



Credit Union National Association

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(Last 2011) CUNA REGULATORY ADVOCACY REPORT

December 28, 2011

Good afternoon. This is our last CUNA Regulatory Advocacy Report for 2011. It has been quite a year, but 2012 has every indication of being full as well.

However, we at CUNA are committed to doing all we can, with considerable help from the Leagues, to improve the environment for credit unions and that will continue to be our top regulatory advocacy priority for 2012. Look for more improvements in the CUNA Regulatory Advocacy Report as well, starting with our first issue in January, which will focus on a preview of the New Year.

As it is the holidays, we are limiting this last report to:

- An update on the various regulatory proposals from this year that are pending, and
- The audited financial statements NCUA released earlier this week for the Temporary Corporate Credit Union Stabilization Fund.

Pending Regulatory Proposals

As we wrap up this year, we have included a [chart](#) that lists all of the proposals from the various agencies that are pending as we head into 2012 – we hope you find it useful. In our next report, we will highlight rules that were adopted in 2011.

We also wanted to provide a short summary of some of the key proposals we are following. You can click [here](#) to access CUNA Comment Calls and as applicable, CUNA Comment Letters and CUNA Final Rule Analyses. In addition, in coordination with the AACUL Regulatory Advocacy Advisory Committee to facilitate more credit union input on key proposals, we have developed short surveys on some proposed rules, which are also available on our CUNA Comment Call [page](#). Leagues are welcome to share these surveys with their members and encourage them to fill them out.



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I. NCUA

This year, NCUA has issued 18 proposals, five more than it did in 2010. Many feel that with some of the harsher proposals, such as the ones on credit union service organizations (CUSOs), interest rate risk management (IRR), and loan participations, the agency has replaced the principal, “credit unions should manage their own risks” with “protect the National Credit Union Share Insurance Fund no matter what -- even if that means eliminating risks.”

Even so, NCUA Chairman Debbie Matz has already committed to changing the proposal on CUSOs, largely as a result of efforts within the system to get the agency to be reasonable (at least more reasonable). Senior CUNA staff and I have met with her and her staff on several occasions to advocate for regulatory improvements and my recent [letter](#) to her flagged our concerns as well. We are continuing to follow up with NCUA’s General Counsel and other NCUA senior staff on the CUSO and IRR proposals as well as with other agency staff on the request for comments on using derivatives to mitigate interest rate risk. We are also identifying concerns with the proposals issued in December on loan participations, the Reg-Flex program (what is left of it) and on emergency sources of liquidity.

CUNA will be working with the AACUL Regulatory Advocacy Advisory Committee as well as the CUNA Examination and Supervision Subcommittee, CUNA Councils and other groups to ensure we have considered all of the concerns raised by the proposals issued earlier this month. We will be developing specific recommendations to fight and/or improve these proposals and plan to circulate our draft letters on the three NCUA proposals that are open for comments: Reg-Flex, loan participations, and credit unions’ access to emergency liquidity.

II. Consumer Financial Protection Bureau (CFPB)

Of course, we are also following closely ALL of the work of the CFPB that could affect credit unions, directly or indirectly. That is not to say that we will necessarily see a number of onerous new rules from the CFPB that impose numerous new requirements on credit unions. However, the agency does have some significant projects underway and proposals out for comment that we are watching very closely and raising concerns and questions with the CFPB.

One of CFPB’s key projects we are pursuing is its request for comments on how to streamline the regulations that were transferred to it from other agencies under the Dodd-Frank Act. This is a major initiative, and as we mentioned in our last report, we have developed a [survey](#) to solicit credit unions’ views on how we should approach it. We will be reviewing the survey results shortly and circulating our comment letter by mid-January. Meanwhile, other CFPB projects and proposals include (more details are on our chart):

- Remittance transfers (initiated by the Fed);

- Ability to repay (mortgages, initiated by the Fed);
- Regulation CC, Expedited Funds (shared authority with the Fed);
- Private student lending regulation;
- Credit card complaints for large issuers (more than \$ 10B in assets)
- Deposit/share account insurance disclosures for non-federally insured financial institutions;
- Know Before You Owe (certain disclosures for TILA and RESPA simplified; disclosures for credit cards; and disclosures for student loans)
- Rules that were transferred to the agency, such as the Home Mortgage Disclosure Act, RESPA, Equal Credit Opportunity, Truth-in-Lending and others.

III. Other Agencies and Initiatives

CUNA is keeping tabs on a number of other proposals, which are listed in the chart. One agency we are monitoring closely – with good reason – is the Federal Housing Financing Agency, FHFA, which oversees FNMA, FHLMC, and the Federal Home Loan Banks.

Working with CUNA's GSE Reform Task Force, this week CUNA filed [comments](#) with the FHFA, urging it to hold off on proposals that would change current mortgage servicing compensation arrangements and potentially reduce such compensation for credit unions, thus limiting their ability to serve their members' mortgage-loan needs. Before going forward with its proposals, the FHFA should provide much greater details so that the impact of the proposals can be determined, in advance of expecting stakeholders to comment, CUNA urged. Contact [Kristina Del Vecchio](#) for more information.

NCUA's Office of Inspector General Releases Audits for the Temporary Corporate Credit Union Stabilization Fund (TCCUSF); NCUA Launches New Sites to Help CUs Track Resolution of Legacy Assets and NGNs

As I reported in an email yesterday, NCUA's Office of Inspector General released the audit [report](#) from KPMG LLP for the December 31, 2010 and May 20, 2009 (the date the TCCUSF was established) to December 31, 2009 financial statements of the (TCCUSF).

As discussed in the report, starting on page 24, the contingent liability of the TCCUSF is based on four initiatives established by the agency in its handling of the problem corporate credit unions. These are the Temporary Corporate Credit Union Share Guarantee Program (TCCUSGP), the Temporary Corporate Credit Union Liquidity Guarantee Program (TCCULGP); Promissory Notes involving the Bridge Corporates; and NCUA Guarantee Notes. The aggregate contingent liability for expected losses

from problem corporate credit unions was \$7.8 billion and \$6.4 billion on December 31, 2010 and 2009, respectively. The report states that the increase is primarily a result of recognition of increased losses in the conserved corporate credit unions.

One of the four initiatives was the establishment of the NCUA Guarantee Note program in 2010, under which the legacy assets of the conserved corporate credit unions were resecuritized. The report discusses the NGN program at length and provides a chart on page 27 that details the composition of the legacy assets that collateralize the NGNs.

While the report provides more financial information about the TCCUSF than has been available before now, it simply took too long for the agency to produce some of the information to KPMG for the audit. The report points out a “significant deficiency,” in internal controls involving the TCCUSF, which is addressed in Exhibit I of the report. As the report notes, a “significant deficiency” in internal controls is less severe than a material weakness, yet important enough to merit attention by those charged with governance. KPMG recommends that NCUA develop management plans “to address the impact of significant future changes on key aspects....(of the TCCUSF), including significant events and transactions (e.g. (possible) CCU liquidations) and timely financial reporting. ...This would ensure all key members are involved at the start, participate in key decisions and maintain effective communication throughout program execution.” NCUA’s response is included in the report but does not indicate how it will address the deficiency or whether it will accept the recommendation.

In a related development, NCUA is today launching a new [website](#) that will allow credit unions to track the performance and cash flows of the NGNs. NCUA has also developed a site to monitor corporate credit union resolution costs, which is accessible [here](#).

Conclusion

There is no doubt that this year has been filled with regulatory developments. Through this and other reports and resources we want to help you stay informed of these developments. (If you have any questions or comments about this report, please feel free to contact [Mary Dunn](#), [Bill Hampel](#) or [me](#)).

Our broader, more significant goal is to help achieve meaningful regulatory relief for credit unions -- working with regulators and with Congress. We will renew these considerable efforts, partnering with the Leagues, in 2012.

Meanwhile, as we wrap up 2011, I want to wish you all a very Happy New Year!!

Best regards,

Bill Cheney