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HOUSE OF REPRESENTATIVES
REPORT
105–472

CREDIT UNION MEMBERSHIP ACCESS ACT

MARCH 30, 1998.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. LEACH, from the Committee on Banking and Financial Services, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany H.R. 1151]

The Committee on Banking and Financial Services, to whom was referred the bill (H.R. 1151) to amend the Federal Credit Union Act to clarify existing law and ratify the longstanding policy of the National Credit Union Administration Board with regard to field of membership of Federal credit unions, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Credit Union Membership Access Act".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The American credit union movement began as a cooperative effort to serve the productive and provident credit needs of individuals of modest means.

(2) Credit unions continue to fulfill this public purpose, and current members and membership groups should not face divestiture from the financial services institution of their choice as a result of recent court action.

(3) To promote thrift and credit extension, a meaningful affinity and bond among members, manifested by a commonality of routine interaction, shared and related work experiences, interests, or activities, or the maintenance of an otherwise well-understood sense of cohesion or identity is essential to the fulfillment of credit unions' public mission.

(4) Credit unions, unlike many other participants in the financial services market, are exempt from Federal and most State taxes because they are member-owned, democratically operated, not-for-profit organizations generally man-

aged by volunteer boards of directors and because they have the specified mission of meeting the credit and savings needs of consumers, especially persons of modest means.

(5) Improved credit union safety and soundness provisions will enhance the public benefit that citizens receive from these cooperative financial services institutions.

TITLE I—CREDIT UNION MEMBERSHIP

SEC. 101. FIELDS OF MEMBERSHIP.

Section 109 of the Federal Credit Union Act (12 U.S.C. 1759) is amended—

(1) in the 1st sentence—

(A) by striking "Federal credit union membership shall consist of" and inserting "(a) IN GENERAL.—Subject to subsection (b), Federal credit union membership shall consist of"; and

(B) by striking ", except that" and all that follows through the period at the end of such sentence and inserting a period; and

(2) by adding at the end the following new subsections:

"(b) MEMBERSHIP FIELD.—Subject to the other provisions of this section, the membership of any Federal credit union shall be limited to the membership described in 1 of the following categories:

"(1) SINGLE COMMON-BOND CREDIT UNION.—1 group which has a common bond of occupation or association.

"(2) MULTIPLE COMMON-BOND CREDIT UNION.—More than 1 group—

"(A) each of which has (within such group) a common bond of occupation or association; and

"(B) the number of members of each of which (at the time the group is first included within the field of membership of a credit union described in this paragraph) does not exceed any numerical limitation applicable under subsection (d).

"(3) COMMUNITY CREDIT UNION.—Persons or organizations within a well-defined local community, neighborhood, or rural district.

"(c) GRANDFATHERED MEMBERS AND GROUPS.—

"(1) IN GENERAL.—Notwithstanding subsection (b)—

"(A) any person or organization who is a member of any Federal credit union as of the date of the enactment of the Credit Union Membership Access Act may remain a member of such credit union after such date; and

"(B) a member of any group whose members constituted a portion of the membership of any Federal credit union as of such date of enactment shall continue to be eligible to become a member of such credit union, by virtue of membership in such group, after such date.

"(2) SUCCESSORS.—If the common bond of any group referred to in paragraph (1) is defined by any particular organization or business entity, paragraph (1) shall continue to apply with respect to any successor to such organization or entity.

"(d) MULTIPLE COMMON-BOND CREDIT UNION GROUP REQUIREMENTS.—

"(1) NUMERICAL LIMITATION.—Except as provided in paragraph (2), only a group with fewer than 3,000 members shall be eligible to be included in the field of membership of a credit union described in subsection (b)(2).

"(2) EXCEPTIONS.—In the case of any Federal credit union whose field of membership is determined under subsection (b)(2), the numerical limitation described in paragraph (1) shall not apply with respect to the following:

"(A) CERTAIN LARGER GROUPS INCAPABLE OF SUPPORTING AND OPERATING A SINGLE-GROUP CREDIT UNION.—Any group which the Board determines, in writing and in accordance with the guidelines and regulations described in paragraph (4), could not feasibly or reasonably establish a new single common-bond credit union described in subsection (b)(1) because—

"(i) the group lacks sufficient volunteer and other resources to support the efficient and effective operation of a credit union;

"(ii) the group does not meet the criteria which the Board has determined to be important for the likelihood of success in establishing and managing a new credit union, including demographic characteristics, such as geographical location of members, diversity of ages and income levels, and other factors which may affect the financial viability and stability of a credit union; or

"(iii) the group would be unlikely to operate a safe and sound credit union.

"(B) TRANSACTIONS FOR SUPERVISORY REASONS.—Any group transferred from another credit union—

"(i) in connection with a merger or consolidation which has been recommended by the Board or any appropriate State credit union supervisor for safety and soundness concerns with respect to such other credit union; or

"(ii) by the Board in the Board's capacity as conservator or liquidating agent with respect to such other credit union.

"(3) EXCEPTION FOR UNDERSERVED AREAS.—Notwithstanding subsection (b), in the case of a Federal credit union described in paragraph (2) of such subsection, the Board may allow the membership of the credit union to include any person or organization within a local community, neighborhood, or rural district if—

"(A) the Board determines that such local community, neighborhood, or rural district—

"(i) meets the requirements of paragraph (3) and subparagraphs (A) and (B) of paragraph (4) of section 233(b) of the Bank Enterprise Act of 1991, and such additional requirements as the Board may impose; and

"(ii) is underserved, based on data of the Board and the Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), by other depository institutions (as defined in section 19(b)(1)(A) of the Federal Reserve Act); and

"(B) the credit union establishes and maintains an office or facility in such local community, neighborhood, or rural district at which credit union services are available.

"(4) REGULATIONS AND GUIDELINES.—The Board shall issue guidelines or regulations, after notice and opportunity for comment, setting forth the criteria the Board will apply in determining whether or not an additional group may be included within the field of membership of an existing credit union pursuant to paragraph (2).

"(e) ADDITIONAL MEMBERSHIP ELIGIBILITY PROVISIONS.—

"(1) MEMBERSHIP ELIGIBILITY LIMITED TO IMMEDIATE FAMILY OR HOUSEHOLD MEMBERS.—No individual shall be eligible for membership in a credit union on the basis of the relationship of such individual to another person who is eligible for membership in such credit union unless the individual is a member of the immediate family or household (as such terms are defined by the Board by regulation) of such other person.

"(2) RETENTION OF MEMBERSHIP.—Except as provided in section 118, once a person becomes a member of a credit union in accordance with this title, such person or organization may remain a member of such credit union until the person or organization chooses to withdraw from the membership of the credit union.".

SEC. 102. CRITERIA FOR APPROVAL OF EXPANSION OF MEMBERSHIP OF MULTIPLE COMMON-BOND CREDIT UNIONS.

Section 109 of the Federal Credit Union Act (12 U.S.C. 1759) is amended by inserting after subsection (e) (as added by section 101 of this title) the following new subsection:

"(f) CRITERIA FOR APPROVAL OF EXPANSION OF MULTIPLE COMMON-BOND CREDIT UNIONS.—

"(1) IN GENERAL.—The Board shall—

"(A) encourage the formation of separately chartered credit unions instead of approving an application to include an additional group within the field of membership of an existing credit union whenever practicable and consistent with reasonable standards for the safe and sound operation of the credit union; and

"(B) if the formation of a separate credit union by such group is not practicable or consistent with such standards, require the inclusion of such group in the field of membership of a credit union which is within reasonable proximity to the location of the group whenever practicable and consistent with reasonable standards for the safe and sound operation of the credit union.

"(2) APPROVAL CRITERIA.—The Board may not approve any application by a Federal credit union described in subsection (b)(2) to include any additional group within the field of membership of such credit union (or an application by a Federal credit union described in paragraph (1) to include an additional group

and become a credit union described in paragraph (2)) unless the Board determines, in writing, that—

"(A) such credit union has not engaged in any unsafe or unsound practice (as defined in section 206(b)) which is material during the 1-year period preceding the filing of the application;

"(B) the credit union is adequately capitalized;

"(C) the credit union has the administrative capability to serve the proposed membership group and the financial resources to meet the need for additional staff and assets to serve the new membership group;

"(D) pursuant to the most recent evaluation of such credit union under section 215, the credit union is satisfactorily providing affordable credit union services to all individuals of modest means within the field of membership of such credit union;

"(E) any potential harm the expansion of the field of membership of the credit union may have on any other insured credit union and its members is clearly outweighed in the public interest by the probable beneficial effect of the expansion in meeting the convenience and needs of the members of the group proposed to be included in the field of membership; and

"(F) the credit union has met such additional requirements as the Board may prescribe in regulations.".

SEC. 103. GEOGRAPHICAL GUIDELINES FOR COMMUNITY CREDIT UNIONS.

Section 109 of the Federal Credit Union Act (12 U.S.C. 1759) is amended by inserting after subsection (f) (as added by section 102 of this title) the following new subsection:

"(g) REGULATIONS REQUIRED FOR COMMUNITY CREDIT UNIONS.—

"(1) DEFINITION OF WELL-DEFINED LOCAL COMMUNITY, NEIGHBORHOOD, OR RURAL DISTRICT.—The Board shall prescribe regulations defining the term 'well-defined local community, neighborhood, or rural district' for purposes of—

"(A) making any determination with regard to the field of membership of a credit union described in subsection (b)(3); and

"(B) establishing the criteria applicable with respect to any such determination.

"(2) SCOPE OF APPLICATION.—Paragraph (1) shall apply with respect to any application to form a new credit union, or to alter or expand the field of membership of an existing credit union, which is filed with the Board after the date of the enactment of Credit Union Membership Access Act.".

TITLE II—REGULATION OF CREDIT UNIONS

SEC. 201. FINANCIAL STATEMENT AND AUDIT REQUIREMENTS.

(a) IN GENERAL.—Section 202(a)(6) of the Federal Credit Union Act (12 U.S.C. 1782(a)(6)) is amended by adding at the end the following new subparagraphs:

"(C) ACCOUNTING PRINCIPLES.—

"(i) IN GENERAL.—Accounting principles applicable to reports or statements required to be filed with the Board by each insured credit union shall be uniform and consistent with generally accepted accounting principles.

"(ii) BOARD DETERMINATION.—If the Board determines that the application of any generally accepted accounting principle to any insured credit union is not appropriate, the Board may prescribe an accounting principle for application to such credit unions which is no less stringent than generally accepted accounting principles.

"(iii) DE MINIMUS EXCEPTION.—This subparagraph shall not apply to any insured credit union the total assets of which are less than $10,000,000 unless prescribed by the Board or an appropriate State credit union supervisor.

"(D) LARGE CREDIT UNION AUDIT REQUIREMENT.—Each insured credit union which has total assets of $500,000,000 or more shall have an annual independent audit of the financial statement of the credit union performed in accordance with generally accepted auditing standards by an independent certified public accountant or public accountant licensed by the appropriate State or jurisdiction to perform such services.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 202(a)(6)(B) of the Federal Credit Union Act (12 U.S.C. 1786(b)(6)(B)) is amended by striking "subparagraph (A)" and inserting "subparagraph (A) or (D)".

SEC. 202. CONVERSIONS OF CREDIT UNIONS INTO OTHER DEPOSITORY INSTITUTIONS.

(a) REVIEW OF REGULATIONS REQUIRED.—The National Credit Union Administration Board shall conduct a detailed review of all regulations which govern or affect the conversion of a credit union into any other form of depository institution, including regulations relating to the form of disclosure required preceding a vote by the members of a credit union with regard to any such conversion and the manner in which such vote shall be conducted, to ensure that such regulations freely and fairly permit any such conversion after free, fair, and objective disclosure to the members of the credit union of the facts and issues involved in any such conversion.

(b) REPORT TO THE CONGRESS.—

(1) IN GENERAL.—Before the end of the 12-month period beginning on the date of the enactment of this Act, the National Credit Union Administration Board shall submit a detailed report on the findings and conclusions of the Board in connection with the review required under subsection (a).

(2) CONTENTS OF REPORT.—The report submitted pursuant to paragraph (1) shall contain—

(A) any recommendation for any administrative or legislative change which the Board may determine to be appropriate with regard to any aspect of the conversion of a credit union into another form of depository institution; and

(B) the justification for any recommendation of the Board—

(i) to retain in effect any provision of the regulations in effect on March 13, 1998, which govern or affect the conversion of a credit union into any other form of depository institution; or

(ii) to amend or alter any such provision.

(c) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) CREDIT UNION.—The term "credit union" means any Federal credit union or State credit union (as such terms are defined in paragraphs (1) and (6), respectively, of section 101 of the Federal Credit Union Act).

(2) DEPOSITORY INSTITUTION.—The term "depository institution" has the meaning given such term in section 3 of the Federal Deposit Insurance Act.

SEC. 203. FREEZE ON BOARD REGULATIONS RELATING TO COMMERCIAL LOANS AND CERTAIN APPRAISAL REQUIREMENTS RELATING TO SUCH LOANS.

(a) IN GENERAL.—The regulations of the National Credit Union Administration Board which are codified in parts 701.21(h) and 722.3(a) of the Code of Federal Regulations, as in effect on March 13, 1998 (relating to business loans and lines of credit to members and appraisal requirements), including any other regulations which are applicable with respect to loans or lines of credit to which the part applies, shall remain in effect without amendment or altered application until the end of the 1-year period beginning on such date and, notwithstanding the Federal Credit Union Act or any other provision of law, any action of the National Credit Union Administration Board, or the National Credit Union Administration, on or after such date which purports to amend (including an amendment by substitution) or otherwise apply any such regulation differently than in effect on such date shall have no force or legal effect before the end of such 1-year period.

(b) REVIEW AND REPORT TO THE CONGRESS.—Before the end of the 1-year period described in subsection (a), the National Credit Union Administration Board shall conduct a review of the effectiveness of the regulations referred to in such subsection as in effect on March 13, 1998, and shall submit a report to the Congress on the results of such review before the end of such 1-year period.

SEC. 204. SERVING PERSONS OF MODEST MEANS WITHIN THE FIELD OF MEMBERSHIP OF CREDIT UNIONS.

(a) IN GENERAL.—Title II of the Federal Credit Union Act (12 U.S.C. 1781 et seq.) is amended by adding at the end the following new section:

"SEC. 215. SERVING PERSONS OF MODEST MEANS WITHIN THE FIELD OF MEMBERSHIP OF CREDIT UNIONS.

"(a) CONTINUING AND AFFIRMATIVE OBLIGATION.—The purpose of this section is to reaffirm that insured credit unions have a continuing and affirmative obligation to meet the financial services needs of persons of modest means consistent with safe and sound operation.

"(b) EVALUATION BY THE BOARD.—The Board shall, before the end of the 12-month period beginning on the date of the enactment of the Credit Union Membership Access Act—

"(1) prescribe criteria for periodically reviewing the record of each insured credit union in providing affordable credit union services to all individuals of

modest means (including low- and moderate-income individuals) within the field of membership of such credit union; and

"(2) provide for making the results of such review publicly available.

"(c) ADDITIONAL CRITERIA FOR COMMUNITY CREDIT UNIONS REQUIRED.—The Board shall, by regulation—

"(1) prescribe additional criteria for annually evaluating the record of any insured credit union which is organized to serve a well-defined local community, neighborhood, or rural district in meeting the credit needs and credit union service needs of the entire field of membership of such credit union; and

"(2) prescribe procedures for remedying the failure of any insured credit union described in paragraph (1) to meet the criteria established pursuant to such paragraph, including the disapproval of any application by such credit union to expand the field of membership of such credit union.

"(d) EMPHASIS ON PERFORMANCE, NOT PAPERWORK.—In evaluating any insured credit union under this section, the Board shall—

"(1) focus on the actual performance of the insured credit union; and

"(2) not impose burdensome paperwork or recordkeeping requirements.".

(b) ANNUAL REPORTS.—With respect to each of the 1st 5 years which begin after the date of the enactment of this Act, the National Credit Union Administration Board shall include in the annual report to the Congress under section 102(d) of the Federal Credit Union Act a report on the progress of the Board in implementing section 215 of such Act (as added by subsection (a) of this section).

SEC. 205. NATIONAL CREDIT UNION ADMINISTRATION BOARD MEMBERSHIP.

Section 102(b) of the Federal Credit Union Act (12 U.S.C. 1752a(b)) is amended—

(1) by striking "(b) The Board" and inserting "(b) MEMBERSHIP AND APPOINTMENT OF BOARD.—

"(1) IN GENERAL.—The Board"; and

(2) by adding at the end the following new paragraph:

"(2) APPOINTMENT CRITERIA.—

"(A) EXPERIENCE IN FINANCIAL SERVICES.—In considering appointments to the Board under paragraph (1), the President shall give consideration to individuals who, by virtue of their education, training, or experience relating to a broad range of financial services, financial services regulation, or financial policy, are especially qualified to serve on the Board.

"(B) LIMIT ON APPOINTMENT OF CREDIT UNION OFFICERS.—Not more than 1 member of the Board may be appointed to the Board from among individuals who, at the time of such appointment, are, or have recently been, involved with any insured credit union as a committee member, director, officer, employee, or other institution-affiliated party.".

SEC. 206. REPORT AND CONGRESSIONAL REVIEW REQUIREMENT FOR CERTAIN REGULATIONS.

Any regulation prescribed by the National Credit Union Administration Board defining, or amending the definition of—

(1) the term "immediate family or household" for purposes of subsection (e)(1) of section 109 of the Federal Credit Union Act (as added by section 101 of this Act); or

(2) the term "well-defined local community, neighborhood, or rural district" for purposes of subsection (g) of such section (as added by section 103 of this Act),

shall be treated as a major rule for purposes of chapter 8 of title 5, United States Code.

TITLE III—CAPITALIZATION AND NET WORTH OF CREDIT UNIONS

SEC. 301. PROMPT CORRECTIVE ACTION.

(a) IN GENERAL.—Title II of the Federal Credit Union Act (12 U.S.C. 1781 et seq.) is amended by inserting after section 215 (as added by section 204 of this Act) the following new section:

"SEC. 216. PROMPT CORRECTIVE ACTION.

"(a) RESOLVING PROBLEMS TO PROTECT FUND.—

"(1) PURPOSE.—The purpose of this section is to resolve the problems of insured credit unions at the least possible long-term loss to the National Credit Union Share Insurance Fund.

"(2) PROMPT CORRECTIVE ACTION REQUIRED.—The Board shall carry out the purpose of this section by taking prompt corrective action to resolve the problems of insured credit unions.

"(b) REGULATIONS.—The Board shall implement subsection (a) of this section by prescribing regulations, after public notice and opportunity for comment, which—

"(1) establish criteria and procedures for classifying credit unions as 'well capitalized', 'adequately capitalized', 'undercapitalized', 'significantly undercapitalized', or 'critically undercapitalized';

"(2) specify a series of graduated regulatory enforcement actions that may be imposed upon any credit union which fails to meet the requirements for classification as an adequately capitalized credit union, including—

"(A) the submission of net worth restoration plans;

"(B) earnings retention requirements;

"(C) prior written approval by the Board for certain activities such as branching and entry into new lines of business; and

"(D) the appointment of a conservator or liquidating agent in appropriate circumstances;

"(3) establish reasonable net worth requirements, including risk-based net worth requirements in the case of complex credit unions, for various categories of credit unions and prescribe the manner in which net worth is calculated (for purposes of such requirements) with regard to various types of investments, including investments in corporate credit unions, taking into account the unique nature and role of credit unions;

"(4) establish criteria for reclassifying the capital classifications of credit unions that engage in unsafe or unsound practices; and

"(5) are generally comparable with the prompt corrective action provisions set forth in section 38 of the Federal Deposit Insurance Act, taking into account the distinct capital structure, cooperative nature, and other characteristics of credit unions.".

(b) EFFECTIVE DATE OF REGULATIONS.—

(1) PROPOSED REGULATIONS.—The National Credit Union Administration Board shall publish, in the Federal Register, proposed regulations which meet the requirements of the amendment made by subsection (a) before the end of the 270-day period beginning on the date of the enactment of this Act.

(2) FINAL REGULATIONS.—The regulations required by the amendment made by subsection (a) shall take effect in final form by the end of the 18-month period beginning on the date of the enactment of this Act.

(c) REPORT TO CONGRESS.—At the time the proposed prompt corrective action regulations are published in the Federal Register by the National Credit Union Administration Board pursuant to subsection (b)(1), the Board shall submit a report to the Congress on the differences and similarities between such prompt corrective action regulations and the regulations prescribed by the Federal bank agencies under section 38 of the Federal Deposit Insurance Act.

SEC. 302. NATIONAL CREDIT UNION SHARE INSURANCE FUND EQUITY RATIO, AVAILABLE ASSETS RATIO, AND STANDBY PREMIUM CHARGE.

(a) IN GENERAL.—Section 202 of the Federal Credit Union Act (12 U.S.C. 1782) is amended—

(1) by amending subsection (b) to read as follows:

"(b) CERTIFIED STATEMENT.—

"(1) STATEMENT REQUIRED.—

"(A) IN GENERAL.—For each calendar year in the case of an insured credit union with total assets of not more than $50,000,000, and for each semiannual period in the case of an insured credit union with total assets of $50,000,000 or more, an insured credit union shall file with the Board, at such time as the Board prescribes, a certified statement showing the total amount of insured shares in the credit union at the close of the relevant period and both the amount of its deposit or adjustment of deposit and the amount of the insurance charge due to the fund for that period, both as computed under subsection (c).

"(B) EXCEPTION FOR NEWLY INSURED CREDIT UNION.—Subparagraph (A) shall not apply with respect to a credit union that became insured during the reporting period.

"(2) FORM.—The certified statements required to be filed with the Board pursuant to this subsection shall be in such form and shall set forth such supporting information as the Board shall require.

"(3) CERTIFICATION.—The president of the credit union or any officer designated by the board of directors shall certify, with respect to each such state-

ment, that to the best of his or her knowledge and belief the statement is true, correct, complete, and in accordance with this title and the regulations issued under this title.";

(2) by amending clause (iii) of subsection (c)(1)(A) to read as follows:

"(iii) PERIODIC ADJUSTMENT.—The amount of each insured credit union's deposit shall be adjusted as follows, in accordance with procedures determined by the Board, to reflect changes in the credit union's insured shares:

"(I) annually, in the case of an insured credit union with total assets of not more than $50,000,000; and

"(II) semi-annually, in the case of an insured credit union with total assets of $50,000,000 or more.";

(3) by amending paragraphs (2) and (3) of subsection (c) to read as follows:

"(2) INSURANCE PREMIUM CHARGES.—

"(A) IN GENERAL.—Each insured credit union shall, at such times as the Board prescribes (but not more than twice in any calendar year), pay to the fund a premium charge for insurance in an amount stated as a percentage of insured shares (which shall be the same for all insured credit unions).

"(B) RELATION OF PREMIUM CHARGE TO EQUITY RATIO OF FUND.—The Board may assess a premium charge only if—

"(i) the fund's equity ratio is less than 1.3 percent; and

"(ii) the premium charge does not exceed the amount necessary to restore the equity ratio to 1.3 percent.

"(C) PREMIUM CHARGE REQUIRED IF EQUITY RATIO FALLS BELOW 1.2 PERCENT.—If the fund's equity ratio is less than 1.2 percent, the Board shall, subject to subparagraph (B), assess a premium charge in such an amount as the Board determines to be necessary to restore the equity ratio to, and maintain that ratio at, 1.2 percent.

"(3) DISTRIBUTIONS FROM FUND REQUIRED.—

"(A) IN GENERAL.—The Board shall effect a pro rata distribution to insured credit unions after each calendar year if, as of the end of that calendar year—

"(i) any loans to the fund from the Federal Government, and any interest on those loans, have been repaid;

"(ii) the fund's equity ratio exceeds the normal operating level; and

"(iii) the fund's available assets ratio exceeds 1.0 percent.

"(B) AMOUNT OF DISTRIBUTION.—The Board shall distribute under subparagraph (A) the maximum possible amount that—

"(i) does not reduce the fund's equity ratio below the normal operating level; and

"(ii) does not reduce the fund's available assets ratio below 1.0 percent.

"(C) CALCULATION BASED ON CERTIFIED STATEMENTS.—In calculating the fund's equity ratio and available assets ratio for purposes of this paragraph, the Board shall determine the aggregate amount of the insured shares in all insured credit unions from insured credit unions certified statements under subsection (b) for the final reporting period of the calendar year referred to in subparagraph (A).";

(4) by adding at the end of subsection (c) the following new paragraph:

"(4) TIMELINESS AND ACCURACY OF DATA.—In calculating the available assets ratio and equity ratio of the fund, the Board shall use the most current and accurate data reasonably available."; and

(5) by amending subsection (h) to read as follows:

"(h) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) AVAILABLE ASSETS RATIO.—The term 'available assets ratio', when applied to the fund, means the ratio of—

"(A) the amount determined by subtracting—

"(i) direct liabilities of the fund and contingent liabilities for which no provision for losses has been made, from

"(ii) the sum of cash and the market value of unencumbered investments authorized under section 203(c), to

"(B) the aggregate amount of the insured shares in all insured credit unions.

"(2) EQUITY RATIO.—The term 'equity ratio', when applied to the fund, means the ratio of—

"(A) the amount of fund capitalization, including insured credit unions' 1 percent capitalization deposits and the fund's retained earnings balance

(net of direct liabilities of the fund and contingent liabilities for which no provision for losses has been made), to

"(B) the aggregate amount of the insured shares in all insured credit unions.

"(3) INSURED SHARES.—The term 'insured shares', when applied to this section, includes share, share draft, share certificate, and other similar accounts as determined by the Board, but does not include amounts exceeding the insured account limit set forth in section 207(c)(1).

"(4) NORMAL OPERATING LEVEL.—The term 'normal operating level', when applied to the fund, means an equity ratio specified by the Board, which shall be not less than 1.2 percent and not more than 1.5 percent.".

(b) EFFECTIVE DATE.—This section shall become effective on January 1 of the first calendar year beginning more than 180 days after the date of enactment of this Act.

SEC. 303. ACCESS TO LIQUIDITY.

Section 204 of the Federal Credit Union Act (12 U.S.C. 1784) is amended by adding at the end the following new subsections:

"(f) ACCESS TO LIQUIDITY.—The Board shall—

"(1) periodically assess the potential liquidity needs of each insured credit union, and the options that the credit union has available for meeting those needs; and

"(2) periodically assess the potential liquidity needs of insured credit unions as a group, and the options that insured credit unions have available for meeting those needs.

"(g) SHARING INFORMATION WITH FEDERAL RESERVE BANKS.—The Board shall, for the purpose of facilitating insured credit unions' access to liquidity, make available to the Federal reserve banks (subject to appropriate assurances of confidentiality) information relevant to making advances to such credit unions, including the Board's reports of examination.".

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. ASSURING INDEPENDENT DECISION MAKING IN CONNECTION WITH CERTAIN CONVERSIONS.

Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

"(t) CONVERSIONS INVOLVING FORMER CREDIT UNIONS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law—

"(A) an insured credit union may not convert into an insured depository institution; and

"(B) an insured depository institution which resulted from a prior conversion of an insured credit union into such insured depository institution may not convert from the mutual form to the stock form and may not convert from 1 form of depository institution into another,

unless the appropriate Federal banking agency for the insured depository institution which results from any such conversion reviews the conversion and determines that the requirements of paragraphs (2) and (3) have been met.

"(2) PROHIBITION ON ECONOMIC BENEFIT FROM CONVERSION FOR CREDIT UNION OFFICERS, DIRECTORS, AND COMMITTEE MEMBERS.—An individual who is or, at any time during the 5-year period preceding any conversion described in paragraph (1), was a director, committee member, or senior management official of an insured credit union described in subparagraph (A) or (B) of such paragraph (in connection with such conversion) may not receive any economic benefit as a result of the conversion with regard to the shares or interests of such director, member, or officer in the former insured credit union or in any resulting insured depository institution.

"(3) ACKNOWLEDGEMENT AND ATTESTATION BY OFFICERS, DIRECTORS, AND COMMITTEE MEMBERS.—Any insured credit union or insured depository institution which is seeking to engage in a conversion which is subject to this subsection shall submit—

"(A) a written acknowledgement, in such form and manner as the appropriate Federal banking agency may prescribe, by every individual who is subject to the prohibition contained in paragraph (2), that such individual is aware of such prohibition; and

"(B) an attestation that the conversion under review will not result in a violation of such prohibition.

"(4) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

"(A) INSURED CREDIT UNION.—The term 'insured credit union' has the meaning given to such term in section 101(7) of the Federal Credit Union Act.

"(B) SENIOR MANAGEMENT OFFICIAL.—The term 'senior management official' means a chief executive officer, an assistant chief executive officer, a chief financial officer, and any other senior executive officer (as defined by the appropriate Federal banking agency pursuant to section 32(f)).".

SEC. 402. PAYMENT OF INTEREST ON RESERVES AT FEDERAL RESERVE BANKS.

(a) IN GENERAL.—Section 19(b) of the Federal Reserve Act (12 U.S.C. 461(b)) is amended by adding at the end the following new paragraph:

"(12) EARNINGS ON RESERVES.—

"(A) IN GENERAL.—Balances maintained at a Federal reserve bank by or on behalf of a depository institution to meet the reserve requirements of this subsection applicable with respect to such depository institution shall receive earnings to be paid by the Federal reserve bank at least once each calendar quarter at a rate not to exceed the rate earned on the securities portfolio of the Federal Reserve System during the preceding quarter.

"(B) REGULATIONS RELATING TO PAYMENTS AND DISTRIBUTIONS.—The Board may prescribe regulations concerning—

"(i) the payment of earnings in accordance with this paragraph;

"(ii) the distribution of such earnings to the depository institutions which maintain balances at such banks or on whose behalf such balances are maintained; and

"(iii) the responsibilities of depository institutions, Federal home loan banks, and the National Credit Union Administration Central Liquidity Facility with respect to the crediting and distribution of earnings attributable to balances maintained, in accordance with subsection (c)(1)(B), in a Federal reserve bank by any such entity on behalf of depository institutions which are not member banks.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—

(1) Section 19(b)(4) of the Federal Reserve Act (12 U.S.C. 461(b)(4)) is amended by striking subparagraph (C).

(2) Section 19(c)(1)(A) of the Federal Reserve Act (12 U.S.C. 461(c)(1)(A)) is amended by striking "subsection (b)(4)(C)" and inserting "subsection (b)".

PURPOSE AND SUMMARY

The purpose of H.R. 1151, the Credit Union Membership Access Act, as reported out of the Committee on Banking and Financial Services, is to ensure the continued safety and soundness of credit unions by permitting multiple common bond formations while preserving the integrity of the common bond concept as established by the Federal Credit Union Act (FCUA) by imposing certain limitations on permissible new groups that can be added to an existing credit union. H.R. 1151 also addresses many uncertainties for the credit union industry, which resulted from the Supreme Court's decision on February 25, 1998, *National Credit Union Administration* v. *First National Bank & Trust Co.*

TITLE I

Title I of the bill clarifies that there are three distinct kinds of common bond requirements for federal credit unions: single common bond, multiple common bond, or community credit unions. With respect to multiple common bond credit union, each group within a multiple common bond credit union must have a common bond of occupation or association and have less than 3,000 people at the time the group joins an existing credit union. In order for a credit union to add a new group to its field of membership, the National Credit Union Administration (NCUA) must determine in

writing that the credit union meets certain criteria, and thus permit such group to join an existing credit union. There are two exceptions to the limits on expansion. If a group is larger than 3,000, the NCUA may permit the group to join an existing credit union if it determines in writing that, based on criteria outlined in the bill, the group would not be financially viable as a new single common bond credit union. The bill further provides that if the NCUA determines that a group cannot form a viable credit union on its own, the NCUA is required to place the group with a credit union in reasonably proximity to the group where practicable. Additionally, any person or organization located in an underserved community may be included in the field of membership of a credit union which will establish and maintain an office or facility in the area.

This title also grandfathers all current members as well as current groups contained within the membership of a credit union as of the date of enactment of this legislation. The grandfather will permit such groups to continue accepting new members.

TITLE II

Title II affects NCUA regulations relating to annual financial statement preparation, audit requirements, credit union conversions into other depository institutions, and commercial loans.

Title II also reaffirms that insured credit unions have a continuing obligation to meet the financial services needs of persons of modest means, including low- and moderate-income individuals. The NCUA is required to review each credit union's record of meeting the financial service needs of its entire field of membership.

TITLE III

Title III strengthens capital and net worth requirements for credit unions. The NCUA is required to prescribe regulations for prompt corrective action to resolve the problems of insured credit unions as well as establish net worth requirements. This title also affects the reporting of and calculation of the National Credit Union Share Insurance Fund equity ratio, available assets ratio, and standby premium charge.

TITLE IV

Title IV prohibits insured credit unions from converting to insured depository institutions unless the appropriate regulatory determines that no current or former (within the past five years) director, committee member, or senior management officer will receive any economic benefit as a result of the conversion. This title also amends the Federal Reserve Act to provide that balances maintained by or on behalf of insured depository institutions to meet reserve requirements shall receive earnings to be paid by the Federal Reserve Bank.

BACKGROUND AND NEED FOR LEGISLATION

Credit unions are financial institutions that provide a savings function and offer consumer credit to their members. Like banks and saving and loans, they can be chartered at the state or federal level. However, unlike other depository institutions, credit unions

are cooperatives whose members must have a "common bond." The National Credit Union Administration's (NCUA) regulations establish three categories of common bond: occupational, associational, and community-based. Credit union members in the occupational category are employed by the same enterprise, or in the same trade. An associational common bond is available to groups of individuals who participate in activities that develop common loyalties, mutual benefits, and mutual interests. Members in the community category have a common bond based on employment or residence in a geographic area with clearly defined boundaries.

Until 1982, the NCUA interpreted this common bond provision to mean that members of each occupational federal credit union must be drawn from a single occupational group (employees from a single employer). However, in 1982 the NCUA amended its interpretation of the provision to allow a federal credit union to comprise "multiple occupational groups" which only had to be within a "well-defined area" according to an NCUA interpretive ruling. The term "well-defined area" was interpreted by the NCUA as an area served by either an actual or planned office of the credit union—a broad interpretation because there could be virtually any number of such offices. The NCUA's new interpretation of the common bond requirement led to a conflict between banks and credit unions.

In December 1990, five North Carolina banks and the American Bankers Association sued the NCUA for allowing AT&T Family Federal Credit Union to serve employees at more than 150 different companies. The banks argued that the NCUA interpretation violated the Federal Credit Union Act (FCUA) by allowing unaffiliated groups to join together in a credit union.

Six years later, on July 30, 1996, the U.S. Court of Appeals for the District of Columbia Circuit issued an opinion that rejected the NCUA's new interpretation of the common bond language in the statute. The court held that the FCUA common bond provision requires all members of an occupational federal credit union to share a single common bond. The court held that the NCUA had exceeded its statutory authority when it permitted the AT&T Family Federal Credit Union to expand its field of membership to include the employees of a variety of businesses that were unaffiliated with the credit union's original membership.

On October 25, 1996, the U.S. District Court for the District of Columbia issued an injunction in the consolidated case declaring unlawful membership in a federal credit union by individuals or groups who do not share a "single common bond of occupation." The court also ordered the NCUA to cease authorizing occupational federal credit unions to admit members who do not share a single common bond of occupation. The Court of Appeals, however, issued a partial stay of this decision on December 24, 1996. Under this stay, federal credit unions were allowed to continue accepting members from existing groups that were not part of the credit union's original and core membership group. Credit unions were not, however, allowed to add new and unrelated groups that did not share a common bond with the credit union's original core membership group.

On April 14, 1997, the U.S. Court of Appeals for the Sixth Circuit rendered a decision in a similar case, *First City Bank* v. *NCUA*. The Sixth Circuit agreed with the District of Columbia Circuit that the NCUA had exceeded its statutory authority with the new interpretation in 1982 to permit multiple common bond credit unions.

The Supreme Court heard oral arguments concerning the AT&T case on October 6, 1997 and, on February 25, 1998, the Court issued a 5–4 decision concluding that the banks had standing to challenge the NCUA's interpretation of the FCUA, and that the NCUA's interpretation was contrary to the unambiguously expressed intent of Congress, and was therefore impermissible.

A legislative response was called for to address issues that arose as a result of the Supreme Court's decision. In addition, the Department of the Treasury issued a report in December 1997 pursuant to the Economic Growth and Regulatory Paperwork Reduction Act of 1996 reviewing NCUA regulations. The report included several recommendations for Congress to strengthen safety and soundness requirements for credit unions. These recommendations are reflected in Title III of the bill.

HEARINGS

On March 11, 1998 the full Committee held a hearing to review the Supreme Court's February 25, 1998 decision regarding the credit union common bond requirement and the appropriate Congressional response to the ruling. Testifying before the Committee were The Honorable Ron Paul; The Honorable Steven LaTourette; The Honorable Paul Kanjorski; The Honorable Chris Cannon; The Honorable Nick Smith; The Honorable Richard Baker; The Honorable Joseph Kennedy; The Honorable Bob Ehrlich; Richard Carnell, Assistant Secretary for Financial Institutions, Department of the Treasury; Norman D'Amours, Chairman, National Credit Union Administration; Harold Feeney, Chairman, National Association of State Credit Union Supervisors; Don W. Lewis, President and CEO, Aberdeen Proving Ground Federal Credit Union, Aberdeen, MD, on behalf of the National Association of Federal Credit Unions; Rose Bartolomucci, President and CEO, Kent Credit Union, Kent, OH, on behalf of the Credit Union National Association; Gail Briles, Director of Industrial Relations, Klaussner Furniture Company, on behalf of the Alliance to Protect Credit Union Choice; Jeffrey L. Plagge, President and CEO, First National Bank, Waverly, IA, on behalf of the American Bankers Association; K. Reid Pollard, President and CEO, Randolph Bank & Trust Company, Asheboro, NC, on behalf of the Independent Bankers Association of America; John D. Garrison, Chairman, President, and CEO, Walden Savings Bank, Walden, NY, on behalf of America's Community Bankers.

The Subcommittee on Financial Institutions and Consumer Credit held a February 26, 1997 hearing on issues facing the credit union industry. Testifying before the Subcommittee were The Honorable Martin Frost; Norman D'Amours, Chairman, National Credit Union Administration; David Paul, Commissioner, Division of Financial Services, State of Colorado, on behalf of the National Association of State Credit Union Supervisors; Scott Jones, First Vice

President, American Bankers Association; Leland Stenehjem, Jr., President, Independent Bankers Association of America; John Garrison, Chairman, President and CEO, Walden Savings Bank, Walden, NY, on behalf of America's Community Bankers; Winifred Corey, CEO of Los Angeles Scholls Credit Union, on behalf of the Credit Union National Association; Michael Vadala, President and CEO, The Summit Federal Credit Union, Rochester, NY, on behalf of the National Association of Federal Credit Unions; Steve Brobeck, Executive Director, Consumer Federation of America; Robert Anderson, President and CEO, Liberty Check Printers.

COMMITTEE CONSIDERATION AND VOTES

On March 26, 1998, the full Committee met in open session to mark up H.R. 1151, the "Credit Union Membership Access Act." The Committee considered as original text for purposes of amendment an amendment in the nature of a substitute to H.R. 1151. The Committee considered several amendments to the substitute and accepted the following amendments by voice vote:

An amendment offered by Mr. Bereuter to required that any regulation prescribed by the NCUA Board to define or amend the definition of the term "immediate family or household" or "well-defined local community, neighborhood, or rural district" be treated as a major rule for purposes of chapter 8 of title 5 of the United States Code.

An amendment offered by Mr. Kennedy to clarify that the term "persons of modest means" includes low- and moderate-income individuals with respect to the Board's criteria for periodic review of insured credit unions serving these individuals within the field of membership.

An amendment offered by Mrs. Roukema to the Baker commercial lending limit amendment to allow NCUA to grant insured credit unions temporary or permanent exceptions from the commercial lending limit if the credit union's request was made in writing and the NCUA determined in writing that the credit union would suffer significant and continuing harm to the achievement of the credit's union's purposes unless the exception was granted.

An amendment offered by Mr. Baker, as amended by the substitute offered by Messrs. Leach and LaFalce (see below for details).

An amendment offered by Mr. McCollum to strike the requirements that credit unions file financial statements with NCUA and instead to require that credit unions file reports or statements that are consistent with generally accepted accounting principles. The amendment also exempts credit unions with assets of $10 million or less.

Two amendments were offered en-bloc by Mr. Barrett to (1) require for five years the Board to include in the annual reports to Congress their progress in implementing the regulation to review credit unions' efforts to serve persons of modest means within the field of membership and (2) require that the Board, within the 12-month period of the date of enactment of the Act, prescribe criteria for review of the record of credit unions in serving those persons of modest means within the field of membership.

The Committee considered the following amendments by recorded votes:

A substitute by Messrs. Leach and LaFalce to an amendment offered by Mr. Baker to (1) freeze for one year the regulations which are codified in section 701.21(h) and 722.3(a) of the Code of Federal Regulations and any other regulations applicable thereunder with respect to loans or lines of credit notwithstanding the effect of the Federal Credit Union Act or other laws, and the action of the Board and the NCUA and (2) require the Board to review and submit to Congress a report on the effectiveness of such regulations as they are in effect on March 31, 1998. The substitute passed by a vote of 27–25.

YEAS	NAYS
Mr. Leach	Mr. McCollum
Mr. Ney	Mrs. Roukema
Mr. Barr	Mr. Bereuter
Dr. Paul	Mr. Baker, R.
Mr. Riley	Mr. Lazio
Mr. Sessions	Mr. Bachus
Mr. LaTourette	Mr. Castle
Mr. Foley	Mr. Campbell
Mr. Fossella	Mr. Lucas
Mr. LaFalce	Mr. Metcalf
Mr. Vento	Mr. Ehrlich
Mr. Frank	Mrs. Kelly
Mr. Kanjorski	Dr. Weldon
Mr. Kennedy	Mr. Ryun
Mr. Sanders	Mr. Cook
Mrs. Maloney	Mr. Snowbarger
Mr. Gutierrez	Mr. Hill
Ms. Roybal-Allard	Mr. Manzullo
Mr. Barrett. T.	Mr. Jones
Mr. Hinchey	Ms. Velazquez
Mr. Ackerman	Mr. Watt
Mr. Jackson, Jr.	Mr. Bensten
Ms. Kilpatrick	Mr. Maloney
Ms. Carson	Ms. Hooley
Mr. Weygand	Mr. Meeks, G.
Mr. Sherman	
Mr. Sandlin	

An amendment by Messrs, McCollum and Ehrlich to eliminate the requirement that credit unions serve persons of modest means within the field of membership was defeated by a vote of 22–32.

AYES	NAYS
Mr. McCollum	Mr. Leach
Mrs. Roukema	Mr. Lazio
Mr. Bereuter	Mr. Castle
Mr. Baker, R.	Mr. Ney
Mr. Bachus	Mrs. Kelly
Mr. King	Mr. LaTourette
Mr. Campbell	Mr. LaFalce
Mr. Lucas	Mr. Vento

Mr. Metcalf
Mr. Ehrlich
Mr. Barr
Dr. Paul
Mr. Ryun
Mr. Cook
Mr. Snowbarger
Mr. Riley
Mr. Hill
Mr. Manzullo
Mr. Foley
Mr. Jones
Mr. Redman
Mr. Fossella
Mr. Schumer
Mr. Frank
Mr. Kanjorski
Mr. Kennedy
Mr. Sanders
Mrs. Maloney
Mr. Gutierrez
Ms. Roybal-Allard
Mr. Barrett. T.
Ms. Velazquez
Mr. Watt
Mr. Hinchey
Mr. Ackerman
Mr. Bensten
Mr. Jackson, Jr.
Ms. Kilpatrick
Mr. Maloney
Ms. Hooley
Ms. Carson
Mr. Weygand
Mr. Sherman
Mr. Sandlin
Mr. Meeks, G.
Mr. Torres.

An amendment offered by Mr. Barrett to require the Board to periodically review credit unions' record of serving persons of modest means in virtually the same manner as banking agencies examine depository institutions for their compliance with the Community Reinvestment Act. The amendment was defeated by a vote of 18–33 and one present.

AYES	NAYS	PRESENT
Mr. LaFalce	Mr. McCollum	Mr. Leach
Mr. Frank	Mrs. Roukema	
Mr. Kennedy	Mr. Bereuter	
Mr. Sanders	Mr. Baker, R.	
Mrs. Maloney	Mr. Lazio	
Mr. Gutierrez	Mr. Bachus	
Ms. Royball-Allard	Mr. King	
Mr. Barrett, T.	Mr. Campbell	
Ms. Velazquez	Mr. Lucas	
Mr. Watt	Mr. Metcalf	
Mr. Bentsen	Mr. Ehrlich	
Mr. Jackson, Jr.	Mr. Barr	
Ms. Kilpatrick	Mr. Fox	
Mr. Maloney	Mrs. Kelly	
Ms. Carson	Dr. Paul	
Mr. Sandlin	Dr. Weldon	
Mr. Meeks, G.	Mr. Cook	
Mr. Torres	Mr. Snowbarger	
	Mr. Riley	
	Mr. Hill	
	Mr. LaTourette	

AYES	NAYS	PRESENT
	Mr. Manzullo	
	Mr. Foley	
	Mr. Jones	
	Mr. Redmond	
	Mr. Fossella	
	Mr. Vento	
	Mr. Kanjorski	
	Mr. Hinchey	
	Mr. Ackerman	
	Ms. Hooley	
	Mr. Weygand	
	Mr. Sherman	

Also, the Committee adopted by voice vote the amendment in the nature of a substitute, as amended. Finally, with a quorum being present, the Committee approved by voice vote final passage of H.R. 1151, as amended, and favorably reported it to the full House.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 1(l)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT FINDINGS

No findings and recommendations of the Committee on Government Reform and Oversight were received as referred to in clause 2(l)(3)(d) of rule XI of the Rules of the House of Representatives.

CONSTITUTIONAL AUTHORITY

In compliance with clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the constitutional authority for Congress to enact this legislation is derived from the interstate commerce clauses (Clause 3, Section 8, Article I). In addition, the power "to coin money" and "regulate the value thereof' provided for in Clause 5, Section 8, Article I, has been broadly construed to allow for the Federal chartering and regulation of banks and other financial institutions.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives is inapplicable because this legislation does not provide a new budgetary authority or increased tax expenditures.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act are created by this legislation.

CONGRESSIONAL ACCOUNTABILITY ACT

The reporting requirement under section 102(b)(3) of the Congressional Accountability Act (P.L. 104–1) is inapplicable because this legislation does not relate to terms and conditions of employment or access to public services or accommodations.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE AND UNFUNDED MANDATES ANALYSIS

The CBO cost estimates and unfunded mandated analysis for the bill were not available at the time the report was filed, but will be provided in a subsequent addendum to the report.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 designates the act as the "Credit Union Membership Access Act" (the Act).

Section 2. Findings

Section 2 lists five Congressional finding related to the credit union movement, the public purposes of these cooperative institutions, and the importance of the common bond requirement. Additionally, the section indicates the findings of the Committee regarding credit unions' tax and organizational status, and the need for improved safety and soundness provisions.

Title I—Credit Union Membership

Section 101. Fields of membership

Section 101 provides that membership in federal credit unions shall be limited to one of three types: single common-bond, multiple common-bond, or community credit unions. Subject to the exceptions that follows, single common-bond credit unions are to consist of one group that has a single common bond of occupation or association. Multiple common-bond credit unions shall consist of more than one group, each of which has (within such group) a common bond of occupation or association, and the number of members of which does not exceed 3,000 persons at the time it is included in the field of membership of the credit union. As noted above, the Committee held a hearing on March 11, 1998 regarding the Supreme Court's decision on the common bond issue in the AT&T case. The Committee has determined that it is appropriate to change existing law and specifically authorize multiple common bond federal credit unions. These federal credit unions are subject, however, to certain additional group size and geographic expansion limits.

Current law regarding community credit unions is modified by providing that these institutions shall consist of persons or organization within a well-defined *local* community, neighborhood, or rural district.

The section clarifies that the 3,000 person limitation applies only to the size of the group at the time of their inclusion within the field of membership of a credit union. The limit is not intended to

restrict the growth of such groups after they are added to the credit union.

The Committee does not intend for this numerical limitation to be interpreted as permitting all groups with 3,000 or fewer members to be included within the field of membership of an existing credit union. The 3,000 member limitation is intended as the maximum size of groups that can organize within an existing credit union, unless a group meets specific exemptions. The Board is required, under Section 102 of the bill, to encourage common bond groups, regardless of size, to organize new separately chartered credit unions. The NCUA must determine that a group has sufficient financial and operational resources to form a separate credit union and to operate it in a safe and sound manner.

There are two exceptions to the 3,000 member limit. First, the NCUA may permit groups with over 3,000 members to join an existing credit union if the Board determines in writing that the group does not have the financial resources or operational capacity to organize and operate a new single common bond credit union. Second, the Board may merge or consolidate a group with over 3,000 members with another credit union for supervisory reasons. The Committee does not intend for these exceptions to provide broad discretion to the Board to permit larger groups to be incorporated within or merged with other credit unions. The exceptions are intended to apply where the Board has sufficient evidence to support a finding that creation of a separately chartered credit union, or the continued operation of an existing credit union, present safety and soundness concerns.

There is also an exception in this section for underserved areas. Any person or organization within an underserved local community, neighborhood, or rural district may be added to multiple common bond credit unions which establishes and maintains an office or facility in the underserved areas. The term "facility" in the Act is meant to be defined in the same way that the National Credit Union Administration ("NCUA" or "Board") has defined "service facility," that is, an automatic teller machine or similar device would not qualify. The section also requires the NCUA to issue regulations, with notice and comment, establishing criteria that will be applied when determining whether additional groups may be added under this section.

Additionally, the section provides a broad grandfather for all persons and organizations who could be forced out of credit unions by the Supreme Court's decision in the AT&T case. This section covers all persons or organizations or successors who were members of a federal credit union on the date of enactment of this Act, as well as anyone who is or becomes a member of a group representing a portion of the credit union's membership, may remain members or eligible members of that credit union. This section also addresses the appropriate field of membership with respect to family. The section provides that membership in federal credit unions shall be limited to the "immediate family or household" of eligible members. The NCUA is directed to define these terms by regulation. Members may retain their membership until they choose to withdraw, unless credit unions use provisions in current law to remove them.

Section 102. Criteria for approval of expansion of membership of multiple common-bond credit unions

It is the Committee's position that the NCUA should charter new credit unions wherever possible and such formation would be consistent with safety and soundness. As noted above in Section 101, the 3,000 member figure is not intended to indicate that groups below 3,000 are incapable of forming new, viable credit unions. To the contrary, over 3,300 credit unions have less than $2 million in assets and average just 700 members. The NCUA shall encourage groups, regardless of size, to form their own credit unions where such formation would be consistent with safety and soundness and not pose a significant risk to the share insurance fund.

Section 102 also articulates a strong policy towards placing groups which cannot form their own credit unions with a local credit union. If the NCUA determines that a group cannot form a viable credit union on its own, then the NCUA is required to place the group with a credit union within reasonable proximity of the group. This local preference is qualified by safety and soundness principles. The Committee strongly believes credit union members who live, work and interact in the same geographic area are likely to have more of a meaningful affinity and common bond than those who do not. The NCUA's regulations shall strongly favor placing groups with local credit unions and document in writing their compliance with the local preference requirement. We note, however, that this provision does not require local credit unions to add groups which they do not want.

Under this section, multiple common bond credit unions are required to apply to the NCUA every time they want to add a new group to their field of membership, regardless of the size of the group to be added. The NCUA must determine in writing that the six specific approval criteria have been met. This NCUA determination is a final agency action. Specifically, the Board must find that the credit union has not engaged in material unsafe or unsound practices during the year prior to the application; the credit union is adequately capitalized; it has the administrative capability to serve the proposed membership group and the financial resources to meet the need for additional staff and assets to serve the new group. Additionally, in accordance with section 215 of the Federal Credit Union Act, the Board must determine that the credit union is satisfactorily providing credit union services to all individuals of modest means within its field of membership; and that any potential harm to another insured credit union and its members from the credit union's expansion is clearly outweighed by the probable beneficial effect of the expansion in meeting the convenience and needs of the members of the group proposed to be included. The credit union must also meet any other requirements the Board has prescribed.

The Committee specifically notes the approval criteria in subparagraph (E) which relates to potential harm to other insured credit unions. As noted above, the Committee strongly favors placing groups with local credit unions. However, it is not intended that this requirement be implemented in a manner that causes significant injury to other local credit unions in terms of creating overlapping memberships that may weaken the membership or fi-

nancial base of an existing credit union. The Board is expected to establish procedures to minimize the potential harm to other insured credit unions wherever possible and, at a minimum, to ensure that any potential harm to an existing credit union is clearly outweighed by the benefits created by the membership expansion in terms of additional services and convenience for the new member group.

Section 103. Geographical guidelines for community credit unions

Section 103 requires the Board to define by regulation the criteria it will use in determining the meaning of the term "well defined local community, neighborhood, or rural district" for purposes of evaluating charter applications by community credit unions. These terms shall only apply to applications for new credit unions and applications to alter the membership of existing credit unions submitted after the date of enactment.

Title II—Regulation of Credit Unions

Section 201. Financial statement and audit requirements

Section 201 provides that accounting principles applicable to reports or statements required to be filed shall be consistent with generally accepted accounting principles, unless the Board determines that such application is not appropriate, in which case the Board may prescribe principles that, while different, are no less stringent. Additionally, credit unions with assets below $10 million do not have to comply with this provision, unless the Board or an appropriate State supervisor prescribes it. This section requires insured credit unions with over $500 million in assets to have an annual independent audit of their financial statement performed in accordance with generally accepted accounting principles by an independent certified public accountant or public accountant licensed by the appropriate State or jurisdiction to perform such services.

Section 202. Conversions of credit unions into other depository institutions

This section requires the NCUA to conduct a detailed review of its regulations affecting such conversions to ensure that they freely and fairly permit conversions after adequate disclosure of relevant information to members. The intent of this section is that the Board consult with State credit union supervisors in conducting the review. Section 202 also calls for a report to Congress one year after enactment containing recommendations and justifications for any changes to regulations in effect on March 13, 1998.

Section 203. Freeze on Board regulations relating to commercial loans

Section 203 provides that the regulations codified at section 701.21(h) and 722.3(a) of the Code of Federal Regulations (relating to business loans and lines of credit to members as well as certain appraisal requirements), including any other regulations which such section makes applicable with respect to loans or lines of credit to which such section applies, shall for one year remain in effect

and unaltered from their operation on March 13, 1998. Under these current regulations, loans made for business purposes are treated as business loans (and made subject to additional underwriting and reporting requirements) only in cases where the aggregate amount lent to one borrower exceeds $50,000. The provision requires the Board to conduct a review of the effectiveness of the regulations, and to report to Congress on its findings, before the end of the one year period.

Section 204. Serving persons of modest means within the field of membership of credit unions

Section 204 reaffirms the continuing and affirmative obligation of insured credit unions to meet the financial services needs of persons of modest means, including those with low- and moderate-incomes, consistent with safe and sound operation. The section also requires the Board, after consultation with State credit union supervisors, to prescribe criteria, within one year of the date of enactment, for periodically reviewing the record of each insured credit union in providing affordable credit union services to all individuals of modest means within the field of membership of such credit union, and to make the results of such review publicly available.

The Act also provides that the NCUA Board is required under this section to prescribe additional criteria for annually evaluating the record of any insured credit union which is organized to serve a well-defined local community, neighborhood, or rural district in meeting the credit needs and credit union service needs of its entire field of membership. The Board must also prescribe procedures for remedying the failure of any "community" credit union to meet the credit needs of its entire field of membership. Such remedies would include the disapproval of any application by such credit union to expand its field of membership.

In evaluating insured credit unions under this section, the Board shall focus on the performance of the insured credit union and not impose burdensome paperwork or recordkeeping requirements.

The Act requires the Board to include, for the first five years following enactment, in its annual report to the Congress a report on its progress in implementing this section.

Section 205. National Credit Union Administration Board membership

This section directs the President, in appointing members to the Board, to consider individuals who, by virtue of their education, training, or experience relating to a broad range of financial services, financial services regulation, or financial policy, are especially qualified to serve on the Board. Not more than 1 member of the Board may be appointed to the Board from among individuals who, at the time of such appointment, are, or have recently been, involved with any insured credit union as a committee member, director, officer, employee, or other institution-affiliated party.

Section 206. Report and congressional review requirement for certain regulations

Section 206 established that NCUA regulations to define or amend the definition of "immediate family or household" or "well-

defined local community, neighborhood, or rural district" shall be treated as a major rule for purposes of chapter 8 of title 5 of the U.S. Code.

Title III—Capitalization and Net Worth of Credit Unions

Section 301. Prompt corrective action

Section 301 requires the Board to promulgate regulations to provide for a supervisory scheme of prompt corrective action. These regulations are to establish criteria and procedures for classifying credit unions as 'well capitalized', 'adequately capitalized', 'undercapitalized', 'significantly undercapitalized', or 'critically undercapitalized'. These regulations must specify a series of graduated regulatory enforcement actions that may be imposed upon credit unions which fail to meet the requirements for classification as 'adequately capitalized'. These actions, which include the appointment of a conservator or liquidating agent in appropriate circumstances, are enumerated in the text of the section. In addition, the regulations promulgated under this section must establish reasonable net worth requirements, including risk-based net worth requirements in the case of complex credit unions, for various categories of credit unions and prescribe the manner in which net worth is calculated (including treatment of investments in corporate credit unions). Regulations must be promulgated which establish criteria for reclassifying the capital classifications of credit unions that engage in unsafe or unsound practices. All regulations promulgated under this section shall be generally comparable with the prompt corrective action provisions applicable to banks and savings and loan associations that are set forth in section 38 of the Federal Deposit Insurance Act, taking into account distinctive features of credit unions.

The Board shall publish proposed regulations which meet the requirements of this section within 270 days following the enactment of this Act. It is intended that the Board shall consult with state credit union supervisory authorities in drafting the proposed rules. The regulations required by this section shall take effect in final form by the end of the 18-month period beginning on the date of enactment of this Act.

At the time when the proposed prompt corrective action regulations are published by the Board, the Board shall submit a report to Congress on differences and similarities between such prompt corrective action regulations and the regulations prescribed by the Federal bank agencies under section 38 of the Federal Deposit Insurance Act.

Section 302. National Credit Union Share Insurance Fund equity ratio, available assets ratio, and standby premium charge

Beginning on January 1st of the first calendar year beginning no more than 180 days after the date of enactment, the following provisions shall apply.

First, on a calendar year basis (or semi-annually for credit unions with assets of $50 million or more), each credit union with less than $50 million in assets shall file, as the Board requires, a certified statement showing the total amount of insured shares in

the credit union at the close of the relevant period and both the amount of its deposit or adjustment of deposit and the amount of the insurance charge due to the fund for that period. Newly insured credit unions are excepted.

Second, the amount of each insured credit union's deposit shall be adjusted to reflect changes in the credit union's insured shares on an annual basis for credit unions with total assets of less than $50 million, and simi-annually for credit unions with $50 million or more.

Third, section 302 provides that the Board may assess premiums on insured credit unions only if the insurance fund's equity ratio is less than 1.3 percent, and the charge does not exceed the amount necessary to restore the equity ratio to 1.3 percent. If the equity ratio falls below 1.2 percent, the Board is required to assess a premium charge sufficient to restore the ratio to 1.2 percent.

Fourth, this section requires the Board to effect a pro rata distribution to insured credit unions after each calendar year if, at the end of the year, any loans to the fund from the Federal Government have been repaid with interest, the fund's equity ratio exceeds the normal operating level, and the fund's available assets ratio exceeds 1.0 percent. This calculation is to be based on the certified statements. The amount of the distribution shall be the maximum possible amount that does not reduce the fund's equity ratio below the normal operating level, and does not reduce the fund's available assets ratio below 1.0 percent. The normal operating level is to be specified by the Board, but cannot be less than 1.2 percent and not more than 1.5 percent.

Fifth, in calculating the available assets ratio and equity ratio of the fund, the Board shall use the most current and accurate data reasonably available.

The terms "available assets ratio", "equity ratio", "insured shares", and "normal operating level" are defined for purposes of this section.

Section 303. Access to liquidity

Section 303 requires the Board to periodically assess the potential liquidity needs of individual credit unions, and insured credit unions as a group, and the options available for meeting those needs. This section also requires the Board to make available to the Federal Reserve Banks certain information relevant to making advances to credit unions.

Title IV—Miscellaneous Provisions

Section 401. Assuring independent decision making connection with certain conversions

Section 401 prohibits insured credit unions from converting to insured depository institutions unless the appropriate regulator determines that no current or former (within the past five years) director, committee member, or senior management official will receive any economic benefit as a result of the conversion. This section requires that credit unions seeking to convert to an insured depository institution must also submit a written acknowledgment by all such senior management officials that they are aware of the

above prohibition, and that the conversions will not violate the prohibition. Section 401 also provides that credit unions that previously so converted may not convert from mutual to stock form or from one form of depository institution into any other type of depository institution, unless the above requirements are met.

Section 402. Payment of interest on reserves at federal reserve banks

Section 402 amends the Federal Reserve Act to provide that balances maintained by or on behalf of insured depository institutions to meet reserve requirements shall receive earnings to be paid by the Federal Reserve Bank at least once each quarter at a rate not to exceed the rate earned on the securities portfolio of the Federal Reserve System during the preceding quarter. Section 402 also provides that the Federal Reserve Board may prescribe regulations related to this provision.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

FEDERAL CREDIT UNION ACT

* * * * * * *

TITLE I—FEDERAL CREDIT UNIONS

* * * * * * *

CREATION OF ADMINISTRATION

SEC. 102. (a) * * *

[(b) The Board] *(b) MEMBERSHIP AND APPOINTMENT OF BOARD.—*

(1) IN GENERAL.—The Board shall consist of three members, who are broadly representative of the public interest, appointed by the President, by and with the advice and consent of the Senate. In appointing the members of the Board, the President shall designate the Chairman. Not more than two members of the Board shall be members of the same political party.

(2) APPOINTMENT CRITERIA.—

(A) EXPERIENCE IN FINANCIAL SERVICES.—In considering appointments to the Board under paragraph (1), the President shall give consideration to individuals who, by virtue of their education, training, or experience relating to a broad range of financial services, financial services regulation, or financial policy, are especially qualified to serve on the Board.

(B) LIMIT ON APPOINTMENT OF CREDIT UNION OFFICERS.—Not more than 1 member of the Board may be appointed to the Board from among individuals who, at the time of such appointment, are, or have recently been, involved with

any insured credit union as a committee member, director, officer, employee, or other institution-affiliated party.

* * * * * * *

MEMBERSHIP

SEC. 109. [Federal credit union membership shall consist of] *(a) IN GENERAL.—Subject to subsection (b), Federal credit union membership shall consist of* the incorporators and such other persons and incorporated and unincorporated organizations, to the extent permitted by rules and regulations prescribed by the Board, as may be elected to membership and as such shall each, subscribe to at least one share of its stock and pay the initial installment thereon and a uniform entrance fee if required by the board of directors[, except that Federal credit union membership shall be limited to groups having a common bond of occupation or association, or to groups within a well-defined neighborhood, community, or rural district. Shares may be issued in joint tenancy with right of survivorship with any persons designated by the credit union member, but no joint tenant shall be permitted to vote, obtain loans, or hold office, unless he is within the field of membership and is a qualified member].

(b) MEMBERSHIP FIELD.—Subject to the other provisions of this section, the membership of any Federal credit union shall be limited to the membership described in 1 of the following categories:

(1) SINGLE COMMON-BOND CREDIT UNION.—1 group which has a common bond of occupation or association.

(2) MULTIPLE COMMON-BOND CREDIT UNION.—More than 1 group—

(A) each of which has (within such group) a common bond of occupation or association; and

(B) the number of members of each of which (at the time the group is first included within the field of membership of a credit union described in this paragraph) does not exceed any numerical limitation applicable under subsection (d).

(3) COMMUNITY CREDIT UNION.—Persons or organizations within a well-defined local community, neighborhood, or rural district.

(c) GRANDFATHERED MEMBERS AND GROUPS.—

(1) IN GENERAL.—Notwithstanding subsection (b)—

(A) any person or organization who is a member of any Federal credit union as of the date of the enactment of the Credit Union Membership Access Act may remain a member of such credit union after such date; and

(B) a member of any group whose members constituted a portion of the membership of any Federal credit union as of such date of enactment shall continue to be eligible to become a member of such credit union, by virtue of membership in such group, after such date.

(2) SUCCESSORS.—If the common bond of any group referred to in paragraph (1) is defined by any particular organization or business entity, paragraph (1) shall continue to apply with respect to any successor to such organization or entity.

(d) MULTIPLE COMMON-BOND CREDIT UNION GROUP REQUIREMENTS.—

(1) NUMERICAL LIMITATION.—Except as provided in paragraph (2), only a group with fewer than 3,000 members shall be eligible to be included in the field of membership of a credit union described in subsection (b)(2).

(2) EXCEPTIONS.—In the case of any Federal credit union whose field of membership is determined under subsection (b)(2), the numerical limitation described in paragraph (1) shall not apply with respect to the following:

(A) CERTAIN LARGER GROUPS INCAPABLE OF SUPPORTING AND OPERATING A SINGLE-GROUP CREDIT UNION.—Any group which the Board determines, in writing and in accordance with the guidelines and regulations described in paragraph (4), could not feasibly or reasonably establish a new single common-bond credit union described in subsection (b)(1) because—

(i) the group lacks sufficient volunteer and other resources to support the efficient and effective operation of a credit union;

(ii) the group does not meet the criteria which the Board has determined to be important for the likelihood of success in establishing and managing a new credit union, including demographic characteristics, such as geographical location of members, diversity of ages and income levels, and other factors which may affect the financial viability and stability of a credit union; or

(iii) the group would be unlikely to operate a safe and sound credit union.

(B) TRANSACTIONS FOR SUPERVISORY REASONS.—Any group transferred from another credit union—

(i) in connection with a merger or consolidation which has been recommended by the Board or any appropriate State credit union supervisor for safety and soundness concerns with respect to such other credit union; or

(ii) by the Board in the Board's capacity as conservator or liquidating agent with respect to such other credit union.

(3) EXCEPTION FOR UNDERSERVED AREAS.—Notwithstanding subsection (b), in the case of a Federal credit union described in paragraph (2) of such subsection, the Board may allow the membership of the credit union to include any person or organization within a local community, neighborhood, or rural district if—

(A) the Board determines that such local community, neighborhood, or rural district—

(i) meets the requirements of paragraph (3) and subparagraphs (A) and (B) of paragraph (4) of section 233(b) of the Bank Enterprise Act of 1991, and such additional requirements as the Board may impose; and

(ii) is underserved, based on data of the Board and the Federal banking agencies (as defined in section 3

of the Federal Deposit Insurance Act), by other depository institutions (as defined in section 19(b)(1)(A) of the Federal Reserve Act); and

(B) the credit union establishes and maintains an office or facility in such local community, neighborhood, or rural district at which credit union services are available.

(4) REGULATIONS AND GUIDELINES.—The Board shall issue guidelines or regulations, after notice and opportunity for comment, setting forth the criteria the Board will apply in determining whether or not an additional group may be included within the field of membership of an existing credit union pursuant to paragraph (2).

(e) ADDITIONAL MEMBERSHIP ELIGIBILITY PROVISIONS.—

(1) MEMBERSHIP ELIGIBILITY LIMITED TO IMMEDIATE FAMILY OR HOUSEHOLD MEMBERS.—No individual shall be eligible for membership in a credit union on the basis of the relationship of such individual to another person who is eligible for membership in such credit union unless the individual is a member of the immediate family or household (as such terms are defined by the Board by regulation) of such other person.

(2) RETENTION OF MEMBERSHIP.—Except as provided in section 118, once a person becomes a member of a credit union in accordance with this title, such person or organization may remain a member of such credit union until the person or organization chooses to withdraw from the membership of the credit union.

(f) CRITERIA FOR APPROVAL OF EXPANSION OF MULTIPLE COMMON-BOND CREDIT UNIONS.—

(1) IN GENERAL.—The Board shall—

(A) encourage the formation of separately chartered credit unions instead of approving an application to include an additional group within the field of membership of an existing credit union whenever practicable and consistent with reasonable standards for the safe and sound operation of the credit union; and

(B) if the formation of a separate credit union by such group is not practicable or consistent with such standards, require the inclusion of such group in the field of membership of a credit union which is within reasonable proximity to the location of the group whenever practicable and consistent with reasonable standards for the safe and sound operation of the credit union.

(2) APPROVAL CRITERIA.—The Board may not approve any application by a Federal credit union described in subsection (b)(2) to include any additional group within the field of membership of such credit union (or an application by a Federal credit union described in paragraph (1) to include an additional group and become a credit union described in paragraph (2)) unless the Board determines, in writing, that—

(A) such credit union has not engaged in any unsafe or unsound practice (as defined in section 206(b)) which is material during the 1-year period preceding the filing of the application;

(B) the credit union is adequately capitalized;

(C) the credit union has the administrative capability to serve the proposed membership group and the financial resources to meet the need for additional staff and assets to serve the new membership group;

(D) pursuant to the most recent evaluation of such credit union under section 215, the credit union is satisfactorily providing affordable credit union services to all individuals of modest means within the field of membership of such credit union;

(E) any potential harm the expansion of the field of membership of the credit union may have on any other insured credit union and its members is clearly outweighed in the public interest by the probable beneficial effect of the expansion in meeting the convenience and needs of the members of the group proposed to be included in the field of membership; and

(F) the credit union has met such additional requirements as the Board may prescribe in regulations.

(g) REGULATIONS REQUIRED FOR COMMUNITY CREDIT UNIONS.—

(1) DEFINITION OF WELL-DEFINED LOCAL COMMUNITY, NEIGHBORHOOD, OR RURAL DISTRICT.—The Board shall prescribe regulations defining the term 'well-defined local community, neighborhood, or rural district' for purposes of—

(A) making any determination with regard to the field of membership of a credit union described in subsection (b)(3); and

(B) establishing the criteria applicable with respect to any such determination.

(2) SCOPE OF APPLICATION.—Paragraph (1) shall apply with respect to any application to form a new credit union, or to alter or expand the field of membership of an existing credit union, which is filed with the Board after the date of the enactment of Credit Union Membership Access Act.

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TITLE II—SHARE INSURANCE

* * * * * * *

REPORTS OF CONDITION; CERTIFIED STATEMENTS; PREMIUMS FOR INSURANCE

SEC. 202. (a)(1) * * *

(6) AUDIT REQUIREMENT.—

(A) * * *

(B) UNSAFE OR UNSOUND PRACTICE.—The Board may treat the failure of any insured credit union to obtain an outside, independent audit for any fiscal year for which such audit is required under subparagraph (A) *or (D)* as an unsafe or unsound practice within the meaning of section 206(b).

(C) ACCOUNTING PRINCIPLES.—

(i) IN GENERAL.—Accounting principles applicable to reports or statements required to be filed with the Board by each insured credit union shall be uniform

and consistent with generally accepted accounting principles.

(ii) BOARD DETERMINATION.—If the Board determines that the application of any generally accepted accounting principle to any insured credit union is not appropriate, the Board may prescribe an accounting principle for application to such credit unions which is no less stringent than generally accepted accounting principles.

(iii) DE MINIMUS EXCEPTION.—This subparagraph shall not apply to any insured credit union the total assets of which are less than $10,000,000 unless prescribed by the Board or an appropriate State credit union supervisor.

(D) LARGE CREDIT UNION AUDIT REQUIREMENT.—Each insured credit union which has total assets of $500,000,000 or more shall have an annual independent audit of the financial statement of the credit union performed in accordance with generally accepted auditing standards by an independent certified public accountant or public accountant licensed by the appropriate State or jurisdiction to perform such services.

[(b)(1) For each insurance year, each insured credit union which became insured prior to the beginning of that year shall file with the Board, at such time as the Board prescribes, a certified statement showing the total amount of the insured shares in the credit union at the close of the preceding insurance year and both the amount of its deposit or adjustment thereof and the amount of the premium charge for insurance due to the fund for that year, both as computed under subsection (c) of this section.

[(2) The certified statements required to be filed with the Board pursuant to this subsection shall be in such form and shall set forth such supporting information as the Board shall require.

[(3) Each such statement shall be certified by the president of the credit union, or by any officer of the credit union designated by its board of directors, that to the best of his knowledge and belief the statement is true, correct, and complete and in accordance with this title and regulations issued thereunder.]

(b) CERTIFIED STATEMENT.—

(1) STATEMENT REQUIRED.—

(A) IN GENERAL.—For each calendar year in the case of an insured credit union with total assets of not more than $50,000,000, and for each semi-annual period in the case of an insured credit union with total assets of $50,000,000 or more, an insured credit union shall file with the Board, at such time as the Board prescribes, a certified statement showing the total amount of insured shares in the credit union at the close of the relevant period and both the amount of its deposit or adjustment of deposit and the amount of the insurance charge due to the fund for that period, both as computed under subsection (c).

(B) EXCEPTION FOR NEWLY INSURED CREDIT UNION.—Subparagraph (A) shall not apply with respect to a credit union that became insured during the reporting period.

(2) FORM.—The certified statements required to be filed with the Board pursuant to this subsection shall be in such form and shall set forth such supporting information as the Board shall require.

(3) CERTIFICATION.—The president of the credit union or any officer designated by the board of directors shall certify, with respect to each such statement, that to the best of his or her knowledge and belief the statement is true, correct, complete, and in accordance with this title and the regulations issued under this title.

(c)(1)(A)(i) Each insured credit union shall pay to and maintain with the National Credit Union Share Insurance Fund a deposit in an amount equaling 1 per centum of the credit union's insured shares.

(ii) The Board may, in its discretion, authorize insured credit unions to initially fund such deposit over a period of time in excess of one year if necessary to avoid adverse effects on the condition of insured credit unions.

[(iii) The amount of each insured credit union's deposit shall be adjusted annually, in accordance with procedures determined by the Board, to reflect changes in the credit union's insured shares.**]**

(iii) PERIODIC ADJUSTMENT.—The amount of each insured credit union's deposit shall be adjusted as follows, in accordance with procedures determined by the Board, to reflect changes in the credit union's insured shares:

(I) annually, in the case of an insured credit union with total assets of not more than $50,000,000; and

(II) semi-annually, in the case of an insured credit union with total assets of $50,000,000 or more.

* * * * * * *

[(2) Each insured credit union, at such times as the Board prescribes, shall pay to the fund a premium charge for insurance equal to one-twelfth of 1 per centum of the total amount of the insured shares in such credit union at the close of the preceding insurance year.

[(3) When, at the end of a given insurance year, any loans to the fund from the Federal Government and the interest thereon have been repaid and the equity of the fund exceeds the normal operating level, the Board shall effect for that insurance year a pro rata distribution to insured credit unions of an amount sufficient to reduce the equity in the fund to its normal operating level.**]**

(2) INSURANCE PREMIUM CHARGES.—

(A) IN GENERAL.—Each insured credit union shall, at such times as the Board prescribes (but not more than twice in any calendar year), pay to the fund a premium charge for insurance in an amount stated as a percentage of insured shares (which shall be the same for all insured credit unions).

(B) RELATION OF PREMIUM CHARGE TO EQUITY RATIO OF FUND.—The Board may assess a premium charge only if—

(i) the fund's equity ratio is less than 1.3 percent; and

(ii) the premium charge does not exceed the amount necessary to restore the equity ratio to 1.3 percent.

(C) PREMIUM CHARGE REQUIRED IF EQUITY RATIO FALLS BELOW 1.2 PERCENT.—If the fund's equity ratio is less than 1.2 percent, the Board shall, subject to subparagraph (B), assess a premium charge in such an amount as the Board determines to be necessary to restore the equity ratio to, and maintain that ratio at, 1.2 percent.

(3) DISTRIBUTIONS FROM FUND REQUIRED.—

(A) IN GENERAL.—The Board shall effect a pro rata distribution to insured credit unions after each calendar year if, as of the end of that calendar year—

(i) any loans to the fund from the Federal Government, and any interest on those loans, have been repaid;

(ii) the fund's equity ratio exceeds the normal operating level; and

(iii) the fund's available assets ratio exceeds 1.0 percent.

(B) AMOUNT OF DISTRIBUTION.—The Board shall distribute under subparagraph (A) the maximum possible amount that—

(i) does not reduce the fund's equity ratio below the normal operating level; and

(ii) does not reduce the fund's available assets ratio below 1.0 percent.

(C) CALCULATION BASED ON CERTIFIED STATEMENTS.—In calculating the fund's equity ratio and available assets ratio for purposes of this paragraph, the Board shall determine the aggregate amount of the insured shares in all insured credit unions from insured credit unions certified statements under subsection (b) for the final reporting period of the calendar year referred to in subparagraph (A).

(4) TIMELINESS AND ACCURACY OF DATA.—In calculating the available assets ratio and equity ratio of the fund, the Board shall use the most current and accurate data reasonably available.

* * * * * * *

[(h) For the purposes of this section—

[(1) the term "insurance year" means the period beginning on January 1 and ending on the following December 31, both dates inclusive, unless otherwise prescribed by the Board;

[(2) the term "normal operating level", when applied to the Fund, means an amount equal to 1.3 per centum of the aggregate amount of the insued shares in all insured credit unions, or such lower level as the Board may determine; and

[(3) the term "insured shares" when applied to this section includes share, share draft, share certificate and other similar accounts as determined by the Board, but does not include amounts in excess of the insured account limit set forth in section 207(c)(1).]

(h) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) AVAILABLE ASSETS RATIO.—The term "available assets ratio", when applied to the fund, means the ratio of—

(A) the amount determined by subtracting—

(i) direct liabilities of the fund and contingent liabilities for which no provision for losses has been made, from

(ii) the sum of cash and the market value of unencumbered investments authorized under section 203(c), to

(B) the aggregate amount of the insured shares in all insured credit unions.

(2) EQUITY RATIO.—The term "equity ratio", when applied to the fund, means the ratio of—

(A) the amount of fund capitalization, including insured credit unions' 1 percent capitalization deposits and the fund's retained earnings balance (net of direct liabilities of the fund and contingent liabilities for which no provision for losses has been made), to

(B) the aggregate amount of the insured shares in all insured credit unions.

(3) INSURED SHARES.—The term "insured shares", when applied to this section, includes share, share draft, share certificate, and other similar accounts as determined by the Board, but does not include amounts exceeding the insured account limit set forth in section 207(c)(1).

(4) NORMAL OPERATING LEVEL.—The term "normal operating level", when applied to the fund, means an equity ratio specified by the Board, which shall be not less than 1.2 percent and not more than 1.5 percent.

EXAMINATION OF INSURED CREDIT UNIONS

SEC. 204. (a) * * *

* * * * * * *

(f) ACCESS TO LIQUIDITY.—The Board shall—

(1) periodically assess the potential liquidity needs of each insured credit union, and the options that the credit union has available for meeting those needs; and

(2) periodically assess the potential liquidity needs of insured credit unions as a group, and the options that insured credit unions have available for meeting those needs.

(g) SHARING INFORMATION WITH FEDERAL RESERVE BANKS.—The Board shall, for the purpose of facilitating insured credit unions' access to liquidity, make available to the Federal reserve banks (subject to appropriate assurances of confidentiality) information relevant to making advances to such credit unions, including the Board's reports of examination.

* * * * * * *

SEC. 215. SERVING PERSONS OF MODEST MEANS WITHIN THE FIELD OF MEMBERSHIP OF CREDIT UNIONS.

(a) CONTINUING AND AFFIRMATIVE OBLIGATION.—The purpose of this section is to reaffirm that insured credit unions have a continuing and affirmative obligation to meet the financial services needs of persons of modest means consistent with safe and sound operation.

(b) EVALUATION BY THE BOARD.—The Board shall, before the end of the 12-month period beginning on the date of the enactment of the Credit Union Membership Access Act—

(1) prescribe criteria for periodically reviewing the record of each insured credit union in providing affordable credit union services to all individuals of modest means (including low- and moderate-income individuals) within the field of membership of such credit union; and

(2) provide for making the results of such review publicly available.

(c) ADDITIONAL CRITERIA FOR COMMUNITY CREDIT UNIONS REQUIRED.—The Board shall, by regulation—

(1) prescribe additional criteria for annually evaluating the record of any insured credit union which is organized to serve a well-defined local community, neighborhood, or rural district in meeting the credit needs and credit union service needs of the entire field of membership of such credit union; and

(2) prescribe procedures for remedying the failure of any insured credit union described in paragraph (1) to meet the criteria established pursuant to such paragraph, including the disapproval of any application by such credit union to expand the field of membership of such credit union.

(d) EMPHASIS ON PERFORMANCE, NOT PAPERWORK.—In evaluating any insured credit union under this section, the Board shall—

(1) focus on the actual performance of the insured credit union; and

(2) not impose burdensome paperwork or recordkeeping requirements.

SEC. 216. PROMPT CORRECTIVE ACTION

(a) RESOLVING PROBLEMS TO PROTECT FUND.—

(1) PURPOSE.—The purpose of this section is to resolve the problems of insured credit unions at the least possible long-term loss to the National Credit Union Share Insurance Fund.

(2) PROMPT CORRECTIVE ACTION REQUIRED.—The Board shall carry out the purpose of this section by taking prompt corrective action to resolve the problems of insured credit unions.

(b) REGULATIONS.—The Board shall implement subsection (a) of this section by prescribing regulations, after public notice and opportunity for comment, which—

(1) establish criteria and procedures for classifying credit unions as "well capitalized", "adequately capitalized", "undercapitalized", "significantly undercapitalized", or "critically undercapitalized";

(2) specify a series of graduated regulatory enforcement actions that may be imposed upon any credit union which fails to meet the requirements for classification as an adequately capitalized credit union, including—

(A) the submission of net worth restoration plans;

(B) earnings retention requirements;

(C) prior written approval by the Board for certain activities such as branching and entry into new lines of business; and

(D) the appointment of a conservator or liquidating agent in appropriate circumstances;

(3) establish reasonable net worth requirements, including risk-based net worth requirements in the case of complex credit unions, for various categories of credit unions and prescribe the manner in which net worth is calculated (for purposes of such requirements) with regard to various types of investments, including investments in corporate credit unions, taking into account the unique nature and role of credit unions;

(4) establish criteria for reclassifying the capital classifications of credit unions that engage in unsafe or unsound practices; and

(5) are generally comparable with the prompt corrective action provisions set forth in section 38 of the Federal Deposit Insurance Act, taking into account the distinct capital structure, cooperative nature, and other characteristics of credit unions.

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SECTION 18 OF THE FEDERAL DEPOSIT INSURANCE ACT

SEC. 18. (a) * * *

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(t) CONVERSIONS INVOLVING FORMER CREDIT UNIONS.—

(1) IN GENERAL.—Notwithstanding any other provision of law—

(A) an insured credit union may not convert into an insured depository institution; and

(B) an insured depository institution which resulted from a prior conversion of an insured credit union into such insured depository institution may not convert from the mutual form to the stock form and may not convert from 1 form of depository institution into another,

unless the appropriate Federal banking agency for the insured depository institution which results from any such conversion reviews the conversion and determines that the requirements of paragraphs (2) and (3) have been met.

(2) PROHIBITION ON ECONOMIC BENEFIT FROM CONVERSION FOR CREDIT UNION OFFICERS, DIRECTORS, AND COMMITTEE MEMBERS.—An individual who is or, at any time during the 5-year period preceding any conversion described in paragraph (1), was a director, committee member, or senior management official of an insured credit union described in subparagraph (A) or (B) of such paragraph (in connection with such conversion) may not receive any economic benefit as a result of the conversion with regard to the shares or interests of such director, member, or officer in the former insured credit union or in any resulting insured depository institution.

(3) ACKNOWLEDGEMENT AND ATTESTATION BY OFFICERS, DIRECTORS, AND COMMITTEE MEMBERS.—Any insured credit union or insured depository institution which is seeking to engage in a conversion which is subject to this subsection shall submit—

(A) a written acknowledgement, in such form and manner as the appropriate Federal banking agency may prescribe, by every individual who is subject to the prohibition contained in paragraph (2), that such individual is aware of such prohibition; and

(B) an attestation that the conversion under review will not result in a violation of such prohibition.

(4) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

(A) INSURED CREDIT UNION.—The term "insured credit union" has the meaning given to such term in section 101(7) of the Federal Credit Union Act.

(B) SENIOR MANAGEMENT OFFICIAL.—The term "senior management official" means a chief executive officer, an assistant chief executive officer, a chief financial officer, and any other senior executive officer (as defined by the appropriate Federal banking agency pursuant to section 32(f)).

SECTION 19 OF THE FEDERAL RESERVE ACT

SEC. 19. (a) * * *

(b) RESERVE REQUIREMENTS.—

(1) * * *

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(4) SUPPLEMENTAL RESERVES.—(A) * * *

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[(C) The supplemental reserve authorized under subparagraph (A) shall be maintained by the Federal Reserve banks in an Earnings Participation Account. Except as provided in subsection (c)(1)(A)(ii), such Earnings Participation Account shall receive earnings to be paid by the Federal Reserve banks during each calendar quarter at a rate not more than the rate earned on the securities portfolio of the Federal Reserve System during the previous calendar quarter. The Board may prescribe rules and regulations concerning the payment of earnings on Earnings Participation Accounts by Federal Reserve banks under this paragraph.**]**

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(12) EARNINGS ON RESERVES.—

(A) IN GENERAL.—Balances maintained at a Federal reserve bank by or on behalf of a depository institution to meet the reserve requirements of this subsection applicable with respect to such depository institution shall receive earnings to be paid by the Federal reserve bank at least once each calendar quarter at a rate not to exceed the rate earned on the securities portfolio of the Federal Reserve System during the preceding quarter.

(B) REGULATIONS RELATING TO PAYMENTS AND DISTRIBUTIONS.—The Board may prescribe regulations concerning—

(i) the payment of earnings in accordance with this paragraph;

(ii) the distribution of such earnings to the depository institutions which maintain balances at such banks or on whose behalf such balances are maintained; and

(iii) the responsibilities of depository institutions, Federal home loan banks, and the National Credit Union Administration Central Liquidity Facility with respect to the crediting and distribution of earnings attributable to balances maintained, in accordance with subsection (c)(1)(B), in a Federal reserve bank by any such entity on behalf of depository institutions which are not member banks.

(c)(1) Reserves held by a depository institution to meet the requirements imposed pursuant to subsection (b) shall, subject to such rules and regulations as the Board shall prescribe, be in the form of—

(A) balances maintained for such purposes by such depository institution in the Federal Reserve bank of which it is a member or at which it maintains an account, except that (i) the Board may, by regulation or order, permit depository institutions to maintain all or a portion of their required reserves in the form of vault cash, except that any portion so permitted shall be identical for all depository institutions, and (ii) vault cash may be used to satisfy any supplemental reserve requirement imposed pursuant to subsection (b)(4), except that all such vault cash shall be excluded from any computation of earnings pursuant to subsection ⟦(b)(4)(C)⟧ *(b)*; and

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ADDITIONAL VIEW OF RON PAUL

While I strongly support the expansion of the field of membership for credit unions, the new regulations imposed upon them demonstrate a decision to follow the wrong path to "level the playing field" with banks and other financial institutions. A better approach would have been to lead the congress towards less taxes and less regulation. H.R. 1151, The Credit Union Membership Access Act, as amended by the committee, follows a path of more regulations and leads toward higher taxes on credit unions while the Financial Freedom Act, H.R. 1121, which I introduced a year ago, lowers taxes and regulations on banks. While H.R. 1151 does not impose new, direct taxes on credit unions, I fear that that day is just around the corner.

The estimated, aggregate cost of bank regulation (noninterest expenses) on commercial banks was $125.9 billion in 1991, according to "The Cost of Bank Regulation: A Review of the Evidence," Board of Governors of the Federal Reserve System (Staff Study 171 by Gregory Elliehausen, April 1998). It reports that studies estimate that this figure amounts to 12 percent to 13 percent of noninterest expenses. These estimates only include a fraction of the "most burdensome" regulations that govern the industry; it adds, "The total cost of all regulations can only be larger."

These regulations, under which the credit unions will now suffer a greater burden with the passage of this bill, impose a disproportionate burden on smaller institutions. These increased, and unfairly imposed, regulations will stifle the possibility of new entrants into the financial sector and contribute to a consolidation and fewer market participants of the industry. As the introduction of new entrants into the market becomes more costly, smaller institutions will face a marginally increased burden and will be more likely to consolidate. "The basic conclusion is similar for all of the studies of economies of scale: Average compliance costs for regulations are substantially greater for banks at low levels of output than for banks at moderate or high levels of output," the Staff Study concludes.

Smaller banks face the highest compliance cost in relation to total assets, equity capital and net income before taxes, reveals "Regulatory Burden: The Cost to Community Banks," a study prepared for the Independent Bankers Association of America by Grant Thornton, January 1993. For each $1 million in assets, banks under $30 million in assets incur almost three times the compliance cost of banks between $30–65 million in assets. This regulation almost quadruples costs on smaller institutions to almost four times when compared to banks over $65 million in assets. These findings are consistent for both equity capital and net income measurements, according to the report.

The IBAA study identifies the Community Reinvestment Act as the most burdensome regulation with the estimated cost of complying with CRA exceeding the next most burdensome regulation by approximately $448 million or 77%. Respondents to the IBAA study rated the CRA as the least beneficial and useful of the thirteen regulatory areas surveyed. In short, this bill takes the most costly and least beneficial and useful regulation on banks and adds a similar, new regulation on credit unions. Reducing the most costly, and least beneficial and useful regulation on the banks would have been a better approach.

In addition to all of the problems associated with the obligations and requirements that the government regulations impose on the productive, private sectors of the economy, the regulations amount to a government credit allocation scheme. As Ludwig von Mises explained well in The Theory of Money and Credit in 1912, governmental credit allocation is a misdirection of credit which leads to malinvestment and contributes to an artificial boom and bust cycle. Nobel laureate Frederick A. Hayek and Murray Rothbard expounded on this idea.

The unintended consequences of the passage of this bill, as written, will be to stifle the formation of new credit unions, consolidate current credit unions into larger ones better able to internalize the cost of the additional regulations, and lower productivity and economic growth due to the misallocation of credit. This increased burden must ultimately be passed on to the consumer. The increased costs on credit unions this bill imposes will lead to a reduction of access to credit unions, higher fees and higher rates. These provisions are anti-consumer. The marginal consumers, those who currently can only receive a loan from a credit union without the burden of CRA, are the ones who will suffer under that provision of this bill. I hope that the bill can be improved as the process continues and lead to less regulations and other taxes on banks rather than more regulations and other taxes on credit unions.

RON PAUL.

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