



May 2008

Ken Ross Welcomed at CU Reception

The MCUL hosted a welcome reception April 4 for new OFIR Commissioner Ken Ross. The early afternoon event was sponsored by Michael Poulos, president/CEO of Michigan First CU (MW) in the community room of the credit union's new facility in Lathrup Village. Ross thanked the 65 or so credit union folks who attended and acknowledged his appreciation for their continued support. He also acknowledged the time he spent at the MCUL as Regulatory Affairs Vice President and thanked all those who helped shape his appreciation for credit union issues and values during that time.

State Senate Committee Holds Hearing on Ross Permanent Appointment

The Michigan Senate Economic Development and Regulatory Reform committee held its obligatory "advice and consent" confirmation hearing on Gov. Granholm's permanent appointment of Ken Ross to the position of OFIR commissioner. The committee, chaired by State Sen. Alan Sanborn, R-Richmond, met on April 15 to question the new commissioner on a variety of topics, including insurance redlining, the mortgage foreclosure situation and the licensing of insurance agents. While no affirmative vote was taken, the appointment was made final as of April 22. The confirmation questionnaire submitted is available online at <http://www.senate.michigan.gov/gop/committees/governmentoperations/Default.asp?District=12>

MCUL to Plan Directors Training with OFIR

In its ongoing effort to reach out to credit union directors, OFIR approached the MCUL to discuss planning a NASCUS-related training event specifically for directors. OFIR's involvement with its national trade association, the National Association of State Credit Union Supervisors (NASCUS), triggered the request, which is being piloted later this year in Washington State. The date and location for this event will be announced later this spring and will be in addition to the Spring and Fall Volunteer Conferences offered annually by the MCUL.

InfoSight Adds Multi-Media Feature to Weekly Newsletter

In a first-time experiment with the InfoSight weekly newsletter, MCUL's audio interview with NCUA's Judy Graham on Bank Secrecy Act (BSA) examinations was well received. As a result, it has now been followed up with a second podcast addressing director responsibilities regarding the elements of a successful compliance program. This current interview is with John Zasada, compliance consultant with RSM McGladrey, a well-known audit and compliance consulting firm serving credit unions nationwide. It is available in each of May's four weekly issues of the League InfoSight newsletter. June's podcast will tentatively cover the hot regulatory topic of Due Diligence.

IRS Form 990 under Revision; Training Session Planned by MCUL

The Form 990 is the information tax return for non-profits, including state-chartered credit unions, and is undergoing a substantial revision adding new questions regarding governance-related issues. This form is expected to be used next year in filing the 2008 return, due in mid-May 2009. Because it is filed by state-chartered credit unions and will contain new features, the MCUL intends to offer a training session later this year with a CPA firm well known to credit unions. The session will be announced in *Monitor* and through the MCUL Education Department. Credit union auditors and financial consultants should be aware of this proposal. The proposed draft is available on the IRS Web site at <http://www.irs.gov/charities/article/0,,id=181089,00.html>.

NCUA Regulatory Alerts

No. 08-RA-03 – SARs – Foreign Corruption

This Alert advises federally insured credit unions of recent FinCEN guidance for special notation in the narrative section of SARs for financial transactions that may involve senior foreign political officials seeking to move the proceeds of foreign corruption to or through the U.S. financial system. Questions should be addressed to the credit union's district examiner, regional office or state supervisory authority. This Alert is available at http://www.ncua.gov/reg_alerts/2008/08-RA-03SAR%20Foreign%20Corruption%20Proceeds%20Req%20Alert.pdf.

NCUA Proposed Regulations

All available at

http://www.ncua.gov/RegulationsOpinionsLaws/proposed_regs/proposed_regs.html

NCUA — Official Advertising Statement (NCUA Regs Part 740)

This proposal contemplates permitting federally insured credit unions to have additional flexibility in using the basic form of the NCUA advertising statement, a shortened form or the official sign in advertisement. Under the current rule, credit unions may only use the shortened form if they also include the official sign. Under the proposal, credit unions will be able to use the shortened form or the official insurance sign as alternatives to the basic official advertising statement. Comments may be submitted until June 27, 2008.

NCUA — Low Income Definition (NCUA Regs Part 701.34(a)(2) and 705.3(a)(1))

The NCUA proposes to revise the definition of "low-income members" to base the qualification determination for a low income credit union designation on an "income standard" that relies on median family income (MFI) or the alternative of median earnings. The proposed rule will eliminate the confusion associated with adjusting the national median household income (MHI) for metropolitan areas with higher costs of living. Additionally, it will better align the criteria for low-income designation with the criteria for adding an underserved area to a federal credit union field of membership and certification as a CDFI under Treasury Department regulations. Comments may be submitted until June 27, 2008.

NCUA — Guidance for Prohibiting Persons from Participating in CU Affairs (IRPS Manual Revision)

The NCUA proposes to revise provisions in the IRPS Manual that prohibit persons convicted of certain criminal offenses from participating in the affairs of the credit union. It is modeled after similar FDIC provisions. Generally, persons convicted of a criminal offense involving dishonesty or breach of trust, or who have entered into a pretrial diversion or similar program, are prohibited. Procedures are established to seek waivers as well as prescribing the factors the NCUA Board will consider with the burden on the credit union to prove the NCUA should grant the waiver and give consent. This process is currently unstructured. Comments are due to the NCUA by June 3, 2008.

NCUA — Credit Union Service Organizations (NCUA Regs Part 712)

The NCUA proposes to change its CUSO rule by adding two new categories of permissible CUSO activities: credit card loan origination and payroll processing services. The proposal would also add new examples of permissible CUSO activities within existing categories and would expand the scope of two categories of services to include persons *eligible* for credit union membership. The proposal would impose new regulatory limits on the ability of credit unions to capitalize their CUSOs in certain circumstances. While the CUSO rule generally only applies to federal credit unions, the proposal would revise and extend to all federally insured credit unions the provisions ensuring that credit union regulators have access to books and records and that CUSOs are operated as separate legal entities. The proposal would also clarify that CUSOs may buy and sell participations in loans they are authorized to originate under the current rule. Comments are due by June 30, 2008.

NCUA Issues Letters to Credit Unions

All NCUA Letters available at <http://www.ncua.gov/letters/letters.html>

Letter No. 08-CU-06 (Call Report Modifications)

This April 2008 Letter advises federally insured credit unions of another change to the 5300 Call Report, which is part of an ongoing series of changes heading toward an online version scheduled for 2009 that will replace the existing software. The changes in this Letter apply to the March 2008 cycle and are outlined therein.

Letter No. 08-CU-07 (Business Continuity Planning Examination Handbook)

This April 2008 Letter advised federally insured credit unions that FFIEC has issued updated guidance for examiners, credit unions and technology service providers to identify business continuity risks, evaluate controls, and implement risk management practices for effective business continuity planning. This action updates the original "Business Continuity Planning Booklet" issued in March 2003. The revisions include enhancements to the business impact analysis, testing and emerging threats section, and includes lessons learned in recent years.

Letter No. 08-CU-08 (NCUA's Electronic Payment Systems (EPS) Questionnaire)

This Letter advises federally insured credit unions that, based on significant technology changes and increased utilization of electronic payment systems by credit unions, EPS Questionnaires are being revised. They replace the Automated Clearing House (ACH) and Wire Control questionnaires used to review a credit union's electronic payment systems program with focus on specific processes related to ACH processing, wire transfers and Federal Reserve Bank payment system services.

Letter No. 08-CU-09 (Evaluating Third Party Relationships Questionnaire)

This Letter advises federally insured credit unions of the existence of a new questionnaire field staff will use in evaluating a credit union's third party relationships. The approach is described in a previous Letter to Credit Unions No. 07-CU-13 issued in December 2007.

Letter No. 08-CU-10 (Mortgage Loan Fraud Report)

This Letter advises federally insured credit unions of the availability of a report on mortgage loan fraud issued by the Financial Crimes Enforcement Network (FinCEN) based on the submission of SAR reports. The report describes the typical kinds of frauds reported, the number experienced by national banks and credit unions, and the findings observed from sampled narratives.

NCUA Legal Opinions of Interest

Available at http://www.ncua.gov/RegulationsOpinionsLaws/opinion_letters/2008Letters.htm

08-0417 — Evaluating Third Party Relationships

This opinion advises that in-house counsel is permitted to review contracts with third parties despite use of the term "external" legal counsel in the recent Letter to Credit Unions third party due diligence requirements. The intent was that the review of the contract be conducted independent of the third party; thus a credit union's in-house counsel is eligible.

08-0218 — Federal Credit Union Providing Benefits to CUSO Employees

The question was asked whether it is permitted to provide employee benefits to CUSO employees where the CUSO is wholly owned or majority owned by the credit union. The answer is no in the situation where the credit union obtains, administers and pays for the benefits. If the credit union obtains and administers but does not pay for the benefits, the answer is yes. Preserving the separate legal identity of the two organizations appears to drive the answer.

OFAC Updates SDN List

Credit unions are reminded that the OFAC SDN lists have been updated for April and mid-May with new entries from Columbia and Burma. The list can be found at <http://www.ustreas.gov/offices/enforcement/ofac/sdn/t11sdnew.pdf>.