Approved: 1-26-10
Date

MINUTES OF THE SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

The meeting was called to order by Chairman Ruth Teichman at 9:30 a.m. on January 20, 2010, in Room 152-S of the Capitol.

All members were present.

Committee staff present:
Ken Wilke, Office of the Revisor of Statutes
Melissa Calderwood, Kansas Legislative Research Department
Terri Weber, Kansas Legislative Research Department
Beverly Beam, Committee Assistant

Conferees appearing before the Committee:

John Smith, Kansas Credit Unions
Haley DaVee, Kansas Credit Union Association
Gail Bright, Associate Counsel, Securities Commissioner's Office
Kathy Olsen, KBA

Others attending:
See attached list.

The Chair called the meeting to order and welcomed everyone to the meeting.

Doug Mays introduced a bill on behalf of the City of Olathe. Mr. Mays said this bill has to do with two chapters of the statutes, mainly with bonding for municipal governments and the use of government proceeds.

Senator Brownlee moved to introduce the bill. Senator Holland seconded. Motion passed.

Jerry Slaughter with the Kansas Medical Society introduced a bill to amend the statute that governs the operation of the Healthcare Stabilization Fund.

Senator Barnett moved to introduce the bill. Senator Kelsey seconded. Motion passed.

Stuart Little, appearing on behalf of the Johnson County Government and County Treasurer said the bill he was introducing was actually the second part of a bill that was introduced two years ago and eventually passed the legislature. Mr. Little stated that when someone makes a payment to the county treasurer there is no language in the statute showing they made a credit card payment or some other type of transfer of funds. This is the second part of that issue stating that when the payments are insufficient, the county treasurer contacts the sheriff and the sheriff collects the motor vehicle.

Senator Masterson moved introduction. Seconded by Senator Holland. Motion passed.

The Chair introduced John Smith, Administrator, Kansas Department of Credit Unions. Mr. Smith said The Kansas Department of Credit Unions 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.

Mr. Smith said regulation of credit unions was performed under the supervision of the Kansas Bank Commission 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.

He said 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, he said.

Mr. Smith noted that 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.

He continued that KDCU supervises and examines 84 natural person credit unions with assets of $3,754,368,737 and one corporate credit union with assets of $346,242,532. He noted that Kansas also has 22 federal-chartered credit unions regulated and examined by the National Credit Union Administration. He said share deposits in Kansas credit unions are federally insured through the National Credit Union Share Insurance Fund, an arm of the National Credit Union Administration.

In closing, Mr. Smith said 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. He said currently, the average period between examinations is just under a 13-month cycle, a standard the department has maintained since 2002. (Attachment 1)

Haley DaVee, Assistant Vice President of Legislative and Public Affairs, Kansas Credit Union Association, testified that credit unions in Kansas are generally healthy and well capitalized. She said this stems in large part from the fundamental conservatism that arises from their cooperative structure. She noted that 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. She noted that the only way for credit unions to maintain and grow their capital levels is through retained earnings.

Ms. DaVee stated that 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. She noted that due to the recession, Kansas credit unions are facing increasing pressures from forces that are outside of their control. Two factors that impacted credit unions in 2009 and are shaping up to in 2010 are increased NCUSIF Assessments and increased regulatory scrutiny, she said. (Attachment 2)

Gail E. Bright, Associate General Counsel from the Office of the Kansas Securities Commission, testified on behalf of Securities Commissioner, Chris Biggs, to provide an overview of the regulatory activities in their office for the past year.

Ms. Bright said the mission of the Office of the Securities Commissioner is to protect and inform Kansas investors, to promote integrity and full disclosure in financial services, and to foster capital formation. She said as the first state to enact securities laws, in 1911, the agency has continually sought to prevent, detect or correct unlawful or unethical conduct in connection with securities transactions and investment services.

Ms. Bright continued that through registration, licensing and compliance activities, potential violations of laws and regulations can be prevented or corrected. She said individuals and firms wishing to do business in Kansas must register with the Securities Commissioner's office first. Then, applications are reviewed with an eye towards making sure the applicant knows the applicable statutes and regulations, she said. She said complaints and violations of the Kansas Uniform Securities Act are investigated and appropriate criminal, civil and administrative proceedings are pursued. She said in addition, the office provides investor education to inform Kansans of how to avoid investment problems and to inform Kansas businesses about raising capital in compliance with state securities laws. (Attachment 3)

Kathy Olsen, Kansas Bankers Association, gave a brief overview of the new credit card rules.

Senator Steineger moved approval of the Minutes of January 14, 2010. Senator Brownlee seconded. Motion passed.

The next meeting is scheduled for January 26, 2010.

The meeting was adjourned at 10:30 a.m.

SENATE FINANCIAL INSTITUTIONS & INS. COMMITTEE
GUEST LIST

DATE: 1-20-10

NAME	REPRESENTING
Alex Kotoyantz	KS. Ass. of Professional Insurance
John P. Smith	KS. Dept. of Credit Unions
[illegible]	KMG
Gail Bright	Ks Securities Commissioner
Marla Marsh	KCUA
Haley DaVee	KCUA
Kathy Olsen	Ks Bankers Assn.
Bill Brady	Capitol Strategies
Doug Wareham	Ks Bankers Assn.
Brad Smoot	BCBS
Bill Sneed	AHIP
SHAWN MITCHELL	COMMUNITY BANKERS ASSOC.
Jerel Wright	Ks Credit Union Assn
Matthew Goddard	Heartland Community Bankers Assoc.
John Meetz	KID
Matt Casey	GBA
Marlee Carpenter	KAHP
Martha Neu Smith	KMHA
Lee Wright	Farmers Ins.
Kerri Spielman	KAFA
Lori Church	KAPCIC

KANSAS SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

January 20, 2010

John P. Smith, Administrator
Kansas Department of Credit Unions
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Topeka, Kansas 66603
(785) 296 3021
john.smith@kdcu.ks.gov
http://www.kansas.gov/kdcu/

F I & I Committee
1-20-10
Attachment 1-1

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 AIRES (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

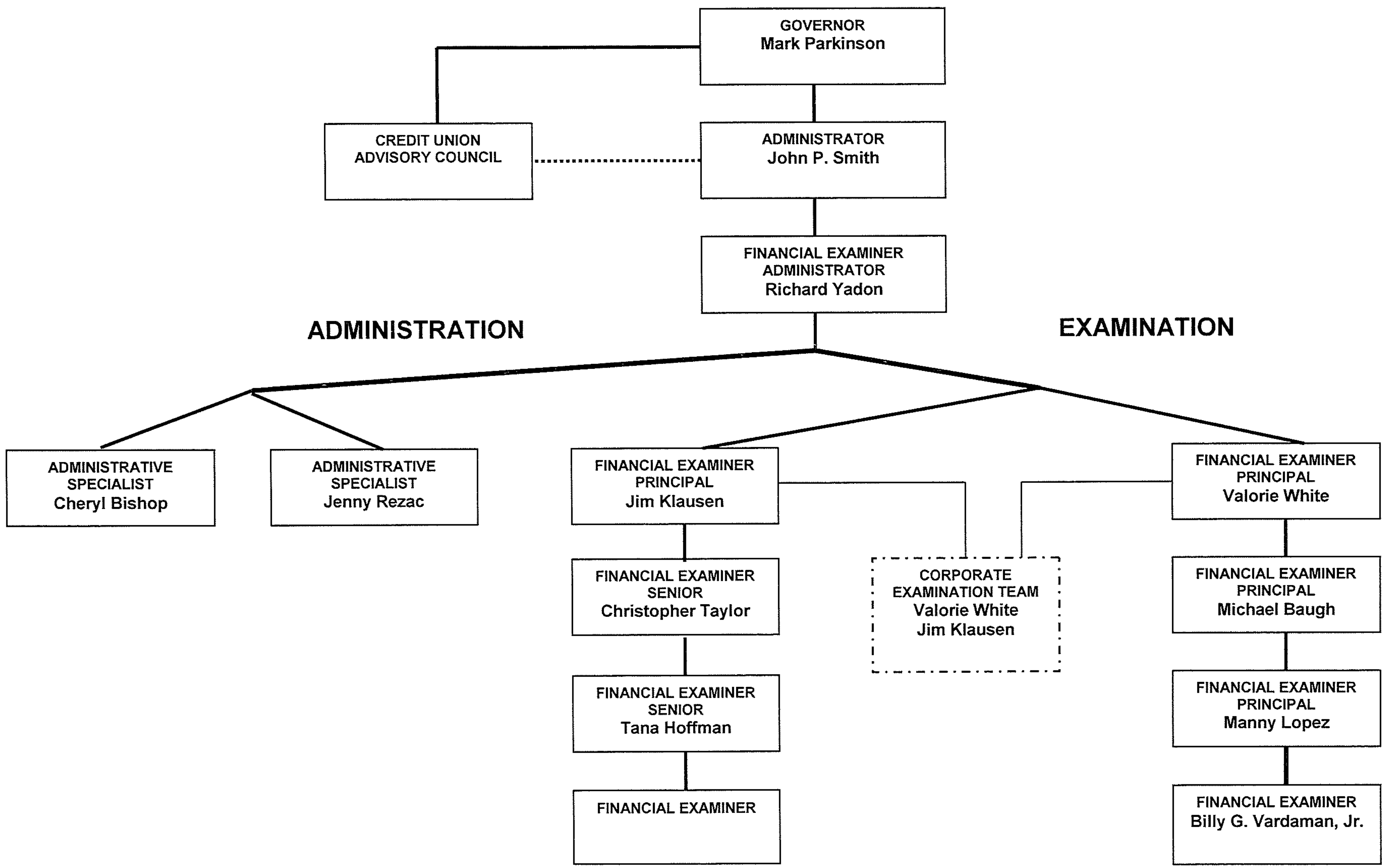
Nationally the credit union system is a three-tiered system; natural person credit unions make up the base tier, state or regional corporate credit unions comprise the second tier with U.S. Central Federal Credit Union (U.S. Central) located in Lenexa, Kansas, the third-tier. U.S. Central is a wholesale 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 DEPARTMENT OF CREDIT UNIONS

ORGANIZATIONAL CHART



KANSAS CREDIT UNION ASSOCIATION

To: **Senate Financial Institutions and Insurance 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

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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.

CU Asset Size	2009 NCUSIF Assessments	Projected 2010 Assessments (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.

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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 <u>many</u> 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.

OVERVIEW OF THE OFFICE OF THE KANSAS SECURITIES COMMISSIONER

By
Gail E. Bright
Associate General Counsel

Senate Committee on Financial Institutions and Insurance
January 20, 2010

Madam Chairman and Members of the Committee,

On behalf of Securities Commissioner Chris Biggs, I appear before you today to provide an overview of the regulatory activities of our office for the past year. Unfortunately, Commissioner Biggs and General Counsel Rick Fleming were unable to attend today's hearing.

Background

The mission of the Office of the Securities Commissioner is to protect and inform Kansas investors, to promote integrity and full disclosure in financial services, and to foster capital formation. As the first state to enact securities laws, in 1911, the agency has continually sought to prevent, detect or correct unlawful or unethical conduct in connection with securities transactions and investment services.

Through our registration, licensing and compliance activities, potential violations of laws and regulations can be prevented or corrected. Individuals and firms wishing to do business in Kansas must register with our office first. Applications are reviewed with an eye towards making sure the applicant knows the applicable statutes and regulations. Complaints and violations of the Kansas Uniform Securities Act are investigated and appropriate criminal, civil and administrative proceedings are pursued. In addition, our office provides investor education to inform Kansans of how to avoid investment problems and to inform Kansas businesses about raising capital in compliance with state securities laws.

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Statistics

Any individual or firm wishing to do business in the State of Kansas, whether physically located here or elsewhere, must be registered. Current registration numbers are as follows:

- State-Registered Investment Adviser Firms: 160
- Investment Adviser Representatives: 4,115
- Broker-Dealer Home Offices: 34
- Broker-Dealer Branch Offices: 1,837
- Broker-Dealer Registered Representatives: 81,753

In order to better exhibit the operations of our office, allow me to offer the following FY 2009 statistics:

- Complaints: 91
- Broker-Dealer/Investment Adviser Examinations: 47
- Criminal cases: 9
- Administrative proceedings: 13
- Notice filings and fees processed for 7,924 mutual funds and unit investment trusts [providing nearly 40% of our revenue]
- Securities registrations examined: 96
- Securities registration deficiency letters: 45
- Amount of securities registered: $46.4 billion

Federal Legislation

As I am sure you are aware, this is quite a dynamic time for federal securities legislation. The economic downturn and Bernie Madoff prosecution have set the stage for radical changes in securities law. It remains unclear exactly what the final version from Congress will contain, but the following are at issue:

- Currently, our office is the sole regulator for state-registered investment advisers, those advisers with assets under management of less than $25 million. Both House and Senate versions contain a provision increasing that amount to $100 million. Should that come to pass, we would be responsible for regulating an additional 33 investment adviser firms.

- NASAA is lobbying generally to retain states' rights and, specifically, to reinstate state regulatory oversight of Rule 506 offerings [exempt private offerings]. Although states have retained authority to prosecute fraud in these offerings, it is believed that allowing states the opportunity to obtain the offering documents, and confirm that the required disclosures are provided before the initial offering, would reduce harm to investors. This provision is currently in the Senate version only.

- Other issues: a bipartisan bill has been introduced to restore provisions of the Glass-Steagall Act reestablishing the wall between commercial and investment banks; the creation of the Consumer Financial Protection Agency; and applying the fiduciary standard to broker-dealers [as it already applies to investment advisers].

State Legislation

- SB 241, introduced during the 2009 session, contains provisions transferring jurisdiction for enforcing the Kansas Loan Brokers Act to the Office of the State Bank Commissioner. Neither Commissioner Biggs nor Bank Commissioner Thomas Thull objects to the transfer, but we also are not requesting that the Committee work the bill.

- SB 350 was introduced last week and contains a provision transferring $5,000,000.00 from our Investor Education Fund to the general fund.

Thank you for the opportunity to provide an overview of the activities of the Office of the Kansas Securities Commissioner. I hope it has been helpful to the Committee and I would also stand for further questions.