



STATEMENT

OF

J. LEONARD SKILES, EXECUTIVE DIRECTOR  
NATIONAL CREDIT UNION ADMINISTRATION

ON

“FINANCIAL CONSUMER HOTLINE ACT OF 2007:  
PROVIDING CONSUMERS WITH EASY ACCESS TO THE  
APPROPRIATE BANKING REGULATOR”

BEFORE THE

HOUSE FINANCIAL SERVICES SUBCOMMITTEE ON FINANCIAL  
INSTITUTIONS AND CONSUMER CREDIT

DECEMBER 12, 2007



## **I. Introduction**

The National Credit Union Administration's (NCUA) primary mission is to ensure safety and soundness, as well as compliance with applicable federal regulations for federally insured credit unions. It performs this important public function by examining all federally chartered credit unions (FCUs), participating in the supervision of federally insured state-chartered credit unions in coordination with state regulators, and insuring credit union member accounts. In its statutory role as the administrator for the National Credit Union Share Insurance Fund (NCUSIF), NCUA provides oversight and supervision to approximately 8,163 federally insured credit unions, representing 98 percent of all credit unions and approximately 87 million members.<sup>1</sup>

The NCUA regulates and insures all FCUs and insures most state-chartered credit unions. Under this framework, NCUA is responsible for enforcing regulations in FCUs and for evaluating safety and soundness in all federally insured credit unions. NCUA is responsible for monitoring and enforcing compliance with most federal consumer laws and regulations in FCUs. In state-chartered credit unions, the appropriate state supervisory authority has regulatory oversight and enforces state consumer laws and regulations.

Consistent with NCUA's longstanding support for measures that enhance the knowledge and understanding that credit union members have about their rights as owners of their institution, NCUA supports this legislation. NCUA supports the establishment of a call routing system that will assist members in resolving their complaints. Unlike other types of financial institutions, however, federally insured credit unions are cooperatives, owned by their members. As such, the first avenue for the resolution of disputes is within the institution itself. In the case of all FCUs, a supervisory committee, comprised of individuals chosen from the membership, provides members with an efficient and direct resource for the investigation and resolution of complaints. NCUA's concern is that the establishment and implementation of a call routing system not undermine this process. It is essential that any new procedures established to assist a consumer work in conjunction with the system already in place that has historically been effective in the credit union community. It is critical that the NCUA retain its direct oversight authority to handle complaints due to the uniqueness of the credit union system.

## **II. Overview of Credit Union Industry**

As of September 30, 2007, the NCUA was overseeing either as the primary regulator or in coordination with the state regulator, 8,163 federally insured credit unions. This total

---

<sup>1</sup> Approximately 170 state-chartered credit unions are privately insured and are not subject to NCUA oversight.

includes 5,068 FCUs regulated by NCUA and 3,095 state-chartered credit unions insured by the NCUSIF.

From the standpoint of both financial health and regulatory compliance, the credit union industry is strong and vibrant. The statistics from September 30, 2007 indicate that federally insured credit unions collectively have healthy capital levels, with over 98 percent having net worth ratios exceeding 7 percent.

Other financial trends demonstrate that during 2007 federally insured credit unions experienced robust share (deposit) growth, increased net worth dollar levels, and stable delinquency and charged-off loan ratios.

Overall, federally insured credit unions remain a safe and sound component of the financial system. Approximately 80 percent of federally insured credit unions have CAMEL composite ratings of 2 or higher.<sup>2</sup> But more importantly, only 2.5 percent of federally insured credit unions have CAMEL composite ratings of 4 or worse. These credit unions represent less than one percent of assets in all federally insured credit unions.

### **III. Overview of NCUA's Member Complaint Process**

NCUA's policy on and procedures for processing member complaints and reporting violations of consumer compliance laws and regulations is described in NCUA Instruction 12400.05, Processing Complaints Against Credit Unions and Documenting Complaint Violations, last modified on April 23, 2004.<sup>3</sup>

#### Member Complaint Process

NCUA has a process in place to receive and act on a complaint or inquiry initiated by a member of a FCU at any time. While most complaints are in the form of a letter, individuals also have access to a toll-free number to contact NCUA. In addition, NCUA's Office of Inspector General maintains a toll-free number originally established for whistleblower reports that actually receives consumer complaints and inquiries. Consumers may also contact the NCUA Ombudsman and use NCUA's internet site ([www.NCUA.gov](http://www.NCUA.gov)) to submit a complaint or inquiry via email.

For members of federally insured state-chartered credit unions, agency staff responds to inquiries as appropriate, and coordinates with the appropriate state supervisory

---

<sup>2</sup> NCUA uses the CAMEL rating system as an internal tool to measure risk at individual credit unions and allocate resources for supervision purposes. Under the CAMEL rating system, examiners assign a rating between 1 (strongest) and 5 (weakest) after assessing a credit union's Capital Adequacy, Asset Quality, Management, Earnings, and Asset/Liability Management.

<sup>3</sup> NCUA Instructions are internal documents outlining agency policy on specific matters.

authority for all complaints. Each state supervisory authority has its own method of investigating and resolving complaints from members of state-chartered credit unions.

NCUA's complaint process first encourages members to work with the credit union. Typically, NCUA initially directs the FCU to investigate the complaint and provide the member a response with a copy to NCUA. NCUA reviews the FCU's response, and if necessary, will further investigate the complaint. NCUA reviews all complaints for regulatory and consumer compliance violations. When a violation occurs, the violation is logged in NCUA's Consumer Regulation Violation Log (CRVL).<sup>4</sup> NCUA reports this violation data annually to the Federal Reserve Board in summary form.

NCUA's central and regional offices have systems to track incoming complaints, inquiries, and responses provided to credit union members, and, on occasion, nonmembers. Each NCUA regional office has trained staff that review and evaluate consumer complaints and inquiries. For all inquiries, NCUA staff will research the inquiry and respond directly to the consumer. For complaints regarding state-chartered credit unions, NCUA will coordinate with the appropriate state regulator. For complaints regarding FCUs, NCUA first refers the complaint to the supervisory committee. Uniquely, FCUs have supervisory committees comprised of credit union members whose primary duties include member protection and oversight of internal audit functions.<sup>5</sup>

The Federal Credit Union Act requires FCU boards of directors to appoint not less than three members or more than five members to serve as members of the supervisory committee.<sup>6</sup> Once appointed, the supervisory committee independently selects the chairperson and secretary. Supervisory committee members must be members of the credit union and bondable by the credit union's surety bond, which provides insurance protection against fraud and dishonesty.

The purpose of the supervisory committee is to ensure independent oversight of the board of directors and management and to advocate the best interests of the members. This includes the statutory authority, by unanimous vote, to suspend any board member, executive officer, or credit committee member.<sup>7</sup> As noted by NCUA in the preamble to its final rule incorporating the standard FCU Bylaws into its regulations, one of the supervisory committee's roles is to review member complaints, including disputes relating to the bylaws. The preamble notes that the supervisory committee has substantial experience in investigating and resolving member complaints.<sup>8</sup>

---

<sup>4</sup> Examiners also report consumer compliance violations noted during contacts on the CRVL.

<sup>5</sup> State-chartered credit unions have comparable oversight committees.

<sup>6</sup> 12 U.S.C. §1761b.

<sup>7</sup> 12 U.S.C. §1761d.

<sup>8</sup> 72 FR 61495, 61497 (October 31, 2007).

All supervisory committee members are volunteers. To preserve independence, only one member of the supervisory committee may be a member of the credit union's board of directors. Moreover, employees and credit committee members are not eligible for membership on the supervisory committee as outlined in the FCU Bylaws. Sound internal controls also preclude FCU loan officers, membership officers, treasurers, assistant treasurers, presidents, vice presidents, and secretaries from being members of the supervisory committee.

As the members' advocate, supervisory committees are responsible for investigating member complaints. Complaints cover a broad spectrum of areas, including annual meeting procedures, dividend rates and terms, and credit union services. Regardless of the nature of the complaint, NCUA requires supervisory committees to conduct a full and complete investigation.

When addressing member complaints, supervisory committees will determine the appropriate course of action after thoroughly reviewing the unique circumstances surrounding each complaint.<sup>9</sup> Typically, supervisory committees will interview the complainant in private to fully understand his or her concerns. Then, as necessary, the supervisory committee will:

- a) Review the member's file;
- b) Review pertinent written credit union policies and procedures, and determine their compliance with applicable credit union laws and regulations;
- c) Interview appropriate credit union officials and/or employees;
- d) Determine the actual practices of the credit union and how they relate to the complaint;
- e) Determine the validity of the complaint;
- f) Work with the officials to develop plans to correct any improper, unfair, or discriminatory practices, if applicable, or make appropriate recommendations;
- g) Obtain agreements from appropriate credit union officials and/or employees to implement corrective action within a specified time;
- h) Provide the member with an appropriate response; and
- i) Maintain appropriate records for actions taken on complaints. NCUA has the authority to review the supervisory committee's records and actions at anytime.

The supervisory committee investigates referred complaints and provides an explanation of the circumstances to NCUA. The NCUA also provides guidance to supervisory committee members in technical aspects of how to ensure compliance with the appropriate rules and regulations. NCUA encourages the voluntary resolution of complaints, but is authorized and prepared to take formal action to ensure appropriate resolution, which may include invoking administrative action authority, if necessary, to achieve a proper outcome. Regional Directors are responsible for making

---

<sup>9</sup> Supervisory Committee Guide, Chapter 4, Publication 4017/8023 Revised December 1999.

determinations about necessary action on a case-by-case basis and coordinate responses with NCUA's central office.<sup>10</sup>

Based on NCUA's experience and review of responses to member complaints, supervisory committees are meeting their statutory mandates. In the limited number of cases where there is a continuing issue, NCUA formally intervenes. In these cases, NCUA would follow through by assigning an examiner to investigate the facts at the field level and work with management in developing an appropriate solution. If management fails to correct violations, NCUA can invoke administrative remedies that can range from Letters of Understanding and Agreement,<sup>11</sup> Cease and Desist Orders, and Civil Money Penalties.

The overwhelming majority of member complaints stem from either the member's misunderstanding of the FCU's policies or poor initial communication between the credit union and the member. As a result, virtually all complaints are resolved after NCUA directs the FCU to address the complaint with its member. Following final review, NCUA sends the member a letter that summarizes the results of the review and advises the member in writing of its understanding that the complaint is resolved.

For the unusual cases where a credit union cannot resolve a complaint or the member is not satisfied with NCUA's recommended resolution, the member can also request assistance from NCUA's Ombudsman. The Ombudsman assists in resolving problems by helping the complainant to identify available options and by recommending actions to the parties involved, but the Ombudsman cannot at any time decide on matters in dispute or advocate the position of the complainant, NCUA, or other parties. The Ombudsman reports to the NCUA Board and is independent from operational programs. The Ombudsman handles an average of eight member complaints per month.

### Member Complaint Statistics

The established process NCUA uses to respond to member complaints is sufficient to handle the volume received each year. NCUA has five regional offices and each regional office processes complaints for the credit unions within their respective region. Each regional office has approximately one full-time equivalent (FTE) position dedicated to processing member complaints.

---

<sup>10</sup> NCUA Instruction No. 12400.05, dated April 23, 2004.

<sup>11</sup> Letters of Understanding and Agreement (LUAs) are supervisory tools used by NCUA. An LUA is essentially a contract between NCUA and a credit union and/or its officials, in which the credit union or officials agree to take, or not take, certain specified actions. Normally, LUAs are negotiated when credit unions have not adequately responded to less severe measures.

Year	2003	2004	2005	2006
Total number of Consumer Complaints Received by NCUA <sup>12</sup>	1,092	1,224	1,470	1,463

#### IV. Analysis and Evaluation of Proposed Legislation

The proposed legislation would require the several federal financial institution regulators, acting through the FFIEC, to establish a single, toll-free telephone number through which consumers may present complaints or make inquiries about financial institutions. The system would also need to be able to route each call directly to the regulatory agency having primary responsibility for the financial institution involved in the complaint or inquiry. The system would have to be developed in a way that would enable qualifying state regulatory agencies wanting to participate to receive transfers of calls that involve institutions primarily regulated by that state agency.

The legislation would also require the federal agencies to report to Congress within six months after enactment concerning progress they have made in establishing a public, interagency website for directing and referring consumers who have submitted a complaint or inquiry via the internet to the appropriate federal agency with responsibility for overseeing the institution involved in the complaint or inquiry. The report to Congress must also address how the system developed by the agencies handles the expedited routing of misdirected consumer complaint or inquiry documents among the agencies, with prompt referral of complaints and inquiries to the appropriate federal agency or participating state agency.

NCUA supports this proposed legislation, which will better alleviate consumer confusion and better ensure expeditious processing of complaints and inquiries. Given the dual banking system in the U.S., along with the sometimes confusing array of federal banking regulators, each with its own niche, it is no surprise that consumers may have confusion about which agency has primary oversight responsibility for their institution. This confusion can be compounded where an institution is part of a multi-institution financial services holding company and offers products and services other than or in addition to those traditionally related to banking. For example, a consumer with an account at a federally chartered savings bank, insured by the Federal Deposit Insurance Corporation and part of a multi-institution holding company overseen by the Federal Reserve Board, may not know that any complaints or inquiries should be submitted to the Office of Thrift Supervision.

This understandable confusion is not, however, a characteristic of credit unions, which are democratically controlled, member-owned cooperatives, with volunteer boards of

---

<sup>12</sup> This table represents the number of complaints with NCUA involvement. It may not include member complaints submitted directly to federally insured credit unions by consumers and resolved without NCUA assistance.

directors. FCUs can never be owned or controlled by a holding company, and can never be affiliated through common ownership with another depository financial institution. NCUA is the sole, exclusive regulator of FCUs, as well as the sole insurer of member savings. By regulation, FCUs must display the NCUA logo in all advertisements and promotional materials. Rules pertaining to insurance coverage on accounts require prominent notice of NCUA's insurance be provided to all members concerning the existence and scope of insurance coverage. NCUA's name and address must be included in any adverse action notice provided to an applicant for credit, as required by the Federal Reserve's Regulation B. NCUA rules also require any FCU engaged in real estate lending to display a nondiscrimination notice containing NCUA's name and address.

In short, there is minimal likelihood that individual credit union members will be unaware of the unique organization and structure of their institution, or that it is different from a commercial bank. Similarly, confusion as to the identity of its regulator is minimal as well.

NCUA is concerned that the proposed legislation may have the unintended result for FCUs of blurring their unique structure and creating confusion where practically none exists. While there is benefit in offering consumers a centralized point of contact to pursue complaints when they are confused as to appropriate course of action, the legislation should preserve the agency's current complaint resolution investigation process. The unintended result to be avoided is that consumers might go to the centralized number as a first resort, when direct contact to the obvious regulator would be more efficient.

As discussed more fully in Section III above, NCUA is confident that its current system of responding to consumer complaints, with its focus on de-centralization and on the unique role played by the credit union's supervisory committee, works very well. NCUA is well-versed in and sensitive to the differences that make credit unions unique. This specialization may become diluted in a centralized routing system.

NCUA notes, in this respect, that it has express subject matter enforcement authority over most of the federal consumer protection regulations, such as Regulation Z, that apply to FCUs. Accordingly, NCUA anticipates and expects that the language in current sections (a)(1) and (b)(1) of the bill, referring to the otherwise appropriate agency to address the subject of the complaint or inquiry, will have minimal impact on matters that involve credit unions. NCUA should retain its current authority for all complaints and inquiries for FCUs.

As with the banking sector, there is a thriving dual chartering system in the credit union sector as well. All but four U.S. states and the District of Columbia have credit unions chartered at that level in addition to FCUs. In the majority of cases, NCUA provides member savings insurance for these institutions. While some confusion may arise on the part of a state credit union member as to where a complaint or inquiry should be submitted, such confusion is readily addressed. NCUA enjoys a very close working

relationship with the National Association of State Credit Union Supervisors, and on an individual basis, each state supervisory authority. Any inquiries or complaints brought to NCUA's attention that should be considered by a state supervisory authority are immediately forwarded to the appropriate agency for consideration and action. Similarly, state regulators refer complaints to NCUA. Although these relationships are already in place, NCUA anticipates the proposed legislation will support and complement these arrangements and should prove beneficial.

## **V. Conclusion**

In summary, NCUA views this proposed legislation as beneficial to the extent that it results in the creation of a call routing system to assure that consumer complaints and inquiries are forwarded to and considered by the appropriate regulatory authority on a timely basis. However, NCUA stresses the critical importance of retaining its direct authority to handle complaints due to the cooperative structure of the credit union system. In addition, FCUs also have a strong consumer oriented advocate in the supervisory committee, which is required by statute. The NCUA's process of utilizing the supervisory committee and regional staff has proven to be an effective and efficient method to address consumer complaints and inquiries.