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**June 28, 2010**

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## Historic reg reform passes conference

After working through the night of June 24, a House-Senate conference committee came to an agreement on H.R. 4173, a historic financial services regulatory reform package that carries significant implications for credit unions and their members.

Though NAFCU worked in good faith with lawmakers to craft a bill it could support, the association ultimately came to oppose it in the final weeks due to the inclusion of debit interchange provisions.

On June 22, Senate conferees accepted a House offer on debit interchange that requires the Federal Reserve to study more factors such as fraud costs in connection with standards it will set in determining what is a "reasonable and proportional" fee. Small banks and credit unions are exempt from these price caps on debit interchange, but NAFCU has pointed out that competitive forces will require them to follow the fee structure that the Fed sets.

Following the committee approval of the regulatory reform package, NAFCU President Fred Becker said in reference to the interchange language that NAFCU "strongly opposed [it] the moment Senator Durbin filed the amendment. It is unfortunate that consumers will bear the burden of higher prices and limited options in access to credit as a result of this amendment."

Now the package, which has been renamed the Dodd-Frank financial reform bill, must be approved by the full House. That may occur as early as Tuesday. Once it gets to the Senate, the bill will still be debatable unless there is unanimous consent to proceed otherwise. If unanimous consent is not reached, the bill would be subject to a cloture vote (which requires 60 votes), then 30 hours of post-cloture debate, followed by a vote on final passage.

House Financial Services Committee Chairman Barney Frank, D-Mass., has set a goal of getting the final package to the president's desk by July 4. The Congressional Budget Office estimates the cost of the bill at \$20 billion, not including neighborhood stabilization programs.

### ☐ Consumer protection

One of the chief pillars of the final package is the creation of a new Consumer Financial Protection Bureau within the Federal Reserve. Following the committee's agreement on H.R. 4173, Senate Banking Chairman Chris Dodd, D-Conn., said the bureau's creation is one of the biggest achievements in the bill. However, at the onset of discussions regarding the consumer protection entity, NAFCU warned about the regulatory and cost burdens it presented to credit unions. "We supported the CFPB for Wall Street and the bad actors. However, we still strongly believe that having it apply to credit unions is unnecessary, and we have always voiced our opposition to it," Becker said last week. In the end, NAFCU won a provision that exempts credit unions with less than \$10 billion in assets from the bureau's authority for examination. In addition, NCUA retains its enforcement authority pertaining to consumer protection matters for credit unions under \$10 billion.

Earlier in the conference, conferees adopted a NAFCU-sought measure to include NCUA on a council of regulators that could have "veto" power over some rules of the new CFPB. "This is an important victory for credit unions as NCUA was not included in either bill and was only added in conference," noted NAFCU Associate Director of Legislative Affairs Margaret Lawrynowicz.

## Senate action urged on NFIP extension

NAFCU President Fred Becker urged Senate action last week for the House-passed H.R. 5569, which would extend the National Flood Insurance Program through Sept. 30.

The program lapsed for the third time this year at the end of May, and that has left credit union members without access to flood insurance policies or increases in coverage for properties located in flood plains and used as loan collateral.

H.R. 5569 was introduced by Rep. Maxine Waters, D-Calif. The House cleared it last

week. Becker praised that action and urged final Senate passage in a letter to Senate Majority Leader Harry Reid, D-Nev.

“As expressed in our letter earlier this month, credit unions are currently operating in an unstable environment with regard to the NFIP” the NAFCU president wrote. “NAFCU encourages the Senate to take up H.R. 5569 as soon as possible to alleviate the burden that has been placed on the millions of taxpayers that rely on flood insurance as a cornerstone of homeownership.”

## Employee coaching on tap for webcast

Credit unions will learn techniques for coaching employees that can lead to improved performance, accountability and advancement during a NAFCU-DDJ Myers webcast set for July 8.

The webcast, “Enhance Productivity and Improve Performance with Employee Coaching,” is the fourth in a series of webcasts that are part of NAFCU’s partnership with DDJ Myers Ltd.

The featured speaker for the webcast is Deedee Myers, founder and CEO of DDJ Myers Ltd. and a certified executive organizational coach from the Hudson Institute.

During the webcast, credit union execu-

tives will learn how to:

- ◆ assess the “coachability” of each employee;
- ◆ determine the difference between coaching an experienced employee versus someone new to the workforce;
- ◆ differentiate between close-ended versus open-ended questions and how they contribute to employee advancement; and
- ◆ understand common pitfalls to avoid.

The webcast will air July 8 from 2-3:30 p.m. Early registration discounts are available until July 1. For more information on the webcast, visit [www.nafcu.org/coaching](http://www.nafcu.org/coaching).

## FOMC holds rates again amid concerns

As NAFCU expected, the Federal Open Market Committee kept the federal funds rate at a range of 0 to 0.25 percent last week, reiterating its intent to keep it there “for an extended period.”

“The FOMC noted that the recovery process is coming along and the labor market continues to make gradual improvement. The committee also noted that consumer spending is up and that businesses have increased their spending on equipment and software considerably,” said NAFCU Staff Economist Katrin O’Connor.

Another positive for the recovery: The FOMC indicated once again that inflationary pressures are likely to remain under control “for some time,” O’Connor said.

Last week’s decision was not unanimous, with one member voicing concerns that keeping the fed funds rate at the current level may eventually lead to “financial imbalances” and increase “risks to longer-

run macroeconomic financial stability.”

“Despite that objection, however, an increase in the fed funds rate is unlikely until next year,” O’Connor concluded.

## Fannie targets strategic defaults

Fannie Mae will institute a mortgage loan lockout policy for defaulting borrowers who choose strategic defaults over working with their servicers, the agency announced last week.

Under the policy, defaulting borrowers with the means to pay their mortgages who either walk away or do not complete a workout alternative will be ineligible for a new Fannie Mae-backed mortgage loan for seven years from the date of foreclosure.

Borrowers who have extenuating circumstances and work with their servicers may be eligible for new mortgage loan in as little as two years, Fannie said.

## Small-business loan fund clears House

The House recently voted 281-182 in passing H.R. 5297, a bill that would create a \$30 billion fund to promote small-business lending by banks and thrifts with less than \$10 billion in assets and create a state program in which credit unions could participate.

Titled the Small Business Lending Fund Act of 2010, H.R. 5297 would allocate funds to states to invest in federally insured financial institutions – including credit unions – or nondepository community development financial institutions for business-lending purposes.

NAFCU continues to seek action on a member business loan cap lift, and the House Financial Services Committee is expected to hold a mark-up on such legislation in the near future. Committee Chairman Barney Frank, D-Mass, confirmed these plans during a hearing on H.R. 5297.

The Obama administration has indicated it could support a compromise on MBL; Treasury Secretary Tim Geithner outlined a plan in a letter to Frank last month that would provide for a two-tiered program, with an increase to 27.5 percent in the MBL cap for credit unions meeting certain criteria, including compliance with new rules that would be written by NCUA for safety and soundness.

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## Garnishment rule clarifications sought by NAFCU

NAFCU is seeking clarifications to a multi-agency proposed rule on garnishment of accounts containing federal benefit payments.

In a June 18 letter to Treasury Deputy Assistant Secretary Gary Grippio, Dillon Shea, NAFCU's associate director of regulatory affairs, responded to a proposal issued in April that provides guidance to financial institutions that receive garnishment orders affecting accounts holding federal benefit payments.

Upon receiving a garnishment order, the proposed rule would require financial institutions to determine if exempt federal payments are in the account. If so, the institution would have to ensure that the account holder has access to an amount equal to the sum of those payments deposited over the past 60 days or the current account balance, whichever is lower.

Shea noted that though the rule's preamble language may be designed to ensure financial institutions are not required to protect funds transferred to a savings account, it may fall short of achieving that goal. He said the final rule should be clarified to ensure there is no requirement to track protected funds between sub-accounts.

Shea also emphasized that new processes for garnishment orders should not infringe on financial institutions' rights to enforce contractual or statutory liens.

### EFT proposal on federal payments out

A proposed rule from Treasury's Financial Management Service would require that all federal benefit and other non-tax federal payments be made via electronic funds transfer by March 1, 2013.

The requirement for electronic delivery of non-tax federal payments is set under the 1996 Debt Collection Improvement Act. The act does allow leeway where there is a Treasury waiver. While the proposal sets an earlier effective date of March 1, 2011, a Treasury waiver exempts two categories of payments, but only for two years. They are payments to:

- ♦ those receiving federal payments by check on March 1, 2011; and
- ♦ those whose claims for federal benefits are filed before March 1, 2011, and who request check payments when they file.

Under the proposal, those who don't choose direct deposit would be enrolled in the Direct Express Debit MasterCard card program.

## NCUA writes credit unions on stabilization fee

Credit unions have been sent an NCUA letter detailing the recent decision to assess insured credit unions an assessment equal to 0.134 percent of insured shares for corporate stabilization this summer.

The letter says invoices for this assessment will be sent in late July or early August. The agency still instructs credit unions to record this assessment expense on their June 10 call reports, under NCUSIF Stabilization Expense (Account Code 311). Each credit union's payment will be due in mid-August, NCUA wrote.

Reasons for the assessment are addressed, including the fact that the board set a Sept. 30 deadline for repaying a total \$1.5 billion in borrowing from Treasury. Also noted are the impact of the stabilization assessment on insured credit unions, the decision to set different assessments for stabilization vs. the share insurance fund and factors that will play into future share insurance premiums.

"The NCUA Board has reminded examiners to factor out the adverse impact of assessments when evaluating and rating credit union earnings," the letter notes.

### CUs urged anew on CRE loans

NCUA, in a recent letter pointing to last fall's interagency examiner guidance on prudent commercial real estate loan workouts, is encouraging credit unions anew to work with their member-borrowers in the best interests of both parties.

The guidance reflects NCUA's position and expectations regarding credit union risk management practices for member business loan workout programs and individual workout arrangements. The letter addresses the need to match risk management practices to the programs to which they are applied; objectives of prudent loan workouts; proper reporting of workout arrangements; and accounting requirements for loan loss estimates.

## Over 500 enter 'Great Credit Union' contest

**More than 500 credit union members have entered CULookup.com's "The Great Credit Union Contest,"** and there are another 11 days to go before the July 7 entry deadline arrives.

The contest takes entries from individual credit union members explaining why their credit unions are great. There are 51 prizes in all, including the two top prizes of a \$500 Discover® gift card.

Entries to date have come from members of 58 different credit unions in 33 states.

The contest, which began June 7, is open to members of NAFCU member credit unions and CULookup.com subscribers.

For more information, send an e-mail to [info@culookup.com](mailto:info@culookup.com), or visit the online contest page at [www.Culookup.com/contest](http://www.Culookup.com/contest).

## CDCI funding begins in July

**Treasury will begin funding approved applicants to its Community Development Capital Initiative** next month, Treasury Secretary Tim Geithner said in a June 22 hearing of the Congressional Oversight Panel on the government's financial stability programs.

Applications to the program were due in April. The program is part of a broader initiative of Treasury's to help promote more small-business lending by lenders, including credit unions, with certification as community development financial institutions.

This affects credit unions with NCUA's low-income designation and which have taken the step of applying for and receiving the CDFI certification from the Treasury CDFI Fund.

Under the CDCl, credit union applicants can receive subordinated debt from Treasury equal to 3.5 percent of their total assets. NCUA revised its secondary rules for low-income credit unions in February to facilitate their participation.

## Fannie Mae outlines Loan Quality Initiative in webcast

Credit unions should review this year's first- and second-quarter communications from Fannie Mae and assess their mortgage loan processes to prepare for the implementation of Fannie Mae's Loan Quality Initiative, according to a speaker in a recent NAFCU webcast.

In the June 16 NAFCU member-only webcast, Fannie Mae Senior Product Development Manager Elizabeth Myers said the Loan Quality Initiative seeks to ensure loans delivered to the government-sponsored enterprise meet standard and negotiated contract terms as well as pricing and credit eligibility requirements.

Myers mentioned the Uniform Mortgage Data Program – a part of the



*Elizabeth Myers (right) recently gave credit unions an overview of the Fannie Mae Loan Quality Initiative. Fannie Mae's Tammy Trefny facilitated the webcast. (NAFCU photo)*

initiative under which Fannie Mae is working jointly with Freddie Mac to implement uniform data standards for appraisals and loan delivery. Fannie Mae and Freddie Mac are developing new requirements, including the Uniform

Collateral Data Portal to deliver electronic appraisal data. Myers said the portal will become available in October. Lenders and the GSEs both stand to benefit from the uniform data program through the enhanced risk management capability provided by more and better loan data, she said.

Myers noted other new policies and clarifications Fannie Mae has implemented in support of the initiative. She also provided a timeline for particular aspects of the Fannie's Loan Quality Initiative and a set of resources for credit unions to review.

The webcast was presented as a part of NAFCU's alliance with Fannie Mae. For more, visit [www.nafcuhq.org/fanniema](http://www.nafcuhq.org/fanniema).

## Course to develop CU executive presence

Credit union leaders that attend the NAFCU/DDJ-Myers "Building an Executive Presence" course set for Aug. 11-13 in Baltimore will learn how to exude an executive presence that can drive both employee engagement and productivity.

The executive leadership coaches of DDJ Myers Ltd. will provide course participants with the tools they need to enhance their presence and, in turn, create an environment to support the challenges credit unions are currently facing.

Peter Myers, vice president of DDJ Myers Ltd. points out that a leader's presence engages people and that employees who are not engaged can drag down an organization's productivity, which can take

a toll on the bottom line. "As leaders, we are accountable for cultivating our presence in order to engage our staff," Myers said.

Myers notes that during the course, participants will receive the kind of leadership- and presence-building skills they "can't pick up from a textbook."

The entire agenda for the three-day course is online. Credit unions interested in learning more about the course can contact DDJ Myers Ltd. by July 16 to receive a free, 30-minute telephone coaching session. For more information on the "Building an Executive Presence" course, visit [www.nafcuhq.org/leadership/BEP.html](http://www.nafcuhq.org/leadership/BEP.html). For the free sessions, dial 1-800-574-8877.

## CAC members disagree on HMDA expansion

The scope of the Home Mortgage Disclosure Act should not be expanded unless there is a specific need to do so, according to financial industry members in a recent meeting of the Federal Reserve Board's Consumer Advisory Council.

NAFCU Associate Director of Regulatory Affairs Dillon Shea attended the June 17 meeting. The council discussion focused on HMDA, small businesses' access to credit, foreclosures and the Community Reinvestment Act.

Consumer advocates on the council said they want to see HMDA's disclosure requirements expanded to include credit

scores, borrowers' ages, loan performance and whether the borrower speaks English as a second language. Additionally, they supported expanding HMDA to any loan secured by residential property.

Financial industry representatives, however, said that fulfilling HMDA requirements is quite costly and burdensome. The perceived benefits of collecting and disclosing such information does not warrant the additional burden, they added.

Alan Cameron, the council's credit union representative, is serving on a working group that is discussing, among other things, the possible expansion of the CRA.

## SARs down overall but rise with CUs

**The number of suspicious activity reports filed by depository institutions last year declined in the aggregate**, but credit unions filed 9.5 percent more SARs last year than in 2008, according to data from the Financial Crimes Enforcement Network.

The FinCEN numbers, released June 23 in the network's 14th SAR Activity Review – By the Numbers, also showed an uptick in the number of SAR filings that cited suspected fraud and terrorism financing as reasons for the reports.

In 2009, a total of 62,630 SARs were received by NCUA from credit unions, up from 57,179 in 2008. For all depository institutions, the number totaled 720,309, down from the previous year's total of 732,563 SARs filed.

## 2 more banks closed

**Two banks closed recently** that are expected to cost FDIC's Deposit Insurance Fund an estimated \$239.3 million to resolve, according to FDIC figures.

The two bring the total number of insured bank closures in 2010 to 83. There were 15 credit union failures through May, NCUA reported in its June 17 open board meeting.