviewing and assessing the credit union's management plan; conducting an independent loan review and a loan policy review; and reviewing its allowance for loan and lease losses policy.

It is also required to remedy a deficiency in ALLL and submit a written earnings plan.

Garnishment, loan regs pending

NAFCU needs members' input by May 24 on a proposed garnishment rule that explains the exemption from garnishment for federal benefit and retirement payments. The proposal was issued by Treasury, the Railroad Retirement Board, the Social Security Administration and the Department of Veterans Affairs. Comments are due to regulators June 18. NAFCU will use members' input in preparing its official comment.

NCUA has also set a July 6 comment deadline on its recent proposed rule on short-term, small dollar loans (*UPDATE* May 3). If approved, it would allow an annual percentage rate of up to 28 percent on such loans, if they conform with prescribed limits. NAFCU is preparing a Regulatory Alert for members.

For NAFCU Regulatory Alerts, go to www.nafcu.org/regulation.

St. Paul Croatian closed by NCUA

NCUA liquidated St. Paul Croatian FCU of Eastlake, Ohio on April 30, following just one week of conservatorship.

The agency made the decision to liquidate after finding the credit union was insolvent and had no prospects for restoring viable operations, it said. St. Paul Croatian FCU is the seventh insured credit union to be liquidated this year and the ninth to fail. It had \$238.8 million in assets and 5,400 members at the time of liquidation.

The agency said its Asset Management and Assistance Center will issue checks to those holding verified share accounts at the institution. A letter with more information was sent to all members of the credit union, NCUA said.

Swann reassigned

NCUA Region III Director Alonzo Swann was reassigned as of May 3 to NCUA's central office, where he now serves as special assistant to agency Executive Director Dave Marquis.

Region II Associate Regional Director of Operations Herb Yolles was reassigned acting director for Region III.

The NCUA Region III office supervises federally insured credit unions in Alabama, Florida, Georgia, Indiana, Kentucky, Mississippi, North Carolina, Puerto Rico, Ohio, South Carolina, Tennessee and the Virgin Islands.

FDIC closes more banks

The FDIC recently closed seven banks, three of them in Puerto Rico and all of them expected to cost the Deposit Insurance Fund about \$7.33 billion in the aggregate to resolve, according to data released by the agency.

These raise to 64 the total number of insured banks closed in 2010. The largest of these was the \$11.94-billion-in-assets Westernbank Puerto Rico.

For more on failed banks, visit FDIC's website (www.fdic.gov).

Credit unions get tips on employee benefit strategies

Credit unions can start measuring the effectiveness of their employee benefit programs just by examining how many of their employees are participating in them, according to speakers in a NAFCU webcast last week.

Webcast moderator Loretta Dodgen, managing partner for Human Capital Group Solutions, said credit unions should look at whether their plans are meeting their employees' needs, whether they're controlling costs and whether they're receiving the desired return on their investment.

Alan Crawford of Marsh Global Consumer said the new healthcare reform law has generated much uncertainty in regard to employee benefit programs. The law sets new rules and timelines for implementation, but Crawford said stakeholders are waiting for direction from the government on the specifics of how the plan will work. Joan Moran, CEO of



(From left) Crawford, Camper and Moran gave credit unions strategies for maximizing the effectiveness of their employee benefit programs. (NAFCU photo)

Department of Labor FCU in Washington, said she has been told to expect up to a 25 percent increase in health insurance premiums.

Sharon Camper, director of human resources at State Department FCU in Washington, said one way her credit union is trying to cut back on health costs is by offering employees a tiered health-care plan. At first, she said, some employ-

ees were reluctant to embrace the change. She said that when they learned of all their new options, they were excited.

Crawford said wellness programs are another way for credit unions cut health-care costs. He said these programs should be built with economic incentives to increase their effectiveness.

Regarding executive compensation, Moran said credit unions should consider using a third party to assist their boards in determining what is fair and reasonable. She said NAFCU Services Corporation has Preferred Partners that could help with this effort. Moran also warned that credit union managers could soon face competition for executive talent. "If the board is not paying attention, they could find themselves in dire straights without an executive team," she said.

The webcast will be archived for six months. For more, visit www.nafcu.org/archivedwebcasts.

Slow recovery expected still for vehicle sales

April's vehicle sales data reinforce NAFCU's view that sales will continue to strengthen as the year continues, with tough economic conditions ensuring that improvement comes slowly.

Research firm AutoData Corp. reported that total vehicle sales fell from a seasonally adjusted, annualized 11.8 million units in March to 11.2 million units in April. NAFCU Staff Economist Katrin O'Connor said the slower sales pace reflects a combination of factors, including fewer auto dealer incentives.

She said that the year-over-year numbers put more perspective on how much the

market has improved. "On a year-over-year basis, sales were up by 19.8 percent in April. Year-over-year comparisons were easy during the month, as vehicle sales hit the first bottom in April 2009."

While incentives offered by automakers make vehicles more affordable, the vehicle market remains weak as demand is still hampered by the weak labor market, slow income growth and tight credit conditions, O'Connor said. "Nonetheless, consumer confidence is slowly improving and vehicle sales are expected to continue their slow but steady upward trend throughout this year."

Examiners missed on Eastern Financial

An NCUA material loss review on the former Eastern Financial Florida CU says the credit union was engaged in investments it did not understand and adds that NCUA and state examiners should have picked up on it earlier.

The review, dated May 5, notes that Eastern Financial Florida, merged into another credit union last summer, was the only federally insured, state-chartered institution with investments in collateralized debt obligations.

It says examiners should have viewed the planned activity "as a higher risk warranting greater supervisory efforts," especially since this type of investment was not typical.

The May 5 review was performed by the NCUA Office of Inspector General.

NCUA's posted material loss reviews are at www.ncua.gov/Resources/OIG/MaterialLossReviews.aspx.

Digital copiers a security risk, piece shows

A recent CBS news piece highlighted an important security issue involving copiers – an issue credit unions should be addressing in their security programs, say NAFCU's compliance staff.

The news item noted that modern copiers have hard drives that store digital versions of the copies they make. That includes everything from tax returns (with Social Security numbers) to medical records (including diagnoses and prescribed drugs).

It also notes that machines that are recy-

clered, with hard drives intact (and unscrubbed), get sold to points overseas and could lead to identity theft on a huge scale.

Anthony Demangone, NAFCU's director of regulatory compliance, wrote about this issue April 30 on the NAFCU Compliance Blog. He noted this particular security issue is relevant to credit unions' efforts to protect members' data and comply with the ID theft "red flags" regulation.

For the NAFCU Compliance Blog, go to www.nafcu.complianceblog.typepad.com.