

MINUTES OF THE HOUSE FINANCIAL INSTITUTIONS COMMITTEE

The meeting was called to order by Chairman Anthony Brown at 3:30 p.m. on January 20, 2010, in Room 784 of the Docking State Office Building.

All members were present except:

Representative Rob Olson- excused

Committee staff present:

Bruce Kinzie, Office of the Revisor of Statutes
Sean Ostrow, Office of the Revisor of Statutes
Melissa Calderwood, Kansas Legislative Research Department
Lauren Douglass, Kansas Legislative Research Department
Joyce Bishop, Committee Assistant

Conferees appearing before the Committee:

John P. Smith, Administrator, Kansas Department of Credit Unions
Haley DaVee, Assistant Vice President of Legislative & Public Affairs, Kansas Credit Union Association
J. Thomas Thull, Bank Commissioner, Office of the State Bank Commissioner
Doug Wareham, Senior Vice President, Government Relations, Kansas Banker's Association
Matthew Goddard, Vice President, Heartland Community Bankers Association

Others attending:

See attached list.

John P. Smith, Administrator, Kansas Department of Credit Unions, presented information on his organization (Attachment 1).

Representative Phil Hermanson introduced his intern for the 2010 session, Andrew Keehn.

Haley Davee, Assistant Vice President of State Legislative & Public Affairs, Kansas Credit Union Association, presented information on her organization (Attachment 2).

J. Thomas Thull, Bank Commissioner, Office of State Bank Commissioner, presented information on his organization (Attachment 3).

Representative Peter DeGraaf asked what percent of the banks are under supervision at the three, four and five levels, and what percent of the total bank assets does that include.

Commissioner Thull said he thought it was about 20% of the banks. He was uncertain of the percentage of total funds held by these banks.

Representative DeGraaf requested Commissioner Thull provide this information to the committee. Commissioner Thull agreed to provide it.

Doug Wareham, Vice President, Government Relations, Kansas Banker's Association, presented information on his organization (Attachment 4).

Matthew Goddard, Vice President, Heartland Community Bankers Association, presented information on his organization (Attachment 5).

Commissioner Thull addressed the committee again to report the answer to Representative DeGraaf's question was 19% of the banks are currently supervised under the levels of three, four and five. The percentage of total assets held by these banks are approximately 30%. He also said he will have bills he would like introduced in committee in the future.

CONTINUATION SHEET

Minutes of the House Financial Institutions Committee at 3:30 p.m. on January 20, 2010, in Room 784 of the Docking State Office Building.

The next meeting is scheduled for January 25, 2010.

The meeting was adjourned at 5:10 p.m.

KANSAS HOUSE FINANCIAL INSTITUTIONS COMMITTEE

January 20, 2010

**John P. Smith, Administrator
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History

The Kansas Department of Credit Unions (KDCU) is the state credit union financial regulatory agency authorized by the 1968 Kansas Legislature to provide for management, control, regulation and general supervision of state-chartered, Kansas credit unions.

Regulation of credit unions was performed under the supervision of the Kansas Bank Commissioner beginning in 1929 when Kansas law authorized the organization of credit unions and continued until 1968, when the authority to regulate credit unions was transferred to the Kansas Credit Union Administrator.

KDCU is fully funded as a fee fund agency operating solely on the revenue produced through fees collected from state-chartered credit unions examined and regulated by the agency.

All fees received by the agency are remitted to the state treasurer with 20% credited to the state general fund and the balance credited to the credit union fee fund.

Today, the Department has 12 FTE's consisting of an Administrator, a Financial Examiner Administrator, four Financial Examiner Principals, three Financial Examiner Seniors, one Financial Examiner, and two Administrative Specialists. (Attachment A offers an organization chart for the Department)

KDCU supervises and examines 84 natural person credit unions with assets of \$3,754,368,737 and 1 corporate credit union with assets of \$346,242,532. Kansas also has 22 federal-chartered credit unions regulated and examined by the National Credit Union Administration.

Share deposits in Kansas credit unions are federally insured through the National Credit Union Share Insurance Fund (NCUSIF), an arm of the National Credit Union Administration (NCUA).

Agency Function

KDCU is required by statute to examine every Kansas state-chartered credit union at least every 18-months to ensure financial stability and compliance with state and federal laws and regulations. Currently, the average period between examinations is just under a 13-month cycle, a standard the department has maintained since 2002.

In addition to examinations, statutes and regulations provide for KDCU to grant new charters, merge and liquidate credit unions when necessary and handle consumer complaints.

The National Association of State Credit Union Supervisors (NASCUS) accredits the Department, recognizing the Department's examination standards as equivalent to the standards established by the NCUA, the federal credit union regulator/insurer. The Department was accredited by NASCUS for the first time in 1995, re-accredited in 2000 and 2005 and will stand for our fourth accreditation review in March 2010, when the NASCUS accreditation team will conduct our on-site review.

Credit unions are member owned cooperatives. Their board and committees members are non-paid volunteers.

Selected information as of September 30, 2010:

- Total Assets: \$3,754,388,737.
- Total Members in Kansas: 538,983.
- Meritrust Credit Union, Wichita is the largest credit union in assets with \$642,043,074.
- Norwesco Credit Union, St. Francis is the smallest credit union in assets with \$159,013.
- The 5 largest credit unions make up 44.27% of the total assets or \$1,573,087,798.
- The 10 largest credit unions make up 63.81% of the total assets or \$2,366,170,448.
- The newest credit union, Catholics United Credit Union, Hutchinson, was chartered in 2005.

Kansas Credit Union Financial Performance

Third quarter (September 30, 2009) call report statistics indicate Kansas credit unions are faring better than federally insured credit unions nationwide.

Assets for Kansas credit unions increased annually by 12.49%; nationally by 7.74%. Credit union asset growth in Kansas continued but at a slower pace than that of the second quarter which was significantly slower than the first quarter. September 30 assets totaled \$3,754,388,737, an increase of \$416,737,981 since December 30, 2008.

Annualized loan growth increased by 10.90% compared with a 2.24% growth rate nationally.

Average net worth to total asset ratio increased 3 basis points to 10.84%; the ratio for all federal credit unions increased by 2 basis points to 10.05%. Credit union average delinquency increased by 11 basis points to 1.41% compared to an increase of 9 basis points for all federal credit unions nationwide.

The year to date annualized return on average assets was 0.80% before the NCUSIF Stabilization Expense and 0.69% after the expense. The average for all federally insured credit unions for the quarter was 0.25% before the expense and 0.28% after.

Administrator Responsibilities

The Administrator is charged with the responsibilities of management, control, regulation and general supervision of credit unions. This includes requiring every credit union to submit to an examination by the Department, consistent with the authority of the NCUA as insurer.

The Administrator may:

- Require an independent audit to be performed under standards established by the agency.
- Approve the merger, the sale or purchase of assets or the voluntary and involuntary dissolution of a credit union.
- Issue orders for corrective action for violations of law.
- Become the conservator for any credit union deemed insolvent and may appoint a liquidation agent.
- Suspend from office and prohibit from further participation in any manner in the conduct of the affairs of a credit union any director, officer, committee member or employee who has committed any violation of a law, rules and regulations or of a cease and desist order or who has engaged in or participated in any unsafe or unsound practice in connection with a credit union or who has committed or engaged in any act, omission or practice in connection with the credit union which constitutes a breach of that person's fiduciary duty as such director, officer, committee member or employee, when the administrator has determined that such action or actions have resulted or will result in substantial financial loss or other damage that seriously prejudices the interest of the members.
- Recommend the removal of directors, supervisory or credit committees or submit findings of dishonest, reckless or incompetent performance of duties to the board of directors, supervisory or credit committee or to the credit union members at a general meeting of the shareholders.

- Suspend the charter, merge, liquidate, or take possession of any credit union which fails to federally insure share deposits, which loses coverage or allows such coverage to lapse.
- Authorize any credit union to engage in any activity in which such credit union could engage were they operating as a federally insured credit union.
- Require a credit union to establish net worth accounts as set by law.
- Establish rules and regulations governing the powers of corporate credit unions.
- Establish rules and regulations governing loans to credit union members, directors and members of the supervisory or credit committees.
- Approve the purchase, lease or rental of real estate and improvements by credit unions.
- Approve the establishment, operation of branches or relocation of existing branches.
- Disclose or approve the disclosure of any confidential information secured or produced by the administrator in making an investigation or examination of a credit union.
- Approve a credit union's place of business or change in place of business.
- Approve a conversion of a state-chartered credit union to a federal charter.
- Authorize a credit union organized in another state to do business in Kansas.

In addition, the Administrator has:

- General charge of the work of the Credit Union Council and shall keep a permanent record of all meetings and proceedings of the council.
- Administrative supervision of all agency employees.

Examination Process

Each Kansas credit union is examined at least once every 18 months. The operations and condition of a particular credit union determine the length of time between examinations.

The KDCU on-site examination format is based on a system called AIRE (Automated Integrated Regulatory Examination System), which is used by both the state and federal

credit union regulators and provides for continuity between the state and federal examinations.

At the conclusion of each examination KDCU issues a CAMEL rating in Capital, Asset Quality, Management, Earnings, and Asset-Liability Management. From the individual ratings of 1 (least financial risk) to 5 (most financial risk) an overall composite rating of 1 to 5 is assigned. As of December 31, 2009, the ratings were

CAMEL 1	15
2	50
3	16
4	2
5	0

A credit union with a composite 3, 4 or 5 CAMEL rating receive an examination no less than 12 months from their last exam.

Each examination includes a comparison of the credit union's financial ratios to standards recognized by regulators, in addition to peer group statistics.

The examination report incorporates an examiner's findings into a Document of Resolution, which identifies the areas to be addressed by the credit union's board of directors.

All document of resolution items are tracked by KDCU for completion with follow-up contacts scheduled to review the credit union's progress.

As part of the regulatory process, KDCU requires every credit union to remit a quarterly financial report (call report) to update the Department and the federal insurer.

KDCU continues a major initiative regarding risk focused examinations which focus examination time and effort on areas of highest risk.

The risk-focused exam concentrates on seven areas: Credit Risk, Interest Rate Risk, Liquidity Risk, Transaction Risk, Compliance Risk, Strategic Risk and Reputation Risk.

The National Credit Union Administration defers the examination of Kansas's state-chartered credit unions to KDCU because the Department staff demonstrates the ability to conduct examinations equal in scope to any examination by the federal insurer.

Federal insurance examiners participate in joint examinations when KDCU and federal insurance fund representatives determine the need for a joint examination. KDCU examiners are in-charge of all joint examinations.

Credit Union Council

The Credit Union Council serves as an advisory group to the Administrator on issues and concerns of credit unions. The Council reviews proposed legislation and regulations under consideration by the agency as well as the Department's biennial budget.

Each of the seven members of the Council is appointed by the Governor for a term of three years and each may serve for two consecutive three-year terms. Five of the seven members shall be officers of state-chartered credit unions and four of these five Council members must be from different congressional districts and two are public members.

No more than four of the Council members may be from the same political party. The Council holds one regular council meeting during each quarter of the year and may hold other meetings, as the Council considers appropriate.

Credit Union System

Nationally the credit union system is a three-tiered system; natural person credit unions make up the base tier, state or regional corporate credit unions comprise the second tier with U.S. Central Federal Credit Union (U.S. Central) located in Lenexa, Kansas, the third-tier. U.S. Central is a wholesale credit union whose members are the 26 state and regional corporate credit unions. U.S. Central provides its 26 corporate credit union members with extensive investment, liquidity, and cash-management products and services. U.S. Central was chartered by the State of Kansas in 1974, in 2005; U.S. Central converted from a Kansas charter to a federal charter and is now regulated and insured by the National Credit Union Administration (NCUA).

In Kansas, Kansas Corporate Credit Union located in Wichita, Kansas, makes up the second tier of the credit union system. Kansas corporate is a wholesale credit union whose members are natural person credit unions. Kansas Corporate provides investment, payment systems and other services to their member owners. Kansas Corporate is chartered and examined by the Kansas Department of Credit Unions. Kansas Corporate is insured by the National Credit Union Share Insurance Fund administered by the National Credit Union Administration.

Funds from natural person credit unions that are not loaned to their member owners may be invested in the 26 state or regional corporate credit unions; Kansas credit unions may invest their excess liquidity in Kansas Corporate. Kansas Corporate in turn invests these dollars in U.S. Central. This is the credit union system.



KANSAS CREDIT UNION ASSOCIATION

To: House Financial Institutions Committee

From: Haley DaVee, Assistant Vice President of Legislative & Public Affairs

Date: Wednesday, January 20, 2010

Re: Credit Union Industry Update

The Kansas Credit Union Association appreciates the opportunity to comment today on the state of the credit union industry in Kansas. The 106 Kansas credit unions are not-for-profit financial cooperatives whose purpose is to serve the financial needs of their 560,000 member/owners.

Credit unions in Kansas are generally healthy and well capitalized. This stems in large part from the fundamental conservatism that arises from their cooperative structure. Though credit unions must maintain similar capital levels as banks for safety and soundness, credit unions cannot raise capital from outside sources when they face a shortage of capital. The only way for credit unions to maintain and grow their capital levels is through retained earnings.

It's interesting to note that credit unions were created and started to flourish in the United States during the Great Depression as consumers created opportunities for savings and lending through pooling their money together. Then, as today, credit unions provided another avenue for consumers and businesses to access credit. Credit unions today continue to serve their members as they cope with the economic recession. For example, Cessna Employees Credit Union, who serves Cessna employees, retirees, and their family members, has gone to extraordinary lengths to help serve their members during the massive layoffs. Among other things, they have helped their members by adjusting payment schedules, extending loan terms to lower monthly payments, and waiving accrued interest and fees.

Though Kansas credit unions are stable and well capitalized, they are not immune from feeling the effects of the worst economic recession that our state has seen in recent years. Due to the recession, Kansas credit unions are facing increasing pressures from forces that are outside of their control. There are two factors that impacted credit unions in 2009 and are shaping up to impact them in 2010.

Increased NCUSIF Assessments

The first is the increasing financial burden being placed on Kansas credit unions to replenish the share insurance fund as it has been drawn down from credit union failures in harder hit areas of the country. Though there have been no credit union failures in Kansas, our credit

unions in Kansas are sharing in the cost of replenishing the National Credit Union Share Insurance Fund. The burden has been substantial and could reach a high of 40 basis points or more in 2010.

<u>CU Asset Size</u>	<u>2009 NCUSIF Assessments</u>	<u>Projected 2010 Assessments</u> (assumes 40 bp assessment)
\$642 million	\$3,737,104	\$2,568,000
\$94 million	\$562,763	\$376,000
\$24 million	\$165,240	\$96,000
\$10 million	\$54,099	\$40,000
\$2.5 million	\$14,408	\$10,000

Increased Regulatory Scrutiny

The second factor that has impacted Kansas credit unions is the increasing volume of federal legislation and corresponding regulation that is being issued as the federal government attempts to prevent a similar crisis from occurring in the future. Attached you will see a list of the federal regulations that been handed down in 2009 and will impact us in coming years.

Coming into compliance with new regulations can sometimes be costly. For example, the CARD Act, which passed in May 2009, illustrates just how much cost can be incurred when trying to comply with federal regulations. The legislation was passed quickly and in the final stages wording was added that changed the impact of the legislation. Overnight this legislation went from having minimal impact to impacting a significant number of Kansas credit unions. In addition, the deadline for compliance was less than 3 months from when the legislation was signed into law.

As credit unions in Kansas and nationwide rushed to come into compliance with just one section of the new act, expenses soared. Numerous credit unions reported costs upwards of \$20,000 to come into compliance with continued expenses of upwards of \$40,000 per year. Though Congress realized that the impact on credit union was unintended and passed subsequent legislation to reverse it, many of the expenses had already been incurred by Kansas credit unions.

After addressing the CARD Act compliance issues, it only reinforces the importance of having a strong state charter option available in Kansas versus federal charter. Having a legislature and regulator who understands the impact of the any legislation and regulations imposed on financial institutions is very important.

Thank you again for the opportunity to give you an update on the state of the credit union industry. I would be happy to stand for questions at the appropriate time.

**MAJOR FEDERAL REGULATORY DEVELOPMENTS
IMPACTING CREDIT UNION COMPLIANCE REQUIREMENTS
2009 through 2010**

Prepared January 18, 2010

- 1/09** **New Unfair and Deceptive Acts & Practices defined for credit cards.**
The changes prohibit a number of abusive credit card issuer's practices as established under the new law. (Federal Reserve)
- 4/27/09** **Final guidance issued to BSA – exemptions for CTR reporting requirement.** Financial institutions are allowed to establish a list of exempt businesses for purposed of reporting (FinCEN, NCUA)
- 6/30/09** **New rules for guidance on funding and liquidity management risk placed for comments.** An interagency request for comments was released to propose changes to the existing rules as applied to the federal banks, thrifts and credit unions. (NCUA, Federal Reserve)
- 7/02/09** **Regulation D – removal of limitation on three withdrawal or transfers on savings or share draft accounts.** Allows for up to six withdrawals or transfers for certain types of accounts. (Federal Reserve)
- 7/30/09** **New early truth in lending disclosure requirements become effective:** Amendments to Regulation Z implement revisions to the Truth in Lending Act. (Federal Reserve)
- 7/30/09** **New mortgage disclosure rules to implement requirements of the Mortgage Disclosure Improvement Act of 2008 become effective:** Amendments to Regulation Z implement MDIA, revisions to the Truth in Lending Act. (Federal Reserve)
- 8/20/09** **Two Credit CARD Act of 2009 provisions become effective:** Regulation Z is revised to provide 45 days' notice of credit card change-in-terms. A second provision on the 21-day mailing requirement applicable to all open-end loans was a critical compliance problem for credit unions, but Congress amended the Credit CARD Act in the fall of 2009 to correctly limit the rule to credit cards. (Federal Reserve)
- 10/1/09** **Additional Regulation Z mortgage lending rules under HOEPA become effective for "higher priced loans," as well as new advertising rules for all HELOCs (home equity lines of credit) and closed-end mortgage loans.** (Federal Reserve)
- 1/1/10** **New rules under the Real Estate Settlement Procedures Act (RESPA) become effective:** Lenders must comply with new Good Faith Estimate

rules and provide borrowers with revised GFE and HUD-1 settlement forms. (HUD)

- 1/1/10** **New disclosure requirements for overdraft protection programs are required:** Under new Truth in Savings rules, depository institutions have to disclose on their periodic statements both the monthly and year-to-date fees charged for overdrafts and returned items (NSF). (NCUA, Federal Reserve)
- 2/14/10** **New disclosure requirements for private educational loans are required:** Regulation Z is amended to expand information on student loans. (Federal Reserve)
- 2/22/10** **Most credit card rules go into effect:** The rules implementing most of the Credit CARD Act, which impose broad restrictions on credit card programs by amending Regulation Z, were finalized in early January, and effective in six weeks. (Federal Reserve)
- 2/27/10** **Fed moves all its check processing to one location:** This change makes all checks "local" under the Expedited Funds Availability Act of 1987 rules (Regulation CC), impacting depository institutions' disclosures and availability schedules. (Federal Reserve)
- Mid 2010** **New mortgage staff registration requirements are expected to be finalized at any time:** The FDIC released draft final rules in November 2009, but the other agencies have not approved the rules that will require employees involved in originating mortgage loans (including HELOCs) to register annually with a national database; the actual registry is still being developed in coordination with the states – expect registration in the second half of 2010. (NCUA, federal banking agencies)
- 6/1/10** **New Internet gambling regulations go into effect, implementing the Unlawful Internet Gambling Enforcement Act of 2006:** These regulations, requiring financial institutions to block payments by check, credit card or other payment means to illegal gambling enterprises postponed, were postponed from the original Dec. 1, 2009 date at the very last minute under pressure from Congress. (Federal Reserve, Treasury)
- 6/1/10** **Identity theft red flag rules for state chartered credit unions go into effect:** As required by the Fair and Accurate Credit Transactions Act of 2003 (FACTA), institutions have to have written identify theft programs with certain protection; the rules have been postponed several times for entities under the Federal Trade Commission's jurisdiction. (FTC)
- 7/1/10** **New restrictions on overdraft protection programs become effective:** As an amendment to Regulation E, depository institutions must obtain the

checking accountholder's permission ("opt in") to be charged a fee on overdrafts created by ATM withdrawals or one-time debit transactions; there is an August 15, 2010 effective date for existing accounts. (Federal Reserve)

- 7/1/10** **Major revisions to the regulations governing open-end loans go into effect:** This is the first comprehensive revision of the Regulation Z/Truth in Lending rules applicable to all open-end loans, including other credit card revisions, in a quarter of a century, which require new policies and procedures, revised forms, major data processing changes, and comprehensive staff training. (Federal Reserve)
- 7/1/10** **More revisions to the FACTA rules go into effect:** Guidelines address furnishing accurate information to credit bureaus and regulations address when furnishers of information to credit bureaus must directly investigate a consumer dispute. (NCUA, FTC and the federal banking agencies)
- 8/22/10** **The last of the Credit CARD Act rules go into effect:** Under Regulation Z, the Federal Reserve will determine what are reasonable and proportional penalty fees and charges, and how credit card issuers are to reevaluate every six months any interest rate increase imposed since January 1, 2009. Also, new rules on gift card fees and expiration dates go into effect (comment period closed in December 2009 on the gift card proposals). (Federal Reserve)
- 1/1/11** **The last major set of FACTA rules go into effect:** Risk-based pricing rules require a special notice to consumers who will get credit on terms "materially less favorable than the most favorable terms available to a substantial portion of consumers" when that decision is based on information from the consumer's credit report. (Federal Reserve, FTC)
- 1/1/11** **New "model" privacy notices should be used:** Although these forms are not mandated, the agencies are removing the "safe harbor" compliance protection for existing privacy forms, so institutions will shift to the new disclosures. (NCUA and other federal agencies)
- Pending:** **Major revisions to Regulation Z's provisions on closed-end mortgage lending and HELOC loans:** These rules are expected to be finalized during 2010 (comment periods closed in December 2009), with an effective date probably 18 months after the final rules are released.
- Pending:** **More guidelines addressing federal flood insurance rules should be finalized soon:** Comments were solicited in the fall of 2009.

Pending **New rules under BSA regarding the transferring and reorganization of regulations become effective:** Regulatory obligations applicable to a particular industry will be located in an industry specific Part. (FinCEN)

Pending **New rules under BSA regarding the Suspicious Activity Reports to financial institution board of directors.** Provides guidance for financial institutions regarding what information from the report should be provided to the board of directors. (FinCEN)

Since mid-2009, there have been many other rules and regulations that credit unions have had to track – rules either finalized in the last 6 months of 2009 or have been published in proposed form for public comments -- that impact credit union compliance programs, such as rules on:

- **Monetary reserve requirements (Regulation D) (Federal Reserve)**
- **Bank Secrecy Act programs (many recent actions by the Financial Crimes Enforcement Network – FinCEN – on customer identification, accountholder addresses, money service businesses, suspicious activity reports, currency transaction report exemptions, etc.)**
- **Reclamation procedures (Treasury)**
- **Reverse mortgages (NCUA and other agencies)**
- **Share insurance (NCUA)**
- **Home Mortgage Disclosure Act (HMDA) (Federal Reserve)**

In addition, a number of other regulatory issues affecting credit union operations, such as proposals on corporate credit unions, field of membership policies, guidelines on interest rate risk, loan modification guidance, etc. are under review by various federal regulators.



OFFICE OF THE STATE BANK COMMISSIONER
 J. THOMAS THULL, Bank Commissioner

HOUSE FINANCIAL INSTITUTIONS COMMITTEE

January 20, 2010

To: House Financial Institutions Committee
 From: J. Thomas Thull, Bank Commissioner
 Date: January 20, 2010
 Re: Banking Industry Update

A. OSBC State Bank Examination Rating Data Sheet - 2010

Week Period	Not Rated	1	2	3	4	5	Total / 3-4-5
1/1/10	4	85	111	30	13	4	247 / 4
Community National Bank, Topeka, converts to a state bank effective 1/1/2010							
1/8/10	4	85	111	30	13	4	247 / 4
1/15/10							

Banks without a rating: ASB, Great Bend; Gardner Bank; The Farmers Bank of Osborne; and Community Bank, Topeka.

B. OSBC Trust Dept/Company Examination Rating Data Sheet - 2010

Week Period	Inactive	Not Rated	1	2	3	4	5	Total Active Departments
12/31/09	26	4	21	16	0	0	0	41

The 4 active trust departments that have not been examined are:

- Union State Bank, Clay Center
- Silver Lake Bank, Topeka
- First Option Bank, Osawatomie
- Denison State Bank, Holton

Week Period	Not Rated	1	2	3	4	5	Total Companies
12/31/09	1	7	2	0	0	0	10

The trust company that has not been examined is: Columbian Trust Company, OP

C. ENFORCEMENT ACTIONS

54 Active and 3 Pending for a Total of 57
Board Resolution 8
Memorandum of Understanding 29
Cease & Desist 15
Written Agreement 5

D. Bank Closings

Closed Solutions Bank, Overland Park, KS 12/11/09

E. Bank Charter Conversions in 2009

Farmers Bank, Osborne
University Bank, Pittsburg
Gardner Bank, Gardner
Community Bank, Topeka

F. Industry Financial Data

	<u>12/31/08</u>	<u>9/30/09</u>
Total Assets	\$50.7B	\$49.6B
Total Deposits	\$40.0B	\$39.7B
Allowance for Loan Loss	\$526MM	\$678MM
Total Capital	\$4.99MM	\$5.0MM
Noncurrent Loans and Leases	\$783MM	\$1.28B
Restructured Loans	\$38MM	\$67MM
Earning Assets	\$46.8B	\$45.7B
Fed Funds	\$2.09B	\$1.52B
Interest Income	\$2.8B	\$2.4B annualized
Provision of Loan Loss	\$411MM	\$497MM
Net Income	\$366MM	\$113MM annualized

G. Industry Issues

Asset Quality
Earnings
 FDIC Assessments
 FDIC Special Assessments
 State Assessment rates decreased by 10% for 2010
Liquidity
Regulatory Burden

H. CML Industry Issues

7,000 entities under supervision as of 1/1/10
42 New Companies in FY
Exams and Investigations in 2009 yielded \$2.6MM in refunds and savings
84 Enforcement Actions finalized in 2009
Sponsor numerous Personal Finance programs for children and adults
Continue monitoring Foreclosure Avoidance opportunities and Creative lending

I. The OSBC issued one special order during 2009.

This Order provides state banks with the authority to issue preferred stock in par value amounts that the commissioner approves. The Order was required to ensure that state chartered banks are able to participate in the Treasury's Capital Purchase Program to the same extent as national banks. As you know, the rules concerning the distribution of TARP moneys have been developing over a short period of time, with Treasury adjusting their procedures as needed. Similarly, the Order was required to address these new procedures as quickly as possible. Because the Order requires approval of the par value amount by our office, I believe it properly balances the goal of maintaining the competitive equality of state banks with the obligation of my office to ensure the safe and sound operation of the banks.

This Order issued this 30th day of January, 2009, by the State Bank Commissioner ("Commissioner").

WHEREAS, 12 U.S.C. §51a and 12 C.F.R. §5.46 authorize a national bank to issue preferred stock of one or more classes, in such amount and with such par value as shall be approved by the Comptroller of the Currency; and

WHEREAS, state law provides that state banks may issue preferred stock, but that the par value shall be divided into shares of \$5 each or a multiple thereof; and

WHEREAS, K.S.A. 9-1715 provides the Commissioner with the power to authorize state banks or trust companies to engage in any activity in which such banks or trust companies could engage were they operating as any other insured depository institution, including a national bank; and

WHEREAS, the United States Treasury has established a Capital Purchase Program pursuant to which it may purchase preferred stock of certain banks pursuant to the authority granted in the Emergency Economic Stabilization Act of 2008, P.L. 110-343; and

WHEREAS, the Commissioner deems the issuance of this Order to be reasonably required to preserve and protect the welfare of state banks and to promote the competitive equality of state and national banks in connection with a state bank's ability to participate on the same terms as a national bank in the Capital Purchase Program;

IT IS THEREFORE ORDERED that Kansas state banks shall have the authority to issue preferred stock of one or more classes, in such amount and with such par value as shall be approved by the Commissioner; and

IT IS FURTHER ORDERED, pursuant to K.S.A. 9-1715(b) as amended, that the terms of this Order shall become effective January 30, 2009 and shall remain in full force and effect until amended or revoked by the Commissioner.

IT IS SO ORDERED.

STATE BANK COMMISSIONER

J. Thomas Thull



Date: January 20, 2010
To: House Financial Institutions Committee
From: Doug Wareham, Senior Vice President-Government Relations
Re: Banking Industry Update:

Mr. Chairman and members of the Committee, I am Doug Wareham appearing on behalf of the Kansas Bankers Association (KBA). KBA's membership includes 322 Kansas banks that provide financial services in 440 towns and cities across the state. Kansas banks currently employ just over 14,000 Kansans. I appreciate the opportunity to provide you with an update from the front lines of the banking industry in Kansas.

Attached to my testimony is a "State of the Kansas Banking Industry" statement (Attachment 1), which we, along with Matt Goddard with the Heartland Community Bankers Association prepared for the Kansas Chamber of Commerce. It is my understanding the Chamber is compiling a summary of the impact of increased fees and regulatory costs that businesses are experiencing in the aftermath of the recession. I strongly encourage each of you to review this summary, which provides a detailed account of what I will be focusing on today.

I would like to begin by stating that while our industry is currently working through one of the most challenging economic periods in our state and nation's history, the overwhelming majority of Kansas banks remain safe and well-capitalized. I also want to commend the Office of the State Bank Commissioner for their responsiveness to state-chartered banks in Kansas and the communities they serve. Kansas banks and individual Kansas bankers will play a significant role in leading the economic recovery that we know is on the horizon.

As we enter 2010, the Kansas banking industry continues to face significant local economic challenges caused largely by depressed commercial and residential real estate markets and in some regions the negative impacts of rising unemployment. Kansas banks are dealing with two costly factors that you may not have considered:

1. FDIC Assessments (Banks required to pre-pay assessments for 2010, 2011 and 2012)
 - a. Examples

<u>Bank Asset Size</u>	<u>08 FDIC Premiums</u>	<u>09 FDIC Premiums (Plus Pre-Paid)</u>
\$3.6 billion	\$700,000	\$18,600,000
\$248 million	\$68, 500	\$1,256,243
\$115 million	\$13,029	\$701,800
\$68 million	\$18,000	\$364,000
\$38 million	\$5,620	\$207,000

2. Increased Regulatory Scrutiny (45 new Federal laws, rules or regulations in 2009 alone)
 - a. See Attachment 2 (Bank Regulatory Proposals List)

Thank you for the opportunity to share comments and I would be happy to stand for questions.

State of the Kansas Banking Industry

The recent economic recession that has gripped the entire nation has taken a significant toll on the Kansas banking industry during the past 16 months. Since the onset of the recession and accompanying crisis within the financial services sector, Kansas has experienced four separate bank failures. Banks in Topeka, Anthony, Paola and Overland Park have succumbed to the pressures of a nationwide collapse of the housing market and significantly increased scrutiny of commercial lending by federal regulatory authorities that provide oversight for the banking industry. Bank lending is a lagging economic indicator. In spite of the fact that our national economy, in terms of gross domestic product (GDP), is once again achieving positive numbers, much of the negative financial impact from the 2008-2009 recession is just now being realized by Kansas banks and in turn, the communities they serve.

Two major factors impacting Kansas banks as we enter 2010 are: 1) the financial impact of Federal Deposit Insurance Corporation (FDIC) assessments paid by all Kansas banks and thrifts to help replenish FDIC's Deposit Insurance Fund, and 2) the dramatically increased regulatory scrutiny of commercial and residential lending activities in the wake of the recent economic recession. Brief descriptions of these two factors are provided below:

FDIC Assessments: FDIC Insurance has always been paid, in total, by bank premiums. Not a single taxpayer dollar has been used to fund the FDIC. During the past two years, 178 financial institutions (banks & thrifts) have failed nationwide, which has significantly depleted FDIC's deposit insurance fund. In order to replenish the deposit insurance fund, all banks and thrifts not only recently submitted their 2009 assessments (premiums) to the FDIC, but were additionally required to pre-pay assessments (premiums) for 2010, 2011 and 2012. These assessments paid to the FDIC by Kansas banks ranged from just over \$20,000 for one of the smallest banks in Kansas to more than \$27 million for one of the largest banks operating in Kansas. These payments to the FDIC are draining millions of dollars from Kansas banks, and are significantly impacting the profitability of financial institutions in Kansas.

Regulatory Scrutiny: In the wake of the economic recession, federal regulatory agencies have introduced a myriad of new laws, rules and regulations that directly impact community banks. During the past 16 months, more than 45 new rules and regulations have been proposed by federal regulators including the Federal Reserve, Federal Deposit Insurance Corporation (FDIC), Office of the Comptroller of the Currency (OCC), U.S. Department of Housing and Urban Development (HUD), U.S. Securities & Exchange Commission (SEC), Federal Trade Commission (FTC) and the U.S. Treasury Department's Financial Crimes Enforcement Network (FinCEN). A complete listing of these pending and approved rules can be obtained at:

www.ksbankers.com/core/contentmanager/uploads/publiccontent/publications/bankreglist09.pdf

This laundry list of new requirements increases the cost of doing business for every Kansas bank – whether it be due to the need for additional staffing, additional disclosures, or additional fees. Additional costs associated with these new regulations are estimated to range from \$8,000 annually for small institutions to more than \$175,000 annually for larger banks. In addition, regulators are requiring additional capital at the same time when accounting rules are forcing institutions to drive down the value of their loans. Consider that each dollar not committed to capital is leveraged into \$10 worth of loans – that means there are a lot fewer dollars now available for lending due to these regulatory requirements.

Information provided by the Kansas Bankers Association (KBA) and Heartland Community Bankers Association (HCBA). For more information contact Doug Wareham or Kathy Olsen at (785) 232-3444 or Matt Goddard at (785) 232-8215.

BANKING REGULATORY LISTING FOR 2009

ISSUED	AGENCY	REGULATION	STATUS	COMPLIANCE DATE OR COMMENTS DUE
November 27, 2009 November 18, 2009	Federal Reserve U.S. Treasury	Regulation GG Unlawful Internet Gambling	Final	Compliance due December 1, 2009 Extended to June 1, 2010
November 27, 2009	FDIC, OCC, FED	Regulatory Capital Standards FASB Statements 166, 167	Proposed	Comments due October 15, 2009
November 17, 2009	FDIC, OCC, FED	Regulation P – Privacy Model Notices	Final	Compliance due January 1, 2011
November 16, 2009	Federal Reserve	Gift Card Provisions of the Credit Card Act	Proposed	Comment due December 21, 2009
November 16, 2009	FinCEN	Expansion of Information Sharing to Deter Money Laundering/Terrorism	Proposed	Comments due December 16, 2009
November 16, 2009	Federal Reserve	Regulation Z; Helping Families Save Their Homes Act 2009; notice to consumers when mortgage sold or transferred	Interim Final	Compliance due early 2010
November 13, 2009	FDIC, OCC, FED	Registration of Mortgage Loan Originators	Final	Compliance due 2010
November 13, 2009	HUD	RESPA; Restraint in enforcement of new regulations		
November 13, 2009	FDIC, OCC, FED	Residential Mortgage loans modified per Making Home Affordable Program	Final	Compliance June 30, 2009
November 12, 2009	Federal Reserve	Regulation E on Overdrafts; Opt-in (ATMs, one-time debit card transactions)	Final	Compliance due July 1, 2010
November 12, 2009	FDIC	Prepaid Assessments	Final	Compliance due November 17, 2009

October 22, 2009	Federal Reserve	Incentive Compensation guidance	Proposed	Comments due November 27, 2009
October 5, 2009	Federal Trade Commission	Guidance on use of endorsements/testimonials in advertising	Final	Compliance due December 1, 2009
September 29, 2009	Federal Reserve	Regulation Z under Credit Card Act provisions effective 2/22/2010	Proposed	Comments due November 20, 2009; Compliance due February 22, 2010
September 28, 2009	FDIC, OCC, FED	Protecting Tenants at Foreclosure Act	Final	Compliance due May 20, 2009
September 25, 2009	FDIC, OCC, FED	Correspondent concentration risks	Proposed	Comments due October 26, 2009
September 24, 2009	Federal Reserve	Regulation S – Costs incurred by banks producing customer financial records	Final	Compliance January 1, 2010
September 9, 2009	FDIC	FDIC Deposit insurance \$250,000 extended; revocable trusts/mortgage servicing accounts	Final	Compliance due October 19, 2009
September 1, 2009	NACHA	ACH Operating Rules on extending adjustment entries and mobile ACH payments	Proposed	Comments due October 16, 2009; Implementation date December 17, 2010
August 27, 2009	FDIC	Extension of TAGP through June 30, 2010	Final	Ends June 30, 2010
July 30, 2009	Federal Reserve	Regulation Z; disclosures for private education loans	Final	Compliance due February 14, 2010
July 24, 2009	SEC	Municipal Securities disclosure amendments	Proposed	Comments due September 8, 2009
July 23, 2009	Federal Reserve	Regulation Z changes to Disclosures on Closed-end mortgages, HELOCs	Proposed	Comments due December 24, 2009
, 2009	FDIC, OCC, FED	Interagency Q&As on Flood	Final, Proposed	Compliance due September 21, 2009; Comments

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		Insurance with proposal on five other questions		due September 21, 2009
July 15, 2009	Federal Reserve	Regulation Z Credit Card Act 2009 provisions – Open end credit plans	Interim Final	Compliance due August 20, 2009, February 2010, August 2010
July 14, 2009	Federal Reserve	Regulation Z “higher priced mortgages”	Final	Compliance due October 1, 2009
July 2, 2009	FDIC, OCC, FED	FACTA – Furnishers of Information to Credit Reporting Bureaus	Proposed	Comments due August 31, 2009
July 2, 2009	FDIC, OCC, FED	FACTA- Accuracy/Integrity of information furnished to CRAs	Final	Compliance due July 1, 2010
June 30, 2009	FDIC, OCC, FED	Interagency guidance on funding/liquidity risk management	Proposed	Comments due September 4, 2009
June 24, 2009	FDIC, OCC, FED	Regulation BB - CRA	Proposed	Comments due July 30, 2009
June 23, 2009	FDIC	Annual audit/reporting requirements	Final	Compliance due August 6, 2009
June 11, 2009	FDIC, OCC, FED	FACTA – FAQs on Identity Theft	Final	
June 5, 2009	FinCEN	BSA – Mutual funds as financial institutions	Proposed	Comments due September 3, 2009
May 29, 2009	FDIC	Interest rate restrictions on institutions that are less than well capitalized	Final	Compliance due January 1, 2010
May 20, 2009	Federal Reserve	Regulation D – Elimination Three Withdrawal/transfer limitation	Final	Compliance due July 2, 2009
May 12, 2009	FinCEN	Money Services Businesses definition	Proposed	Comments due September 9, 2009
May 11, 2009	Federal Reserve	Regulation Z – Early TIL disclosures	Final	Compliance due July 30, 2009
May 11, 2009	Federal Reserve	Unfair/Deceptive	Proposed	Compliance due July 1, 2010

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		Acts/Practices on credit cards – Clarification		
March 3, 2009	OCC, FinCEN	SAR confidentiality	Proposed	Comments due June 8, 2009
February 4, 2009	FDIC	Sweep account disclosures	Final	Compliance due July 1, 2009
January 6, 2009	FDIC, OCC, FED	Regulation BB – CRA interagency Q&As	Final	
December 5, 2008	FinCEN	BSA – Exemptions from CTR reporting requirements	Final Guidance	Compliance due January 5, 2009 August 31, 2009
November 17, 2008	HUD	RESPA amendments (GFE/HUD 1)	Final	Compliance January 1, 2010, January 16, 2009
November 7, 2008	FinCEN	Transfer and reorganization of BSA regulations	Proposed	Comments due March 9, 2009
October 20, 2008	Federal Reserve	Regulation C – HMDA reporting higher priced mortgages	Final	Compliance due January 1, 2010



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To: House Financial Institutions Committee

From: Matthew Goddard
Heartland Community Bankers Association

Date: January 20, 2010

Re: Financial Services Industry Update

The Heartland Community Bankers Association appreciates the opportunity to appear before the House Committee on Financial Institutions to share our thoughts on the current environment for the financial services industry in Kansas. Although these are trying times for all citizens of Kansas, both individual and corporate, we remain optimistic about the future.

The Heartland Community Bankers Association represents thrifts in Kansas, Colorado, Nebraska, Oklahoma and other Midwest states. There are 16 federally chartered thrifts headquartered in Kansas with more than 1,500 employees. Our members specialize in residential mortgage lending. During the first nine months of 2009, Kansas savings associations made more than \$2 billion in residential mortgage loans.

Kansas thrifts have not been immune to the recession that began in December 2007. Difficulties with housing markets and the collapse of government sponsored enterprises such as Freddie Mac and Fannie Mae have triggered a great deal of tumult in the mortgage industry. Although thrifts and other mortgage lenders are still willing to make loans, many consumers have been hesitant to borrow out of fear for their own financial future. In addition, most private mortgage insurers are no longer insuring loans when the borrower makes a down payment of less than five percent. Although this may be prudent and help borrowers in the long run, in the short term it delays buying a home for borrowers who must now save for a down payment.

For some financial institutions, the regulatory response to our nation's economic crisis has had more of a negative impact than the crisis itself. With real estate losses growing throughout the country, regulators, the Office of Thrift Supervision in the case of thrifts, are requiring institutions to set aside more capital to help cover potential losses. This means that money once made available to borrowers is now being held in reserves. Regulators are also forcing lenders to write down the value of their loans, especially for commercial real estate, triggering the need for more capital to cover the written down loans. This also results in lenders tightening their underwriting standards. At the same time that Congress and the White House are encouraging financial institutions to lend more to help jump start the economy, regulators are in effect saying to lend less. While money is still available for loans, it is not as readily available as it was before the recession. This would appear to have more of an impact on commercial borrowers and developers than home buyers with good credit.

In response to the crisis on Wall Street, Congress is considering regulatory reform. Although much of the media attention is focused on institutions considered "Too Big to Fail," thrifts are in the crosshairs of the congressional debate. The Obama Administration has proposed eliminating the thrift charter and its federal regulator. A proposal from Senator Chris Dodd (D – Conn.), chairman of the Banking Committee, would eliminate OTS and prohibit new thrift charters. Although the reform legislation passed by the House of Representatives preserves the thrift charter, it would eliminate an independent thrift regulator and make OTS a division of the Office of the Comptroller of the Currency. HCBA worked in the House to improve the reform bill and we will continue to fight for the thrift charter in the Senate.

Also happening in Washington, the Deposit Insurance Fund administered by the Federal Deposit Insurance Corporation and funded by insured depositories has been significantly depleted to pay depositors who lost money in failed institutions. In order to keep the Fund solvent without taxpayer support, the FDIC has required DIF-insured institutions to prepay their deposit insurance premiums for 2010, 2011 and 2012. This advance payment was due on December 30, 2009. The largest institution in Kansas, an HCBA member, paid over \$27 million in advance premiums. The advance premiums follow a 10-basis point special assessment earlier in the year. This is money that can no longer be used for loans or other investments.

Despite the challenges facing our industry, HCBA members remain solvent and well-capitalized. They are still making loans in their communities and we expect them to continue doing so for many years to come.

Thank you for your kind consideration of these thoughts.