MEETING OF THE BOARD OF CREDIT UNION ADVISORS

April 29, 2010
1:00 pm

Utah Department of Financial Institutions
324 South State Street, Suite 201
Salt Lake City Utah

Minutes

BOARD MEMBERS PRESENT:
Sandra Garcia, Arleen Childs, Dennis Hymas

DEPARTMENT OF FINANCIAL INSTITUTIONS STAFF PRESENT:
Paul Allred, Commissioner Ed Leary, Orla Beth Peck, and Sonja Long

OTHERS PRESENT:
Stephen Nielsen and Heather Line – Utah League of Credit Unions; Bob Howell – Chevron-West Credit Union; Pam Wagstaff – Newspaper Employees Credit Union

1. **Call Meeting to order** – Chairman Dennis Hymas

2. **Minutes -**

Arleen Childs made the motion to accept the minutes, Sandra Garcia seconded it.

3. **Legislative Wrap-up – Paul Allred**

Paul went through the items from the legislative session that the department was watching.

HB 15 – Representative Dunnigan's bill amending our Chapter 23, the Payday Lending Act. It reduces the rollover period from 12 weeks to 10 weeks; it offers an extended payment plan, they have the option once a year to request an extended payment plan; it allows a borrower and the borrower's employer not to call the borrower at work; it requires the lenders to report how many people are taking advantage of the extended payment plan. All of these changes go into effect on May 11.

HB 243 – Representative Harper's bill, it puts in a requirement of notice to renters on foreclosed property.

Dennis asked about HB 241, we discussed it in the last meeting. Paul said that it died in committee.

SB 76 – Senator Valentine's bill, this modifies the language in the trust deed foreclosure provisions of the Utah Code. He wanted to do was to give an opportunity for a borrower to ask for the information to bring a debt current after the default period has run.

HB 53 – Representative Wilcox bill; concerned about foreclosure rescue operations. These are the companies that tell the public that if you are in the middle of a foreclosure, we can help you. Representative Wilcox met with our department and the Department of Commerce and told us that he thought these entities should be regulated. He asked who should be regulating these entities. It was decided that Consumer Protection division at the Department of Commerce should be the regulator. This bill makes that change.

4. New auto title law – Paul Allred

Paul said that he was aware of this bill, HB 404, but didn't really pay attention to it. At our last meeting, Scott had mentioned it. Orla Beth asked Paul to talk to the board about it. This bill makes some amendments to getting the payoffs on traded in cars. This puts in place a format for the dealer to notify lender that they have the vehicle and give the lender the opportunity to provide the title within a nine day period.

5. Payday lending solutions discussion

Stephen Nielsen started this discussion, payday lenders are really expensive for consumers. He thinks that that is the kind of thing that credit unions need to help members avoid or get around. There has been a lot of talk in the industry about this. He is kind of interested in hearing what everyone's thoughts are on this subject. He asked if NASCUS has talked about this at all. Orla Beth said that it really hasn't come up. She is aware of a couple of credit unions that have tried to come up with a payday lending alternative.

Her understanding that they have found that it is a product that is very difficult to offer, the rates are high because there is a lot of risk in that product. Federal credit unions have a cap of 18% on lending.

A discussion was held on some of the options available to help members avoid using payday lending. A copy of the department's "Guide to Payday Lending in Utah" brochure was given to everyone. And the department clarified what they can and cannot do as payday lenders and check cashers.

6. What keeps credit union CEO's/Regulators up at night – Orla Beth Peck

Dennis asked Orla Beth to go over a presentation that she made a couple of weeks ago at a Director's College that NASCUS sponsored. He said that the three things that she mentioned were exactly the three things that he tells his board members keep him awake at night.

Orla Beth that said the #1 thing that causes insomnia right now is interest rate risk. For the following reasons: we have been at historic lows for a long time now so every loan on your books has probably been re-priced to historic low rates. Also, she doesn't know of any financial institution that isn't liability sensitive. There could also be a high inflationary cycle coming in the future. Interest rate risk should be a factor in decisions that you make about loan products and investment products.

The #2 thing is the additional waves of mortgage foreclosures. We have seen the first wave that was probably caused by being overbuilt in a certain price range of homes. She has heard that there is the potential for another wave being caused by the Alt A or interest only adjustable rate (ARM's) that were available. They are now getting to the point that they are going to re-price or the interest only part of it is ending and now the payments are going to go up dramatically. You may not have any mortgage loans like that, but you may have a member who has one and when that re-prices it could affect whether they can make their car loan payment to you.

#3 is the bad economy; we are still a high bankruptcy state. What is a board to do about it, probably establishing policies dealing with reviewing your delinquencies and re-financing procedures? The NCUA just came out with a letter to credit unions; it is 09CU19 on mortgage lending modification programs. They are also recommending that you review your loan portfolio to identify borrowers who are experiencing difficulty.

The area that we didn't really touch on before is concentrations in loan products or investments. Too much of anything, even a good thing, can be bad. Orla Beth also recommends that when you set a limit for your loans and investments that you base those on capital not on total assets.

Orla Beth asked what keeps the credit union presidents awake at night. Commissioner Leary asked if membership decline was an issue, Orla Beth asked about the average age of the members. A brief discussion was held on those two issues.

A couple of other things that she wanted to mention, there has been some good news on the UBIT, Unrelated Business Income Taxes. A few years ago the IRS and a couple of states went into credit unions and did an audit and said that your insurance products, i.e. life savings and loan protection, those were not related to the business of a credit union and that was taxable income. They also determined that the fees on an ATM that wasn't related to the business of a credit union either. They issued a TAM, a Taxpayer Advice Memorandum, saying that you needed to pay taxes on that income. That only affects state chartered credit unions. There were two test cases, a Wisconsin credit union and a Colorado credit union, they sued the IRS over this and both of those cases were won. The first one was a jury trial and the Colorado case was decided by a judge.

Another issue, monthly the state regulators have a conference call with NCUA. We are able to ask questions from senior board members. Recently someone on that call posed the question 'Fannie Mae informed our credit unions that they will not accept mortgage after July 1 without the registration numbers of the loan officers. Obviously the registration is not available yet, has NCUA heard this and what's the latest on SAFE Act?' NCUA had not heard that, they were going to check with Fannie Mae to find out. Orla Beth believes that it might be a misunderstanding with Fannie Mae because that registration is not available for depositories. Paul explained that for the depositories you will have six months notice from when the system becomes available to when your loan officers have to be registered. They are not at a point yet where they have that worked out with Federal regulators. It will only be a registration for your loan officers; after they register they will get their unique identifier.

Another item from that call was that someone was told that any credit union that has a DOR will immediately be transitioned to LUA. NCUA said that is not their policy.

Last year NCUA charged a premium of about 20 basis points and there is probably going to be at least that much this year. NCUA would only say that it would be between 15 and 40 basis points this year. You can start accruing for that and showing it on your CALL report as a separate line item. It will give you a warning message on the CALL report.

7. FFIEC liquidity rule –

FFIEC has come out with new guidance on liquidity. Orla Beth gave out copies of it. This is not written with the small credit unions in mind. Orla Beth pulled out a few items that you should have. You should have a basic policy and understanding of your cash flow and liquidity needs. You should have contingency plans in place. You should monitor and be aware of your off balance sheet commitments. You should review members and be aware of potential withdrawal triggers.

8. Other business –

Commissioner Leary said that a subject has come up recently with ORE. There is no rule for credit unions on how to account for ORE. It would only apply to the credit unions that do real estate based lending, but occasion when you foreclose on it and you bring it back in, there is no requirement under state law on what you do with it and how you treat it. There is a rule for commercial banks and for industrial banks. He has asked Orla Beth to get with Paul and the other two supervisors over commercial banks and industrial banks and to write a rule that will be consistent across the industries. He has no time period in mind, but it should be really long. Eventually you, as credit unions, will see a rule that is consistent across all of the depository institutions. For example, one of the other ways, once you bring it in, you have to do a current appraisal on that property and then write the value down to that point. One of the rules says from that point you then have five years from that point to have it totally written off if you haven't sold it or disposed of it in some way. The other rule says that you have two years that you can hold it to try and sell it, but if you haven't at the end of those two years then you start writing off 20% a year.

9. Date of upcoming meeting – July 21, 2010 at 1:00 pm

10. Adjourn