

TO: THE CHIEF EXECUTIVE OR MANAGING OFFICER OF ALL LOUISIANA STATE-CHARTERED CREDIT UNIONS

FROM: SID SEYMOUR, CHIEF EXAMINER

DATE: APRIL 30, 2009

RE: LOUISIANA OFFICE OF FINANCIAL INSTITUTIONS (OFI) - UPDATE

FINANCIAL PERFORMANCE

Overall Financial Condition - As of 12-31-08, there were 48 state-chartered credit unions in Louisiana, or approximately 21 percent of the total 233 credit unions domiciled in Louisiana. For state-chartered credit unions, the net worth ratio decreased from 14.76% as of 12-31-07, to 14.25% as of 12-31-08. The ratio declined during this time period as assets grew at a faster rate than net worth. These credit unions reported an increase in the delinquent loans ratio of 1.21% as of 12-31-08, up from the 1.05% as of 12-31-07, as delinquent loans grew at a faster rate than total loans. Loans delinquent less than six months continue to comprise the majority of total delinquent loans and the increase from the prior year. The dollar volume of net charge-offs have increased from the previous year. As a result, the ratio of net charge-offs to average loans has also increased to 0.64% as of 12-31-08, from 0.41% as of 12-31-07. Net income for 2008 declined from the previous year, primarily because of an increase in loan loss provisions. As a result, the return on average assets (ROAA) for 2008 dropped to 0.79% from the 1.13% in 2007. Total loans and total shares have increased from 2007 to 2008; however, because share growth exceeded loan growth, the ratio of total loans to total shares decreased to 77.96% as of 12-31-08, from 78.18% as of 12-31-07.

The net worth ratio for state-chartered credit unions is 14.25% and is significantly above the 10.88% ratio reported on a nationwide basis. Although the delinquency and net charge-offs ratios and the ROAA exceed those reported on a nationwide basis, the differences are not as widespread. The loans-to-shares ratio for state-chartered credit unions was below the ratio reported on a nationwide basis, which also experienced faster growth in shares than loans and a decline in the ratio from the prior year.

LEGISLATION

2009 Fiscal Legislative Session – This Office is introducing one bill in the ongoing Fiscal Legislative Session, HB 810, which incorporates the minimum standards and licensing requirements for non-bank mortgage originators that was enacted by Congress entitled the Secure and Fair Enforcement for Mortgage Licensing Act or the “S.A.F.E. Act” as part of the Federal Housing and Economic Recovery Act of 2008. The bill also provides for other changes to the Residential Mortgage Lending Act and the Louisiana Consumer Credit Law. The S.A.F.E. Act was established to increase uniformity of licensing standards across state lines, enhance consumer protection, and reduce fraud in the mortgage industry. Credit unions and their employees are exempt from the licensure provisions of the proposed bill.

The following is a summary of what the legislation should accomplish:

- Amend the definition of a mortgage loan originator in conformity with the S.A.F.E Act;
- Eliminate exemptions, in conformity with the S.A.F.E. Act, that previously existed for individuals, i.e., employees of licensed lenders, non-profits, and insurance agencies;

- Require all licensed mortgage loan originators to complete 20 hours of pre-licensure education and pass a written national examination and Louisiana specific component;
- Require eight (8) hours of continuing education annually for license renewal;
- Disqualify applicants for mortgage loan originator licenses with felony convictions within seven (7) years and permanently for certain financially-related felonies or individuals who have ever had a loan originator license revoked;
- Require submission of personal history information and authorize background checks to determine the applicant's financial responsibility, character, and general fitness;
- Establish a bonding requirement based upon loan origination volume in order to protect consumers;
- Require Annual Submission of a Mortgage Call Report including statistical data regarding mortgage loan originations;
- Incorporate other state "model" language and OFI enhancements not required by S.A.F.E. to establish standardization and feasible implementation of the S.A.F.E. Act, along with effective enforcement authority to investigate, examine, and conduct action with licensees.

Please contact General Counsel Sue Rouprich at 225/922-1028 or by email at srouprich@ofi.louisiana.gov with any questions regarding this legislation.

LIQUIDITY/FUNDS MANAGEMENT

Nationally, credit unions are experiencing tighter levels of liquidity and, in a rising interest rate environment, could experience greater interest rate and liquidity risks. Cash and short-term investments as a percentage of total assets decreased nationally from 15.71 percent in 2007, to 14.62 percent in 2008, caused by a shift to longer-term investments and increased loan growth. For Louisiana state-chartered credit unions, cash and short-term investments remained relatively stable and decreased slightly from 23.85 percent in 2007, to 22.68 percent of total assets. For Louisiana state-chartered credit unions, this level remains above the 10-year national average of 16.83%.

Nationally, the Net Long-Term Asset Ratio increased from 30.01 percent in 2007, to 31.95 percent in 2008, which signals the potential for greater interest rate risk exposure, since a majority of the funding for the growth in long-term lending came from rate-sensitive shares. For Louisiana state-chartered credit unions, the Net Long-Term Asset Ratio increased from 14.89 percent in 2007, to 17.68 percent in 2008, which is well below the national average. However, Louisiana state-chartered credit unions have seen an increasing trend in this ratio over the past three years. Credit unions with higher levels of liquidity or interest rate risk are expected to have more thorough and comprehensive risk management practices and procedures. At a minimum, management should be reviewing its internal identification, measurement, and monitoring of liquidity and interest rate risks with the Board of Directors each month.

In addition, the Board of Directors should establish a ***Contingency Funding Plan (CFP)*** that clearly sets out the strategies for addressing liquidity shortfalls in emergency situations. A CFP should outline procedures to manage a wide range of stress-related scenarios (such as deteriorating credit quality or accelerated deposit runoffs), establish clear lines of responsibility, and provide clear and concise initiation and escalation procedures. Finally, the CFP should be tested and updated regularly to ensure that it remains functional.

The NCUA's Central Liquidity Facility (CLF) is also available to assist credit unions in meeting specific liquidity needs. Credit unions are not allowed to borrow directly from the CLF without being able to demonstrate a legitimate liquidity need. As a secondary source of liquidity, credit unions cannot use CLF loans to expand their loan or investment portfolios.

Membership is voluntary and open to all credit unions that purchase a prescribed amount of CLF stock as required Part 725.3 of the NCUA Rule and Regulation. There are two types of membership -- regular (for natural person credit unions) and agent (for corporate credit unions). Natural person credit unions may borrow from the CLF either directly as a regular member or indirectly through an agent member. There are three types of liquidity funding available through the CLF:

1) Short-term adjustment credits - Available to assist in meeting temporary requirements for funds or to cushion more persistent outflows of funds pending an orderly adjustment of credit union assets and liabilities. These advances are typically made for 90 days, but are available for periods up to 1 year.

2) Seasonal credits - Available for longer periods to assist in meeting seasonal needs for funds arising from a combination of expected patterns of movement in share and deposit accounts and loans. Seasonal credit advances are generally available for periods of up to 270 days.

3) Protracted adjustment credits - Available in the event of unusual or emergency circumstances for a longer period of time resulting from national, regional, or local difficulties. The terms for these advances vary.

Additional information can be found online at <http://www.ncua.gov/CLF/index.htm>

HURRICANE PREPAREDNESS

Preparations for the Upcoming Hurricane Season – In OFI Bulletin **BL-02b-2006 (CU)**, dated June 21, 2006, we requested and have compiled primary and secondary emergency contact information for your disaster recovery team that will only be used in the event that we have to deal with another wide-area disaster. The disaster recovery team is expected to maintain emergency contact information for the board and senior management. We will be sending each credit union a notice to update its disaster recovery team information in May. If you have any questions, please contact Executive Staff Officer Donna Montagnino at (225) 922-2627 or by email at dmontagnino@ofi.louisiana.gov. *Do we simply want to attach here?*

OFI remains as support to several emergency support functions within the Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP). In the event that we have to deal with another wide-area disaster, we will receive information through the GOHSEP. This information will then be shared with the industry through various means including: frequent conference calls; emails; postings to our website at www.ofi.louisiana.gov; and the TelSpan Conferencing Playback System.

You are again reminded that every parish is different in their precise requirements. While all parishes have a sheriff's office and an emergency preparedness office, we have found that they are entirely different agencies, often run by different people, and may have different requirements. We recommend that all credit unions contact the sheriff's and emergency preparedness offices for every parish in which you have a location or that you would need to enter to get to a location, maintain a contact name and phone number for each, and find out how to get on their list of responders that are allowed to re-enter after the area has been declared safe for critical businesses to return.

You need to be conservative in the number of employees that you request permission for re-entry and ensure that those individuals deal specifically with business pertaining to the credit union. Every person should have the necessary credentials or the entire vehicle has a chance of being denied entry. If you find that your parish does not have specific requirements for re-entry, we would suggest that, a minimum, the following credentials be maintained:

- A valid driver's license

- A credit union ID with picture [NOTE: If you are not comfortable providing non-credit union employees, such as vendors or contract workers, with a credit union ID, these individuals may get an InfraGard ID through the FBI. A website with more information is www.infragard.net.]
- Letter on credit union letterhead that identifies the business purpose for each employee's re-entry
- Letter on credit union letterhead and with identifying numbers for car that authorizes that vehicle as a critical infrastructure vehicle and names the specific business purpose to re-enter

If your parish has specific requirements, of course, you would have to abide by its requirements. Employees who re-enter a devastated area should be reminded that services such as electricity, phone, water, food, gasoline, supplies, security, or hospital/emergency services may be limited or non-existent; therefore, they should be able to sustain themselves and not expect to rely on the emergency workers who are trying to get the area ready for the general public to return. In the aftermath of Hurricanes Katrina and Rita, in some cases, gasoline and diesel fuel were confiscated by authorities when financial institutions were trying to truck it in for their generators. Also, security for returning employees should be a high priority.

If you have not already done so, you are again encouraged to review the Next Generation Network's V.Point Balance File Authorization (NGN V.Point BFA) program offered by the CU Cooperative Branching, LLC (CUCB) / Credit Union Service Corporation (CUSC). NGN V.Point BFA is designed to ensure that a credit union can continue to serve its members through the CUSC Next Generation Network in emergency situations without the expense of maintaining the real-time connection. For more information, you can contact either Kim Chiasson at (225) 292-4166 or Elida Doiron at (225) 293-5946 with the Louisiana Shared Branching Network Office.

(1) If you need to close an office in anticipation of a storm--

If any state-chartered financial institution finds it necessary to close any office as a precaution for the emergency, you may phone, fax, or e-mail a brief notice to this office in order to fulfill your statutory obligation under LSA-R.S. 6:128(C)(2).

Fax: (225) 925-4548, (225) 925-4524

Main Office phone number: (225) 925-4660; more specific phone nos. listed below

Preferred method of communication, if available--E-Mail: ofila@ofi.louisiana.gov

(2) If officers/managers evacuate prior to or after a storm--

If the officers/managers of any state-chartered financial institution have evacuated, please report your alternate contact information for customers and regulators and the status of your institution to us as soon as possible. Our preferred method of communication, if available to you, is via email to fila@ofi.louisiana.gov.

Supplemental OFI Contact Information:

ADDRESS	OFC. NO.	CELL NO.	EMAIL
John Ducrest, Commissioner	225/922-2627	225/938-2009	jducrest@ofi.louisiana.gov
Sid Seymour, Chief Examiner	225/925-4675	225/747-0718	sseymour@ofi.louisiana.gov
John Fields, Deputy Chief Examiner	225/922-0633	225/747-0723	jfields@ofi.louisiana.gov
Kerry Morris, Deputy Chief Examiner	225/925-4201	225/747-0722	kmorris@ofi.louisiana.gov

Richard Barnewold, Alexandria District Office Manager	318/487-5023	225/747-0725	rbarnewold@ofi.louisiana.gov
Judy Singleton, Baton Rouge District Office Manager	225/922-0366	225/747-0724	jlsingleton@ofi.louisiana.gov
Jim Rowland, Lafayette District Office Manager	337/262-5754	225/747-0726	jrowland@ofi.louisiana.gov
Dan Fuller, Monroe District Office Manager	318/362-5291	225/747-0727	dfuller@ofi.louisiana.gov
Burt Marlowe, New Orleans District Office Manager	504/846-6973	225/747-0728	bmarlowe@ofi.louisiana.gov
Marie Boucher, Shreveport District Office Manager	318/862-9706	225/747-0729	mboucher@ofi.louisiana.gov

(3) In the event of a catastrophic loss as a result of the storm--

In the event a state-chartered financial institution suffers the whole or partial loss of its main office or branch due to a hurricane or other natural disaster, it is unnecessary to seek the prior approval of this office in order to establish a temporary location to replace an existing branch or main office that has been damaged by this storm, and notice is given to this office, after-the-fact, of the creation of the temporary location and its municipal address. This will allow us to identify the location for record keeping purposes.

If you are closing a branch/facility for a limited time in order to complete repairs, you may notify this office and prominently post signs of your plans for restoration, alternate sites for customers to use, and potential timeframes for completion of the repairs without the express approval of this office.

Please contact me directly at (225) 925-4675 or by email at sseymour@ofi.louisiana.gov with any questions.

OTHER ISSUES AND/OR TOPICS OF INTEREST

NCUA Corporate Stabilization Efforts – On 1-28-09, the NCUA Board approved a series of actions designed to enhance and support the corporate credit union system. The corporate credit union system was facing unprecedented strains on liquidity and capital due to extraordinary market disruptions and the current economic climate. To counter the effects of these conditions, the NCUA Board approved the following actions that are detailed in NCUA Letters to Credit Unions No. 09-CU-02:

- Guaranteed uninsured shares at all corporate credit unions through 2-28-09, and established a voluntary guarantee program for uninsured shares of all corporate credit unions. The new rolling program provides for quarterly options through 12-31-12, which would extend the guarantee through 12-31-14.

- Issued a \$1 billion capital note to U.S. Central Corporate Federal Credit Union;

On 3-20-09, the NCUA placed U.S. Central Federal Credit Union, Lenexa, Kansas, and Western Corporate (WesCorp) Federal Credit Union, San Dimas, California, into conservatorship in order to stabilize the corporate credit union system and resolve balance sheet issues. The impact of these actions on natural person credit union financial statements was:

- An impairment of the NCUSIF deposit requiring a write-down (expense) of a portion, presently at 69 percent, of the credit union's NCUSIF deposit that is shown on the credit union's books as an asset, and

- An assessment of a premium equal to 0.30 percent of insured shares as of 12-31-08.

The current estimate for the write-down of the NCUSIF deposit and the premium assessment will, on average, reduce natural person credit unions' net worth by 65 basis points and produce a 72 basis point reduction in their ROAA for 2009. Based on our recent analysis, it appears that all Louisiana state-chartered credit unions have adequate net worth to absorb the stabilization expense charges and will remain "well-capitalized" pursuant to Part 702 of NCUA's Rules and Regulations. However, approximately 50 percent of the Louisiana state-chartered credit unions who recognized positive earnings in 2008 will likely incur negative earnings in 2009 as a result of the stabilization expense charges. Examiners have been instructed to evaluate earnings based on core earnings and consider the effects of the NCUA's corporate stabilization efforts as a "non-recurring" item in their analysis of capital and earnings. Management officials are urged to make strategic decisions based on core operations and not on the financial impact of the actions taken by the NCUA Board to stabilize the corporate credit union system.

Management is also reminded of its responsibility to make the appropriate accounting entries in this regard, pursuant to NCUA Accounting Bulletin 09-2, in order to ensure the accuracies of the credit union's 5300 Call Report. Additional information regarding the NCUA Corporate Stabilization Program is available at <http://www.ncua.gov/CorporateStabilizationProgram.html>.

Information on the NASCUS Website - You are again encouraged to periodically check the NASCUS website at <http://www.nascus.org> for information and updates on the most current matters affecting state-chartered credit unions. The Regulatory Affairs Section (<http://www.nascus.org/rules-summaries.htm>) contains details on proposed rules and requests for comments that may affect state-chartered credit unions. The Legislative Affairs Section (<http://www.nascus.org/legislative-updates.htm>) provides information and NASCUS' commentary on proposed federal legislation that may affect state-chartered credit unions. Generally, NASCUS comments only on federal legislation that may affect the dual chartering system, state-chartered credit unions, share insurance requirements, or infringe upon state regulatory authority. Please contact Deputy Chief Examiner Fields with any questions regarding NASCUS, its website, accessing the information, or understanding the purpose and intent of the various issuances and/or proposals.

For more information on NCUA Corporate Stabilization Program, there is a direct link on the NASCUS home page and under the Regulatory Updates Section near the bottom left. The link is entitled: <http://nascus.org/Regulatory/corp-stabilization-program.htm>

Unrelated Business Income Tax Update - As of 12-31-08, no additional Technical Advice Memoranda (TAMs) were released and made public in 2008 by the Internal Revenue Service on unrelated business income tax (UBIT). The IRS issued more than 25 TAMs in late 2006 and 2007 on UBIT from the audits of unidentified credit unions in Alabama, Connecticut and Colorado. The IRS has determined that the following services are not subject to UBIT:

- Sale of checks;
- Collateral protection insurance;
- Interchange income from VISA credit cards and checkcard programs

State Supervisory Authorities and NASCUS are in agreement that these products/services are consistent with credit unions' tax exempt purposes; however, the IRS still indicate that net income derived from the following products/services should be subject to federal taxation:

- Sale of accidental death and dismemberment (AD&D) insurance;
- Sale of group life, dental, health and cancer insurance;
- Car buying service and sale of car warranties;

- Sale of guaranteed auto protection (GAP) insurance;
- Sale of credit life and disability insurance;
- Sale of MEMBERS financial management services; and
- Fees from nonmember ATM usage.

While the TAMs do not set a precedent for all state-chartered credit unions, they could indicate how an IRS auditor may treat a state-chartered credit union in this regard. You are reminded that appropriate expense allocation will reduce the amount of income that is subject to taxation. If a credit union does not track specific cost centers for such items, it may be allowed to determine the amounts on a pro-rata basis, using the percentage that the unrelated business income represents of the credit union's gross income and net "pro-rata" expenses against the said income. Credit unions should consult with their CPAs/Auditors about Form 990T and seek advice regarding how to calculate the income and expenses relating to UBIT.

On 1-15-08, Community First CU (CFCU), Appleton, Wisconsin, filed a complaint in federal court challenging the Internal Revenue Service (IRS) on its determinations that certain insurance products offered to members fall outside the credit union's main mission and are subject to unrelated business income tax (UBIT). CFCU is seeking a refund of taxes paid on income from several insurance products. U.S. District Judge William C. Griesbach of the Eastern District of Wisconsin set the trial date for 5-11-09. The trial date and conduct of discovery schedule could change at any time.

On 5-20-08, Bellco Credit Union, Greenwood Village, Colorado, filed suit against the Internal Revenue Service (IRS) for a refund of more than \$199,000 paid in unrelated business income tax (UBIT). Bellco CU was the second state-chartered credit union to sue the IRS over UBIT. However, U.S. District Court Judge Christine M. Arguello announced on 12-22-08, that the 8-31-09, trial date has been "vacated" and a new trial date was not decided. Neither Bellco (Greenwood Village, Colo.) nor the IRS requested a trial date change, but the judge indicated a new trial date would be set sometime after a status conference between the two parties following a meeting on 6-19-09. Please contact Deputy Chief Examiner John Fields at (225) 922-0633 or by email at jfields@ofi.louisiana.gov with any questions.

Filing of IRS Form 990 - Management is reminded that the Internal Revenue Service (IRS) Form 990 tax return for the 2008 tax year is due to the IRS by May 15th. Non-profit entities are allowed to file for an automatic 3-month extension with the completion and submission of a Form 8868 to the IRS prior to the due date. The Form 990 is an informational return for non-profit entities and is different from the Form 990-T which is utilized to report Unrelated Business Income Tax (UBIT). This office is not prepared to provide accounting or legal advice regarding UBIT; however, you may contact Deputy Chief Examiner Fields at (225) 922-0633 or by email at jfields@ofi.louisiana.gov with questions regarding filing the IRS Form 990.

Upcoming Changes in 5300 Call Report and Report of Officials Submissions -- Please note that NCUA is in process of transferring the Report of Officials and the 5300 Call Report to an internet and web-page based system for the September 30, 2009, submissions. You will receive additional information from the NCUA regarding this matter in the near future. Please contact Deputy Chief Examiner Fields at (225) 9225-0633 or by email at jfields@ofi.louisiana.gov with any questions.

Closing Comments – Again, we are always looking for recommendations to improve the manner in which we conduct examinations and better serve our constituents. If you have noticed an area which needs improvement, please let me know. We truly want to be a resource to you and your credit union. You can call me directly at 225-925-4675, or email sseymour@ofi.louisiana.gov.