



STATEMENT OF

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ON

**“ROOTING OUT DISCRIMINATION IN MORTGAGE LENDING: USING
HMDA AS A TOOL FOR FAIR LENDING ENFORCEMENT”**

BEFORE THE

**HOUSE FINANCIAL SERVICES SUBCOMMITTEE ON OVERSIGHT AND
INVESTIGATIONS**

JULY 25, 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 administrator for the National Credit Union Share Insurance Fund (NCUSIF), NCUA provides oversight and supervision to 8,263 federally insured credit unions, representing 98 percent of all credit unions and approximately 86 million members.¹

Scope of Responsibility

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.

As the table² below indicates, NCUA is responsible for enforcing the Home Mortgage Disclosure Act (HMDA) in all credit unions and the Equal Credit Opportunity Act (ECOA) in FCUs. NCUA also has a collateral responsibility to report identified violations of the Fair Housing Act (FHA) to the Department of Justice or Department of Housing and Urban Development (HUD), if appropriate.

Law/Regulation	FCU	FISCU	Non Federally Insured
Fair Housing Act	HUD	HUD	HUD
Equal Credit Opportunity Act (Regulation B)	NCUA	FTC	FTC
Home Mortgage Disclosure Act (Regulation C)	NCUA	NCUA	NCUA

(HUD = Department of Housing and Urban Development; NCUA = National Credit Union Administration; FTC = Federal Trade Commission)

Although NCUA is not the enforcement authority for all regulations associated with fair lending, Title II of the Federal Credit Union Act authorizes NCUA to initiate administrative actions for violations of law.³ NCUA can also issue administrative actions for unsafe and unsound practices. Weaknesses in fair lending procedures could

¹ Approximately 174 state chartered credit unions are privately insured and are not generally subject to NCUA oversight. One notable exception is HMDA reporting.

² Excerpted from NCUA Examiner's Guide, Chapter 19, Illustration 19-A.

³ 12 U.S.C. §1786.

constitute unsafe and unsound practices and ultimately risks to the NCUSIF, if the violations potentially expose an insured credit union to costly litigation or civil remedies.

II. Overview of Credit Union Industry

As of June 30, 2007, the NCUA was overseeing 8,263 federally insured credit unions. This total includes 5,128 federally chartered credit unions regulated by NCUA and the 3,135 state-chartered credit unions insured by the NCUSIF.

From the standpoint of both financial health and regulatory compliance, the credit union industry remains collectively strong. The statistics from March 31, 2007, indicate that federally insured credit unions overall have healthy capital levels, with over 98 percent of federally insured credit unions having net worth ratios exceeding 7 percent.

Number of Credit Unions with Net Worth Ratios	December 2006	% of Total	March 2007	% of Total
7% or above	8,235	98.48%	8,169	98.36%
6% to 6.99%	58	.69%	70	.84%
4% to 5.99%	36	.43%	39	.47%
2% to 3.99%	20	.24%	13	.16%
Less than 2%	8	.10%	9	.11%
Less than 0%	5	.06%	5	.06%

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

Overall, federally insured credit unions are strong. Approximately 80 percent of federally insured credit unions have CAMEL composite ratings of 2 or higher.⁴ Moreover, just over 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 federally insured credit unions.

A majority of federally insured credit unions offer members the full spectrum of share and loan services, including mortgages. NCUA notes that while overall loan growth was flat during the first quarter of 2007, federally insured credit unions experienced increases, in the aggregate, in first mortgage and other real estate loans such as second mortgages and home equity lines of credit.

⁴ 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.

NCUA has issued guidance that addresses safety and soundness issues relative to maintaining balance sheets with a larger concentration of long term assets. In addition to guidance about financial risk mitigation, NCUA reminds the industry that fairly priced and structured mortgage products often serve as alternatives to predatory lending practices currently found in the marketplace.

III. Mortgage Lending in Federally Insured Credit Unions

Mortgage loans in federally insured credit unions represent only 9 percent of mortgage loans outstanding in all federally insured depository institutions.⁵ In 2006, the Mortgage Bankers Association estimated mortgage loan originations in the marketplace of over \$2.51 trillion, of which federally insured credit unions originated only 2 percent or \$54 billion.⁶

Approximately 68 percent of federally insured credit unions offer mortgage loans to their members. Those not offering mortgage loans are generally smaller federally insured credit unions that cannot afford the expertise or infrastructure required to manage significant mortgage portfolios. Additionally, smaller FCUs have difficulty implementing a wide range of mortgage products since loans to a single member are statutorily limited to 10 percent of a FCU's total unimpaired capital and surplus.⁷ Consequently, as illustrated below, the majority of federally insured credit union mortgage lending occurs in larger credit unions.

Federally Insured Credit Unions by Asset Size	Number of Mortgage Loans Originated in 2006	% of Federally Insured Credit Union Mortgage Loan Portfolio as of 12/31/2006
Greater than \$1 billion	509,936	43.02%
\$500 million-\$1 billion	255,009	17.75%
\$50 million-\$500 million	560,061	33.03%
\$10 million-\$50 million	100,546	5.71%
Less than \$10 million	9,321	0.49%

⁵ NCUA data and *FDIC- Statistics on Depository Institutions Report, 1-4 Family Residential Net Loans and Leases for all depository insured institutions as of 12/31/2006*. 31 Dec. 2006. Federal Deposit Insurance Corporation. < <http://www2.fdic.gov/SDI/SOB>>.

⁶ NCUA Data and *MBA Mortgage Finance Forecast*. 12 Feb. 2007. Mortgage Bankers Association. <http://www.mbaa.org/files/Bulletin/InternalResource/48425_MortgageFinanceMarketForecast-February2007.pdf>.

⁷ 12 C.F.R. §701.21(c)(5). Unimpaired capital and surplus equals shares plus post-closing, undivided earnings.

IV. Fair Lending Legal Framework

This section describes the statutory and regulatory framework under which NCUA supervises the enforcement of fair lending practices in the credit union industry. The framework consists of the Home Mortgage Disclosure Act,⁸ the Federal Reserve Board's Regulation C,⁹ the Equal Credit Opportunity Act,¹⁰ the Federal Reserve Board's Regulation B,¹¹ the Fair Housing Act,¹² and NCUA's nondiscrimination regulation.¹³ NCUA examines FCU compliance with these requirements through its examination and supervision process.

The Home Mortgage Disclosure Act/Regulation C

The Home Mortgage Disclosure Act was enacted by Congress in 1975 and is implemented by Federal Reserve Board Regulation C.¹⁴ It sets forth requirements for financial institutions, including credit unions to maintain and annually disclose data about home purchases, home purchase pre-approvals, home improvement, and refinance applications involving 1- to 4-unit and multifamily dwellings. HMDA requires lending institutions to report public loan data to help determine whether financial institutions are serving the housing needs of their communities; to assist public officials in distributing public-sector investment to attract private investment to areas where it is needed; and to assist in identifying possible discriminatory lending.

Regulation C applies to certain financial institutions and mortgage lending institutions including credit unions. Regulation C requires each credit union subject to HMDA reporting to provide data about home purchase loans, home improvement loans, and refinancings that it originates or purchases, or for which it receives applications,¹⁵ and to disclose certain data to the public. However, credit unions and other financial institutions with assets at or below \$36 million as of December 31, 2006, are exempt from data

⁸ 12 U.S.C. §2801 et seq.

⁹ 12 C.F.R. Part 203.

¹⁰ 15 U.S.C. §1601 et seq.

¹¹ 12 C.F.R. Part 202.

¹² 42 U.S.C. §3601 et seq.

¹³ 12 C.F.R. §701.31.

¹⁴ Attached as Appendix C is an extensive history of HMDA and Regulation C from the Federal Financial Institutions Examination Council's (FFIEC) web site at <http://www.ffiec.gov/hmda/history2.htm>. The website describes FFIEC as a formal interagency body empowered to prescribe uniform principles, standards, and report forms for the federal examination of financial institutions by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision, and to make recommendations to promote uniformity in the supervision of financial institutions. In 2006, the State Liaison Committee (SLC) was added to the Council as a voting member. The SLC includes representatives from the Conference of State Bank Supervisors, the American Council of State Savings Supervisors, and the National Association of State Credit Union Supervisors.

¹⁵ Within 30 days after receiving an application that is incomplete regarding matters that an applicant can complete, the creditor shall notify the applicant of action taken or of the incompleteness in accordance with 12 C.F.R. §202.9.

collection for 2007.¹⁶ That data includes information about the loan type, action taken on the application, loan amount, and specific information about ethnicity, race, and sex of applicants.

NCUA has administrative enforcement authority over credit unions for violations of HMDA and Regulation C, including the imposition of civil money penalties.¹⁷ Recently NCUA has exercised this authority to penalize credit unions that were late in submitting HMDA data. Errors in compiling or recording loan data is not a violation of HMDA or Regulation C if unintentional, and if the errors occur in an environment where the financial institution maintained procedures reasonably adapted to avoid such errors.

Equal Credit Opportunity Act/Regulation B

The Equal Credit Opportunity Act ensures that all consumers are given an equal opportunity to obtain credit when dealing with any creditor who regularly extends credit, including banks, small loan and finance companies, retail and department stores, credit card companies, and credit unions. Borrower income, expenses, debt, and credit history are considered factors in determining creditworthiness under terms of this Act. This statute is implemented through Regulation B.

Regulation B applies to all creditors,¹⁸ including credit unions. Regulation B promotes the availability of credit to all creditworthy applicants by prohibiting creditor practices that discriminate on the basis of race, color, religion, national origin, sex, marital status, age, receipt income from a public assistance program, or the fact that the applicant has in good faith exercised any right under the Consumer Credit Protection Act. This regulation also requires creditors to notify applicants of action taken on their applications; to report credit history in the names of both spouses on an account; to retain records of credit applications; to collect information about the applicant's race and other personal characteristics in applications for certain dwelling-related loans; and to provide applicants with copies of appraisal reports used in connection with credit transactions.

¹⁶ Appendix C provides additional information about how the Federal Reserve Board establishes exemption thresholds for HMDA reporting.

¹⁷ 12 U.S.C. §2804(b)(3), 12 U.S.C §1751 et seq.

¹⁸ Creditor means a person who, in the ordinary course of business, regularly participates in a credit decision, including setting the terms of the credit. The term creditor includes a creditor's assignee, transferee, or subrogee who so participates. For purposes of 12 C.F.R. §202.4(a) and (b), the term creditor also includes a person who, in the ordinary course of business, regularly refers applicants or prospective applicants to creditors, or selects or offers to select creditors to whom requests for credit may be made. A person is not a creditor regarding any violation of the Act or this regulation committed by another creditor unless the person knew or had reasonable notice of the act, policy, or practice that constituted the violation before becoming involved in the credit transaction. The term does not include a person whose only participation in a credit transaction involves honoring a credit card. See 12 C.F.R. §202.3 for limited exemptions for certain classes of transactions.

When notification is required, a credit union shall notify an applicant of action taken within 30 days after:

- receiving a completed application concerning the creditor's approval of, counteroffer to, or adverse action on the application;
- taking adverse action on an incomplete application, unless proper notice is provided; and
- taking adverse action on an existing account; or
- 90 days after notifying the applicant of a counteroffer if the applicant does not expressly accept or use the credit offered.

Regulation B requires specific content be included in written notification for creditors receiving more than 150 applications the preceding calendar year when adverse action is taken, including a description of action taken, the name and address of the credit union; a statement of the provisions of §701(a)¹⁹ of the ECOA; the name and address of the federal agency that administers compliance with respect to the creditor; and either a statement of specific reasons for the action taken or a disclosure of the applicant's right to a statement of specific reasons. Other rules apply to notification to business credit applicants.

Credit unions are also subject to rules about record retention and preservation, requests for information about the racial, ethnic, gender, age and marital status of applicants, self testing-the practice that shows level of compliance with lending regulations, and electronic communication of disclosures and other information.

The Fair Housing Act

The Fair Housing Act prohibits discrimination in the sale, rental, and financing of dwellings,²⁰ and in other housing-related transactions, based on race, color, national origin, religion, sex, familial status, and handicap.

¹⁹ The notice is to be substantially similar to “The federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The federal agency that administers compliance with this law concerning this creditor is [name and address as specified by the appropriate agency listed in appendix A of this regulation]”.

²⁰ “Dwelling” is defined in 42 U.S.C. §3602(b) of the FHA as any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any building, structure, or portion thereof.

NCUA's Nondiscrimination Requirements

In addition to the above, NCUA nondiscrimination requirements in 12 C.F.R. §701.31 explicitly prohibit discriminatory lending, appraisal, and advertising practices. Specifically, an FCU may not deny a real estate-related loan, nor may it discriminate in setting or exercising its rights pursuant to the terms or conditions of such a loan, nor may it discourage an application for such a loan, on the basis of race, color, national origin, religion, sex, familial status, or handicap of the applicant.²¹

Furthermore, the requirements set forth prohibitions about nondiscrimination in appraisals and advertising. FCUs are prohibited from relying on appraisals based upon consideration of the race, color, national origin, religion, sex, familial status or handicap of an applicant, or based on consideration of the same criteria, which has the effect of discriminating on the basis of race, color, national origin, religion, sex, familial status or handicap. Additionally, an FCU may not engage in any form of advertising of real estate-related loans that indicates the credit union discriminates on the basis of the above prohibited classes in violation of the FHA.

V. Fair Lending Oversight Process

NCUA enforces fair lending by obtaining sufficient information from the credit unions it oversees during the examination process and responding to credit union members who complain about fair lending issues. NCUA uses the examination process and member complaint trends to evaluate fair lending in FCUs.²² Examiners supervising FCUs follow risk focused examination procedures. NCUA adopted a flexible structure for scheduling examinations and developing supervision plans to more efficiently allocate field staff resources.²³ By allowing examiners to customize the scope of on-site examinations to correlate with each individual FCU's circumstances, examiners obtain greater insights about how each FCU manages risk, including those associated with fair lending.²⁴

Examination Process

During 2000, NCUA adopted the fair lending examination procedures developed collectively by the FFIEC. The rigorous review mandated by FFIEC procedures has resulted in NCUA reallocating resources by budgeting time in each region for

²¹ The term "applicant" includes (i) any applicant or joint applicant; (ii) any person associated, in connection with a real estate-related loan application, with an applicant or joint applicant; (iii) the present or prospective owners, lessees, tenants, or occupants of the dwelling for which a real estate-related loan is requested; (iv) the present or prospective owners, lessees, tenants, or occupants of other dwellings in the vicinity of the dwelling for which a real estate-related loan is requested.

²² In federally insured state-chartered credit unions, NCUA also evaluates fair lending issues relative to HMDA compliance and assesses other fair lending concerns from the standpoint of safety and soundness in partnership with the state supervisory authority.

²³ NCUA Letter to Federal Credit Unions 01-FCU-05 (August 2001), Risk-Based Examination Scheduling Policy, <http://www.ncua.gov/letters/2001/01-FCU-05.pdf>.

²⁴ NCUA Letter to Federal Credit Unions 02-FCU-09 (May 2002), Risk-Focused Examination Program, <http://www.ncua.gov/letters/2002/02-FCU-09.html>.

examinations devoted exclusively to fair lending and assigning employees to serve as fair lending subject matter examiners. NCUA selects credit unions for the fair lending examinations based on factors such as member complaints, HMDA data, and the extent or complexity of lending programs.

NCUA staff also evaluates fair lending compliance at other types of examinations. Under the risk focused examination program, compliance is one of the seven risk areas.²⁵ In risk focused examinations, examiners assign a level of risk (high, medium, low) for each of the seven risk areas and then develop a scope for each examination or supervision contact based upon a credit union's individual risk factors.

Examiners use NCUA's Automated Integrated Regulatory Examination Software (AIRES), which uses questionnaires to guide and document reviews. NCUA examiners provide basic compliance oversight for the FCUs in their district, reviewing compliance areas that indicate levels of risk. Within the AIRES application, examiners have access to questionnaires for each compliance regulation for which NCUA has enforcement authority. These questionnaires provide the following key components on each regulation:

- Summary of the basic purpose or applicability of the law/regulation;
- NCUA's enforcement responsibility;
- Penalties resulting from failure to comply;
- Record retention requirements, if any; and
- Key questions for consideration during the review and general information to assist the examiner.

When violations are noted, they are documented in NCUA's centralized CRVL database. Additionally, examiners develop and communicate corrective actions to credit union officials as a part of their assessment of management. If the examiner notes material compliance violations, the examiner may downgrade the credit union's overall CAMEL rating.

NCUA's supervision efforts with respect to federally insured state-chartered credit unions focus on addressing safety and soundness concerns presenting a risk to the NCUSIF. NCUA generally defers to the state regulator with regard to consumer violations. However, NCUA would become actively involved with fair lending issues at a federally insured state-chartered credit union if the issue exposes the NCUSIF to risk or upon becoming aware of a violation warranting referral to the Department of Justice or HUD.

Review of HMDA Data

For all credit unions subject to HMDA filing requirements, NCUA works closely with the Federal Reserve Board to ensure that credit unions file their loan/application registers on

²⁵ The seven areas of risk NCUA identifies in NCUA Letter to Federal Credit Unions 02-FCU-09 are credit risk, interest rate risk, liquidity risk, transaction risk, compliance risk, strategic risk, and reputation risk.

a timely basis. NCUA also issues Regulatory Alerts each year to ensure credit union officials are aware of filing requirements and the reporting deadline.²⁶

For the 2005 reporting period, approximately 2,300 institutions overseen by NCUA for the purpose of HMDA reporting submitted loan/application register data. The respondents included federally insured credit unions, non-federally insured credit unions, and credit union service organizations. Combined, the NCUA respondents submitted data for 813,783 loan applications.

Based on the HMDA data collected, credit unions appear to be actively meeting the need for mortgage products among credit union applicants for mortgage credit. Reporting credit unions approved an overwhelming majority of the applications processed during the 2005 reporting period. Approximately 69 percent of all applications resulted in a loan origination. Moreover, the reporting credit unions denied fewer than 13 percent of all applications. Of the total applications processed, 11.90 percent resulted in a denial of credit and 1.06 percent resulted in a denial of a request for pre-approval of credit.

Credit unions are also serving underserved areas with mortgage products. When credit unions complete the loan/application registers, they identify the location of the properties under consideration by census tract. The HMDA data compares the income levels of the census tracts of the properties under consideration to the income levels of the larger metropolitan statistical areas (MSA) that encompass the properties. NCUA uses a similar methodology when determining, for the purposes of chartering policy, if an area qualifies as underserved. An area with a median family income level at or below 80 percent of the median family income for the larger metropolitan statistical area is underserved.

Census tract income information was available for approximately 90 percent of the mortgage loan applications reported. For underserved areas, 66 percent of mortgage loan applications the credit unions processed resulted in originations, with fewer than 18 percent of the mortgage loan applications that included property in underserved areas denied. The approval rate in areas for mortgage loans in non-underserved census tracks was 75 percent, with only approximately 10 percent denied.

During 2005, reporting credit unions originated over 72,000 mortgages, with 13.5 percent of those originations occurring in underserved areas. The median family income reported by the applicants who received mortgages in underserved areas was \$55,000.²⁷ In contrast, the median family income for applicants who received mortgages in areas that did not qualify as underserved was much higher at \$72,000.

²⁶ The most recent Regulatory Alerts are at the link http://www.ncua.gov/reg_alerts/reg_alert.html on NCUA's Internet site. Regulatory Alert 07-RA-01, "Home Mortgage Disclosure Act Data Collection Requirements for 2007," advises credit unions of the requirements for collecting 2007 loan application data. Regulatory Alert 07-RA-02, "Submission of 2006 Data to Comply with the Home Mortgage Disclosure Act," advises credit unions of the filing requirements for the application data collected during 2006.

²⁷ Median family income reflects the income level at which half of all families earn more, and half earn less. The American Community Survey defines a family as "a householder and one or more people living in the same household who are related by birth, marriage, or adoption." See American Community Survey. U.S. Census Bureau. <http://factfinder.census.gov/home/saff/main.html?_lang=en>.

Member Complaint Process

Independent of the examination process, NCUA has a process in place to receive and act on a complaint 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. Consumers may also use NCUA's Internet site (www.NCUA.gov) to submit a complaint via e-mail.

Members are aware of NCUA's role in assisting with the resolution of consumer concerns in two primary ways: 1) notices of denial of credit at a FCU lists NCUA's contact information; and 2) NCUA's Internet site provides a toll free consumer assistance hotline number and email contact information.

NCUA's complaint process encourages members to work with the credit union first. Typically, NCUA initially directs the FCU to investigate the complaint and provide the member a response with a copy to NCUA, or respond 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).²⁸ NCUA reports this violation data annually to the Federal Reserve Board in summary form.

NCUA central and regional offices have systems to track incoming complaints and responses. Each NCUA regional office has staff who review and evaluate consumer complaints. For complaints regarding state chartered credit unions, NCUA will coordinate with the appropriate state regulator. FCUs have supervisory committees comprised of credit union members whose primary duties include member protection, oversight of internal audit functions, and ensuring credit union member assets are safeguarded.²⁹

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.³⁰ 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 statutory 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. Consistent with this responsibility, the Federal Credit Union Act provides supervisory committee members with the authority, by unanimous vote, to suspend any board member, executive officer, or credit committee member.

²⁸ Examiners also report consumer compliance violations noted during contacts on the CRVL.

²⁹ State chartered credit unions have comparable oversight committees.

³⁰ 12 U.S.C. §111(b).

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 Federal Credit Union 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. The most common complaints relative to fair lending include lending policies and procedures and loan rejections. Regardless of the nature of the complaint, NCUA expects 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.³¹ 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) Review several loans, if necessary, to 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 incoming complaints and provides an explanation of the circumstances to NCUA. NCUA encourages the resolution of the matter voluntarily, but is authorized and prepared to invoke administrative action authority, if necessary, to achieve a proper outcome. Regional Directors are responsible for making determinations about necessary action on a case-by-case basis and coordinate responses with NCUA's central office.³²

³¹ Supervisory Committee Guide, Chapter 4.

³² NCUA Instruction No. 12400.05, dated April 23, 2004.

Based on NCUA's review of responses to member complaints, supervisory committees are meeting their statutory mandates. Notwithstanding this factor, NCUA would intervene in the instances where the supervisory committee provides an incomplete or inaccurate response. 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,³³ 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 and communicate with the 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. Since resolution is usually achieved at the local level, the NCUA Board has not needed to pursue formal administrative remedies to correct fair lending violations.

For unusual cases where a credit union cannot resolve a complaint and 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 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 positions of the complainant, NCUA, or other parties. The Ombudsman reports to the NCUA Board and is independent from operational programs.

VI. Supervision Efforts Since 2004

During the period between January 1, 2004, and June 30, 2007, NCUA's fair lending examiners completed 81 fair lending examinations. NCUA's fair lending program progressed to include comprehensive fair lending examinations after adopting the FFIEC's interagency fair lending procedures. These specialized examinations complement NCUA's ongoing supervision efforts.

³³ 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.

After completing over 50,000 contacts at federally insured credit unions since January 1, 2004, NCUA identified 25,689 consumer compliance violations. Of this total, only a negligible percentage pertained to laws related to fair lending:

Category	Number of Violations	Percentage
Equal Credit Opportunity Act	456	1.78%
Home Mortgage Disclosure Act	223	0.87%
Fair Housing Act	101	0.39%
All Other Consumer Compliance Categories	24,909	96.96%
Totals	25,689	100.00% ³⁴

Presently, NCUA has 25 fair lending examiners. To become a fair lending examiner, an employee must have several years of experience, receive special training, and reach the highest grade available for a district examiner.

Over the past several years, NCUA’s training programs for the fair lending examiners continue to mature. Recent training initiatives include providing fair lending examiners with software to better understand lending patterns in geographic areas. In addition, NCUA engaged an outside vendor³⁵ to enhance NCUA’s training about how to detect patterns of discrimination.

Examiners also provide basic compliance oversight during routine examinations and supervision contacts. NCUA advises examiners that a credit union’s compliance risk profile can change rapidly due to innovation of products and services, changes in regulation, competitive pressures, field of membership expansion, and advances in information technology. Under a risk focused examination program, examiners consider compliance concerns, including those associated with fair lending, which can affect three areas of risk:

- Compliance risk which can occur when the credit union fails to implement the necessary controls to comply with appropriate consumer compliance regulations;
- Reputation risk which can occur when the credit union incurs fines, penalties, and poor publicity as a result of failure to comply with the appropriate consumer compliance regulations; and
- Strategic risk which can occur when management fails to perform adequate planning and due diligence regarding consumer compliance regulations.³⁶

At a macro level, NCUA continually emphasizes the importance of complying with all consumer regulations. During sessions with credit union trade groups, NCUA’s senior

³⁴ Data derived from the violations posted on NCUA’s CRVL from January 1, 2004 through June 30, 2007. Appendix D summarizes the violations NCUA noted from July 1, 2003 through June 30, 2006.

³⁵ The vendor was PCi, a part of Wolters Kluwer Financial Services. The vendor specializes in developing software to assist regulators and financial institutions with regulatory compliance.

³⁶ NCUA Examiner’s Guide, Chapter 13.

managers frequently advise attendees of emerging trends affecting lending and of the importance of complying with all applicable laws and regulations. NCUA's senior managers also provide similar updates to field supervisors at training sessions.

VII. NCUA's Enforcement Actions

NCUA has not needed to refer any cases to the Department of Justice since 2004 because the fair lending examinations and other contacts completed did not reveal the presence of material patterns of discrimination. During 2006 and 2007, NCUA acted upon information received from the Federal Reserve Board regarding apparent irregularities in loan pricing. Thus far, the ensuing follow-up investigations by examiners have revealed several HMDA data reporting errors, but no discriminatory practices.

After noting disappointing trends with regard to lateness in filing HMDA data during 2005, NCUA became more aggressive in taking action against credit unions that were late in filing HMDA data. For late filing, NCUA assessed 18 civil money penalties totaling \$220,250 in 2005 and assessed 22 civil money penalties totaling \$174,500 in 2006.³⁷

VIII. NCUA Promotion of Financial Education

NCUA also recognizes the importance of financial literacy training in helping members understand their rights and responsibilities as consumers. The NCUA Board Members frequently comment about how financial education fosters financial stability for individuals and for entire communities. In addition, NCUA's Chairman serves as a member of the U.S. Department of Treasury's Financial Literacy and Education Commission.

Credit unions have demonstrated that they view financial education as a natural outgrowth of their service-oriented philosophy. Increased financial literacy represents an ounce of prevention that can help all consumers avoid getting in over their heads and actually enables them to use their money wisely and improve their financial health. The advertising slogan "an educated consumer is our best customer" is very apt when discussing the value of financial literacy.

NCUA is a member of the Financial Literacy and Education Commission (the Commission), a federal entity established under the Financial Literacy and Education Improvement Act, enacted by Title V of the Fair and Accurate Credit Transactions Act of 2003, to improve financial literacy and education of persons in the United States.

The principal duties of the Commission include: (1) encouraging government and private sector efforts to promote financial literacy; (2) coordinating financial education efforts of the federal government, including the identification and promotion of best practices; (3) the development of a national strategy to promote financial literacy and education among

³⁷ Appendices A and B provide a complete list of the Civil Money Penalties NCUA assessed during 2005 and 2006 for late HMDA filings.

all American consumers; (4) the establishment of a website to serve as a clearinghouse and provide a coordinated point of entry for information about federal financial literacy and education programs, grants, and other information; and (5) the establishment of a toll-free hotline available to members of the public seeking information about issues pertaining to financial literacy and education.

In addition to serving as a member of the Commission, NCUA Chairman Johnson has served as Chairman of its MyMoney.gov website subcommittee since October 2006. The MyMoney.gov website was created to provide public access to financial education tools and resources, which will empower Americans to save, invest and manage money wisely to meet personal goals. In this role, the Chairman coordinates the efforts of 20 federal agencies to improve financial education across the nation.

The Access Across America initiative, announced in February 2002, incorporated NCUA's activities for federally insured credit unions expanding services into underserved areas. The program has been designed to partner with federal government agencies and other organizations to identify and facilitate the use of resources available for federally insured credit unions to assist in their efforts to serve individuals in underserved areas.

Another program NCUA developed to help consumers and improve financial literacy is the Community Development Revolving Loan Fund (CDRLF). The CDRLF awards grants and loans to low-income designated credit unions to enable them to provide financial services to their communities, including financial education. Financial education programs often include topics such as understanding credit, understanding finance charges, managing personal credit, credit awareness and budgeting.

In 2004, NCUA created a Financial Education grant initiative to provide members with practical money management skills. Since 2004, NCUA has awarded \$461,885 in technical assistance grants to credit unions for financial education and related purposes.

IX. Concluding Comments

NCUA continues to use appropriate procedures to evaluate federally insured credit unions for compliance with the laws and regulations governing fair lending. The results of NCUA's on-site reviews indicate that federally insured credit unions are generally compliant with the laws and regulations applicable to fair lending. In addition, member feedback indicates fair lending violations are rare and documented concerns are quickly resolved at the local level.

Appendix A – Civil Money Penalties Assessed During 2005

Name	Docket Number	Penalty
Arrowhead Central Credit Union, San Bernadino, California	05-1002-V	\$ 22,500
Paradise Federal Credit Union, National City, CA	05-1001-V	\$ 19,000
White River Credit Union, Enumclaw, WA	05-0810-V	\$ 8,750
NEBO Credit Union, Spanish Fort, UT	05-0809-V	\$ 8,500
California Lithuanian Credit Union, Santa Monica, CA	05-0808-V	\$ 11,500
Norton Community Credit Union, San Bernardino, CA	05-0807-V	\$ 15,000
Valley Oak Credit Union, Three Rivers, CA	05-0806-V	\$ 18,000
Moapa Federal Credit Union, Overton, NV	05-0805-V	\$ 9,500
Arizona Federal Credit Union, Phoenix, AZ	05-0804-V	\$ 14,000
Hawaii State Federal Credit Union, Honolulu, HI	05-0803-V	\$ 10,250
Hawaiian Tel Federal Credit Union, Honolulu, HI	05-0802-V	\$ 10,250
Marine Credit Union, Fond Du Lac, WI	05-0803-IV	\$ 9,500
Golden Key Federal Credit Union, El Paso, TX	05-0802-IV	\$ 10,500
School Employees Lorain City Credit Union, Elyra, OH	05-0804-III	\$ 9,250
Hillcrest Credit Union, Richmond Heights, OH	05-0803-III	\$ 14,000
Members Advantage Credit Union, Michigan City, IN	05-0802-III	\$ 7,750
Rouge Employees Credit Union, Dearborn, MI	05-0801-I	\$ 14,500
Jefferson County Employees Credit Union, Birmingham, AL	05-0801-III	\$ 7,500
Totals	-	\$ 220,250

Appendix B – Civil Money Penalties Assessed During 2006

Region	Charter	Credit Union Name	Amount of Settlement	Docket Number
1	15080	Rockland Employees	\$12,250.00	06-1101-I
3	61831	Fulton Teachers	11,750.00	06-1102-III
1	3962	Hudson Heritage	9,000.00	06-1102-I
1	9348	Katahdin	9,000.00	06-1103-I
3	20974	Bond Community	8,750.00	06-1105-III
4	66390	Horizon Community	8,250.00	06-1106-IV
5	68240	Minnequa Works	8,250.00	06-1103-V
1	15358	Actors	7,500.00	06-1104-I
4	18944	Rock Valley	7,250.00	06-1103-IV
5	12585	MOAPA Valley	14,000.00	06-1201-V
5	68390	Visterra CU (March Community)	7,000.00	06-1104-V
4	2995	Alamo	6,750.00	06-1104-IV
3	60368	Dekalb Financial	6,750.00	06-1107-III
4	68385	Heritage	6,750.00	06-1102-IV
4	1245	Pine Bluff Cotton Belt	6,750.00	06-1101-IV
3	352	Tampa Bay	6,750.00	06-1101-III
5	5816	United Methodist	6,500.00	06-1101-V
3	66325	Winston-Salem City Employees	6,500.00	06-1103-III
3	67319	Central FL Postal	6,500.00	06-1104-III
5	1634	Embarcadero	6,500.00	06-1102-V
3	14562	Evansville	6,250.00	06-1106-III
4	7224	Golden Key	5,500.00	06-1105-IV
Total			\$174,500.00	

Appendix C – HISTORY OF HMDA

The Home Mortgage Disclosure Act (HMDA) was enacted by Congress in 1975 and is implemented by the Federal Reserve Board's Regulation C.

In 1980, amendments to HMDA directed the Federal Financial Institutions Examination Council (FFIEC) to compile annually for each Metropolitan Statistical Area (MSA) aggregate lending data by census tract for certain lenders. In addition, the FFIEC was directed to produce tables for each MSA that aggregates the lending activity of institutions by various categories of census tracts, grouped according to location, age of housing stock, income level, and racial characteristics. The aggregate lending data are forwarded annually by the FFIEC to a central data depository in each MSA (usually libraries or planning agencies designated by the FFIEC).

A congressional act passed on February 5, 1988, amended the law and expanded coverage to nonmajority-owned savings and loan service corporations, mortgage banking subsidiaries of bank holding companies, and mortgage banking subsidiaries of savings and loan holding companies. (Previously, only depository institutions and their majority-owned subsidiaries were covered.)

In 1989, the Federal Reserve Board revised Regulation C, to incorporate amendments contained in the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA). The FIRREA amendments accomplished the following: expanded the coverage of HMDA to include mortgage lenders not affiliated with depository institutions or holding companies; required reporting of data regarding the disposition of applications for mortgage and home improvement loans in addition to data regarding loan originations and purchases; and required most lenders to identify the race, sex, and income of loan applicants and borrowers. Lenders were also required to identify the class of purchaser for mortgage loans sold and were permitted to explain the basis for their lending decisions. To facilitate the collection of this information, Regulation C requires a loan/application register (LAR) to be submitted by each institution. The LAR allows institutions to log loan applications, loans originated, and loans purchased.

In 1991, Congress, via the Federal Deposit Insurance Corporation Improvement Act, authorized the Federal Reserve Board, in consultation with the Department of Housing and Urban Development, to develop a new exemption standard for nondepository mortgage lenders that is comparable to the exemption for depository institutions. In 1992, the Federal Reserve Board adopted a standard that further expanded coverage of independent mortgage lenders. Under the adopted standard, a nondepository mortgage lender with an office in an MSA is covered if it meets either an asset-size test or a lending activity test.

The Federal Reserve Board also revised the instructions for reporting loan applications received through a loan broker or correspondent to make the rule for reporting loan

approvals conform to the existing rule for reporting loan denials. This revision applies to all lenders covered by HMDA, not only nondepository mortgage lenders.

In 1993, Regulation C was revised by the Federal Reserve Board to incorporate amendments contained in the Housing and Community Development Act of 1992. The amendments required institutions--in response to requests from the public--to make a modified version of their loan/application register data available within 30 days of the date it was due to its regulatory agency. The amendments also required institutions to make their FFIEC Disclosure Statements publicly available within three business days of receipt from the FFIEC. These amendments were applied beginning with the 1992 HMDA data collection.

In 1994, Regulation C was amended by the Federal Reserve Board to make HMDA data available to the public earlier, to improve the accuracy of the HMDA data, and to clarify and simplify the reporting requirements. Amendments that require institutions, except those with 25 or fewer line entries, to report in machine-readable format and update their HMDA loan/application registers on a quarterly basis were intended to improve data quality, as well as aid in earlier data availability. In addition, institutions were expected to accurately compile and check their data before submission.

The 1994 amendments were applied by institutions beginning with the calendar year (CY) 1995 data. Institutions, however, had to comply with the new or changed requirements beginning with the CY 1996 data. (For the amendment concerning the transmittal sheet, i.e., inclusion of total number of line entries contained in the accompanying data submission, compliance was mandatory beginning with the submission of the CY 1995 data due March 1, 1996.)

The Federal Reserve Board adopted an interim rule to Regulation C in September 1996 that raised the exemption threshold level for depository institutions from \$10 million to \$28 million in assets. The interim rule became final in 1997, subsequently requiring depository institutions with assets greater than \$28 million as of December 31, 1996, to collect HMDA data for CY 1997 provided they also meet the other reporting criteria. The final rule also established an alternative way for institutions to provide disclosure statements in metropolitan areas where they have branch offices, which they could begin using with CY 1996 statements and for prior years' data. Institutions must continue to make a complete copy of their disclosure statement available to the public, at their home office, within three business days of receiving the statement from the FFIEC.

For branch offices located in other metropolitan areas, institutions can either make the disclosure statement available to the public, within ten business days of receiving it, in at least one branch office in each additional MSA where they have offices; or post a notice informing the public that disclosure statements will be provided upon written request and indicating the address for sending requests. A specific branch disclosure statement need only contain data relating to the MSA for which the request is made and will be sent to the requestor within fifteen calendar days of receiving a written request.

In 1998, the amendments consisted of a modification to the loan/application register (LAR) to prepare for Year 2000 data systems conversion, deletion of the requirement to enter the reporting institution's parent company on the transmittal sheet, and technical changes to the regulation and reporting forms.

In order to meet the Year 2000 data systems standards, the final rule to Regulation C requires a lender to report dates on the LAR using four digits for the year, rather than two digits. For example, January 15, 1998, will be reflected as 01/15/1998 rather than 01/15/98.

As previously adopted and declared in 1997, Section 203.2 (e)(1)(i) of Regulation C provides that the Federal Reserve Board will adjust the exemption threshold for depository institutions annually based on the year-to-year change in the average of the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPIW), not seasonally adjusted, for each twelve-month period ending in November, rounded to the nearest million. Pursuant to this section, the Federal Reserve Board raised the threshold to \$29 million for the 1998 data collection.

In 1999, there were no changes to Regulation C. The asset threshold for depository institutions remained at \$29 million for the 1999 data collection. The asset threshold for nondepository institutions remained the same as in 1998 -- \$10 million or less (when combined with the assets of any parent corporation) or originated 100 or more home purchase loans (including refinancings of home purchase loans) in the preceding calendar year.

The Federal Reserve Board raised the asset threshold for depository institutions to \$30 million for the 2000 data collection. The nondepository institution asset threshold was unchanged from 1999.

The Federal Reserve Board raised the asset threshold for depository institutions to \$31 million for data collection in 2001 and to \$32 million for data collection in 2002; the Federal Reserve Board kept the threshold at \$32 million for data collection in 2003. The asset threshold for nondepository institutions for the 2000, 2001, 2002, and 2003 data collections continued to be the same as it was in 1999.

On January 23, 2002, the Federal Reserve Board amended the regulation to replace "metropolitan statistical area" with "metropolitan area," the term now used by the U.S. Office of Management and Budget (OMB). Metropolitan area will have the same meaning as "metropolitan statistical area" does currently. (We changed this term on all HMDA documents and reports on the 2003 data that we collect in 2004). In May 2002, the Federal Reserve Board adopted an interim amendment to Regulation C that is effective January 1, 2003. It mandates the use of 2000 census information in HMDA reporting. Another amendment that is effective January 1, 2003 requires lenders to ask applicants their race or national origin and sex in applications taken by telephone, conforming the telephone application rule to the rule applicable to mail and Internet applications; the data are reported on the calendar year 2003 HMDA data.

In May 2002, the Federal Reserve Board approved a final rule that postpones the effective date of the HMDA Regulation C amendments from January 1, 2003 to January 1, 2004. Those amendments expand the coverage of nondepository lenders by adding a \$25 million dollar volume test to the existing percentage-based coverage test. The amendments include requiring lenders to report data items related to loan pricing; for loan originations in which the annual percentage rate (APR) exceeds the yield for comparable Treasury securities by a specified amount or threshold -- the thresholds are a spread of 3 percentage points for first-lien loans and 5 percentage points for subordinate-lien loans. The amendments also require lenders to report the lien status of applications and originated loans. Lenders must report whether a loan is covered by the Home Ownership and Equity Protection Act (HOEPA). The final rule requires lenders to report whether an application or loan involves a manufactured home.

There were certain definitions revised in the regulation including the definition of an application to include a request for preapproval as defined in the regulation, for purposes of reporting denials of such requests; and the definition of a refinancing and home improvement loan. In addition, the amendments conform the collection of data on race and ethnicity to standards established by the U.S. OMB in 1997.

In June 2003, OMB released the list of metropolitan statistical areas and metropolitan divisions, micropolitan statistical areas, and combined statistical areas, based on the application of the 2000 standards to data from the 2000 Census. Each MSA and Metropolitan Division is assigned a 5-digit number (previously, all MSAs and PMSAs were assigned 4-digit numbers). OMB Bulletin No. 03-04, June 6, 2003. In July 2003, the FFIEC instructed lenders to use the newly released MSAs and Metropolitan Divisions for collecting and reporting HMDA data beginning January 1, 2004. See <http://www.ffiec.gov/hmda/pdf/spec2004.pdf>. Regulation C refers to the MSA and the PMSA for determining coverage under HMDA, reporting property location, providing disclosures and reports of lending activity, and posting notices about the availability of HMDA data. The MSA, and in the case of large MSAs, the Metropolitan Division, are the geographic units most analogous to MSAs and PMSAs under the 1990 standards. Thus, their use minimizes any disruption in HMDA data caused by the changes to OMB standards.

In December of 2003, the Federal Reserve Board published a final rule amending Regulation C and the staff commentary that interprets the requirements of Regulation C. The regulation and staff commentary are amended to conform them to changes in the Standards for OMB. In addition, the revisions to Regulation C formalize the FFIEC's July 2003 guidance as discussed in the previous paragraph. The regulation, Appendix A, and the staff commentary are amended to use the terms "MSA" and "Metropolitan Division." The staff commentary was also amended to increase the asset-size threshold for depository institutions based on the annual percentage change in the CPIW. The asset threshold was raised to \$33 million for data collection in 2004. The asset threshold for nondepository institutions for the 2004 data collection remains unchanged -- \$10 million or less (when combined with the assets of any parent corporation) or originated 100 or

more home purchase loans (including refinancings of home purchase loans) in the preceding calendar year.

In December 2004, the Federal Reserve Board increased the asset exemption threshold for depository institutions to \$34 million for data collection in 2005. The asset threshold for nondepository institutions for the 2005 collection remained unchanged at \$10 million or less (when combined with the assets of any parent corporation) or originated 100 or more home purchase loans (including refinancings of home purchase loans) in the preceding calendar year.

In December 2005, the Federal Reserve Board raised the asset exemption threshold for depository institutions to \$35 million for data collection in 2006. The asset threshold for nondepository institutions for the 2006 collection remained unchanged.

In December 2006, the Federal Reserve Board raised the asset exemption threshold for depository institutions to \$36 million for data collection in 2007. The asset threshold for nondepository institutions for the 2007 collection remained unchanged at \$10 million or less (when combined with the assets of any parent corporation) or originated 100 or more home purchase loans (including refinancings of home purchase loans) in the preceding calendar year.

HMDA data are submitted to the Federal Reserve Board, on behalf of the FFIEC supervisory agencies, and following production of each institution's disclosure statement by the Federal Reserve Board, the FFIEC will post the HMDA aggregate tables and individual institution disclosure reports to www.ffiec.gov/reports.htm. Institutions should make their disclosure statements available to the public within three business days of receipt. Furthermore, each reporting institution must maintain a complete copy of its disclosure statement for public use in its home office. For branch offices, the lender has the option of making the statement available to the public in at least one branch office in each additional MSA/MD where it has offices; or the lender can post in the lobby of each branch office the address where a written request for the statement can be sent. (The disclosure statement need only contain data relating to the MSA/MD for which the request is made.)

Data collected under HMDA are used to help the public determine if lending institutions are meeting the housing credit needs of their communities, to help public officials target community development investment, and to help regulators enforce fair lending laws.

Appendix D – ANNUAL REPORTS OF COMPLIANCE TO THE FEDERAL RESERVE BOARD

November 24, 2004

Sandra F. Braunstein, Director
Division of Consumer and Community Affairs
Board of Governors of the Federal Reserve System
Washington, D.C. 20551

Dear Ms. Braunstein:

National Credit Union Administration (NCUA) Board Chairman JoAnn Johnson asked me to respond to your request for compliance data for the period from July 1, 2003 through June 30, 2004, to be used in the annual report to Congress prepared by the Federal Reserve Board.

Our primary enforcement method remains the examination process. During risk focused examinations, consumer compliance issues are reviewed using checklists with additional attention devoted to high risk areas. We also use FFIEC Interagency Fair Lending Examination Procedures to review fair lending issues; use of these procedures allows for consistency in all financial institutions. Over the past year, no significant enforcement actions were taken.

Institutions supervised by NCUA remain substantially compliant with Regulations AA, B, CC, DD, E, M, P, and Z. A table showing the percentage of examined institutions not in full compliance with the above regulations follows.

Regulation	Percent of Examined CUs Not Compliant
AA - Unfair or Deceptive Acts or Practices Rule (NCUA R&R 706)	0.19%
B - Equal Credit Opportunity	1.28%
CC - Expedited Fund Availability	1.08%
DD - Truth in Savings (NCUA R&R 707)	1.96%
E - Electronic Fund Transfer	0.26%
M - Consumer Leasing	0.00%
P - Privacy of Consumer Financial Information (NCUA R&R 716)	1.02%
Z - Truth in Lending	3.74%

NCUA counts each violated provision of a regulation once during an examination, regardless of the number of individual violations found during review of that provision. Since NCUA has not conducted more than five examinations at a particular institution over the past year, all institutions with reported violations can be classified in the one to five violation category.

You also requested the legal citation and a brief description for the five most frequently violated provisions of Regulations B, E, M, P, Z, CC, and DD. A table containing this information follows.

Regulation	Citation	Description
Regulation B (Equal Credit Opportunity)	202.13	Government monitoring information not collected
	202.4	General rules - written applications
	202.5	Requests for information - marital status, alimony income
	202.7	Improper requirements for cosigner
	202.9	Notifications - action taken, ECOA notice
Regulation CC (Expedited Funds Availability)	229.10	Inadequate compliance with next day availability of deposited funds
	229.13	Notice of exception to funds availability schedule not provided
	229.15	Initial funds availability notice is not posted/available to members
	229.18	Location accepting deposits lacks funds availability notice
	229.19	No ongoing Reg CC training
Regulation DD Part 707 of NCUA Rules and Regulations (Truth in Savings)	707.3	No Truth in Savings disclosures
	707.4	Inaccurate disclosure of APY
	707.5	No 30 day advance notice on term certificates
	707.6	Member statements lack APY
	707.8	Inaccurate signage
Regulation E (Electronic Funds Transfer)	205.1	Inappropriate postings
	205.11	Did not comply with timing for error resolution
	205.17	Disclosures could not be printed from web site
	205.7	No written disclosures provided to members
	205.8	Error resolution disclosure not provided.
Regulation M		No violations noted.
Regulation P Part 716 of NCUA Rules and Regulations (Privacy of Consumer Financial Information)	716.4	Privacy notices not sent to members
	716.5	Annual disclosure not provided
	716.6	Missing required information in disclosure
	716.7	No opt out directions provided
Regulation Z (Truth in Lending)	226.15	Right of rescission not provided or not allowed appropriate period
	226.17	Incomplete disclosure
	226.18	Content of disclosures was not sufficient
	226.24	Presentation of finance charges or APR in advertising
	226.5	Inadequate written disclosure

Citations for Regulations P and DD refer to the applicable portion of the NCUA Rules and Regulations for Federal Credit Unions. Since fewer than five provisions of

Regulations M and P were violated during the reporting period, only provisions with one or more reported violations are shown.

You also requested information concerning the total number of institutions not in compliance. A table showing comparative compliance during the current reporting period and the 2002-2003 reporting period follows.

Regulation	YE 6/03	YE 6/04
AA - Unfair or Deceptive Acts or Practices Rule (NCUA R&R 706)	24	14
B - Equal Credit Opportunity	86	93
CC - Expedited Fund Availability	53	78
DD - Truth in Savings (NCUA R&R 707)	109	142
E - Electronic Fund Transfer	20	19
M - Consumer Leasing	1	0
P - Privacy of Consumer Financial Information (NCUA R&R 716)	48	74
Z - Truth in Lending	295	271

You asked what regulation presents the greatest difficulty for the financial institutions we regulate. With 271 violations noted during the reporting period, compliance with Regulation Z, *Truth in Lending*, presents some difficulty for credit unions. Our review indicates almost 85 percent of these violations were technical. In general, members did not suffer a negative financial impact, and some members benefited from the errors.

To assist credit unions with compliance, NCUA issued Regulatory Alert 03-RA-08, *Regulation Z – Revisions to the Official Staff Commentary*, in May 2003. This alert provides a plain English overview of changes in the interpretation of Regulation Z.

We have no suggestions or recommendations for changing Regulations AA, B, CC, DD, E, M, P, or Z, at this time.

As requested, a copy of this letter and supporting schedules will be provided in an electronic format to Applications Team Leader Helen Troy at Helen.m.troy@frb.gov. If you have questions, please contact Program Officer Elizabeth Habring at (703) 518-6392 or via email at ehabring@ncua.gov.

Sincerely,

David M. Marquis, Director
Office of Examination and Insurance

EI/EAH:eah

Attachment



FRB Attachment
2004.xls

cc: Len Skiles, Executive Director

Helen Troy, Applications Team Leader
Federal Reserve Board

November 30, 2005

Sandra F. Braunstein, Director
Division of Consumer and Community Affairs
Board of Governors of the Federal Reserve System
Washington, D.C. 20551

Dear Ms. Braunstein:

National Credit Union Administration (NCUA) Board Chairman JoAnn Johnson asked me to respond to your request for compliance data for the period from July 1, 2004 through June 30, 2005, to be used in the annual report to Congress prepared by the Federal Reserve Board.

Our primary enforcement method remains the examination process. During risk focused examinations, consumer compliance issues are reviewed using checklists with additional attention devoted to high risk areas. We also use FFIEC Interagency Fair Lending Examination Procedures to review fair lending issues; use of these procedures allows for consistency in all financial institutions. Over the past year, no significant enforcement actions were taken.

Institutions supervised by NCUA remain substantially compliant with Regulations AA, B, CC, DD, E, M, P, and Z. A table showing the percentage of examined institutions not in full compliance with the above regulations follows.

Regulation	Percent of Examined CUs Not Compliant
AA - Unfair or Deceptive Acts or Practices Rule (NCUA R&R 706)	0.03%
B - Equal Credit Opportunity	1.66%
CC - Expedited Fund Availability	0.89%
DD - Truth in Savings (NCUA R&R 707)	1.66%
E - Electronic Fund Transfer	0.35%
M - Consumer Leasing	0.02%
P - Privacy of Consumer Financial Information (NCUA R&R 716)	0.29%
Z - Truth in Lending	3.30%

NCUA counts each violated provision of a regulation once during an examination, regardless of the number of individual violations found during review of that provision. Since NCUA has not conducted more than five examinations at a particular institution over the past year, all institutions with reported violations can be classified in the one to five violation category.

You also requested the legal citation and a brief description for the five most frequently violated provisions of Regulations B, E, M, P, Z, CC, and DD. A table containing this information follows.

Regulation	Citation	Description
Regulation B (Equal Credit Opportunity)	202.9	Incomplete adverse action notice
	202.13	Government monitoring information not collected
	202.7	Improper requirements for cosigner
	202.5	Require information on spousal income
	202.4	Kept member ID in loan file
Regulation CC (Expedited Funds Availability)	229.15	Initial funds availability notice is not posted/available to members
	229.18	Location accepting deposits lacks funds availability notice
	226.16	Inadequate written disclosure
	229.19	No ongoing Reg CC training
	229.13	Inaccurate holds placed on new deposits
Regulation DD Part 707 of NCUA Rules and Regulations (Truth in Savings)	707.4	Inaccurate disclosure of APY
	707.3	No Truth in Savings disclosures
	707.8	Inaccurate signage
	707.6	Member statements lack APY
	707.5	No 30 day advance notice on term certificates
Regulation E (Electronic Funds Transfer)	205.7	No written disclosures provided to members
	205.9	Lack of periodic disclosures
	205.10	Preauthorized transfers
	205.11	Resolution of error
	N/A	No other provisions violated
Regulation M (Consumer Leasing)	213.4	No good faith estimate found
	N/A	Not other provisions violated
Regulation P Part 716 of NCUA Rules and Regulations (Privacy of Consumer Financial Information)	716.4	Privacy notices not sent to members
	716.5	Annual disclosure not provided
	716.6	Missing required information in disclosure
	716.7	No opt out directions provided
	716.9	Delivering privacy and opt out notices
Regulation Z (Truth in Lending)	226.5	Inadequate written disclosure
	226.15	Right of rescission not provided or not allowed appropriate period
	226.18	Content of disclosures was not sufficient
	226.24	Presentation of finance charges or APR in advertising
	226.19	Improper adjustment of variable rate loans

Citations for Regulations P and DD refer to the applicable portion of the NCUA Rules and Regulations for Federal Credit Unions. Since fewer than five provisions of Regulations E and M were violated during the reporting period, only provisions with one or more reported violations are shown.

You also requested information concerning the total number of institutions not in compliance. A table showing comparative compliance during the current reporting period and the 2003-2004 reporting period follows.

Regulation	YE 6/05	YE 6/04
AA - Unfair or Deceptive Acts or Practices Rule (NCUA R&R 706)	2	14
B - Equal Credit Opportunity	110	93
CC - Expedited Fund Availability	59	78
DD - Truth in Savings (NCUA R&R 707)	110	142
E - Electronic Fund Transfer	23	19
M - Consumer Leasing	1	0
P - Privacy of Consumer Financial Information (NCUA R&R 716)	19	74
Z - Truth in Lending	218	271

You asked what regulation presents the greatest difficulty for the financial institutions we regulate. With 218 violations noted during the reporting period, compliance with Regulation Z, *Truth in Lending*, presents some difficulty for credit unions. Our review indicates almost 80 percent of these violations were technical. In general, members did not suffer a negative financial impact, and some members benefited from the errors.

To assist credit unions with compliance, NCUA issued Regulatory Alert 05-RA-08, Home Owners Equity Protection Act, in October 2005. This alert provides a plain English overview of changes in the threshold amounts associated with Section 32 of Regulation Z.

We have no suggestions or recommendations for changing Regulations AA, B, CC, DD, E, M, P, or Z, at this time.

As requested, a copy of this letter and supporting schedules will be provided in an electronic format to Supervisory Consumer Financial Services Analyst Karen Bowman at Karen.s.bowman@frb.gov. If you have questions, please contact Program Officer Elizabeth Habring at (703) 518-6392 or via email at ehabring@ncua.gov.

Sincerely,

David M. Marquis, Director
Office of Examination and Insurance

EI/EAH:eah

Attachment



2005_FRB_DataPage
.xls

cc: Len Skiles, Executive Director

Karen Bowman, Supervisory Consumer Financial Services Analyst
Federal Reserve Board

December 6, 2006

Sandra F. Braunstein, Director
Division of Consumer and Community Affairs
Board of Governors of the Federal Reserve System
Washington, D.C. 20551

Dear Ms. Braunstein:

National Credit Union Administration (NCUA) Board Chairman JoAnn Johnson asked me to respond to your request for compliance data for the period from July 1, 2005 through June 30, 2006, to be used in the annual report to Congress prepared by the Federal Reserve Board.

Our primary enforcement method remains the examination process. During risk focused examinations, consumer compliance issues are reviewed using checklists with additional attention devoted to high risk areas. We also use FFIEC Interagency Fair Lending Examination Procedures to review fair lending issues; use of these procedures allows for consistency in all financial institutions. Over the past year, no significant enforcement actions were taken.

Institutions supervised by NCUA remain substantially compliant with Regulations AA, B, CC, DD, E, M, P, and Z. A table showing the percentage of examined institutions not in full compliance with the above regulations follows.

Regulation	Percent of Examined CUs Not Compliant
AA - Unfair or Deceptive Acts or Practices Rule (NCUA R&R 706)	0.12%
B - Equal Credit Opportunity	2.27%
CC - Expedited Fund Availability	0.88%
DD - Truth in Savings (NCUA R&R 707)	1.79%
E - Electronic Fund Transfer	0.21%
M - Consumer Leasing	0.00%
P - Privacy of Consumer Financial Information (NCUA R&R 716)	0.59%
Z - Truth in Lending	4.12%

NCUA counts each violated provision of a regulation once during an examination, regardless of the number of individual violations found during review of that provision. Since NCUA has not conducted more than five examinations at a particular institution over the past year, all institutions with reported violations can be classified in the one to five violation category.

You also requested the legal citation and a brief description for the five most frequently violated provisions of Regulations B, E, M, P, Z, CC, and DD. A table containing this information follows.

Regulation	Citation	Description
Regulation B	202.9	Incomplete adverse action notices
(Equal Credit Opportunity)	202.13	Government monitoring information not collected
	202.4	Keeping members' photo IDs in loan file
	202.5	Co-maker / spousal implications
	202.6	Written policies / validation for risk-based lending program
Regulation CC	229.16	No policy / Inadequate written disclosures
(Expedited Funds Availability)	229.18	No disclosure in lobby area
	229.17	Initial disclosure not provided
	229.19	Employee training
	229.12	Inadequate policy
Regulation DD	707.8	Inaccurate signage on website
Part 707 of NCUA Rules and Regulations	707.4	Inaccurate disclosures
(Truth in Savings)	707.3	No Truth in Savings disclosures / initial disclosures
	707.5	No 30 day advance notice on account changes
	707.6	Inaccurate member statements
Regulation E	205.7	Written disclosures not provided
(Electronic Funds Transfer)	205.4	Periodic disclosures not provided to members
	205.11	Resolution of errors
	205.5	No Reg E disclosures on transactional website
	205.6	Inaccurate disclosures
Regulation M	N/A	No provisions violated
(Consumer Leasing)		
Regulation P	716.5	Annual notice not provided
Part 716 of NCUA Rules and Regulations	716.4	Initial notice not provided to members
(Privacy of Consumer Financial Information)	716.6	Missing link to notice on website
	716.7	No opt out directions provided in notice
	716.9	Inadequate disclosure/notice
Regulation Z	226.18	Insufficient / inaccurate disclosures
(Truth in Lending)	226.5	Inadequate written disclosure
	226.24	Inaccurate APR disclosures
	226.17	Disclosure statement not issued to borrower
	226.23	Right of rescission notice not issued

Citations for Regulations P and DD refer to the applicable portion of the NCUA Rules and Regulations for Federal Credit Unions. Please note, no provisions of Regulation M were violated during the reporting period.

You also requested information concerning the total number of institutions not in compliance. A table showing comparative compliance during the current reporting period and the 2004-2005 reporting period follows.

Regulation	YE 6/06	YE 6/05
AA - Unfair or Deceptive Acts or Practices Rule (NCUA R&R 706)	8	2

B - Equal Credit Opportunity	150	110
CC - Expedited Fund Availability	58	59
DD - Truth in Savings (NCUA R&R 707)	118	110
E - Electronic Fund Transfer	14	23
M - Consumer Leasing	0	1
P - Privacy of Consumer Financial Information (NCUA R&R 716)	39	19
Z - Truth in Lending	272	218

You asked what regulation presents the greatest difficulty for the financial institutions we regulate. With 412 violations noted during the reporting period, compliance with Regulation Z, *Truth in Lending*, presents some difficulty for credit unions. Our review indicates the majority of these violations were technical. In general, members did not suffer a negative financial impact, and some members benefited from the errors.

To assist credit unions with compliance, NCUA issued Regulatory Alert 06-RA-05, Home Owners Equity Protection Act, in August 2006. This alert provides a plain English overview of changes in the threshold amounts associated with Section 32 of Regulation Z.

We have no suggestions or recommendations for changing Regulations AA, B, CC, DD, E, M, P, or Z, at this time.

As requested, a copy of this letter and supporting schedules will be provided in an electronic format to Carolyn Welch at carolyn.welch@frb.gov. If you have questions, please contact Program Officer Matthew Biliouris at (703) 518-6394 or via email at matthewb@ncua.gov.

Sincerely,

David M. Marquis, Director
Office of Examination and Insurance

EI/MJB:mb

Attachment:



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cc: Len Skiles, Executive Director, NCUA
Carolyn Welch, Federal Reserve Board