

A weekly dispatch of the National Assn. of State Credit Union Supervisors

Aug. 7, 2015

We urge agency to consolidate rules for FISCUs

Consolidating rules that are applicable to federally insured, state chartered credit unions would make it easier for the credit unions to understand which rules apply to them, and reduce their regulatory burden, NAS-CUS wrote in a comment letter this week to NCUA. We were responding to the February call for comments on its 2015 "Regulatory Review." We noted that 15 of the 35 provisions in this year's rule review applied to state-chartered credit unions – and that nothing in the agency's notice regarding the rule review indicates which rules apply to FISCUs. Our letter also pointed out that, in order for a FISCU to submit relevant comments, the credit union would have to compare each of the 35 provisions against the entirety of Part 741 (requirements for insurance) to identify the cross reference to the provisions subject to the review. That unnecessarily burdensome process, we wrote, is emblematic of the regulatory burden placed on FISCUs by the agency's continued resistance to reorganizing its rules and regulations by consolidating those rules applicable to FISCUs, we stated. There's much more in our comment letter, including specific changes for NCUA to make.

LINK:

NASCUS comments: NCUA 2015 regulatory review

Comment deadline for MBL proposal creeping up

If you are going to comment on NCUA's proposed changes to its member business lending regulations, you've now got less than a month to do so – the deadline is Aug. 31. When and if you do, your comments will join more than 600 already received by the agency – with a good chunk of those being form letters written in opposition to the proposal by bankers from across the country (a number of which have the closing lines that "credit unions lack the experience and the expertise to safely conduct business lending, and the NCUA lacks experience in supervising business lending"). Apart from the bankers' opposition, the proposal is a major departure from the way the agency has developed rules in the past, with its "principle-based" approach compared to past "prescriptive" approaches. NCUA gets that too; as Chairman Debbie Matz wrote in the agency's "NCUA Report" last month, "changing the way we do business will require retraining our examiners. Retraining will take some time and resources to implement, but it will be well worth the effort." Our Legislation & Regulation Committee met this week by phone to talk through the rule and discuss the broad strokes of NASCUS' comments. The committee will get together again before the deadline (for more information, contact General Counsel Brian Knight). Consider taking another look at the NASCUS summary of the proposal, and consider pulling together some comments of your own by Aug. 31. That's "well worth the effort" too.

LINK:

NASCUS summary of NCUA proposed MBL regulation

Lawsuits by marijuana credit union underscore need for legislation

Lawsuits filed last week by a Colorado credit union serving the local marijuana industry against the federal regulator of credit unions, and the federal supervisor of the banking payments industry at large, underscore the need for congressional action addressing access to the banking system through credit unions and others serving the cannabis industry. The lawsuit by Fourth Corner Credit Union of Denver against NCUA and the Federal Reserve was filed late last week just after the credit union was denied a "master account" by the Federal Reserve Bank of Kansas City. Earlier, the credit union was informed by NCUA that it would not be eligible for federal share insurance because Fourth Corner had not proved how it would "mitigate the risk associated with serving a single industry that does not have an established track record of success and remains illegal at the federal level." The fact is, this credit union's charter was approved last year by the Colorado Division of Financial Services under the condition that the master account be provided by the Fed (which based its denial, partly, on NCUA's balk at share insurance coverage). This latest decision by the Fed not only keeps the credit union's doors closed, it also blocks the decision of the local state authority to charter the credit union – and that goes to the heart of the dual chartering system, in our view. That's why we support legislation offered in both the U.S. House and Senate (the Marijuana Businesses Access to Banking Acts of 2015, H.R. 2076/ S.1726) to clear up confusion about what is "illegal at the federal level" for this credit union – and others – to serve their members in the legal businesses in their states. These bills have bipartisan backing, too. Some may say there is no appetite in Congress to address this issue – at least for now. But we see action -- sooner than later -- as critical in support of the rights of states and the security of credit unions and their members.

LINK:

NASCUS letter in support of H.R. 2076/S.1726



Watch the 2015 Summit video - earn yourself a t-shirt

It's the dog days of summer – who couldn't use a cool t-shirt? Nobody, that's for sure. So, watch the brief Lucy Ito video about the 2015 NASCUS State System Summit (Oct. 21-23 in New Orleans), answer correctly a four-question quiz about what you watched – and you'll get yourself a commemorative NASCUS 50th anniversary top, suitable for wearing anywhere – including at the Summit (in less than 12 weeks). Don't delay – the opportunity ends on Labor Day (Sept. 7).

LINK:

Watch the video, take the quiz, answer correctly – win a t-shirt

BRIEFLY: 3rd party exam authority addition falls short

An amendment offered to S.754 by **Sen. Elizabeth Warren (D-Mass.)** to give NCUA exam authority over third party vendors – including those providing cyber security practices – fell short of being added to cyber security legislation under consideration by the Senate Wednesday. NASCUS supports the agency obtaining examination authority over technology service providers (TSPs) that provide services to FISCUs -- provided that any such authority requires NCUA to rely on state examinations of such service providers where such authority exists at the state level