

**REGULAR STATE CREDIT UNION BOARD MEETING
HELD BY CONFERENCE CALL
OFFICE OF THE COMMISSIONER
DEPARTMENT OF FINANCIAL INSTITUTIONS
2000 SCHAFFER STREET, SUITE G
BISMARCK, NORTH DAKOTA**

December 12, 2014

The regular meeting of the State Credit Union Board was called to order by Chairman Entringer in the Office of the Commissioner, Department of Financial Institutions, 2000 Schafer Street, Suite G, Bismarck, North Dakota, at 9:00 a.m., Friday, December 12, 2014, by conference call.

MEMBERS PRESENT: Robert J. Entringer, Chairman *(Office)*
Paul Brucker, Member *(Office)*
Don Clark, Member *(Fargo)*
Melanie Stillwell, Member *(Williston)*
Steve Tonneson, Member *(Minot)*

MEMBERS ABSENT: None

ALSO PRESENT: Aaron Webb, Secretary *(Office)*
Suzette Richardson, Administrative Staff Officer *(Office)*
Jan Murtha, Assistant Attorney General *(Office)*
Corey Krebs, Chief Examiner – Credit Unions *(Office)*
Sara Sauter, Financial Institutions Examiner *(Office)*
Heidi LaBree, Financial Institutions Examiner *(Office)*
Robbie Thompson, CU Association of the Dakotas *(Office)*
Steve Schmitz, First Community CU *(Jamestown)*
Darin Finck, First Community CU *(Jamestown)*

APPROVAL OF MINUTES

Chairman Entringer indicated the Board received copies of the minutes of the regular meeting held on September 5, 2014, and the special meeting held on November 18, 2014.

Chairman Entringer noted there is a correction in the September 5, 2014, minutes. Chief Examiner Krebs indicated the last sentence of the second paragraph should read “Chief Examiner Krebs continued this equates to approximately 4.5 examinations written per examiner nationwide compared to 9 in North Dakota.”

It was moved by Member Brucker, seconded by Member Clark, and unanimously carried to approve the minutes of the regular meeting held September 5, 2014, as corrected, and the special meeting held November 18, 2014, as presented.

USE OF THE WORD “BANK”

Chairman Entringer indicated since Greg Tschider is not present today this issue will not be discussed during this meeting.

FIRST COMMUNITY CREDIT UNION, JAMESTOWN – C&D WAIVER REQUEST

Chief Examiner Krebs reviewed his Memorandum dated December 4, 2014, detailing the request by First Community Credit Union (FCCU) for a waiver from the aggregate construction and development (C&D) loan limit outlined in Part 723.3 of NCUA’s Rules and Regulations, as well as Section 13-03-16-05 of the North Dakota Administrative Code. Chief Examiner Krebs indicated FCCU’s current waiver is 30% of net worth and was seeking a new limit of 50% of net worth; however, amended their request that the C&D loan limit of 50% of net worth with the condition the additional 35% of net worth is reserved exclusively for: the construction of 1-4 family dwellings; apartment complexes; and owner occupied business or agricultural buildings, if permanent financing is committed under an SBA, BIA, FSA or USDA guarantee program or the Bank of North Dakota has committed to purchase part of the credit union completion under a business development program or PACE program.

Chief Examiner Krebs indicated FCCU has provided the required documentation outlined in Part 723.11 and Section 13-03-16-03, and appears to meet the criteria necessary to obtain the waiver.

Chief Examiner Krebs stated C&D loans are considered risky business loans; however, the request does not create immediate safety and soundness concerns for

FCCU and its financial position will help mitigate some of the risk. Chief Examiner Krebs added that FCCU's loan portfolio performance will be reviewed during examinations and the Call Report process.

Chief Examiner Krebs concluded the Department recommends approval of the exemption request by FCCU.

In response to Member Brucker, Chairman Entringer indicated NCUA has to approve this request as well.

President Schmitz indicated that FCCU's current waiver is 30% of net worth and is requesting an additional waiver of 20% of net worth. President Schmitz stated FCCU has consistently been at the cap of the 30% limitation; adding the purpose of the request is to allow FCCU to do single and multi-family housing construction. President Schmitz agreed these construction loans are more risky; however, he noted that FCCU is doing business with established builders and customers. President Schmitz indicated the Bismarck, Fargo, and Jamestown areas do not have enough housing, and the increased waiver limit would allow FCCU to serve its members in these areas. President Schmitz added that FCCU has established controls to limit possible risk on these types of loans.

Chief Examiner Krebs clarified this is actually two separate limits for C&D loans: the 15% waiver of net worth is for any type of loan allowed by statute, and the additional 35% waiver request by FCCU is reserved exclusively for the items previously addressed.

President Schmitz clarified that FCCU has been operating with an additional 15% waiver for over two years; therefore, the current request is for an increase from 30% to 50%, not 15% to 50%.

In response to Member Tonneson, President Schmitz indicated that over 90% of FCCU's C&D lending is taking place in the Fargo, Jamestown, and Bismarck areas, with the majority in Fargo and Bismarck, until a recent increase in the Jamestown area.

In response to Member Clark, Chairman Entringer indicated a waiver increase of 50% of net worth is not the maximum allowable limit; adding that NCUA's practice has been to grant a 15% waiver increase per request. Chairman Entringer explained that the Department's member business lending rule (MBL) was submitted to NCUA in 2000; however, did not receive NCUA approval as it was not

comparable to their rule. Chairman Entringer continued that NCUA's rule predominantly applies; adding that the State Credit Union Board has the authority to act on waiver requests, but it must be submitted to NCUA for the final decision. Chairman Entringer added that the Department intends to submit a revised MBL rule to NCUA for their consideration.

Mr. Thompson stated NCUA hopes to have a revised MBL rule within the second quarter of 2015; adding that the Credit Union Association of the Dakotas (CUAD) is recommending NCUA get more industry involvement in the proposed MBL rule. Mr. Thompson concluded he believes NCUA's revised MBL rule will most likely be completed by September 2015.

In response to Member Tonneson, Mr. Thompson indicated NCUA intends to revamp the entire Section 723.3.

It was moved by Member Brucker, seconded by Member Tonneson, and unanimously carried to approve the request by First Community Credit Union, Jamestown, for a waiver of an additional 20% of net worth, for a total C&D loan limit of 50% of net worth, with the condition the additional 35% of net worth is reserved exclusively for: the construction of 1-4 family dwellings; apartment complexes; and owner occupied business or agricultural buildings, if permanent financing is committed under an SBA, BIA, FSA or USDA guarantee program or the Bank of North Dakota has committed to purchase part of the credit union completion under a business development program or PACE program.

Chairman Entringer indicated the Board's recommendation will be forwarded to NCUA for final action.

FTE BUDGET PACKAGE

Chairman Entringer indicated the Board discussed the optional budget package at its November 18, 2014, meeting and explained that since that time the Office of Management and Budget (OMB) informed the Department it was too late to retract the optional budget package; therefore, the optional package will be included in the Department's budget bill. Chairman Entringer stated he is working on a formula that will more fairly adjust the assessment costs to the credit unions.

In response to Chairman Entringer, Mr. Thompson indicated the general perspective of the GAC is to not oppose the additional staff in order to provide adequate examinations.

Chairman Entringer indicated Member Brucker previously questioned if another position is added to the credit union staff and Chief Examiner Krebs spends more time in the office, would Chairman Entringer's and Assistant Commissioner Webb's time allocations to the credit union division be adjusted. Chairman Entringer explained if his and Assistant Commissioner Webb's time allocations are reduced to previous allocations of 15% and 10% respectively, it would impact the budget positively by approximately \$75,000 for the biennium; adding that the cost of salary and benefits for the additional employee would offset this amount.

Chairman Entringer explained projected calculations show a 20% assessment increase would be needed to fund the proposed budget with the additional FTE; however, taking into consideration the reduced time allocations of himself and Assistant Commissioner Webb the assessment increase would be reduced to approximately a 13.5%; noting this projected calculation is not factoring in any credit union asset growth.

Chairman Entringer indicated at this time he is asking whether the Board supports the optional budget package. Chairman Entringer continued his budget testimony will include whether the Board does or does not support the optional budget package; if not supported, the optional package can be removed. Chairman Entringer stated the optional package can be cut even if the Board supports it, as the ultimate decision will be made by the Legislature Committee.

In response to Member Brucker, Chairman Entringer explained a provision was added which will allow the Commissioner to assess an examination fee if it is necessary to visit an institution more frequently than a regularly scheduled examination. Also in response to Member Brucker, Chairman Entringer explained increasing credit union application fees would not significantly impact the credit union division budget, but fees for additional examinations would. Chairman Entringer explained the additional examination charges would reimburse the Department for State Fleet mileage, as well as \$45.50 per hour and per diem expenses for each examiner.

In response to Mr. Thompson, Chairman Entringer indicated the Department would not hire outside people to conduct additional examinations/visitations that are required. Chairman Entringer explained the rationale for charging additional fees to

credit unions needing additional examinations/visitations is that the examiner time spent is taking away from routine examinations; adding he does not believe all credit unions should be assessed for this portion of the additional examinations/visitations of some credit unions.

In response to President Schmitz, Chairman Entringer indicated the additional examination funds would be included in the revenue generated so it would reduce the amount of assessments necessary for all credit unions.

Chief Examiner Krebs indicated he estimates an average of four credit unions needing an additional examination/visitation per year; adding that examiner salary and benefits for approximately one month, as well as per diem costs would be billed to these specific credit unions.

Member Brucker indicates he believes Chief Examiner Krebs has presented a positive case of need for another examiner. Member Brucker continued since the Board is not connected on a day-to-day operation it is difficult to make an assessment of whether the additional examiner is needed; therefore asked for Chairman Entringer's recommendation. In response, Chairman Entringer stated he believes an additional examiner is needed at this time; adding that even though the number of state-chartered credit unions is declining, the total assets under supervision are growing. Chairman Entringer continued that more examiner hours are necessary since the state-chartered credit unions are becoming more complex, and require increased examiner time to ensure compliance with applicable regulations.

Member Tonneson agreed the credit unions that need additional examinations/visitations should cover those costs, so all credit unions are not burdened; however, questioned if these additional expenses would harm some credit unions. Chairman Entringer responded that approximate charges could range from \$2,000-\$6,000, depending on the size of the institution, the severity of problems, the number of examiners needed, and whether travel is necessary.

In response to Member Brucker, Chairman Entringer indicated at this time he is asking whether the Board approves or disapproves the optional budget package.

In response to Member Tonneson, President Schmitz stated his concern is whether an additional examination/visitation fee would harm an already troubled credit union; however, at the same time feels this would be fairer to all credit unions. President Schmitz continued another concern is that these additional funds do not go back into the General Fund, but will help defer assessment expenses in the future.

President Thompson added that he believes the credit unions anticipating additional examinations/visitations would not support this concept and those who could not anticipate additional examinations/visitations would support the concept; therefore, he feels he cannot take a position on behalf of the CUAD members. President Thompson stated this item will be on the agenda for the upcoming GAC meeting.

President Schmitz added FCCU pays a higher assessment due to asset size, and believes it would be fair to charge for additional examinations/visitations, as currently all credit unions are covering those additional expenses.

Chairman Entringer stressed that any additional funds received from additional examinations/visitations would be managed so they never transfer to the General Fund.

Chairman Entringer explained he is not seeking a motion from the Board on this issue, simply a recommendation of support or non-support. Chairman Entringer continued that in his testimony he can request an amendment to any portions of the bill.

In response to Member Brucker, Chairman Entringer agreed this issue can be reviewed and/or changed in the future.

Members Brucker, Tonneson, Stillwell, and Clark indicated they support the charge for additional examinations/visitations as it is the fairest approach, with the understanding the issue can be reviewed and/or changed in the future, and that these funds are not transferred to the General Fund.

Members Tonneson, Brucker, Stillwell, and Clark indicated they support the optional budget package which will add a FTE to the credit union division.

CREDIT UNION BUDGET UPDATE

Chairman Entringer reviewed the Organizational Status by Summary Account and Source for credit unions for the month ending October 31, 2014, as presented.

PROPOSED MEETING DATES FOR 2015

Chairman Entringer indicated the proposed meeting dates for 2015 are March 6, June 5, September 4, and December 4; adding that these dates can be changed if necessary.

It was moved by Member Clark, seconded by Member Tonneson, and unanimously carried to approve the 2015 meeting dates of March 6, June 5, September 4, and December 4.

Robbie Thompson, Steve Schmitz, and Darin Finck left the meeting at 9:55 a.m.

The Board went into closed session at 9:55 a.m. to review the Supervisory Reports of Examination pursuant to North Dakota Century Code 6-01-07.1, and to discuss any confidential records pursuant to North Dakota Century Code 44-04-19.2.

The Board reconvened in open session at 10:34 a.m.

POSSIBLE SPECIAL MEETING

Chairman Entringer indicated he will contact Robbie Thompson and Greg Tschider to discuss possible dates for a special meeting to be held in early January 2015 to discuss the use of the word “bank”.

DEPARTMENT LEGISLATION

In response to Member Tonneson, Chairman Entringer explained a provision was added which will allow the Commissioner to assess an examination fee if it is necessary to visit an institution more frequently than a regularly scheduled examination. Chairman Entringer indicated Legislative approval of this provision is required.

The meeting adjourned at 10:36 a.m.

Robert J. Entringer, Chairman

Aaron Webb, Secretary