H.R.1537, the Credit Union Regulatory Improvements Act of 2007

Section-by-Section Analysis

Section 1. Short title

Section 1 would establish the short title of the bill as the *Credit Union Regulatory Improvements Act of 2007*. The bill, however, is often referred to by its acronym of **CURIA**.

Title I: Capital Reform

Section 101. Amendments to net worth categories

The Federal Credit Union Act presently specifies the amount of capital credit unions must hold in order to protect their safety and soundness and the solvency of the National Credit Union Share Insurance Fund ("Insurance Fund"). Many experts, however, have noted that this capital allocation system is inefficient and does not appropriately account for risk. Section 101 incorporates recent recommendations of the National Credit Union Administration (NCUA) to provide a two-tier capital and Prompt Corrective Action (PCA) system for federally insured credit unions involving complementary leverage and risk-based minimum capital requirements. Under the proposed system, a well capitalized credit union must maintain a leverage net worth ratio of 5.25% and a minimum risk-based ratio of 10%. When a credit union's capital deposit to the Insurance Fund (equal to 1% of insured deposits) is added, a credit union's total net worth would equal or exceed the capital requirements for FDIC-insured banks and thrifts.

Section 102. Amendments relating to risk-based net worth categories

Currently, only federally insured credit unions that are considered "complex" must meet a risk-based net worth requirement under the Federal Credit Union Act. Section 102 would instead require all credit unions to meet a risk-based net worth requirement, and it directs the Board to take into account comparable risk standards for FDIC-insured institutions when designing the risk-based requirements appropriate to credit unions.

Section 103. Treatment based on other criteria

Section 103 would permit the NCUA Board to delegate to regional directors the authority to lower by one level a credit union's net worth category for reasons related to interest-rate risk not captured in the risk-based ratios, with any regional action subject to Board review.

Section 104. Definitions relating to net worth

Net worth, for purposes of prompt corrective action, is currently defined as a credit union's retained earnings balance under generally accepted accounting principles. Section 104 would make three important revisions to this definition. First, it clarifies that credit union net worth ratios must be calculated without a credit union's capital deposit with the Insurance Fund. Second, it provides a new definition for "risk-based net worth ratio" as the ratio of the net worth of the credit union to the risk assets of the credit union. Third, it would permit the NCUA to impose additional limitations on the secondary capital accounts used to determine net worth for low-income community credit unions where necessary to address safety and soundness concerns.

Section 105. Amendments relating to net worth restoration plans

Section 105 would provide the NCUA Board with authority to waive temporarily the requirement to implement a net worth restoration plan for a credit union that becomes undercapitalized due to disruption of its operations by a natural disaster or a terrorist act. It

would further permit the Board to require any credit union that is no longer well capitalized to implement a net worth restoration plan if it determines the loss of capital is due to safety and soundness concerns and those concerns remain unresolved by the credit union.

This section would also modify the required actions of the Board in the case of critically undercapitalized credit unions in several ways. First, it would authorize the Board to issue an order to a critically undercapitalized credit union. Second, the timing of the period before appointment of a liquidating agent could be shortened. Third, the section would clarify the coordination requirement with state officials in the case of state-chartered credit unions.

Title II: Economic Growth

Section 201. Limits on member business loans

Section 201 would increase the current arbitrary asset limit on credit union member business loans from the lesser of 1.75 times actual net worth or 1.75 percent times net worth for a well-capitalized credit union (approx. 12.25% of total assets) to a flat limit of 20% of the total assets of a credit union. This update would facilitate added member business lending without jeopardizing safety and soundness at participating credit unions, as the 20% cap would still be equal to or stricter than business lending caps imposed on other depository institutions.

Section 202. Definition of member business loans

Section 202 would give NCUA the authority to exclude loans of $100,000 or less as *de minimus,* rather than the current $50,000 exclusion, from calculation of the 20% cap on member business loans. This change would thus facilitate the ability of credit unions to make additional loans and encourage them to make very small business loans. It also builds upon the findings in a 2001 study by the Treasury Department that found that "…credit union member business loans share many characteristics of consumer loans" and that "…these loans are generally smaller and fully collateralize, and borrower risk profiles are more easily determined."

Section 203. Restrictions on member business loans

Section 203 would modify language in the Federal Credit Union Act that currently prohibits a credit union from making any new member business loans if its net worth falls below 6 percent. This change would permit the NCUA to determine if such a policy is appropriate and to oversee all member business loans granted by an undercapitalized institution.

Section 204. Member business loan exclusion for loans to non-profit religious organizations

To facilitate the ability of credit unions to support the community development activities of non-profit religious institutions, Section 204 would exclude loans or loan participations by federal credit unions to non-profit religious organizations from the member business loan limits contained in the Federal Credit Union Act.

Section 205. Credit unions authorized to lease space in buildings in underserved areas

In order to enhance the ability of credit unions to assist underserved communities with their economic revitalization efforts, Section 205 would allow a credit union to lease space in a building or on property on which it maintains a physical presence in an underserved area to other parties on a more permanent basis. It would also permit a federal credit union to acquire, construct, or refurbish a building in an underserved community, then lease out excess space in that building.

Section 206. Amendments relating to credit union service to underserved areas

Section 206 would revise a provision of the 1998 Credit Union Membership Access Act that has been incorrectly interpreted as permitting only credit unions with multiple common bond charters to expand services to individuals and groups living or working in areas of high unemployment and below median incomes that typically are underserved by other depository institutions. The change would reestablish prior NCUA policy of permitting all federal credit unions, regardless of charter type, to expand services to eligible communities that the Treasury Department determines meet income, unemployment and other distress criteria.

Section 207. Underserved areas defined

Section 207 would expand the criteria for determining whether a community or rural area qualifies as an underserved area. The definition of a qualified underserved area includes not only areas currently eligible as "investment areas" under the Treasury Department's Community Development Financial Institutions (CDFI) program, but also census tracts qualifying as "low income areas" under the New Markets Tax Credit targeting formula adopted by Congress in 2000.

Title III: Regulatory Modernization

Section 301. Investments in securities by federal credit unions

The Federal Credit Union Act presently limits the investment authority of federal credit unions to loans, government securities, deposits in other financial institutions, and certain other limited investments. Section 301 would provide additional investment authority to allow credit unions to purchase for the credit union's own account certain investment grade securities. The total amount of the investment securities of any one obligor or maker could not exceed 10% of the credit union's net worth and total investments could not exceed 10% of total assets.

Section 302. Authority of NCUA to establish longer maturities for certain credit union loans

The Credit Union Act was amended in 2006 to allow the NCUA Board to increase the 12-year maturity limit on non-real estate secured loans to 15 years. Section 302 would further provide the Board with additional flexibility to issue regulations providing for loan terms exceeding 15 years for specific types of loans.

Section 303. Increase in 1 percent investment limit in credit union service organizations

The Federal Credit Union Act authorizes federal credit unions to invest in organizations providing services to credit unions and credit union members. Currently, an individual federal credit union may invest in aggregate no more than one percent of its unimpaired capital and surplus in these organizations, commonly known as credit union service organizations or CUSOs. Credit unions also are limited in the amount they may loan to all CUSOs to one percent of unimpaired capital and surplus. Section 303 would double the amount a credit union may invest in all CUSOs, and the aggregate amount it may lend to CUSOs, to two percent of credit union unimpaired capital and surplus.

Section 304. Voluntary mergers involving multiple common-bond credit unions

NCUA has identified ambiguous language in the 1998 Credit Union Membership Access Act as creating uncertainty for certain voluntary credit union mergers by requiring that groups of more than 3,000 members be required to start a new credit union rather than be incorporated as a new group within a multiple common-bond credit union. Section 304 would clarify that this

numerical limitation would not apply to bar groups of more than 3,000 members that are transferred between two existing credit unions as part of a voluntary merger.

Section 305. Conversions involving certain credit unions to a community charter

In cases when a single or multiple common-bond credit union converts to a community credit union charter, there may be groups within the credit union's existing membership that are located outside the new community charter's geographic boundaries, but which desire to remain part of the credit union and can be adequately served by the credit union. Section 305 would require NCUA to establish the criteria whereby it may determine that a member group or other portion of a credit union's existing membership, located outside of the community, can be satisfactorily served and remain within the credit union's field of membership.

Section 306. Credit union governance

Section 306 would provide federal credit union boards the flexibility to expel a member, based on just cause, who is disruptive to the operations of the credit union, including harassing personnel and creating safety concerns, without the need for a two-thirds vote of the membership present at a special meeting as required by current law. The section would also permit federal credit unions to limit the length of service of their boards of directors to ensure broader representation from the membership.

Section 307. Providing the National Credit Union Administration with greater flexibility in responding to market conditions

Currently, the NCUA Board may raise the usury interest rate ceiling on loans by federal credit unions whenever it determines that money market rates have increased over the preceding six-month period and prevailing interest rates threaten the safety and soundness of individual credit unions. Section 307 would give the Board greater flexibility to make such determinations based either on sustained increases in money market interest rates or prevailing market interest rate levels.

Section 308. Credit union conversion voting requirements

Section 308 includes several changes to current law pertaining to credit union conversions to mutual thrift institutions. It would increase the minimum member participation requirement in any vote to approve a conversion to 30% of the credit union's membership. It would require the board of directors of a credit union considering conversion to hold a general membership meeting one month prior to sending out any notices about a conversion vote that contain a voting ballot. It would also prohibit use of raffles, contest, or any other promotions to encourage member voting in a conversion vote.

Section 309. Exemption from pre-merger notification requirement of the Clayton Act

Section 309 would give all federally insured credit unions the same exemption that banks and thrift institutions already have from pre-merger notification requirements and fees for purposes of antitrust review by the Federal Trade Commission under the Clayton Act.