

Hot Button Examination Topics

Annual Meeting and Convention

Louisiana Credit Union League
August 6, 2010

1

Your Presenter

David A. Reed

Attorney at Law

Reed & Jolly, LLC

(703) 675-9578

David @reedandjolly.com

2

Brave “New World”

- So much has happened in the last year
- We live in a VERY “Regulatory Rich” environment
- CARD Act: From introduction to passage in less than a month!
- Law of unintended consequences
- When will the other shoe drop?
 - Wall Street Reform Act of 2010!

3

Things to consider

- How is the compliance function supported at your credit union?
- Product development and delivery systems
- Compliance committee
- What’s the worse that can happen?

4

What Does a Regulator Do?

- Just following orders
- Rising number of credit union failures
- All about Safety and Soundness
- Risk is the number their #1 enemy
- Risk assessments are an essential management and regulatory tool
- Risk is a simple game

5

The 7 Major Risk Factors

- Credit – the risk of non-repayment when the credit union invests or loans funds.
- Interest Rate - the risk that your credit union won't adequately manage changes in market rates to maintain an appropriate net interest margin.
- Liquidity – the risk your credit union will not be able to liquidate assets quickly and with minimal loss in value to meet your obligations.
- Transaction – the risk that fraud or errors will cause a loss to your credit union . This risk is a function of internal controls, information systems, employee integrity and operating processes.

6

The 7 Major Risk Factors

- Compliance – the risk that failure to comply with laws or regulations , prudent ethical standards, and contractual obligations will harm your credit union.
- Strategic – the risk that poor business decisions or improper implementation of strategic goals will reduce your credit union's earnings and net worth.
- Reputation – the risk that your credit union's public image will be tarnished due to improper actions of officials, management or staff.

7

C.A.M.E.L. Ratings

- C Capital Adequacy
- A Asset Quality
- M Management
- E Earnings
- L Asset/Liability Management

8

What the NCUA Wants to See

- An effective compliance management system is commonly comprised of three interdependent elements:
 - Board and management oversight
 - Compliance program
 - Compliance audit
- When all elements are strong and working together, an institution will be successful at managing its compliance responsibilities and risks now and in the future.

9

Integrated Compliance Program

- It all starts at the top!
- Foster a compliance culture
 - Proactive
 - Interdisciplinary
- Create specific policies and procedures
- Train all volunteers and staff
- Audit and test for effectiveness

10

Board Responsibilities

- Board, appropriate committee, or designated employee in senior management should:
 - Assign specific responsibility for the Program's implementation
 - Approve initial Program and changes and record in the board's minutes
 - Review annual reports regarding compliance
 - Have staff responsible for Program report to the board

11

No Surprises

- Regulatory Alerts
- Letters to Credit Unions
- AIREs Questionnaires
- Board Meetings
- Board Member Statements/Releases
- Congressional testimony
- Examination process

12

Know the Hot Exam Topics

- New regulations or initiatives
- Look to the NCUA
- Letters, Alerts, AIRE Updates
- Official speeches or statements
- Compliance conferences, webinars, newsletters, etc.
- Always look at your last exam results

13

Red Flags for Examiners

- Balance sheet irregularities
- The big four business areas:
 - Real Estate Lending
 - Member Business Lending
 - Indirect Lending
 - Participation Loans

14

NCUA Rule 701.4 Requirements

- Demonstrate a working familiarity with the basic accounting practices;
- An ability to read a credit union's balance sheet, income statement; and
- Be able to pose substantive questions to management and auditors about the credit union's performance.

15

Delinquencies

- Real estate losses (more to come)
- Negative pressures on the bottom line
- Aggressively creative solutions
- Workouts and modifications
- Asset Liability Management
- Allowance for Loan and Lease Loss
- Foreclosed properties

16

Overdraft Protection

- What is at risk in your credit union?
 - Fee income
- What is covered?
 - ATM transactions
 - One time debit transactions
- Opt in provisions
- Notice to your members
 - Confirmation

17

Lending Regulation

- Reg Z Changes
 - Credit Cards
 - Mortgage Loans
- Internet Gambling
- Credit Card Accountability, Responsibility and Disclosure Act of 2009
- What are unfair or deceptive practices?

18

Disaster Recovery and Pandemic Planning

- Business impact analysis
- Risk assessment
- Written plan
- Internal controls
- Annual testing
- NCUA Letters to CU
- Risk Alert 06-CU-06

19

Mortgage Lending

- SAFE Act
- RESPA: HUD-1 Form Changes
- Home Valuation Code of Conduct
- Truth in Lending/Reg Z Changes
- Modifications and Workouts
- Training

20

Other Issues

- Data security
- Vendor management
- Regulatory restructuring
- Increasing fraud risks
 - Internal and external frauds
- Accounting issues
- Fair Credit Reporting Act

21

QUESTIONS?

22