

THE CREDIT UNION REFLECTION



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JAGDMANN ELECTED TO STATE CORPORATION COMMISSION



On January 24, 2006 Judith Williams Jagdmann was elected to a six-year term on the State Corporation Commission (Commission) by the Virginia General Assembly. Judge Jagdmann took the oath of office on February 1, 2006 and became the 33rd Commissioner in the 103 year history of the Commission. Judge Jagdmann will have administrative authority over the Bureau of Financial Institutions in addition to other divisions assigned to her.

Judge Jagdmann's election filled the position vacated by Judge Clinton Miller, who did not seek re-election to another term on the Commission. His term expired on the last day of January 2006. Judge Miller served on the Commission for ten years.

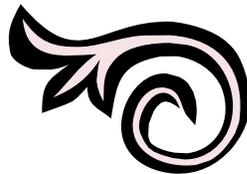
Judge Jagdmann was educated at the University of Virginia where she graduated with distinction. She received her law degree from the T.C.

Williams School of Law at the University of Richmond. Prior to being elected to the Commission, she was the

43rd Attorney General for the Commonwealth of Virginia. From 1998 to 2005, Judge Jagdmann served in the Office of the Attorney General as the Deputy Attorney General for the Civil Litigation Division. In January 2005 she was elevated to Attorney General to serve the remaining term of Jerry Kilgore, who resigned to campaign for Governor of Virginia. Judge Jagdmann actually returns to the Commission, having previously served for 13 years in the Office of General Counsel as a staff attorney specializing in securities and utility matters.

This previous experience served Judge Jagdmann well in her interview process with the General Assembly. She noted that she had “the subject matter expertise to deal with complex Commission matters,” among other qualifications. “The Commission is a very important agency,” she stated. “Its decisions directly impact every person in the Commonwealth. I consider it an honor and a privilege to be considered for such a highly responsible position.”

Judge Jagdmann and her husband, Joe, are the parents of two teen-aged children.



BOUNCE PROTECTION PROGRAMS UNDER REVIEW



Within the last couple of years credit unions have begun offering bounce protection programs to members as a fee producing service. Credit union managers explain that members avoid the embarrassment of bouncing a check, and also avoid the charges associated with checks that are returned unpaid.

A bounce protection program is currently not subject to Regulation Z if the credit union has not agreed in writing to pay the overdrafts of its members.

Regulators understand bounce protection programs can benefit both credit union members and the credit union. Members should use the program judiciously and not depend on it in handling their financial affairs. Credit unions should educate members about costs, program details, and other less expensive options.

A credit union must adopt a written bounce protection policy that addresses the dollar amount of overdrafts (per member and aggregate) to be honored; time limits to deposit funds or obtain a loan to cover the overdraft (this time period should not exceed 45 days); and the fee amount to be charged, if any, for honoring overdrafts. Also, a member should be given instructions on how to opt-out of the bounce protection program. Board and staff members cannot be given preferential treatment through waived or reduced fees.

To establish clear guidelines in implementing a bounce protection program, NCUA issued Letter No. 05-CU-03 “Overdraft Protection (Bounce Protection) Programs” (Letter). The Letter, which is available at <http://www.ncua.gov/letters/2005/CU/05-CU-03.doc>, outlines best practices” that are minimum expectations for the operation of bounce protection programs. This Letter should be a “must read” for management of all credit unions that have implemented or are thinking of implementing a bounce protection program.

In order to be compliant with best practices, management should ask whether it has incorporated the following guidelines and procedures:

- Is the bounce protection policy complete in explaining all the details of the program?
- Are outstanding share overdrafts paid through bounce protection reported as required as outstanding unsecured credit on the quarterly call report?
- Is the unused portion of the disclosed bounce protection credit line reported as an “unused commitment” on the quarterly call report?
- Are unpaid bounce protection overdrafts charged off to the Allowance for Loan Loss (ALL) account?
- Are bounce protection recoveries credited to the ALL account?
- Does the credit union have express consent from social security recipients to use their social security allotment to repay funds advanced through bounce protection?
- Does the credit union report activity in their bounce protection programs to credit reporting agencies?

Examiners will closely review bounce protection programs to determine if the above procedures are in place at credit unions that have implemented such a program. *-Thanks to Werner Paul for this article*

NCUA DATA COLLECTION ON SERVING MEMBERS OF MODEST MEANS: WHAT DOES IT MEAN FOR STATE-CHARTERED CREDIT UNIONS?

In November 2005 the House Ways and Means Committee of the United States House of Representatives held hearings that addressed credit union taxation. A key outcome of these hearings is that the credit union industry has been charged with documenting how it serves “people of small means” as termed in the Federal Credit Union Act (FCUA). This term was added to the FCUA as a result of the 1998 Credit Union Membership Access Act. Recently, NCUA implemented a data collection program in an effort to respond to specific congressional requests to measure service provided by credit unions.

It is important to note that NCUA will collect data from only selected federally-chartered credit unions. The Virginia Credit Union Act, and the acts of all 47 states with credit union laws, does not mention “people of small means.” That term is unique to the FCUA. Therefore, at this point state-chartered credit unions are not being solicited for information on how they document and serve “people of small means.”

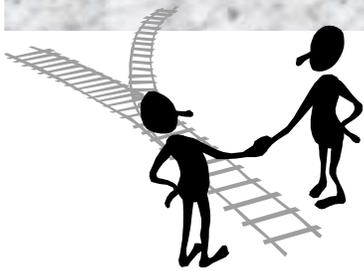
NCUA’s data collection program will be used to do an initial evaluation of 1) the extent and type of services provided to members, 2) the income distribution of members, and 3) the reliability and value of the preliminary data. NCUA will gather this information to profile credit union membership. NCUA hopes to

better assess how credit unions are serving all their members, particularly those who may be considered members of modest means in relation to the credit unions' authorized limited fields of membership. After aggregating the initial information, NCUA will determine what additional or different data should be collected from a larger number of credit unions to allow for a valid statistical analysis and discussion of member service by charter type.

NCUA is at the same time also surveying executive compensation and benefits of credit union management in response to the congressional inquiry into credit union taxation.

The difficulty for the credit union industry is defining members of "small" or "modest" means. While by law state-chartered credit unions are not required to make this determination, the National Association of State Credit Union Supervisors (NASCUS) is participating cooperatively with other industry associations in the dialogue. NASCUS has also had meetings with the Government Accountability Office (GAO), which is developing a study to examine credit unions' tax exempt status, services, and field of membership. The state financial institution regulators in Massachusetts and Connecticut have shared their data collection experience for their state Community Reinvestment Act (CRA) requirements. It seems clear that with 47 state credit union acts, data collection to determine and define "people of small means" in the states will be difficult to assess in the aggregate. But there is also a clear intent of state regulators to cooperate in gathering information to respond to the Congressional mandate to determine how well the credit union industry is serving people of modest means.

SEG, FIELD OF MEMBERSHIP, AND MERGER ACTIVITY



During the fourth quarter of 2005 the Bureau approved 12 small employee groups (SEGs). The two credit unions requesting these groups added 3,553 new potential credit union members. The average size of the approved SEGs was 296 members, which is well below a threshold of 600 the Bureau has determined is necessary for a new credit union charter to be feasible. Since formal legislation to permit SEG expansion went into effect on July 1, 1999, there have been 377 SEGs approved for total new potential membership of 117,812.

On November 14, 2005, New Horizon CU completed its merger into Northwest FCU. This merger reduced the number of state-chartered credit unions operating in Virginia to 59 as of December 31, 2005. However, assets continue to grow and totaled \$4.18 billion for these 59 credit unions at the end of the year. After assets grew in all Virginia state-chartered credit unions in excess of 10% in 2002 and 2003, asset growth in 2004 and 2005 has cooled down to 4.4% and 3.7%, respectively.

There was no community field of membership activity in the fourth quarter of 2005. At the end of 2005, total assets of nine credit unions operating with community fields of membership, and one credit union whose field of membership contains an underserved area, was \$2.25 billion, or 53.8% of total assets in all Virginia state-chartered credit unions. That percentage is slightly more than it was at the end of 2004. Membership growth in these ten credit unions was 6.96% in 2005. However, five of the ten had negative membership growth for the year, and total membership was up only slightly over 17,000 to 261,650 members in community or underserved field of membership credit unions. This membership figure translates to a penetration rate of only 4.94% of total potential membership of these credit unions.

The mission and purpose of the Credit Union Section is to effectively and efficiently supervise, regulate, and assist credit unions chartered by the Commonwealth of Virginia in order to:

- 1. Protect the financial interests of credit union members.*
- 2. Ensure compliance with applicable laws.*
- 3. Ensure adherence to safe and sound operating procedures and principles.*

These three objectives are to be pursued so as to safeguard a financial environment within Virginia worthy of the public's confidence in credit unions and the financial system as a whole.



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