MEETING OF THE BOARD OF CREDIT UNION ADVISORS

January 13, 2014
1:00 pm

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

Minutes

BOARD MEMBERS PRESENT:
Scot Baumgartner and Meagan Nattress.

DEPARTMENT OF FINANCIAL INSTITUTIONS STAFF PRESENT:
Ed Leary, Orla Beth Peck, Paul Allred, and Merisa Lanford

OTHERS PRESENT:
Stephen Nelson from Utah Credit Union Association and Scott Johnson from Provo Postal Credit Union.

1. Call meeting to order – Scot Baumgartner

2. Minutes

A quorum was not present. The approval of the minutes was postponed until the next meeting.

3. Member Business Loans (MBL) – Orla Beth Peck

The National Credit Union Administration (NCUA) put into place a Member Business Loan rule in the 1980's and each state is under that rule unless they get a waiver. Utah did not get a waiver; however, the legislature did put some more restrictive limitations for both individual limits and aggregate limits. Individual limit was changed in 2006 to be changed based on the Consumer Price Index inflation rate during the previous year. This generally takes place in January. It started out at $250,000 and it's up to about $283,000 now. The aggregate limit is 1.25 times your reserves but it does not include regular reserves or allowance. The aggregate limit is not tied to the Consumer Price Index so it only grows if the undivided earning and other reserves grow. Scott Johnson asked if it includes secondary capital. Commissioner Leary replied that our statute does not mention that specifically. Scott pointed out that secondary reserve is not regular reserve and only regular reserve is excluded not supplemental capital. Commissioner Leary also pointed out that at the time it was written supplemental capital was an unknown item and it is not specifically in the code.

Orla Beth said that there are some exceptions to the legal lending limit for MBLs. For individual loans a member can pledge money that is on deposit and the credit union can exceed their individual limit by that amount. There is also a provision for loans that are guaranteed by the SBA, the amount 100% guaranteed is not counted in the individual limit. However, the maximum on that is one million.

The NCUA still requires two years of experience by the credit union's loan officer in the kind of lending they are engaging in. MBLs are not available to the president or the credit manager but board members can have a MBL. NCUA also aggregates affiliated businesses. In 2006 NCUA did change the rule that said at least one member of the company's ownership had to be a credit union member for 6 months. They do still have to be members of the credit union, however.

Commissioner Leary asked Orla Beth if the examiners are seeing issues with MBLs on exams. Orla Beth said that there are some instances with missing corporate resolutions and such. LLCs are very common in property development and can get very complicated. Orla Beth said that there is some expertise regarding these issues within the examiners at DFI.

Orla Beth mentioned that what makes a loan a MBL is that it is for a business purpose. It does not necessarily have to do with the collateral. One matter of confusion is the 1 to 4 family dwelling. The member does have to live in part of that dwelling or it is considered a business purpose.

On the CALL Report the NCUA does not consider a loan a MBL unless it is over $50,000. However, the state does not have that minimum amount and would consider it a MBL.

4. Other Business

Orla Beth just returned from a trip to Washington DC for the National Association of State Credit Union Supervisors (NASCUS) Board Meeting and the overhead transfer was a topic of discussion. The overhead transfer is where the NCUA takes a percentage of their operation expenses from the Share Insurance Fund. Every year they seem to compute the amount differently. This year the overhead transfer for 2014 is increasing from 59.1% to 69.2% of NCUA's operating expenses. The impact that has for state chartered credit unions is that the credit unions are subsidizing the federals. Their supervision fee is lower than most state chartered credit unions around the country. Our break-even point is at about 50 million. It also means that there is less to distribute to the credit unions in the form of a dividend. Orla Beth said that NCUA Board approves the budget and they are comprised of only three members. The Federal Deposit Insurance Corporation (FDIC) Board is five members and most other boards are at least five people. NASCUS has talked about going to congress to get the NCUA Board increased to five individuals. NASCUS did talk about submitting detailed letters to all three board members as the first step. They could also submit a complaint to the NCUA's Office of Inspector General, or seek Congressional directives to the Governmental Accounting Office to do a study of the overhead transfer.

Orla Beth mentioned that the NCUA recently won a lawsuit against Bank of America regarding the corporates, so she does not believe that they will be charging the assessment this year.

Commissioner Leary said that going into the legislative session the department is supporting a bill to update outdated provisions in the statute. The supervisors each reviewed their chapters within the law and noted things that should be changed, updated and approved. The bill has been sponsored.

Commissioner Leary also brought up that the department goes off of the asset based assessment. That means that it's an average of the size of the institution and then we assess an annual fee based on a formula in the statute. That fee covers all costs associated with supervision, examination and everything else. However, because of some of the very large institutions that we have headquartered in Utah what the legislature has appropriated the department to spend has been higher. There is a bill to reduce that fee; however, there is not a sponsor yet. 2006 was the last increase and it makes sense to roll back the increase to pre-2006. The individual associations have a letter and a guesstimate based on last year's assessment for each institution as to what they anticipate the fee will be if this bill is adopted. The formula can be found in the code 7-1-401.

There are also two bills filed on the payday lending industry which will be looked at closely. This is partially due to what conspired with a change in attorney general. Scot Baumgartner asked about protection when it comes to companies financing their own loans. Commissioner Leary said they would register under Title 70 C where they notify the department that they are extending installment consumer credit and they have to comply with Regulation Z. The department responds to any complaints; however, we do not do a scope examination.

5. Next Meeting – April 8, 2014

6. Adjourn