Regulation and Legislation

An In-Depth Look at Issues Affecting Credit Unions at the Federal Level

By John J. McKechnie

Cynics like to say that Congress is dysfunctional, gridlocked, and just plain can't get anything done. ■ You know what? They're right. Or at least partially right.

While Republicans have majorities in both chambers, they are unable to pass legislation that would be signed into law by President Obama, rendering all but the most innocuous proposals pointless to pursue.

Attempts at housing finance reform in this Congress have been anything but innocuous, but still bear close monitoring by the credit union mortgage lending community.

REGULATORY RELIEF LEGISLATION

Senate Banking Committee Chairman Richard Shelby (R-Ala.) has produced regulatory relief legislation aimed at paring back mortgage-related portions of Dodd-Frank. The bill, passed by the committee in July, reforms Qualified Mortgages (QM) and mortgage servicing assets. In addition, the measure requires the Federal Housing Finance Agency to shelve a proposed change in FHLB membership requirements pending the results of a GAO study, and would give credit unions parity with banks in the Federal Home Loan Bank Act definition of "community financial institutions."

The Shelby bill also contains a number of provisions that would set the stage for larger GSE reform.

Language in the bill bars Fannie Mae and Freddie Mac from using future G-fee income from increasing their contributions to the Housing Trust Fund. Fannie and Freddie would be required to create a risk-sharing arrangement with private investors, and the Treasury would be prohibited from selling its shares in Fannie and Freddie until authorized by Congress.

This reg relief legislation was approved by the Senate Banking Committee on a party-line vote, and is unlikely to become law unless it is attached to a larger bill (possibly a spending bill that would keep the government running) sometime at the end of the year. Stay tuned—there may be an opportunity for credit unions to weigh in with grassroots support for the most helpful provisions.

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NCUA CONSIDERS RULE CHANGES

Just because Congress is not passing bills that will affect credit unions doesn't mean that all is quiet on the federal front. NCUA is in the process of approving an ambitious and far-reaching slate of rule changes that will grant significant new flexibility for credit unions in the areas of business lending, field of membership and capital.

Here's a laundry list of regulatory relief items NCUA is working on:

A proposed Field of Membership rule was approved unanimously in November. This update of several important definitions and rules of the road, including community charter TIP (Trade, Industry or Profession) and what constitutes a service facility, will provide credit unions with significant flexibility in determining how to reach the consumer marketplace.

Supplemental capital rulemaking is expected to been taken up by the board in the next few months.

The final Member Business Lending regulation, which updates the way in which credit unions make loans to members for business purposes, should be voted upon in February 2016.

What do these regulations have in common? First, they are all designed at removing burdens, or modernizing the regulatory framework overseeing credit unions. Second, and perhaps more significantly, they are guaranteed to generate a strong political pushback from the banking industry.

Banks responded in an overwhelming and unprecedented way during the comment period for the MBL rule this summer; 93% of the more than 3,000

letters received on the rewrite were from bankers or bank trades, and all of those expressed strong opposition.

And the FOM proposal is encountering the same levels of bank opposition. Proof? The day before the NCUA Board voted on the rule, the ABA wrote Chairman Matz attacking the yet-unseen regulation, and cc'd key congressional leaders. Expect a well-orchestrated, high-decibel banker campaign against this in the coming months.

The same can be said for Supplemental Capital rulemaking when that process commences.

BANKS SEEK TO THWART NCUA

The common thread here is obvious. Bank grassroots are shifting into high-gear in an attempt to block any NCUA efforts to streamline credit union service offerings. On Capitol Hill, and now in the regulatory arena, the bank lobby has inserted itself into every credit union policy debate, with an unfortunate degree of success. Lawmakers on both sides of the aisle frequently answer credit union requests for regulatory relief by asking, "What will the bankers say?" Now, those same bankers are attempting to intimidate NCUA, and are counting on being able to drown out credit union voices in the process.

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Credit unions have an opportunity—no, a responsibility—to respond. Grassroots political activism has been the hallmark of the credit union movement's advocacy efforts, but the bankers appear energized. They are mounting an all-out effort to define credit unions, and the important regulatory reform items under consideration by NCUA are the latest battleground.

The credit union trades are gearing up for a grassroots campaign, and ACUMA members should step up and do our part to make sure credit unions, not banks, are the ones deciding how they serve their members.

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