CUNA LENDING COUNCIL

NOVEMBER 1999

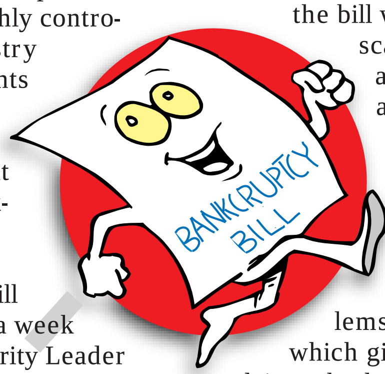
SPECTRUM

AN ELECTRONIC REPORT FROM THE CUNA LENDING COUNCIL

Crowded Calendar, Unresolved Issues Cloud Prospects for Bankruptcy Reform

Follow the bouncing bankruptcy bill: it's up, it's down, it's in (like Flynn), it's out (like Gingrich), and now it's up in the air, awaiting action in the Senate.

Since the beginning of this year, the legislation's prospects have gone from "sure thing" to "50-50", with some observers now predicting that the bill may not even make it onto the Senate floor. The change in fortunes has come partly because other issues (the tax bill, patients' bill of rights, and privacy, to name a few) have crowded the congressional calendar in recent weeks and partly because the bankruptcy measure, despite the veto-proof House vote approving it, remains highly controversial. Record banking industry profits and consumer complaints of excessive rates and fees, also have taken some of the steam out of the argument that consumers are using the bankruptcy system to take unfair advantage of creditors.



Legislative leaders say the bill currently will require at least a week of floor time, and Senate Majority Leader Trent Lott (R-MS) is unwilling to let the bankruptcy debate consume that much of the time remaining in the current session. "He'd like to see a number of agreements cut beforehand, to shorten the amount of time required." Gary Kohn, senior legislative counsel for the Credit Union National Association (CUNA), told Regulatory Insider.

Opposition Still Strong

The list of contentious issues has not diminished significantly, despite ongoing behind-the-scenes efforts to forge a working compromise. Critics, including the Clinton Administration, continue to insist that the legislation is too hard on debtors and too easy on credit card companies and other lenders, whose policies are partly responsible for saddling consumers with more debt than they can handle. Opponents also argue that the legislation advances the interests of creditors over the interest of divorced parents struggling to collect alimony and child support payments.

Underscoring that point, a coalition of 30 women's groups recently wrote a letter urging senators to reject the bankruptcy bill in its current form. "By increasing the rights of many creditors, including credit card companies, finance companies, auto lenders, and others, the bill would set up a competition for scarce resources between parents and children owed child support and commercial creditors both during and after bankruptcy."

Although the Senate Judiciary Committee addressed some of those concerns, the letter acknowledged, the revisions approved "fail to solve the problems created by the rest of the bill, which gives many other creditors greater claims - both during and after bankruptcy - than they have under current law. The bill does not ensure that, in this intensified competition for the debtor's limited resources, parents and ch8ildren owed support will prevail over the sophisticated collection departments of these powerful interests," according to the letter, signed by among other groups: the National Women's Law Center, the National Organization for Women, the National Council of Negro Women, Church Women United, the National Black Women's Health Project, the YWCA of the U.S.A., the National Council of Jewish Women, and the Coalition of Labor Union Women.

Reaffirmation Unresolved

For credit unions, the reaffirmation issue remains a significant and still unresolved concern. The House version of the bill, which passed by a substantial 313-108 margin in May, contains language exempting credit unions from the requirement that bankruptcy judges approve any voluntary agreements by consumers to reaffirm debts that otherwise would be eliminated by a bankruptcy filing. However, the Senate measure does not contain the credit union carve-out, which both the National Association of Federal Credit Unions (NAFCU) and CUNA have maintained is a prerequisite for their support of the bankruptcy legislation. Spokesmen for both trade groups reaffirmed that position in August.

Speaking recently at a luncheon in Washington, George Gekas (R-PA), chairman of the House Commercial and Administrative Law Sub Committee and the primary architect of the House bankruptcy bill, restated his commitment to support the reaffirmation protection credit unions are seeking. "He publicly stated again that credit unions are unlike other creditors," Kohn reported after that luncheon.

There have been some reports that legislators "are fairly close on a reaffirmation deal," Kohn said, "but I'm not convinced that is accurate." There also have been reports that House and Senate conferees (should the bill get that far) are likely to strike a reaffirmation deal acceptable to the White House, which would mean a deal that eliminates the reaffirmation exclusion for credit unions. Credit union lobbyists also have heard those reports and "we're concerned about them," Kohn acknowledged.

Further complicating the pending Senate debated on the bankruptcy bill is the threatened move by Senate Democrats to attach unrelated measures, including a minimum wage increase, to the bankruptcy legislation. That threat came after Senate Republicans voted to bar the long-established practice of attaching policy amendments to spending bills, thereby forcing the minority party to seek other types of legislation to carry riders that are out of favor with the majority.

Means Test Challenged

Although the Senate bill does not include the credit unions' reaffirmation language, it does include a "means test" for determining whether debtors will be eligible to eliminate their debts via a Chapter 7 bankruptcy filing or required to restructure and repay a portion of their debts under a Chapter 13 filing. Credit unions and other creditors supporting the reform initiative insist that the means test is an essential component of the package, but that approach continues to draw fire from opponents. Creditors' groups and the American Bankruptcy Institute have produced dueling studies, concluding variously that the means test is viable and that it is seriously flawed.

A recent entry in that academic debate comes from the Executive Office for United States Trustees, which has concluded that the reform legislation would produce less revenue for creditors than advocates predict and prove more harmful for debtors and for the bankruptcy system than the advocates acknowledge.

In their study, the first phase of an ongoing analysis of Chapter 7 filings, the trustees assessed how the proposed means test would work when applied to approximately 1,955 Chapter 7 filings porcessedin1998. They concluded that creditors would realize their optimistic estimates of increased debt collections only if all the Chapter 7 debtors forced to file under Chapter 12 lived at the national median income level for families their size during the repayment period. "Presumably this would entail significant changes in the lives of many of these debtors," the study observes. As a practical matter, the trustees' study found, "Only a small percentage of current Chapter 7 debtors have income sufficient to repay any portion of their unsecured debts."
Additionally, the study concluded that:

The means test would return less than $1 billion annually to creditors. That is far less than the $4.5 billion to $5.l billion creditors' studies have predicted and far closer to the $800 million estimate in the ABI-funded study conducted by Creighton Law School professors Marianne Culhane and Michaela White.

The Internal Revenue Service guidelines used to determine expense allowances will be "cumbersome," encourage "gaming" in the bankruptcy system, and increase rather than reduce the level of bankruptcy-related litigation.

Concerns that the debtors will abuse the generous homestead exemptions offered by some states are largely unsupported. The trustees note that while their study included 244 debtors from 5 states with unlimited homestead exemptions, "we did not find a single debtor who came close to the popular stereotype" of bankruptcy with much of their wealth intact. "Our conclusion is that this is a relatively rare phenomenon in bankruptcy."

With the debate over the efficacy and fairness of the means test as strident as ever, and the political clouds more likely to deepen than to lift in an election year, industry observers generally agree that the prospects for the bankruptcy bill look murky at best.

"I've been told the Democratic leadership is committed to passing a bill, and that enhances its prospects," CUNA's Kohn said, "but a lot depends on what it looks like. It may look good to the Senate, but not to the other parties involved. We'll have to see where all the pieces fall before we make a final judgment."

Negotiations will continue to smooth out some of the bill's more jagged edges, Kohn added, and the measure should resurface in the Senate sometime in September. But if the debate is delayed much beyond that, Kohn noted, "that will be an indication that things aren't quite ready, and this might have to carry over into next year." ◆

CUNA Lending Council Executive Committee Appointments

By Bill Steele, Chairman, CLC Executive Committee

A call for Executive Committee nominations was distributed in early August and candidates interested in serving on the committee were requested to submit their letter of interest to Patricia Smith, Nominations Committee Chair.

There were four open positions for Executive Committee seats and four applications from qualified candidates were received. In the interest of time and money (and common sense) the formal election process was not conducted and the Executive Committee Chair made the appointments of the qualified candidates.

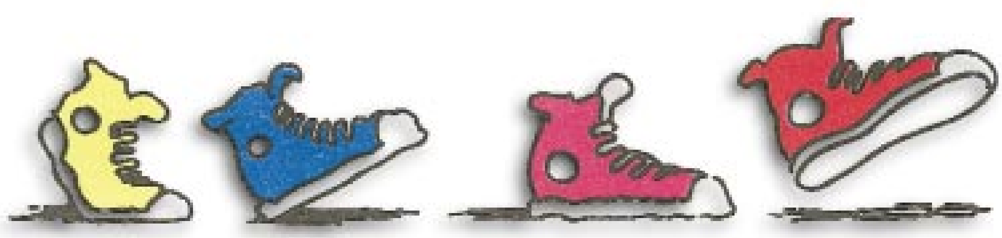
We are pleased to announce the appointment of the following members to the CUNA Lending Council Executive Committee. We congratulate them for making a strong commitment to the future success of the Lending Council:

- **Joe Brancucci,** Boeing Employees Credit Union, Tukwila, WA
- **Sharon Gaugler,** Boeing Wichita Credit Union, Wichita, KS
- **Mark Spenny,** Citizens Equity Federal Credit Union, Peoria, IL
- **Mark Wilburn,** 66 Federal Credit Union, Bartlesville, OK ◆

Juvenile Diabetes Foundations' Walk to Cure Diabetes

By Mike Muckian, Director, CUNA Councils

' THE COUNCILS SHOWED THAT WHEN CALLED UPON, THEY CANCERTAINLY STAND AND DELIVER.: That is what CUNA Executive Vice President Pete Crear told a combined meeting of management staff from both the Madison and Washington offices during a discussion about the Juvenile Diabetes Foundations' Walk to Cure Diabetes. CUNA and CUNA Mutual were corporate sponsors of this year's walks, held Sunday, September 26. Pete was the executive recruitment chair. The Council Express, made up of me as the team



captain and my wife, Jeanie, represented the Councils.

The mini-team walked the 10K route (6.2 miles) and was a little dusty, thirsty and foot-sore by the time they finished. But Council Express raised $4,640, or 16 percent of CUNA's total sponsorship of $28,665. The only group to exceed the Council contribution was the combined contribution from various credit union vendors of $5,654.

In terms of Council team totals, it appears that we lenders rule. After being mired in third place for several weeks, a $500 corporate contribution from CLC executive committee member Fawn Terwilliger, SVP Lending, USE Credit Union, rocketed the team into first, a position they fought for with the CUNA Marketing Council. In the end, it was an additional $50 contribution from CLC executive committee member, Pat Smith, VP of Operations, Boeing Credit Union - made on top of the $150 contribution she already had made - and Bill Steele, who added to his original contribution as well, that took the lenders to the finish line and a first place win. So how does it all measure up?

COUNCIL	AMOUNT	RANK	# CONTRIBUTORS
Lending	$1,160	WIN	9
Marketing	$1,075	PLACE	17
Human Resources	$ 660	SHOW	12
Other	$ 510		
Chief Financial Officer	$ 495		7
Technology	$ 325		6
Operations	$ 115		5
TOTAL	**$4,290**		

Another interesting fact: there were 16 male contributors, 47 female contributors and about 8 that came from credit unions with no particular name attached. Regardless of first, second or third place, all contributors deserve thanks and appreciation for not only making this a successful fundraising effort but for demonstrating that the councils can reach beyond the bounds of their membership when defining the word "service." ◆

Our Employees and Members of the Future????

Each year the staff at Beloit College in Wisconsin puts together a list to try to give the faculty a sense of the mindset of that year's incoming freshmen. Does the following sound like something we should consider in order to stay in touch with our employees and our members?

- The people who are starting college this fall across the nation were born in 1980.
- They have no meaningful recollection of the Reagan Era and did not know he had ever been shot.
- They were pre-pubescent when the Persian Gulf War was waged.
- Black Monday 1987 is as significant to them as the Great Depression.
- There has been only one Pope. They can only really remember one president.
- They were 11 when the Soviet Union broke apart and do not remember the Cold War.
- They have never feared a nuclear war.
- They are too young to remember the space shuttle blowing up.

- Tianamen Square means nothing to them.
- Their lifetime has always included AIDS.
- Bottle caps have always been screw-off and plastic.
- Atari pre-dates them, as do vinyl albums.
- The expression "you

sound like a broken record" means nothing to them.

- They have never owned a record player.
- They have likely never played Pac Man and have never heard of Pong.
- Star Wars looks very fake to them, and the special effects are pathetic.
- There have always been red M&Ms and blues ones are not new. There used to be beige ones?
- They may have heard of an 8 track, but probably never have actually seen or heard one.
- The Compact Disc was introduced when they were 1 year old.
- As far as they know, stamps have always cost about 32 cents.
- They have always had an answering machine.
- Most have never seen a TV set with only 13 channels, nor have they seen a black-and-white TV.
- They have always had cable.
- There has always been VCRs, but they have no idea what BETA is.
- They cannot fathom not having a remote control.
- They were born the year that Walkmen were introduced by Sony.
- Roller-skating has always meant inline for them.
- The Tonight Show has always been with Jay Leno.
- They have no idea when or why Jordache jeans were cool.
- Popcorn has always been cooked in the microwave.
- They have never seen Larry Bird play, and Kareem Abdul-Jabbar is a football player.
- The Vietnam War is as ancient history to them as WWI, WWII or even the Civil War.
- They have no idea that Americans were ever held hostage in Iran.
- They can't imagine what hard contact lenses are.
- They don't know who Mork was or where he was from.
- They never heard: "Where's the beef?" "Id walk a mile for a Camel," or "deplane, de plane!"
- They do not care who shot J.R. and have no idea who J.R. is.
- The Titanic was found? I thought we always knew where it was.
- Kansas, Chicago, Boston, America, and Alabama are places, not groups.
- McDonald's never came in styrofoam containers.
- There has always been MTV. ◆

BULLETIN BOARD

The Difference between a Salvaged Vehicle and a Revived Junk Vehicle

Total Loss Salvage Vehicle

A vehicle of a type subject to registration which has been wrecked, destroyed, or damaged, to such an extent that the owner, leasing company, financial institution or the insurance company which insured the vehicle, considers it uneconomical to repair the vehicle and because of this, the vehicle is not repaired by or for the person who owned the vehicle at the time of the event resulting in damage. This does not include an unrecovered stolen vehicle.

Revived Junk Vehicles

Vehicles which have been dismantled (as evidenced by a junk receipt or bill of sale from a dismantler) and which, when rebuilt, resemble the make of the vehicle originally dismantled are called "revived junk." Revived junk vehicles are registered by the original make name and the original year model. ◆

Card Verification Value 2 Revised Chargeback Regulations Become Effective November 1, 1999.

Card Verification Value 2 (CVV2) is a three-digit value indent-printed on the back of a Visa card that can be used to verify a card's authenticity. To ensure the success of CVV2 as a cost-effective defense against fraud in the card-not-present environment, the Visa U.S.A. Board of Directors previously approved the following Operating Regulations revisions. Effective November 1, 1999, Issuers that are not CVV2-certified may not use the "Fraudulent Mail/Phone Order Transaction" chargeback (reason code 61) for a non-T&E

transaction or the "T&E - Invalid Transaction" chargeback (reason code 23) for an airline transaction if the authorization message indicates that a CVV2 value was sent, illegible, or not on the card ◆

Smart Alternatives to Travelers Checks

Source: *Forbes*

Credit cards are now better than traveler's checks for most trips overseas. Aside from the cards' convenience, they save as much as 6% on exchange costs. Best Bet: Visa, with a conversion markup only one-quarter of 1% above the wholesale bank currency rate. Other major cards carry a 1% markup - still far better than the 3% of more you had pay for retail markups on traveler's checks.

Exceptions: Poorer European countries such as Spain and Third World countries, where dollar-hungry bankers often give a break on traveler's checks or cash. ◆

Attitude

Charles Swindoll

The longer I live, the more I realize the impact of attitude on life. Attitude, to me, is more important than facts. It is more important than the past, than education, than money, than circumstances, than failures, than successes, than what other people think or say or do. It is more important than appearance, giftedness, or skill. It will make or break a company, a church, a home. The remarkable thing is, we have a choice every day regarding the attitude we will embrace for that day. We cannot change the inevitable. The only thing we can do is play on the one string we have, and that is our attitude. I am convinced that life is 10 percent what happens to me and 90 percent how I react to it. As so it is with you...we are in charge of our attitudes. ◆

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CUNA & Affiliates