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*Credit Union Regulatory Improvements Act (CURIA): H.R.
1537 and S. 2957*

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June 16, 2008

Abstract. Regulatory modernization legislation for credit unions, the Credit Union Regulatory Improvements Act (CURIA), has been introduced in both the House and Senate. H.R. 1537 (CURIA 2007) was introduced on March 15, 2007, and S. 2957 (CURIA 2008) was introduced on May 1, 2008. The two bills are virtually identical except for technical corrections. The legislation would modernize capital requirements, raise the cap on member business lending, enhance the ability of credit unions to serve financially underserved areas, and provide regulatory relief. For the past three Congresses, credit union representatives have advocated for legislation that would address what they maintain are outdated restrictions and the growing costs of regulatory compliance. Regulatory modernization would increase the ability of credit unions to grow and serve their membership. The banking industry has generally opposed legislation that would increase the powers of credit unions. In prior Congresses, some provisions of credit union specific legislation were incorporated into omnibus legislation that would reduce regulatory requirements on all depository financial institutions. Credit union representatives have remained committed to the passage of a complete package of provisions most recently introduced as CURIA.

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Summary

Regulatory modernization legislation for credit unions, the Credit Union Regulatory Improvements Act (CURIA), has been introduced in both the House and Senate. H.R. 1537 (CURIA 2007) was introduced on March 15, 2007, and S. 2957 (CURIA 2008) was introduced on May 1, 2008. The two bills are virtually identical except for technical corrections. The legislation would modernize capital requirements, raise the cap on member business lending, enhance the ability of credit unions to serve financially underserved areas, and provide regulatory relief. For the past three Congresses, credit union representatives have advocated for legislation that would address what they maintain are outdated restrictions and the growing costs of regulatory compliance. Regulatory modernization would increase the ability of credit unions to grow and serve their membership. The banking industry has generally opposed legislation that would increase the powers of credit unions. In prior Congresses, some provisions of credit union specific legislation were incorporated into omnibus legislation that would reduce regulatory requirements on all depository financial institutions. Credit union representatives have remained committed to the passage of a complete package of provisions most recently introduced as CURIA. This report will be updated as events and legislative events warrant.

Background

The original concept of a credit union was of a cooperative organization formed for the purpose of promoting thrift among its members and providing them with a source of low-cost credit. During the last couple of decades, technology, competition, and economic conditions have brought many changes to the financial services marketplace that have affected all types of depository financial institutions. The credit union industry has evolved with marketplace changes so that many of the financial services credit unions provide are similar to those offered by banks and savings associations. Credit unions nevertheless remain distinguishable because of their cooperative framework and unique charter requirements. Credit unions are nonprofit, member-owned financial institutions and are subject to specific restrictions not placed on other depository financial institutions.

Credit union charters are granted by federal or state governments on the basis of a “common bond.” This requirement determines the field of membership, and is unique among depository financial institutions. There are three types of charters: (1) a single common bond (occupation or association based); (2) multiple common bond (more than one group each having a common bond of occupation or association); and (3) a community-based (geographically defined) common bond.

Individual credit unions are owned by their membership. The members of a credit union elect a board of directors from their institution’s membership (one member, one vote). Members’ savings are referred to as “shares,” and earn dividends instead of interest. Credit union loan and investment powers are more restricted than those of commercial banks. Credit unions can only make loans to their members, to other credit unions, and to credit union organizations. The investment authority of federal credit unions is limited by statute to loans, government securities, deposits in other financial institutions, and certain other limited investments. Given that credit unions are considered financial cooperatives, the institutions are exempt from federal income tax. Individual members are taxed on their dividends.

Since 2001, both the banking and the credit union industries have worked with Congress to develop legislative proposals that would reduce existing regulatory requirements and the burdens compliance enforcement places on depository financial institutions. During the 109th Congress, legislation was enacted (P.L. 109-351; 120 Stat. 1966) that provided some of the changes sought. The statute reduced regulatory requirements for all types of depository financial institutions. Both the banking and credit union industries remain interested in the regulatory relief provisions excluded from the law.¹

In the 110th Congress, the current measure providing regulatory relief and reform for credit unions is the Credit Union Regulatory Improvements Act (H.R. 1537 and S. 2957). The stated intent of this legislation is to modernize the prompt corrective action system for credit unions, make adjustments to their loan authority, enhance the ability of credit unions to serve financially underserved areas, and ease credit union regulatory burdens. Credit union advocates suggest that the legislation would ensure the financial strength of credit unions, enhance the services provided to credit union members, and address the growing costs of regulatory compliance. Banking

¹ For additional information on regulatory relief in the 110th Congress, please see CRS Report RS22651, *Financial Services Regulatory Relief: Implementation and Reintroduced Provisions in the 110th Congress*, by Walter W. Eubanks.

industry advocates have raised concerns that the legislation would grant credit unions authorities that could enhance their competitive strength, while continuing their federal income tax exemption.²

An Overview of CURIA

CURIA 2007 (H.R. 1537) was introduced on March 15, 2007, by Representative Kanjorski, has been co-sponsored by 147 members to date, and was referred to the House Committee on Financial Services. CURIA 2008 (S. 2957) was introduced on May 1, 2008, by Senator Lieberman, has been co-sponsored by three other members to date, and was referred to the Senate Committee on Banking, Housing, and Urban Affairs. On March 6, 2008, the House Committee on Financial Services held a hearing on “The Need For Credit Union Regulatory Relief” to examine the related issues. The following is an overview of the three titles of CURIA.

Title I: Capital Reform

This section would change credit union capital requirements by redefining the net worth ratio to include a risk-based asset approach for the prompt corrective action (PCA) requirements for federally insured credit unions. The requirements are enforced by the National Credit Union Administration (the federal regulator for credit unions) and the reforms address recommendations of the federal regulator. The objective of PCA is to minimize the probability of credit union insolvency through early intervention by the federal regulator. The new PCA framework establishes a net worth ratio that requires progressively more stringent mandatory and discretionary regulatory actions for credit unions with low or declining capital or net worth levels. A significant part of a credit union’s net worth is its retained earnings balance. Credit unions use retained earnings as their only source for meeting capital requirements, unlike banks which can raise capital in many different ways, including subordinating debt.

The proposed legislation would require all credit unions to meet a risk-based net worth requirement. Risk-based requirements would be designed to be comparable to capital standards required of institutions insured by the Federal Deposit Insurance Corporation. In addition, CURIA would make adjustments to required actions for an undercapitalized credit union, including the implementation of a net worth restoration plan.

Title II: Economic Growth

This title would amend the authority of federal credit unions to make member business loans, and it would expand the scope for credit unions to serve financially underserved areas. Under current law, credit unions can make loans only to their members, to other credit unions, and to credit union organizations. Currently the aggregate limit on a credit union’s net member business loan balances is the lesser of 1.75 times the credit union’s net worth, or 12.25% of the credit union’s total assets. CURIA would replace this limitation with a flat rate of 20% of the total assets of a credit union. In addition, the legislation would exclude from the member business loan limit loans or loan participations to nonprofit religious organizations. The definition of a member business

² For a discussion of this issue, please see CRS Report 97-548, *Should Credit Unions Be Taxed?*, by James M. Bickley.

loan now excludes loan(s) of up to \$50,000. CURIA would amend the definition to exclude loans of up to \$100,000 or less.

CURIA would permit federal credit unions of all charter types to expand credit union services to eligible communities that meet the income, unemployment, and other distress criteria identified by the U.S. Treasury Department or that qualify as low income areas under the New Markets Tax Credit targeting formula. Currently, only credit unions with multiple-group common bond charters can add underserved areas to their field of membership. Provisions of this title would also arguably enhance the ability of credit unions to assist the economic revitalization efforts of distressed communities. It would give a credit union operating in an underserved community more flexibility in regards to the leasing of space in a building or property in which the credit union maintains a physical presence. A credit union would also be permitted to acquire, construct, or refurbish a building in an underserved community and then lease out excess space in that building.

Title III: Regulatory Modernization

Section 301. Investments in Securities by Federal Credit Unions.

The investment authority of federal credit unions is limited by statute to loans, government securities, deposits in other financial institutions, and certain other limited investments. Some believe this restriction places federal credit unions at a competitive disadvantage with state-chartered credit unions and other depository financial institutions. This provision would permit a federal credit union to purchase for its own account certain investment securities of a defined investment grade. The total amount of the investment securities of any one obligor or maker could not exceed 10% of an institution's net worth. The aggregate amount of investment securities could not exceed 10% of the assets of the credit union.

Section 302. Authority of the National Credit Union Administration (NCUA) to Establish Longer Loan Maturities for Certain Credit Union Loans

Federal credit unions are authorized to make loans to members, other credit unions, and to credit union organizations. Prior to P.L. 109-351, loans were restricted to a statutory 12-year maturity limit with a few exceptions. That law gave the NCUA the authority to increase the 12-year maturity limit on non-real estate secured loans to 15 years. This section of H.R. 1537 would provide the NCUA with the additional flexibility to issue regulations to increase that 15-year maturity limit to longer terms.

Section 303. Increase in 1% Investment Limit in Credit Union Service Organizations

Organizations that provide services to credit unions and credit union members are commonly known as credit union service organizations (CUSOs). An individual federal credit union is currently authorized to invest in aggregate up to 1% of its unimpaired capital and surplus in CUSOs. In addition, the same limitation applies to loans credit unions may make to CUSOs. This section of H.R. 1537 would raise both limits to 2%.

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Section 304. Voluntary Mergers Involving Multiple Common Bond Credit Unions

The groups forming a multiple common bond charter are restricted to 3,000 members under most circumstances under existing law. This numerical limitation has been a concern in voluntary mergers of multiple common bond credit unions. The National Credit Union Administration (NCUA) has required member groups resulting from the merger that are larger than 3,000 to spin off and form separate credit unions. This section of the bill would provide that this numerical limitation does not apply in voluntary mergers.

Section 305. Conversions Involving Certain Credit Unions to a Community Charter

This section addresses a single or multiple common bond credit union converting to a community credit union. Community charters are required to be based on a single, geographically well-defined local community neighborhood, or rural district. This section would require the NCUA to establish the criteria used to determine that a member group or other portion of a credit union's existing membership, located outside the community base, can be satisfactorily served and remain within the newly constituted credit union's field of membership.

Section 306. Credit Union Governance

This section deals with two separate issues. It provides for the expulsion of a federal credit union member for a good cause by a majority vote of a quorum of the institution's board of directors. Currently, a two-thirds vote of the membership is required. In addition, this section would give institutions the authority to limit the number of consecutive terms an individual could serve on the board of directors in an effort to encourage broader representation on the board.

Section 307. Providing the National Credit Union Administration With Greater Flexibility in Responding to Market Conditions

The rate of interest on loans made by a federal credit union may not exceed 15% under most circumstances. This section would permit the NCUA to consider whether sustained increases in money market interest rates or prevailing market interest rate levels threaten the safety and soundness of individual institutions when the agency debates lifting the usury ceiling.

Section 308. Credit Union Conversion Voting Requirements

This section deals with the process that a credit union follows when it undertakes a charter conversion to become a mutual thrift institution. Currently, the membership must approve the proposal to convert by the affirmative vote of a majority of those members who vote on the proposal. This section would redefine a quorum by increasing to 30% of the credit union's membership the minimum member participation requirement in any vote to approve a conversion. In addition, it would require the board of directors to hold a general membership meeting one month prior to sending out any notices about a conversion vote if such notices are accompanied by a voting ballot.

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Section 309. Exemption from Pre-Merger Notification Requirement of the Clayton Act

This section would give all federally insured credit unions the same exemption as banks and thrift institutions from pre-merger notification requirements and fees for the purposes of antitrust review by the Federal Trade Commission under Section 7A(c)(7) of the Clayton Act (15 U.S.C. 18a(c)(7)).

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