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\$1 billion stabilization assessment set

Federally insured credit unions will pay an aggregate \$1 billion – the equivalent of 0.134 percent of insured shares – this August to the Temporary Corporate Credit Union Stabilization Fund and will recognize that cost on their June 30 call reports, NCUA’s board decided Thursday.

The assessment, approved during the June 17 open board meeting, will be billed next month to insured credit unions with payments due in August.

The assessment is based on total insured shares as of March 31 of this year and is one of two assessments considered likely in 2010. The other, expected this fall, would be a premium for the National Credit Union Share Insurance Fund.

If the estimate NCUA floated last November bears out, the NCUSIF assessment could range from 0.1 percent to 0.25

percent of insured shares.

NAFCU President Fred Becker welcomed the board’s decision to follow through with split stabilization and insurance assessments. “This is a positive step toward transparency, and we appreciate the board’s action in this regard,” said Becker.

At the same time, the NAFCU president noted the ongoing strains on credit unions of these assessments and continued economic challenges. “We think it’s becoming increasingly important that the board, in setting the NCUSIF normal operating level for the coming year, set that figure below 1.3 percent of insured shares,” Becker said.

☐ Repaying Treasury for stabilization

NCUA staff said the agency has written off the \$1 billion borrowed for the note to U.S. Central FCU. The fund’s current
(See stabilization on p.3)

Interchange takes stage in reform this week

The highly contentious debate on interchange is expected to get underway this week as NAFCU continues to mount pressure against the inclusion of harmful interchange provisions housed within H.R. 4173 from being added to the final financial regulatory reform package.

The interchange measures, sponsored by Sen. Dick Durbin, D-Ill., would lead to federal price caps on debit interchange fees and force many providers, including credit unions, out of the payment card market.

Becker urged NAFCU members last week to continue voicing their concerns over the interchange provisions, and it appears that lawmakers are hearing their arguments.

☐ 131 House members agree

Indeed, a letter sent jointly by 131 House

members urges the 43-member conference panel to strip the interchange provisions from any final conference report on regulatory reform.

The letter, spearheaded by Reps. Debbie Wasserman Schultz, D-Fla., and Kenny Marchant, R-Texas, said debit interchange provisions in a Senate-passed regulatory reform package would “devastate credit unions and community banks” without offering any discernable benefits for consumers.”

Rep. Barney Frank, D-Mass., a cochair of the conference panel, said last week that he thinks interchange will remain in the reform bill, but he said amendments are possible.

☐ Becker writes Durbin

NAFCU President Fred Becker, writing
(See interchange on p.2)

Fed approves Credit CARD Act final rule

The Federal Reserve Board approved a final rule last week to curtail unreasonable late payments and other penalty fees charged to credit card users while requiring card issuers to reconsider credit card interest rate hikes imposed since last year.

The final rule, which amends Regulation Z, implements the last two provisions of the Credit Card Accountability Responsibility and Disclosure Act. It takes effect Aug. 22.

Under the final rule, credit card issuers generally will be barred from charging a penalty fee of more than \$25 for late payments. The final rule also:

- ◆ requires card issuers that increased interest rates since Jan. 1, 2009, to evaluate

whether the reasons for the increase have changed and reduce it, if appropriate;

- ◆ prohibits issuers from charging penalty fees that exceed the dollar amount related to the consumer's violation; and

- ◆ prohibits inactivity fees and multiple penalty fees based on a single late payment or other account violation.

NAFCU is preparing a Final Regulation. Credit unions can also learn more about the final rule during NAFCU's July 14 webcast featuring the association's compliance team.

The Federal Reserve's final rule will soon appear in the *Federal Register*. For more on NAFCU's July 14 webcast, visit www.nafcu.org/webcasts.

NAFCU joins with trades in pressing for NFIP action

NAFCU called on lawmakers last week to renew the National Flood Insurance Program, signing onto a letter from 22 financial and housing industry trades concerned about the current lapse in a program that is critical to 5.5 million taxpayers.

"Without flood insurance, no federally related mortgage loans may be made in nearly 20,000 communities nationwide," the groups wrote in a letter sent last week to all members of Congress.

The most current lapse, the third this year, occurred May 31. There is current leg-

islation that would extend the program, but it also includes reforms to specific aspects of the NFIP, including the production and updating of flood maps, repeated-loss mitigation and more.

"The NFIP is critically important to American citizens and the U.S. economy," the groups wrote. "We urge you to immediately approve a reauthorization and extension of the NFIP and avoid exacerbating the uncertainty for taxpayers who rely on the NFIP to insure residential and commercial properties."

Interchange, from p.1

in regard to a hearing last Wednesday on interchange fees paid by the government, exposed as fallacy the idea that the government is somehow victimized by debit interchange fees when the acceptance of credit and debit cards has helped it boost efficiency and make federal receipts more secure.

The hearing focused on government-paid fees and a Treasury report that outlined ways these could be reduced. In a letter to panel Chairman Dick Durbin, D-Ill., who sponsored the Senate interchange provisions, and Ranking Member Susan Collins, R-Maine, Becker pointed out that, in its report, Treasury supported the current card processing infrastructure. It also noted the importance of distinguishing between fees charged by card networks and those paid to payment processors and acquiring institu-

tions such as credit unions. The report said such institutions should be assured "realistic compensation" for facilitating card payments.

Durbin eyes 2nd revision

In the hearing, Collins said institutions in her state remain concerned about the loss of revenue through Durbin's proposed interchange language. Durbin meanwhile said he was working on a carve-out from his debit interchange provisions for prepaid, state-issued debit cards.

It would be the second major revision by Durbin since the so-called carve-out he added for small credit unions and banks just before the Senate added his language to its reform bill.

That carve-out, NAFCU has noted, will not prevent credit unions from being forced to cut interchange fees to stay competitive with the nation's largest banks.

Reform panel eyes insurance, oversight

The conference panel on regulatory reform will consider two NAFCU-backed offers from House members as it moves forward. One would make the \$250,000 limit on federal share and deposit insurance permanent, and the other would include NCUA on the Financial Services Oversight Council. Both NAFCU and NCUA have lobbied to get NCUA on the council.

NAFCU will also work to get a provision in the final bill to empower the council to veto objectionable rules of the proposed Consumer Financial Protection Bureau.

FHA bill clears

The House recently voted 406-4 in passing a bill aimed at stabilizing the Federal Housing Administration and making the agency more consumer-friendly.

The FHA Reform Act of 2010, H.R. 5072 would allow the FHA to adjust its premium structure for new borrowers, give it more authority to terminate lenders' approval in response to evidence of fraud or noncompliance and requires the agency to improve internal reporting systems.

A House vote was pending on the Small Business Lending Fund Act of 2010, H.R. 5297, to create a \$30 billion fund to promote small-business lending by banks and thrifts with less than \$10 billion in assets.

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Final rule on community charters takes effect soon

A final rule under NCUA's chartering and field of membership manual was approved Thursday and is set to take effect 30 days following publication in the *Federal Register*.

The final rule, Interpretive Ruling and Policy Statement 10-01, includes some revisions from December's proposal regarding community charters and the definition of rural district.

For community charter applications, the final rule eliminates two of the four criteria proposed that dealt with the number of jobs on a core-based statistical area and a one-third population requirement. The final rule treats a single political jurisdiction as a well-defined local community. Otherwise, the proposed area must be a CBSA and have a population of 2.5 million or less.

Proposals for community charters no longer must require a narrative statement delineating why the area qualifies as a



NCUA Staff Attorney Frank Kressman (left) briefed the NCUA Board Thursday on NCUA's chartering rule. (NAFCU photo)

well-defined local community.

The rule does not overturn previous approvals; these remain in effect.

Regarding what is a rural district, the final rule offers two options from which to choose.

NAFCU is preparing a Final Regulation for its members.

In other action Thursday, the board:

- ◆ approved chartering delegations of authority to NCUA regional directors and the Director of the Office of Small Credit

Union Initiatives (decisions affecting more than 1 million persons remain with the NCUA Board);

- ◆ approved a corporate stabilization assessment due in August (story p.1);

- ◆ approved the use of Federal Accounting Standards Advisory Board requirements for the corporate stabilization fund, retroactive to the fund's establishment, plus a \$250,000 budget for more accounting resources;

- ◆ approved the transfer of the obligation to pay insured shares in failed corporate credit unions to the corporate stabilization fund from the NCUSIF.

All but the chartering delegations were approved on votes of 3-0. NCUA Board Member Gigi Hyland voted against the delegations as they remove more chartering transaction from the regional offices. She said those offices should perform initial review authority over a broader range of transactions.

NCUSIF decline to 1.22% in May

Preliminary data for May show that the National Credit Union Share Insurance Fund closed the month at a level equal to 1.22 percent of insured shares, down from 1.24 percent in April.

Mary Ann Woodson, NCUA's chief financial officer, said during the NCUA Board's open meeting Thursday that \$132.1 million was added to the fund's provision for natural person credit union losses; of that, \$119.2 million was unallocated to specific cases. The total reserve closed the month of May at \$1.067 billion; of that total, \$716.1 million was unallocated to specific cases.

NCUA is still budgeting for an aggregate \$750 million in insurance loss expense for 2010. Total 2010 net income is budgeted at a negative \$652.8 million, before any premium income.

Woodson said if the fund took on another \$180 million to \$185 million in insurance loss expense, it would dip below 1.2 percent, after which NCUA would be required under the stabilization law to notify Congress and submit a restoration plan that would return it to the statutory floor over eight years.

In other figures, Woodson reported:

- ◆ insurance loss expense totaled \$309.4 million from January-May, close to the budgeted \$312.5 million;

- ◆ there have been 15 credit union failures (through May), which cost the fund \$14.1 million so far;

- ◆ the number of CAMEL code 4 or 5 credit unions totaled 351;

- ◆ code 4 and code 5 credit unions held \$45.3 billion of insured shares, or 6.23 percent of all insured shares.

Last year's premium equaled 0.1 percent of insured shares. This year's, expected in the fall, could be from 0.1 percent to 0.25 percent of insured shares, staff have said previously.

SAR activity up in '09

A new Financial Crimes Enforcement Network report shows that suspicious activity report filings related to mortgage loan fraud surged last year.

The report reflects FinCEN's analysis of SARs filed Jan. 1, 2004, through Dec. 31, 2009.

SARs relating to mortgage scams increased to over 3,000 in 2009. For the report, visit www.fincen.gov/news_room/rp/files/MLFLoanMODForeclosure.pdf.

Stabilization, from p.1

borrowing from Treasury totals \$1.5 billion. NCUA plans to put \$810 million into the corporate system during the summer, normally a time of reduced liquidity. On Sept. 30, the \$1 billion assessed from credit unions plus \$500 million from a reduction in corporate credit union liquidity assistance will be repaid to Treasury. This will replenish the full \$2 billion in 2010 borrowing authority for the stabilization fund approved by the NCUA Board in May.

□ Impact on CUs

NCUA staff said about 1,086 federally insured credit unions are expected to record negative net income following the stabilization expense recognition June 30 and that this impact should ease over the following quarters.

Board members said exam staff are expected to recognize the impact of this stabilization expense when performing evaluations of credit unions.

NCUA Board Member Michael Fryzel reminded credit unions that the fact the stabilization assessment was below the top of last year's estimate wasn't a sign of improving conditions; in fact, this year and the next will present continued difficulties.

Most 'Flash' CUs report no-surcharge ATMs

Of credit unions with stand-alone ATMs at offsite locations, 87.1 percent are members of surcharge-free networks, according to survey results published in NAFCU's June *Flash Report*.

Just more than three-quarters, or 76.5 percent, of respondents said they have offsite ATMs. In addition, 61.2 percent said their credit unions are members of shared branching networks. Nearly half, or 48.2 percent, of shared-branch member credit unions own and/or operate one or more multifunction ATMs.

Regarding services offered at ATMs: 97.6 percent said the machines offered ordinary cash withdrawals; 85.4 percent said they handle cash deposits; and 63.4 percent said they handle

funds transfers.

As for ATM usage, about 45.8 percent of the June survey respondents said usage has risen with the trend of growing debit card use; 30.1 percent reported a decrease; and 24.1 percent saw no change at all.

A majority of respondents, or 63.4 percent, reported no change in the number of ATMs they had over the past 12 months, but nearly a third said they had increased that number. In addition, 37.3 percent said they plan to increase the number of ATMs at their credit unions over the next 12 months.

The survey also addressed the allocation of fee income. For the report (member only), visit www.nafcu.org/flash.

LUA with Sperry Associates FCU published

NCUA recently published a letter of understanding and agreement that calls Sperry Associates FCU of Garden City Park, N.Y., to task for declining capital, participation loans losses, inadequate due diligence and other problems.

NCUA has said it will begin publishing the LUAs it issues if it is concerned that a credit union is not taking appropriate risk management measures or responding to recommendations of examiners for correcting such matters.

The LUA released June 11 identifies corrective actions needed at the credit union. NCUA says it's working with the credit union to make a sustained, conscientious effort to correct noted adverse conditions.

Other problems cited include potential unrecognized investment losses and inadequate testing of high-risk areas. Among the corrective measures prescribed:

- ◆ submit a net worth restoration plan;
- ◆ enter into no more participation lending agreements until due diligence matters are resolved;
- ◆ obtain a portfolio analysis by a third party;
- ◆ restructure the balance sheet to agree with stated interest-rate risk tolerance levels;
- ◆ manage to the stated liquidity risk tolerance level.

For NCUA-published LUAs, go to www.ncua.gov/Resources/AdministrativeOrders/LUA.aspx.

Fannie, Freddie stock off national exchanges

The Federal Housing Finance Agency directed Fannie Mae and Freddie Mac to delist their common and preferred stock from the New York Stock Exchange since the stock is trading so low.

The NYSE has a minimum average closing price requirement of \$1 over 30 trading days; stock for both of the enterprises has remained near that level for most months since their conservatorships began in September 2008.

In Fannie's case, the closing stock price has been below that \$1 floor for the past 30 trading days, and NYSE rules require that it drop from the exchange or undertake a "cure" to restore it to the NYSE minimum.

FHFA Acting Director Ed DeMarco said alternatives for such a cure would not assure restoration of the minimum price level or avoid loss of shareholder value.

Treasury's support of the entities through senior preferred stock purchase agreements was also a factor, he said. "A voluntary delisting at this time simply makes sense and fits with the goal of a conservatorship to preserve and conserve assets."

Instead of any national securities exchange, stock for Fannie and Freddie will be quoted on the Over-the-Counter Bulletin Board. The bulletin board is available to subscribing members and is not an issuer listing service.

NCUA audits clean; TCCUSF pending

NCUA announced last week that it received clean audit opinions for its 2008 and 2009 financial reports for the share insurance fund, operating fund, community development revolving fund and Central Liquidity Facility.

The audits for 2008 were completed by Deloitte & Touche LLP; audits of the 2009 reports were by KPMG LLP. These cover everything except the Temporary Corporate Credit Union Stabilization Fund. NCUA said an audit of the TCCUSF financial statements will be issued by KMPG in the near future.

NCUA has released the available financial statements and audit reports on its website.

NCUA OKs CU buy of bank's assets

Royal CU of Eau Claire, Wis., received approval to purchase and assume 11 branch offices and deposits from Anchor Bank, NCUA announced recently.

The P&A shifts some 20,000 of Anchor Bank customers to Royal CU membership, NCUA said. The credit union regulator said the transaction was approved by the Wisconsin Office of Credit Unions, the FDIC and the Office of Thrift Supervision.

Royal CU is a federally insured, state-chartered credit union with about \$1.05 billion in assets. Anchor Bank is a stock-held thrift and reports total assets of about \$4.4 billion and more than 165,000 household and business customers.

KFRAs, OEAs updated

Updated Key Financial Ratio Analyses and Operating Expense Analyses are available to NAFCU members now at www.nafcu.org/KFRA-OEA.

The analyses, updated for March data, are provided for free as a benefit of membership in NAFCU.