



UPDATE[®]

NAFCU welcomes NCUA split-fee approach p.3

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In This Issue

Becker hits interchange addition

- ◆ NAFCU to continue strong opposition against interchange measure
- ◆ Efforts intensify to garner CU exemption from CFPB p.1

GSEs, risk council eyed in reg reform

- ◆ Amendment to end Fannie, Freddie conservatorship defeated
- ◆ Dodd supports adding NCUA to financial risk council p.2

Small-biz hearing tomorrow

Proposals to increase lending to small businesses to be examined p.2

NFIP extension sought

Lawmakers hope to avoid another lapse in program p.2

Term deposit offerings authorized

First small-value Term Deposit Facility offering expected mid-June p.3

CU risk trends on tap

Webcast to note how NCUA identifies at-risk institutions p.3

Becker in *Barron's*

NAFCU president seeks to balance portrayal of CUs p.4

Direct deposit highlighted

NACHA announces free promotional materials p.4

☞ Member call-in June 9 p.2

☞ NCUA Board agenda out p.3

☞ FTC issues alert p.4

☞ CUs receive CDFI assistance . . . p.4

Senate adds interchange to S. 3217, NAFCU firmly opposed

The Senate voted 64-33 last Thursday to add interchange fee language proposed by Sen. Dick Durbin, D-Ill., to S. 3217, the Senate regulatory reform bill, but only after Durbin revised it to address some of the concerns raised by credit unions and NAFCU – and the association’s work is not over.

NAFCU President Fred Becker said the association will be working for additional changes as the package moves forward.

“Offices reported receiving hundreds of calls on each side of the issue,” Becker said in an e-mail to members. “The merchants may have won this round of the fight, but with the momentum from all your phone calls and letters, we will continue to work to have the provision removed in the conference to reconcile the Senate legislation with the House of Representatives legislation.”

He added, “In the days ahead, we will soon be asking you to redouble your efforts by reaching out to your Representatives and asking them to reject this amendment in conference.”

Thursday afternoon, NAFCU pledged to withdraw support for the regulatory reform measure if the Durbin amendment was included. Durbin later made a last-minute edit to the measure that addressed some but not all of NAFCU’s concerns.

Specifically, Durbin penned language into the margins of his printed amendment indicating that merchants may not, in setting discounts or transaction amount limits, discriminate against cards based on who issues them.

The final vote count on the Durbin amendment was 64 yeas to 33 nos; the

measure garnered just four more votes than the 60 that were required for passage. Three senators did not vote. (See the tally at www.senate.gov/legislative/LIS/roll_call_lists/vote_menu_111_2.htm; select vote No. 149.)

The bill could get final Senate action this week.

☐ Press for CFPB exemption continues

As S. 3217 progresses, NAFCU is continuing efforts to win a full credit union exemption from authority of the Consumer Financial Protection Bureau.

Becker said credit unions – as lawmakers and administration officials have recognized – did not cause the financial meltdown and shouldn’t be lumped in with the bad actors whose abusive practices S. 3217 seeks to end.

“Credit unions are highly regulated, member-owned financial institutions with an unblemished record of serving the needs of consumers,” he said. “As we have said many times, we fully support Wall Street reforms, but we cannot support reforms that essentially punish the ‘good guys.’”

Sen. Sam Brownback, R-Kan., has filed an amendment to S. 3217 to improve the credit union carve-out from CFPB authorities. Becker called it “a significant step in the right direction.”

Now, the bill exempts depository institutions with \$10 billion or less in assets from the bureau’s direct examination and enforcement authority. Brownback’s amendment would index that to inflation; remove CFPB back-up exam authority over exempt institutions; and leave direct regulatory authority over same to the NCUA and other prudential regulators.

Senate's regulatory reform debate addresses GSEs, more

Just a few handfuls of the more than 200 amendments filed on S. 3217, the Restoring American Financial Stability Act, were voted on by the Senate last week, and some registered as definite positives for credit unions.

☐ Fannie, Freddie preserved

Voting 63-36, the Senate approved an amendment from Sen. Chris Dodd, D-Conn., calling for a Treasury study on ending the conservatorship of Fannie Mae and Freddie Mac and on future reform of the housing finance system. The measure leaves the matter of resolving the conservatorships to a future time and allows the entities to keep operating.

Dodd, arguing against an amendment sought by Sen. John McCain, R-Ariz., to end the conservatorships, said it didn't make sense to do so without having a housing finance reform plan at the ready. He also noted the opposition of NAFCU and other groups to inserting reform of the housing-related, government-sponsored enterprises into S. 3217. The Senate later voted 43-56 to reject the McCain amendment.

[Note: Treasury is taking comments on housing finance reform until July 21; see the April 26 *UPDATE*; a notice was published in the April 22 *Federal Register*.]

In action the week before, the Senate voted 36-59 to reject an amendment from Sen. John Ensign, R-Nev., to limit Fannie Mae and Freddie Mac portfolios to 3 percent of gross domestic product.

☐ NCUA role on risk council eyed

Dodd also lent welcome support last week to a NAFCU-backed regulatory reform bill amendment from Sen. Susan Collins, R-Maine, to add NCUA to the group of regulators that would make up a Financial Stability Oversight Council.

By giving NCUA a voting seat on the FSOC, Collins' measure would make the credit union regulator part of the group with veto power over Consumer Financial Protection Bureau rules.

NAFCU continues to press for an exemption for all credit unions from the CFPB's authorities, preserve NCUA's current preemption authority and make permanent the \$250,000 federal share insurance limit.

In other action last week, the Senate:

- ◆ voted 96-0 to approve an amendment from Sen. Bernie Sanders, I-Vt., to require a Government Accountability Office audit of the Federal Reserve Board's emergency lending activities at the height of the banking crisis;

- ◆ voted 63-36 for an amendment from Sens. Jeff Merkley, D-Ore., and Amy Klobuchar, D-Minn., to require that lenders get income verification from mortgage loan applicants;

- ◆ voted 90-9 in approving an amendment from Sen. Kay Bailey Hutchison, R-Texas, to preserve Federal Reserve oversight of bank holding companies with less than \$50 billion in assets and state-chartered banks.

The Senate has already approved a NAFCU-sought amendment deleting onerous data collection requirements from the bill (see *UPDATE* May 10). It was poised Thursday to vote on an amendment from Sen. Sam Brownback, R-Kan., that would exclude auto dealers from CFPB's consumer protection authorities.

Hearing set on small-biz lending proposals

The House Financial Services Committee holds a hearing tomorrow on the president's proposals for increasing lending to small businesses, including a state initiative available to insured credit unions.

NAFCU is reviewing the proposals. It is also seeking opportunities for moving legislation that would increase credit unions' member business loan cap from 12.25 percent of assets to 25 percent.

One of the White House proposals focuses exclusively on banks and thrift institutions with less than \$10 billion in assets. It allocates \$30 billion from the Troubled Assets Relief Fund for investments in banks to encourage more small-business lending. Incentives to increase lending include reduced interest rates on repayment.

The other initiative, dubbed the State Small Business Credit Initiative, allocates funds to states to invest in financial institutions. Qualifying lenders, which could include any insured institution or non-depository community development finan-

cial institution, could be allocated funds for business-lending purposes. Participating institutions would be required to pay into a reserve fund that guarantees such loans.

NFIP extension proposed

Rep. Barney Frank, D-Mass., has proposed to extend the National Flood Insurance Program through Sept. 30.

The program has been reauthorized through May, but lawmakers are hoping to head off another lapse in the NFIP's ability to issue new policies.

Federally regulated financial institutions can keep approving loans during a flood insurance program lapse period, even if the securing property is located in a flood zone. However, homeowners are unprotected during this period, and financial institutions are expected to evaluate affected borrowers for risk and take risk mitigation measures.

Institutions are required to continue to make flood determinations and issue notices of required coverage and lapses of existing policies.

NAFCU Call-In June 9

NAFCU members participating in the June 9 member call-in will hear the latest regarding financial services regulatory reform, a proposed consumer financial protection bureau and interchange fees.

The call is free, but registration is required. To register, visit www.nafcu.org/callin.

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NCUA urges CUs to seek IRS grants

NAFCU and NCUA are encouraging credit unions to take advantage of the nearly \$12 million in Volunteer Income Tax Assistance and Tax Counseling for the Elderly grants the IRS is making available this year.

VITA grants provide funding to qualified non-profit organizations to support free tax preparation services for underserved people in hard-to-reach areas. TCE grants fund free tax preparation and counseling services for individuals age 60 and up as well as training and technical assistance for volunteers who assist seniors with their free federal income tax preparation. The application deadline is July 9.

In encouraging qualified credit unions to apply for the grants, NCUA Chairman Debbie Matz said the credit unions that participate “offer a vital community service.” Matz said the more credit unions there are that “provide this service to underserved taxpayers, the greater the likelihood that low-income families can build a solid financial foundation for their future.”

There is no maximum grant amount, but NCUA said all applicants must obtain dollar-for-dollar matching funds and provide appropriate documentation to the IRS. For example, if a credit union requests \$50,000 in grant funds, it must provide at least \$50,000 in matching designated VITA program funds.

NAFCU has been a long-time advocate of the VITA program and continues to encourage credit unions to participate. The association provides statement inserts regarding tax preparation (www.nafcu.org/inserts).

The IRS 2010 VITA application, with specifics regarding eligibility and program requirements, can be found on the IRS website at www.irs.gov; get Publication 4671.

NAFCU welcomes NCUA split-fee approach

NAFCU President Fred Becker said Thursday that NCUA’s plan for its board next month to consider separate share insurance and corporate stabilization fees and different assessment times is a welcome move toward transparency.

“We have been calling on the agency since last year to give credit unions more information about expected assessments so they can prepare for the impact on their balance sheets,” Becker said. “NAFCU has been a steadfast advocate for more transparency in the process, and this latest announcement is definitely a step in the right direction. We applaud the agency for its desire to provide more information to credit unions.”

The NAFCU president said separate assessments would also help credit unions budget more accurately.

Becker also reiterated NAFCU’s call for the agency to announce what the expected

assessments for 2010 will be sooner rather than later, noting that waiting until fall is “too late.” He also renewed his call for NCUA to make transparent the basis for the NCUSIF’s normal operating level of 1.3 percent and to consider allowing the fund to drop below 1.2 percent, as permitted by law, to ease the assessments’ impact on credit unions.

SAFE Act on board agenda

A briefing on a final rule implementing the Secure and Fair Enforcement for Mortgage Licensing Act is the top item on the NCUA Board’s open meeting agenda for May 20.

The board will also consider an extension of the Temporary Corporate Credit Union Liquidity Guarantee Program and receive a report on the National Credit Union Share Insurance Fund.

A closed meeting will follow.

Fed readying for first offerings of term deposits

The Federal Reserve Board has authorized up to five small-value offerings of term deposits under a program approved recently under Regulation D (*UPDATE* May 10).

These small offerings are intended only to ensure the effectiveness of the Fed’s Term Deposit Facility operations and allow eligible institutions to become familiar with term deposit procedures.

The term deposits offered initially will be simple fixed-rate instruments with maturities of 84 days or less; they will be issued

primarily through competitive, single-price auctions. Offerings will also include a non-competitive bidding option to ensure access for smaller institutions.

The Fed’s final rule authorizing this activity takes effect June 4, and the first small-value TDF offering could be held as early as mid-June. Details will be announced later, but information on general terms and conditions is available at www.frbservices.org/centralbank/term_deposit_facility.html.

NAFCU webcast on CU risk trends set

Credit unions looking for insight on how NCUA identifies at-risk institutions will not want to miss NAFCU’s June 2 webcast.

During the webcast, participants will hear about the latest threats facing the industry. The webcast speakers are Wendy Angus, NCUA Director of Risk Management, and Christine Bryant, NCUA Loss Risk Analysis Officer.

Key webcast topics include:

- ◆ economic concerns;
- ◆ credit union risk trends;
- ◆ concentration risk; and
- ◆ NCUA’s expectations for credit unions.

The webcast is slated to air June 2 from 2-3:30 p.m. Early registration discounts for

this webcast end May 26.

SAFE Act webcast in 2 days

Credit unions still have time to sign up for NAFCU’s webcast set for Wednesday on an upcoming Secure and Fair Enforcement for Mortgage Licensing Act final rule.

During the webcast, NCUA Staff Attorney Regina Metz will discuss all aspects of the act’s requirements.

NAFCU expects the NCUA Board to release a final rule on the SAFE Act during Thursday’s open meeting.

The webcast will air May 19 from 2-3:30 p.m. For more information, on these webcasts, visit www.nafcu.org/webcasts.

Becker seeks to balance *Barron's* take on CUs

NAFCU President Fred Becker, in a letter to the editor of *Barron's* magazine, said while credit unions have faced challenges under the economic downturn, these pale in comparison with banking industry troubles.

The publication ran an April 19 article ("Gilding the Books for Main Street's Credit Unions") detailing problems with loan delinquencies and the situation with corporate credit unions.

Becker, in a letter published in *Barron's* May 3, said the fact that the economic downturn has gone deep enough to affect credit unions "demonstrates just how severe the Great

Recession has been."

While noting that no entity has been immune from the nation's financial turmoil, he said fourth-quarter data show delinquency and charge-off rates were significantly lower at credit unions than at banks. For all loans, the delinquency ratio was 5.37 percent at banks compared with 1.83 percent at credit unions.

He added that the equity ratio for the National Credit Union Share Insurance Fund, at 1.2415 percent as of Dec. 31, was appreciably higher than that of the FDIC Deposit Insurance Fund, which had fallen to -0.39 percent of insured deposits for the same period.

Tools available to promote direct deposit

NACHA – The Electronic Payments Association, in a recent announcement proclaiming May as National Direct Deposit and Direct Payment Month pointed financial institutions toward free resources they can use to promote direct deposit.

Financial institutions, including credit unions, can inform their communities of the benefits of direct deposit with the print and electronic advertisements, direct deposit calculator, logos and other resources that NACHA has made available online.

According to NACHA, direct deposit can be a more secure option than paper checks. About 85 percent of identity theft begins with perpetrators viewing a person's financial information on a check, billing statement or account statement, according to the association. With direct deposit, money

moves electronically therefore, reducing the number of people who see consumers' financial information.

Credit unions can also inform their members of the other advantages of direct deposit with NAFCU's statement insert, "The Benefits of Direct Deposit." The insert, which is available in both print and electronic formats, touts direct deposit as a reliable, secure and money-saving option. In addition, it mentions Treasury's GoDirect campaign, which aims to encourage those receiving federal benefit payments, such as Social Security, to direct deposit.

For more information on NAFCU's statement inserts, visit www.nafcu.org/inserts. For NACHA's direct deposit marketing resources, visit www.electronicpayments.org.

FTC warns of mortgage loan audit scam

Credit unions may want to alert their members to a recent Federal Trade Commission warning against a home foreclosure rescue scam that begins with "rescue" professionals offering audit services for a fee.

In the scam, as explained in a recent FTC consumer alert, the homeowner pays several hundred dollars up front to have a "forensic loan auditor," "mortgage loan auditor" or "foreclosure prevention auditor" – backed by "forensic attorneys" – review the homeowner's loan documents to see if the lender complied with state and federal mortgage lending laws. The auditors claim their reports can be used to avoid foreclosure, accelerate the loan modification

process, reduce loan principal or cancel the loan.

The FTC notes that there is no evidence such an audit can result in any kind of mortgage relief even if it's done by a licensed, trained practitioner.

The alert was posted May 7 on the FTC's website (www.ftc.gov).

Failed banks up to 68

The FDIC recently closed four more banks, with these closures expected to cost the Deposit Insurance Fund about \$213.7 million.

The latest bank closures bring to 68 the number of total federally insured banks to fail this year.

2 CUs among CDFI recipients

Two credit unions are among the recipients of \$10.26 million in financial and technical assistance recently awarded by the Treasury's Community Development Financial Institutions Fund through the Native American CDFI Assistance Program.

Award recipients for the 2010 round were announced May 5 at an event at the Indian Pueblo Cultural Center in Albuquerque, N.M.

Hawaii First FCU was awarded \$307,623 in financial assistance for maintaining operations in its community resource center. The credit union was also awarded \$150,000 in technical assistance funds.

The Lakota FCU Steering Committee was awarded \$149,798 in technical assistance.

NCUA activates disaster assistance

NCUA has activated its disaster relief policy to assist credit unions and their members affected by recent severe storms and flooding in Tennessee, where the president has declared an emergency.

NCUA's disaster assistance policy provides that the agency will, where necessary:

- ◆ encourage credit unions to make loans with special terms and reduced documentation to affected members;
- ◆ reschedule routine examinations of affected credit unions;
- ◆ guarantee lines of credit for credit unions through the National Credit Union Share Insurance Fund; and

- ◆ make loans to meet the liquidity needs of member credit unions through the Central Liquidity Facility.

NCUA said it works with individual state league organizations and state regulators to ensure all federally insured credit unions are aware of NCUA's available assistance. Its Region III staff are staying in contact with affected credit unions.