

110TH CONGRESS
1ST SESSION

H. R. 1537

To modernize credit union net worth standards, advance credit union efforts to promote economic growth, and modify credit union regulatory standards and reduce burdens, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 15, 2007

Mr. KANJORSKI (for himself, Mr. ROYCE, Mrs. MALONEY of New York, Mr. LATOURETTE, Mr. SHERMAN, Mr. BURTON of Indiana, Mr. GUTIERREZ, Mr. PAUL, Mrs. NAPOLITANO, Mr. CHABOT, Mr. ORTIZ, and Mr. CALVERT) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To modernize credit union net worth standards, advance credit union efforts to promote economic growth, and modify credit union regulatory standards and reduce burdens, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Credit Union Regu-
5 latory Improvements Act of 2007”.

TITLE I—CAPITAL MODERNIZATION

SEC. 101. AMENDMENTS TO NET WORTH CATEGORIES.

Section 216(c)(1) of the Federal Credit Union Act (12 U.S.C. 1790d(c)(1)) is amended as follows:

(1) WELL CAPITALIZED.—

(A) In subparagraph (A)(i), by striking “7 percent” and inserting “5.25 percent”.

(B) In subparagraph (A)(ii), by striking “it meets any applicable risk-based net worth requirement under subsection (d) of this section” and inserting “it has a risk-based net worth ratio of not less than 10 percent”.

(2) ADEQUATELY CAPITALIZED.—

(A) In subparagraph (B)(i), by striking “6 percent” and inserting “4.25 percent”.

(B) In subparagraph (B)(ii), by striking “it meets any applicable risk-based net worth requirement under subsection (d) of this section” and inserting “it has a risk-based net worth ratio of not less than 8 percent”.

(3) UNDERCAPITALIZED.—

(A) In subparagraph (C)(i), by striking “6 percent” and inserting “4.25 percent”.

1 (B) In subparagraph (C)(ii), by striking
2 “it fails to meet any applicable risk-based net
3 worth requirement under subsection (d)” and
4 inserting “it has a risk-based net worth ratio of
5 less than 8 percent”.

6 (4) SIGNIFICANTLY UNDERCAPITALIZED.—By
7 striking subparagraph (D) and inserting the fol-
8 lowing new subparagraph:

9 “(D) SIGNIFICANTLY UNDERCAPITAL-
10 IZED.—An insured credit union is ‘significantly
11 undercapitalized’ if—

12 “(i) the credit union has a net worth
13 ratio of less than 3.25 percent;

14 “(ii) the credit union has a net worth
15 ratio of less than 4.25 percent and ei-
16 ther—

17 “(I) fails to submit an acceptable
18 net worth restoration plan within the
19 time allowed under subsection (f); or

20 “(II) materially fails to imple-
21 ment a net worth restoration plan ap-
22 proved by the Board; or

23 “(iii) the credit union has a risk-based
24 net worth ratio of less than 6 percent.”.

1 (5) RELEVANT CAPITAL MEASURES.—Section
2 216(c)(2) is amended by striking “leverage limit”
3 each place such term appears and inserting “rel-
4 evant capital measures”.

5 (6) ADJUSTMENT BY FEDERAL DEPOSIT INSUR-
6 ANCE CORPORATION.—Section 216(c)(2)(A) is
7 amended—

8 (A) by striking “Federal banking agencies
9 increase or decrease” and inserting “Federal
10 Deposit Insurance Corporation increases or de-
11 creases one of”; and

12 (B) by striking “level” each place such
13 term appears and inserting “levels”.

14 (7) ADJUSTING NET WORTH LEVELS.—Section
15 216(c)(2)(A) is amended by striking “not more than
16 the difference between the required minimum level
17 most recently established by the Federal banking
18 agencies and 4 percent of total assets (with respect
19 to institutions regulated by those agencies)” and in-
20 serting “the increase or decrease made by the Fed-
21 eral Deposit Insurance Corporation”.

22 (8) CONSULTATION WITH FEDERAL DEPOSIT
23 INSURANCE CORPORATION.—Section 216(c)(2)(B)(i)
24 is amended by striking “Federal banking agencies”

1 and inserting “Federal Deposit Insurance Corpora-
2 tion”.

3 **SEC. 102. AMENDMENTS RELATING TO RISK-BASED NET**
4 **WORTH REQUIREMENTS.**

5 (a) IN GENERAL.—Section 216(d) of the Federal
6 Credit Union Act (12 U.S.C. 1790d(d)) is amended—

7 (1) in paragraph (1)—

8 (A) by striking “that are complex, as de-
9 fined by the Board”; and

10 (B) by inserting “, as defined by the
11 Board” before the period at the end; and

12 (2) by striking paragraph (2) and inserting the
13 following new paragraph:

14 “(2) STANDARD.—The Board shall design the
15 risk-based net worth requirement to take account of
16 any material risks as defined by the Board applica-
17 ble to insured credit unions that are taken account
18 of by comparable standards applicable to institutions
19 insured by the Federal Deposit Insurance Corpora-
20 tion.”.

21 (b) TECHNICAL AND CONFORMING AMENDMENT.—
22 The heading for subsection (d) of section 216 of the Fed-
23 eral Credit Union Act (12 U.S.C. 1790d(d)) is amended
24 by striking “FOR COMPLEX CREDIT UNIONS”.

1 **SEC. 103. TREATMENT BASED ON OTHER CRITERIA.**

2 Section 216(h)(2) of the Federal Credit Union Act
 3 (12 U.S.C. 1790d(h)(2)) is amended by inserting “, except
 4 to reclassify an insured credit union into the next lower
 5 net worth category, based on interest rate risk, to the ex-
 6 tent any such reclassification by a delegatee may be re-
 7 viewed by the Board,” after “to reclassify an insured cred-
 8 it union into a lower net worth category”.

9 **SEC. 104. DEFINITIONS RELATING TO NET WORTH.**

10 (a) **SECONDARY CAPITAL ACCOUNTS FOR PURPOSES**
 11 **OF DETERMINING NET WORTH.**—Section 216(o)(2)(B) of
 12 the Federal Credit Union Act (12 U.S.C. 1790d(o)(2)(B))
 13 is amended by inserting “, subject to limitations set by
 14 the Board to address the safe and sound use of secondary
 15 capital to carry out the purpose of this section,” after
 16 “secondary capital accounts”.

17 (b) **NET WORTH RATIO.**—Paragraph (3) of section
 18 216(o) of the Federal Credit Union Act (12 U.S.C.
 19 1790d(o)(3)) is amended—

20 (1) by inserting “minus its deposit in the
 21 Fund,” after “net worth of the credit union”; and

22 (2) by inserting “minus its deposit in the
 23 Fund” after “total assets of the credit union”.

24 (c) **RISK-BASED NET WORTH RATIO.**—Section
 25 216(o) of the Federal Credit Union Act (12 U.S.C.

1 1790d)(o)) is amended by inserting after paragraph (4)
 2 the following new paragraph:

3 “(5) RISK-BASED NET WORTH RATIO.—The
 4 term ‘risk-based net worth ratio’ means, with respect
 5 to any credit union, the ratio of the net worth of the
 6 credit union, plus any loan loss reserves (subject to
 7 limitations established by the Board) and minus the
 8 credit union’s deposit in the Fund, to the risk assets
 9 of the credit union, as defined by the Board.”.

10 **SEC. 105. AMENDMENTS RELATING TO NET WORTH RES-**
 11 **TORATION PLANS.**

12 (a) TEMPORARY WAIVER OF NET WORTH RESTORA-
 13 TION PLAN REQUIREMENT IN RESPONSE TO DISAS-
 14 TERS.—Subsection 216(f)(1) of the Federal Credit Union
 15 Act (12 U.S.C. 1790d(f)(1)) is amended by striking “Each
 16 insured credit union” and inserting “Except as deter-
 17 mined by the Board in the case of a credit union that
 18 becomes or remains no less than undercapitalized due to
 19 the impact of a major natural or man-made disaster, each
 20 insured credit union”.

21 (b) NET WORTH RESTORATION REQUIREMENT FOR
 22 CREDIT UNIONS THAT ARE NOT WELL CAPITALIZED.—
 23 Section 216(e) of the Federal Credit Union Act (12 U.S.C.
 24 1790d(e) is amended to read as follows:

1 “(e) NET WORTH RESTORATION PLAN REQUIRE-
2 MENT APPLICABLE TO CREDIT UNIONS THAT ARE NOT
3 WELL CAPITALIZED.—The Board may require an insured
4 credit union that is not well capitalized to submit a net
5 worth restoration plan, as required under subsection (f),
6 if—

7 “(1) material safety and soundness concerns
8 caused the credit union to become less than well cap-
9 italized; and

10 “(2) the safety and soundness concerns remain
11 unresolved.”.

12 (c) BOARD ACTION MAY INCLUDE ORDER TO CREDIT
13 UNION.—Subparagraph (B) of section 216(i)(1) of the
14 Federal Credit Union Act (12 U.S.C. 1790d(i)(1)(B)) is
15 amended—

16 (1) by inserting “order the credit union to” be-
17 fore “take such other action”; and

18 (2) by inserting “, in the discretion of the
19 Board,” after “as the Board”.

20 (d) SUBSTITUTION OF 90 CALENDAR DAYS.—Sub-
21 paragraph (A) of section 216(i)(3) of the Federal Credit
22 Union Act (12 U.S.C. 1790d(i)(3)(A)) is amended—

23 (1) by striking “calendar quarter” and insert-
24 ing “90 calendar days”; and

1 (2) by inserting “first” after “the date on
2 which the credit union”.

3 (e) CLARIFICATION OF COORDINATION REQUIRE-
4 MENT.—Clause (ii) of section 216(l)(3)(A) of the Federal
5 Credit Union Act (12 U.S.C. 1790d(l)(3)(A)) is amended
6 by inserting “if the Board determines that such action by
7 the official will carry out the purpose of this section”.

8 **TITLE II—ECONOMIC GROWTH**

9 **SEC. 201. LIMITS ON MEMBER BUSINESS LOANS.**

10 Section 107A(a) of the Federal Credit Union Act (12
11 U.S.C. 1757a(a)) is amended by striking “the lesser of—
12 ” and all that follows and inserting “20 percent of the
13 total assets of the credit union.”.

14 **SEC. 202. DEFINITION OF MEMBER BUSINESS LOAN.**

15 Section 107A(c)(1)(B)(iii) of the Federal Credit
16 Union Act (12 U.S.C. 1757a(c)(1)(B)(iii)) is amended by
17 striking “\$50,000” and inserting “an amount, not to ex-
18 ceed \$100,000, that the Board shall prescribe by regula-
19 tion”.

20 **SEC. 203. RESTRICTION ON MEMBER BUSINESS LOANS.**

21 Section 216(g)(2) of the Federal Credit Union Act
22 (12 U.S.C. 1790d(g)(2)) is amended by striking “until
23 such time as the credit union becomes adequately capital-
24 ized” and inserting “unless otherwise approved by the
25 Board”.

1 **SEC. 204. MEMBER BUSINESS LOAN EXCLUSION FOR LOANS**
2 **TO NONPROFIT RELIGIOUS ORGANIZATIONS.**

3 Section 107A(a) of the Federal Credit Union Act (12
4 U.S.C. 1757a(a)) is amended by inserting “, excluding
5 loans made to nonprofit religious organizations,” after
6 “total amount of such loans”.

7 **SEC. 205. CREDIT UNIONS AUTHORIZED TO LEASE SPACE**
8 **IN BUILDINGS IN CREDIT UNION OFFICES IN**
9 **UNDERSERVED AREAS.**

10 Section 107 of the Federal Credit Union Act (12
11 U.S.C. 1757) is amended—

12 (1) by striking “and” at the end of paragraph
13 (16);

14 (2) by redesignating paragraph (17) as para-
15 graph (18); and

16 (3) by inserting after paragraph (16) the fol-
17 lowing new paragraph:

18 “(17) with regard to any building purchased or
19 constructed by the credit union for a credit union of-
20 fice or credit union operations in an underserved
21 area, to lease office space in such building that is
22 separate and clearly distinct from any office or oper-
23 ation of the credit union to any business enterprise,
24 subject to such regulations the Board may prescribe,
25 taking into account the safety and soundness of the
26 credit union; and”.

1 **SEC. 206. AMENDMENTS RELATING TO CREDIT UNION**
2 **SERVICE TO UNDERSERVED AREAS.**

3 Paragraph (2) of section 109(c) of the Federal Credit
4 Union Act (12 U.S.C. 1759(c)(2)) is amended—

5 (1) in that portion of the paragraph that pre-
6 cedes subparagraph (A), by striking “the field of
7 membership category of which is described in sub-
8 section (b)(2),”;

9 (2) by striking subparagraph (A) and inserting
10 the following new subparagraph:

11 “(A) the Board determines, at any time
12 after August 7, 1998, that the local community,
13 neighborhood, or rural district is an under-
14 served area; and”;

15 (3) in subparagraph (B), by inserting “not later
16 than 2 years of having an underserved area added
17 to the credit union’s charter” before “the credit
18 union”.

19 **SEC. 207. UNDERSERVED AREA DEFINED.**

20 Section 101 of the Federal Credit Union Act (12
21 U.S.C. 1752) is amended—

22 (1) by striking “and” at the end of paragraph
23 (8);

24 (2) by striking the period at the end of para-
25 graph (9) and inserting “; and”; and

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

3 “(10) the term ‘underserved area’ means a geo-
4 graphic area consisting of one or more population
5 census tracts, that encompass or are located with-
6 in—

7 “(A) an investment area designated under
8 section 103(16) of the Community Development
9 or Banking and Financial Institutions Act of
10 1994; or

11 “(B) a low income community, as defined
12 in section 45D(e) of the Internal Revenue Code
13 of 1986.”.

14 **TITLE III—REGULATORY** 15 **MODIFICATIONS**

16 **SEC. 301. INVESTMENTS IN SECURITIES BY FEDERAL CRED-** 17 **IT UNIONS.**

18 Section 107 of the Federal Credit Union Act (12
19 U.S.C. 1757) (as amended by section 205 of this Act) is
20 amended by inserting after subsection (a) the following
21 new subsection:

22 “(b) INVESTMENT FOR THE CREDIT UNION’S OWN
23 ACCOUNT.—

24 “(1) IN GENERAL.—In addition to the invest-
25 ments authorized in subsection (a), a Federal credit

1 union may purchase and hold for its own account
2 such investment securities of investment grade as
3 the Board may authorize by regulation, subject to
4 such limitations and restrictions as the Board may
5 prescribe in the regulations.

6 “(2) PERCENTAGE LIMITATIONS.—

7 “(A) SINGLE OBLIGOR.—In no event may
8 the total amount of investment securities of any
9 single obligor or maker held by a Federal credit
10 union for the credit union’s own account exceed
11 at any time an amount equal to 10 percent of
12 the net worth of the credit union.

13 “(B) AGGREGATE INVESTMENTS.—In no
14 event may the aggregate amount of investment
15 securities held by a Federal credit union for the
16 credit union’s own account exceed at any time
17 an amount equal to 10 percent of the assets of
18 the credit union.

19 “(3) INVESTMENT SECURITY DEFINED.—

20 “(A) IN GENERAL.—For purposes of this
21 subsection, the term ‘investment security’
22 means marketable obligations evidencing the in-
23 debtedness of any person in the form of bonds,
24 notes, or debentures and other instruments
25 commonly referred to as investment securities.

1 “(B) FURTHER DEFINITION BY BOARD.—

2 The Board may further define the term ‘invest-
3 ment security’.

4 “(4) INVESTMENT GRADE DEFINED.—The term
5 ‘investment grade’ means with respect to an invest-
6 ment security purchased by a credit union for its
7 own account, an investment security that at the time
8 of such purchase is rated in one of the 4 highest rat-
9 ing categories by at least 1 nationally recognized
10 statistical rating organization.

11 “(5) CLARIFICATION OF PROHIBITION ON
12 STOCK OWNERSHIP.—No provision of this subsection
13 shall be construed as authorizing a Federal credit
14 union to purchase shares of stock of any corporation
15 for the credit union’s own account, except as other-
16 wise permitted by law.”.

17 **SEC. 302. AUTHORITY OF NCUA TO ESTABLISH LONGER MA-**
18 **TURITIES FOR CERTAIN CREDIT UNION**
19 **LOANS.**

20 Section 107(5) of the Federal Credit Union Act (12
21 U.S.C. 1757(5)) is amended in the matter preceding sub-
22 paragraph (A), by striking “except as otherwise provided
23 herein” and inserting “or any longer maturity as the
24 Board may allow, in regulations”.

1 **SEC. 303. INCREASE IN LENDING AND INVESTMENT LIMITS**
2 **IN CREDIT UNION SERVICE ORGANIZATIONS.**

3 (a) LENDING.—The 1st sentence of section
4 107(5)(D) of the Federal Credit Union Act (12 U.S.C.
5 1757(5)(D)) is amended—

6 (1) by striking “up to 1 per centum of the total
7 paid-in” and inserting “up to 2 percent of the total
8 paid-in”; and

9 (2) by inserting “, except that the percentage
10 limitation on any such loans by any credit union
11 may be reduced by order of the Board when the
12 Board determines such reduction is appropriate to
13 preserve the safety and soundness of the credit
14 union” before the period at the end.

15 (b) INVESTING.—Section 107(7)(I) of the Federal
16 Credit Union Act (12 U.S.C. 1757(7)(I)) is amended—

17 (1) by striking “up to 1 per centum of the total
18 paid” and inserting “up to 2 percent of the total
19 paid”; and

20 (2) by inserting “, and such approval authority
21 includes the authority to reduce the percentage limi-
22 tation on any such investment by any credit union
23 if the Board determines such reduction is appro-
24 priate to preserve the safety and soundness of the
25 credit union” after “with the approval of the
26 Board”.

1 **SEC. 304. VOLUNTARY MERGERS INVOLVING MULTIPLE**
2 **COMMON-BOND CREDIT UNIONS.**

3 Section 109(d)(2) of the Federal Credit Union Act
4 (12 U.S.C. 1759(d)(2)) is amended by striking subpara-
5 graph (C) and inserting the following new subparagraph:

6 “(C) any group transferred in connection
7 with a voluntary merger of any such Federal
8 credit union with another insured credit union,
9 as approved by the Board on or after August
10 7, 1998, in accordance with guidelines and reg-
11 ulations issued under section 120.”.

12 **SEC. 305. CONVERSIONS OF CERTAIN CREDIT UNIONS TO A**
13 **COMMUNITY CHARTER.**

14 Section 109(g) of the Federal Credit Union Act (12
15 U.S.C. 1759(g)) is amended by inserting after paragraph
16 (2) the following new paragraph:

17 “(3) CRITERIA FOR CONTINUED MEMBERSHIP
18 OF CERTAIN MEMBER GROUPS IN COMMUNITY CHAR-
19 TER CONVERSIONS.—In the case of a voluntary con-
20 version of a credit union described in paragraph (1)
21 or (2) of subsection (b) into a community credit
22 union described in subsection (b)(3), the Board shall
23 prescribe, by regulation, the criteria under which the
24 Board may determine that a member group or other
25 portion of a credit union’s existing membership, that
26 is located outside the well-defined local community,

1 neighborhood, or rural district that shall constitute
 2 the community charter, can be satisfactorily served
 3 by the credit union and remain within the commu-
 4 nity credit union's field of membership permitting
 5 new members to be added from such groups.”.

6 **SEC. 306. CREDIT UNION GOVERNANCE.**

7 (a) EXPULSION OF MEMBERS FOR JUST CAUSE.—
 8 Subsection (b) of section 118 of the Federal Credit Union
 9 Act (12 U.S.C. 1764(b)) is amended to read as follows:

10 “(b) POLICY AND ACTIONS OF BOARDS OF DIREC-
 11 TORS OF FEDERAL CREDIT UNIONS.—

12 “(1) EXPULSION OF MEMBERS FOR NON-
 13 PARTICIPATION OR FOR JUST CAUSE.—The board of
 14 directors of a Federal credit union may, by majority
 15 vote of a quorum of directors, adopt and enforce a
 16 policy with respect to expulsion from membership,
 17 by a majority vote of such board of directors, based
 18 on just cause, including disruption of credit union
 19 operations, or on nonparticipation by a member in
 20 the affairs of the credit union.

21 “(2) WRITTEN NOTICE OF POLICY TO MEM-
 22 BERS.—If a policy described in paragraph (1) is
 23 adopted, written notice of the policy as adopted and
 24 the effective date of such policy shall be provided
 25 to—

1 “(A) each existing member of the credit
 2 union not less than 30 days prior to the effec-
 3 tive date of such policy; and

4 “(B) each new member prior to or upon
 5 applying for membership.”.

6 (b) **TERM LIMITS AUTHORIZED FOR BOARD MEM-**
 7 **BERS OF FEDERAL CREDIT UNIONS.**—Section 111(a) of
 8 the Federal Credit Union Act (12 U.S.C. 1761(a)) is
 9 amended by adding at the end the following new sentence:
 10 “The bylaws of a Federal credit union may limit the num-
 11 ber of consecutive terms any person may serve on the
 12 board of directors of such credit union.”.

13 **SEC. 307. PROVIDING THE NATIONAL CREDIT UNION AD-**
 14 **MINISTRATION WITH GREATER FLEXIBILITY**
 15 **IN RESPONDING TO MARKET CONDITIONS.**

16 Section 107(5)(A)(vi)(I) of the Federal Credit Union
 17 Act (12 U.S.C. 1757(5)(A)(vi)(I)) is amended by striking
 18 “six-month period and that prevailing interest rate levels”
 19 and inserting “6-month period or that prevailing interest
 20 rate levels”.

21 **SEC. 308. CREDIT UNION CONVERSION VOTING REQUIRE-**
 22 **MENTS.**

23 Section 205(b)(2) of the Federal Credit Union Act
 24 (12 U.S.C. 1785(b)(2)(B)) is amended—

1 (1) by redesignating subparagraphs (E), (F),
2 and (G) as subparagraphs (F), (G), and (H), respec-
3 tively;

4 (2) by inserting after subparagraph (D) the fol-
5 lowing new subparagraph:

6 “(E) CONVERSION VOTING REQUIRE-
7 MENTS.—

8 “(i) IN GENERAL.—Approval of a pro-
9 posal for conversion in an election set by a
10 majority of the directors of an insured
11 credit union under subparagraph (B) shall
12 be by the affirmative vote of a majority of
13 the members of the insured credit union
14 who vote on the proposal, in a vote in
15 which at least 30 percent of the credit
16 union membership participates.

17 “(ii) SPECIAL MEMBERSHIP MEET-
18 ING.—An insured credit union which pro-
19 vides notices to its members under sub-
20 paragraph (C) of a proposed conversion
21 shall—

22 “(I) hold a special meeting of the
23 membership to provide information re-
24 garding the proposal at least 30 days

1 before making any ballots available to
 2 its members; and

3 “(II) include a notice of such
 4 meeting in the notices provided under
 5 subparagraph (C).

6 “(iii) PROHIBITION ON INCENTIVES.—
 7 An insured credit union proposing to con-
 8 vert under subparagraph (A)—

9 “(I) is expressly prohibited from
 10 using or providing any incentive in
 11 any form of prize raffles, contests,
 12 giveaways, or other voting incentives
 13 in connection with the member vote
 14 on conversion; and

15 “(II) may make no mention of
 16 any incentive in the notices to mem-
 17 bers or in other materials it sends or
 18 otherwise communicates to members
 19 pursuant to subparagraph (C).”; and

20 (3) by striking the ultimate sentence of sub-
 21 paragraph (B).

22 **SEC. 309. EXEMPTION FROM PRE-MERGER NOTIFICATION**
 23 **REQUIREMENT OF THE CLAYTON ACT.**

24 Section 7A(c)(7) of the Clayton Act (15 U.S.C.
 25 18a(c)(7)) is amended by inserting “section 205(b)(3) of

1 the Federal Credit Union Act (12 U.S.C. 1785(b)(3)),”
2 before “or section 3”.

○