

# UPDATE®

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**July 5, 2010**

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**NAFCU offices are closed today** for the Independence Day holiday.

## NAFCU takes interchange fight to Senate

NAFCU is urging members to continue voicing their opposition to the House-passed H.R. 4173, the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, which retains provisions setting the stage for Federal-Reserve-set price caps on debit interchange fees.

The House cleared the bill June 30 by a vote of 237-192. It now awaits Senate action, which isn't expected until after this week's recess as bill proponents scramble to garner enough votes to prevent a filibuster in that chamber.

NAFCU President Fred Becker expressed disappointment in last week's House vote. Concerning the interchange provisions, Becker said, "this issue had nothing to do with the financial crisis and will only make big box retailers richer at the expense of credit unions and their 92 million members."

## Udall offers NAFCU-backed MBL cap lift

NAFCU President Fred Becker is urging lawmakers to support a credit union member business loan cap lift proposed last week by Sen. Mark Udall, D-Colo.

Becker lauded Udall and amendment cosponsors Barbara Boxer, D-Calif., Kirsten Gillibrand, D-N.Y., Joseph Lieberman, I-Conn., Harry Reid, D-Nev., Bernie Sanders, I-Vt., and Charles Schumer, D-N.Y., for supporting an increase in the current, 12.25-percent-of-assets MBL limit.

Udall offered the amendment June 30 for inclusion in the House-passed H.R. 5297, the Small Business Lending Fund Act. It closely mirrors a compromise that Treasury offered House Financial Services Chairman Barney Frank, D-Mass., in May.

The amendment would raise the MBL

### ☐ Exemption not enough

Prior to H.R. 4173 being reported out of a conference committee last week, Rep. Barney Frank, D-Mass., circulated a memorandum reiterating that banks and credit unions with less than \$10 billion in assets are exempt from the bill's interchange provisions. Frank also noted that a conference agreement bars discrimination by retailers against debit or credit cards based on issuer.

NAFCU says this is not enough to keep interchange fees from being set so low by the market that credit unions are pushed out of the payment card market.

NAFCU opposes the reform package in its current form and will continue working to remove the interchange provisions.

To contact senators on this issue, dial the U.S. Capitol Switchboard at 202-224-3131; or visit "Contact Congress" at [www.nafcu.org/legislation](http://www.nafcu.org/legislation).

cap to 27.5 percent for credit unions that:

- ◆ have been near the current limit for four consecutive quarters;
- ◆ are well capitalized;
- ◆ have at least five straight years' experience underwriting, servicing MBLs;
- ◆ have strong policies and experience in managing MBLs; and
- ◆ satisfy other standards set by NCUA to ensure safety and soundness.

Growth in small business lending beyond the current ceiling could not exceed 30 percent a year under the amendment. Credit unions dipping below "well-capitalized" would have to suspend new MBL activity until they return to that level and get NCUA approval.

CUs are urged to contact senators for their support and cosponsorship.

## Becker touts CUs, notes reg reform concerns

NAFCU President Fred Becker extolled the benefits of credit union membership, including better rates and transact-anywhere ATM networks, in a live interview June 29 with Fox Business News.

Becker, interviewed by FBN's Gerri Willis, said a credit union is not for profit and "returns money to members, not stockholders, by way of lower fees, lower rates on loans and higher returns on savings, and better service."

As for how to join: "It is not hard to get in the credit union, but you have to have some sort of affiliation with the rest of the membership," Becker explained. Consumers can find credit unions in their area at CULookup.com. "From there it is easy," he said.

Becker noted that many credit unions, unlike banks, participate in shared branches and ATM networks. He invited consumers to compare credit union and bank rates at



NAFCU President Fred Becker (right, talking to FBN's Gerri Willis) noted the benefits of credit unions and warned about proposed interchange language in the regulatory reform bill.

CULookup.com (click on "Compare CU Rates").

Becker also noted that debit interchange language in the pending regulatory reform bill will benefit merchants by shifting more costs of card acceptance to financial institutions and consumers.

## Preparation urged on expanded share insurance

NCUA, in a letter from NAFCU President Fred Becker, was urged to ensure that it and the share insurance fund are prepared to satisfy requirements of a regulatory reform package that, if cleared, will provide for full coverage of non-interest-bearing transaction accounts in credit unions through 2012.

This coverage is provided in language approved in a recent House-Senate conference. The provision originally only applied to FDIC-insured accounts but now also applies also to accounts in credit unions insured by the National Credit Union Share Insurance Fund.

Becker praised NCUA Chairman Debbie Matz for her leadership in promoting

NAFCU's efforts to achieve parity in this regard.

The NAFCU president, in his June 29 letter, urged action now to ensure the agency and the fund can immediately fulfill the requirement. He also urged issuance of an NCUA Letter to Credit Unions that, at the least, outlines the type of accounts covered and the extent of coverage. "NCUA should clearly communicate that the accounts are fully insured, and not limited to any specific amount," Becker wrote.

According to the text of the conference report, coverage will apply to "the net amount that any member or depositor at an insured credit union maintains in a non-interest-bearing transaction account."

## NAFCU at FHA on reform legislation

NAFCU participated in a meeting last week with Federal Housing Administration Commissioner David Stevens to discuss progress on FHA reform legislation.

Carrie Hunt, NAFCU's senior counsel and director of regulatory affairs, noted the association's ongoing support for a strong FHA to ensure the availability of federally backed mortgages for credit union members. FHA loans can be an important tool for members trying to enter into homeown-

ership, she said.

"We appreciate the opportunity to have a fruitful dialogue on this issue," said Hunt. "Consumers can only benefit from FHA programs that are sound and strong, and we believe that requires input from all facets of the mortgage lending industry."

The June 29 meeting included representatives from a variety of trade groups.

H.R. 4072, the FHA Reform Act, has passed the House and awaits Senate action.

## Flood insurance extension passes

**The Senate gave final passage** late Wednesday to a NAFCU-backed extension of the National Flood Insurance Program to Sept. 30.

The provision, contained in the House-passed H.R. 5569, reinstates the NFIP to June 1. It awaits the president's signature.

The program lapsed May 31; it was the third lapse this year. NAFCU has been urging lawmakers to pass the National Flood Insurance Program Act for weeks to give credit unions more stability in dealing with loans secured by properties located in flood plains. The extension reinstates NFIP's ability to provide new policies and coverage increases.

## Reg Z/BSA webcast discounts until July 7

**Credit unions can get registration discounts until July 7** for a NAFCU webcast July 14 on Regulation Z Credit CARD Act revisions that take effect Aug. 22 and the revised Bank Secrecy Act examination manual.

The webcast will be led by NAFCU's compliance experts: Director of Regulatory Compliance Anthony Demangone; and Regulatory Compliance Counsels Sarah Loats and Steve Van Beek.

For more information or to register, visit [www.nafcuh.org/RegZ](http://www.nafcuh.org/RegZ).

### NAFCU UPDATE

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## Fed Board nominees slated for hearing

Three nominees to the Federal Reserve Board, including San Francisco Federal Reserve Bank President Janet Yellen, are slated to testify in a confirmation hearing July 15 by the Senate Banking Committee.

The president made three nominations to the Fed Board this April. There are seven board seats and five current board members, but Donald Kohn, whose term as vice chairman ended June 23, plans to step down. He has said he will remain until Sept. 1 while a successor is found, but not beyond that.

Yellen, from California, served on the Fed Board from Aug. 12, 1994, to Feb. 17, 1997, when she resigned to take the chairmanship of the president's Council of Economic Advisers. She took the San Francisco Fed post in 2004 and is on the Federal Open Market Committee. She has been nominated to a 14-year term on the board that dates from Feb. 1 of this year (continuing through Jan. 31, 2024) and to a four-year term as vice chairman.

The other two nominees are Peter Diamond of Massachusetts and Sara Bloom Raskin of Maryland. The two have been nominated to 14-year terms dating, respectively, from Feb. 1, 2000 (ending Jan. 31, 2014), and Feb. 1, 2002 (ending Jan. 31, 2016).

The July 15 confirmation hearing is slated for 10 a.m.-12:30 p.m. and also includes a second panel of witnesses. On that panel is Steve Linick of Virginia, who has been nominated to the post of inspector general at the Federal Housing Finance Agency, which regulates Fannie Mae, Freddie Mac and the Federal Home Loan Banks.

**Reminder: NAFCU's webcast on employee coaching is July 8** from 2-3:30 p.m. Learn how effective coaching techniques can drive performance. For more, visit [www.nafcu.org/coaching](http://www.nafcu.org/coaching).

## NCUA files notice of claim on U.S. Central

NCUA said it took action Wednesday to ensure its right to U.S. Central FCU's coverage under a directors and officers liability policy with Travelers Casualty & Surety Co. and put former directors on notice that they could be tapped later to cover uninsured losses.

NCUA had until June 30 to file its notice of claim with Travelers to preserve its right to seek recoveries under the policy. It also let 18 former directors and officers of U.S. Central know the agency preserves the right to sue them for amounts exceeding the policy limit of \$10 million.

"NCUA will take the time necessary to complete its investigation and decide at a later date whether or not to initiate civil litigation against any individual directors or officers," it said.

NAFCU has continued to urge NCUA to act deliberately and with transparency in resolving the corporate credit union problem with as little cost as possible to the National Credit Union Share Insurance Fund.

"While this has been a difficult period for credit unions, our members have long

stressed the need for transparency and accountability in stabilizing and reforming the corporate credit union system," said Carrie Hunt, NAFCU's senior counsel and director of regulatory affairs.

In letters of demand to former directors, NCUA alleged breaches of fiduciary duties of care and loyalty that contributed to losses exceeding the limit of the policy, which was in effect from 2005 to 2009.

The demand letters went to David W. Brehmer, Kathryn E. Brick, O. William (Bill) Cheney, David A. Dickens, Larry D. Eisenhower, Edward J. Fox III, John R. Franklin, Kathy L. Garner, James A. Hansen, Joseph P. Herbst, Roshara J. Holub, Francis Lee, Connie M. Loveless, Gregory S. Moore, Robert A. Siravo, Bradford L. Thomas, Charles E. Thomas and William A. Walby.

NCUA's inspector general is also required to perform a material loss review to determine the causes of U.S. Central losses absorbed by the corporate stabilization fund and assess NCUA's supervision of U.S. Central. Field work on that is underway, NCUA said.

## NAFCU seeks premerger notification exemption

NAFCU President Fred Becker urged the Federal Trade Commission anew last week (see the June 7 *UPDATE*) to grant federal credit unions an exemption from premerger notifications and related fees required under the Hart-Scott-Rodino Act.

The law requires credit unions that conduct merger transactions exceeding the statutory threshold to file premerger notifications with the FTC and pay filing fees. Depository institutions that receive approval for mergers from the federal banking agencies can receive an exemption from the notification requirements. Becker pointed out that federal credit unions have not been provided with such an exemption.

The notification requirement serves federal antitrust laws, and Becker said mergers between federal credit unions that require NCUA approval are not likely to violate such laws. In addition, he wrote the costs associated with premerger notifications, ranging from \$45,000 to \$280,000, are cumbersome for credit unions because of their not-for-profit nature and prohibition against raising capital from sources other than

retained earnings.

"Many [credit unions] have found that it is in the best interest of their members to merge with another credit union," Becker wrote. "We believe unnecessary legal and regulatory obstacles that create disincentives to merge should be removed."

## Legacy assets noted in webinar

The file from NCUA's June 28 online "town hall" meeting is archived and available, NCUA said last week.

During the meeting, NCUA Chairman Debbie Matz said she expects the agency will release a plan for handling corporate credit unions' legacy assets by summer's end. She had hoped the plan would be ready last month but said the issue is complicated.

NCUA Deputy Executive Director Larry Fazio said that, in general, the agency plans to isolate the legacy assets from corporate credit union balance sheets and fund them. Marketplace funding is one avenue being explored. For the archived file, go to [www.ncua.gov](http://www.ncua.gov).

## 111 low-income CUs seek CDCI funding

A total of 111 low-income credit unions applied for an aggregate \$282 million from the Community Development Capital Initiative, and NCUA says it has forwarded most of these to Treasury for funding determinations.

NCUA's review of the remaining applications is expected to be completed over the next month, and the agency said it is notifying affected credit unions if it is recommending funding.

The CDCI was established by Treasury to encourage lending to small businesses in distressed areas. Qualifying credit unions could apply for subordinated debt totaling as much as

3.5 percent of total assets.

Applicant credit unions were required to submit secondary capital plans, and NCUA said it worked with individual credit unions as needed to clarify or revise the plans. "I wanted NCUA to bring a positive and supportive approach to the table when it came to credit union participation in this important initiative," said NCUA Chairman Debbie Matz.

Treasury is expected to complete all of its decisions by late summer. Agreements between applicants and Treasury will be completed afterward.

## Report: CEOs grow more confident about hiring

A recent report indicates that U.S. CEOs are more optimistic about their short-term hiring prospects than they were in the first quarter.

Business Roundtable's second-quarter 2010 CEO Economic Outlook Survey found that 39 percent of CEOs surveyed plan to hire more people in the next six months, up 10 percent from the first-quarter survey. That represents the highest percentage the survey found on this response since the second quarter of 2007, when it peaked

at 42 percent, the Roundtable reported.

Another sign of improvement: The percentage of respondents expecting to see a decline in hiring was down from 21 percent in the first-quarter survey to 17 percent in the second-quarter survey.

NAFCU Staff Economist Katrin O'Connor said the findings are a "positive sign about confidence in the recovery" but reiterated it will be a long time before the U.S. has fully recovered and full employment is achieved.

## 1Q GDP data point to long-term challenges ahead

The third estimate for first-quarter economic growth was lower than expected, reinforcing NAFCU's view that the current pace of the recovery is not strong enough to significantly bring down the unemployment rate anytime soon.

The Bureau of Economic Analysis' third estimate for first-quarter real GDP showed an increase of 2.7 percent, 0.3 percentage points below the previous estimate. NAFCU Staff Economist Katrin O'Connor noted that the deceleration was primarily due to a downward revision to consumer spending and an upward revision to imports.

Despite the downward revision, consumer spending remained the biggest contributor to GDP growth in the first quarter (adding 2.13 percent), with a 3 percent increase.

The core PCE deflator declined from 1.8 percent in the fourth quarter to 0.7 percent in the first quarter, slightly up from the second estimate of 0.6 percent.

While the economic recovery is continu-

ing, there are a number of stumbling blocks that appear to impede any momentum it may have, the economist said. "As a result, it is unlikely that GDP growth will pick up much over the next few quarters."

### CUs warned on Hurricane Alex

Contingency planning was urged by NCUA last week for credit unions and credit union members in the path of Hurricane Alex, which made landfall in Mexico late Wednesday and later weakened to a tropical storm.

NCUA said that as needed, the agency would have an emergency, toll-free hotline available to take calls for assistance from affected credit union members. NCUA also plans to maintain information on its website regarding the operating status of credit union branches.

An NCUA public service announcement was also planned for distribution as needed regarding federal deposit insurance coverage and how to access credit union funds, the agency said.

## NCUA retains execs of conserved CU

**NCUA has placed executives of the conserved Arrowhead Central CU on paid leave** while the agency reviews the credit union's operations.

On June 25, NCUA assumed control of the \$876 million San Bernardino, Calif.-based credit union to ensure uninterrupted service to its 152,000 members. The credit union serves the counties of San Bernardino and Riverside, Calif.

Even though all of Arrowhead Central's volunteers were removed, the credit union's CEO, chief financial officer, senior vice president of lending and senior vice president of strategic development were placed on paid administrative leave.

This move was made because the agency is focused "on maintaining stability and uninterrupted service to members, and protecting member assets, all of which may be enhanced by the retention of certain employees," NCUA said.

## CU liquidated, another merged

**NCUA liquidated Southwest Community FCU** in Saint George, Utah, and merged First Delta FCU of Marks, Miss., with Shreveport FCU of Shreveport, La., on June 30.

In the liquidation, NCUA approved the purchase and assumption of certain Southwest Community FCU assets and liabilities by Chartway FCU (Virginia Beach, Va.). Chartway FCU has \$1.6 billion in assets and about 191,000 members. At liquidation, Southwest Community FCU had \$139.1 million in assets and 19,041 members.

Shreveport FCU is the continuing institution in the merger of First Delta FCU, which had been in conservatorship since last October. Prior to merger, First Delta FCU had \$5.6 million in assets and about 3,000 members over four counties. Shreveport FCU has \$81.9 million in assets and more than 18,000 members.