

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 4036

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IN THE HOUSE OF REPRESENTATIVES

DECEMBER 17, 2010

Referred to the Committee on Financial Services

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## AN ACT

To clarify the National Credit Union Administration authority to make stabilization fund expenditures without borrowing from the Treasury.

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

1 **SECTION 1. STABILIZATION FUND.**

2 (a) **ADDITIONAL ADVANCES.**—Section 217(c)(3) of  
3 the Federal Credit Union Act (12 U.S.C. 1790e(c)(3)) is  
4 amended by inserting before the period at the end the fol-  
5 lowing: “and any additional advances”.

6 (b) **ASSESSMENTS.**—Section 217 of the Federal  
7 Credit Union Act (12 U.S.C. 1790e) is amended by strik-  
8 ing subsection (d) and inserting the following:

9 “(d) **ASSESSMENT AUTHORITY.**—

10 “(1) **ASSESSMENTS RELATING TO EXPENDI-**  
11 **TURES UNDER SUBSECTION (B).**—In order to make  
12 expenditures, as described in subsection (b), the  
13 Board may assess a special premium with respect to  
14 each insured credit union in an aggregate amount  
15 that is reasonably calculated to make any pending or  
16 future expenditure described in subsection (b), which  
17 premium shall be due and payable not later than 60  
18 days after the date of the assessment. In setting the  
19 amount of any assessment under this subsection, the  
20 Board shall take into consideration any potential im-  
21 pact on credit union earnings that such an assess-  
22 ment may have.

23 “(2) **SPECIAL PREMIUMS RELATING TO REPAY-**  
24 **MENTS UNDER SUBSECTION (C)(3).**—Not later than  
25 90 days before the scheduled date of each repayment  
26 described in subsection (c)(3), the Board shall set

1 the amount of the upcoming repayment and shall de-  
2 termine whether the Stabilization Fund will have  
3 sufficient funds to make the repayment. If the Sta-  
4 bilization Fund is not likely to have sufficient funds  
5 to make the repayment, the Board shall assess with  
6 respect to each insured credit union a special pre-  
7 mium, which shall be due and payable not later than  
8 60 days after the date of the assessment, in an ag-  
9 gregate amount calculated to ensure that the Sta-  
10 bilization Fund is able to make the required repay-  
11 ment.

12 “(3) COMPUTATION.—Any assessment or pre-  
13 mium charge for an insured credit union under this  
14 subsection shall be stated as a percentage of its in-  
15 sured shares, as represented on the previous call re-  
16 port of that insured credit union. The percentage  
17 shall be identical for each insured credit union. Any  
18 insured credit union that fails to make timely pay-  
19 ment of the assessment or special premium is sub-  
20 ject to the procedures and penalties described under  
21 subsections (d), (e), and (f) of section 202.”.

22 **SEC. 2. EQUITY RATIO.**

23 Section 202(h)(2) of the Federal Credit Union Act  
24 (12 U.S.C. 1782(h)(2)) is amended by striking “when ap-  
25 plied to the Fund,” and inserting “which shall be cal-

1 culated using the financial statements of the Fund alone,  
2 without any consolidation or combination with the finan-  
3 cial statements of any other fund or entity,”.

4 **SEC. 3. NET WORTH DEFINITION.**

5 Section 216(o)(2) of the Federal Credit Union Act  
6 (12 U.S.C. 1790d(o)(2)) is amended to read as follows:

7 “(2) NET WORTH.—The term ‘net worth’—

8 “(A) with respect to any insured credit  
9 union, means the retained earnings balance of  
10 the credit union, as determined under generally  
11 accepted accounting principles, together with  
12 any amounts that were previously retained  
13 earnings of any other credit union with which  
14 the credit union has combined;

15 “(B) with respect to any insured credit  
16 union, includes, at the Board’s discretion and  
17 subject to rules and regulations established by  
18 the Board, assistance provided under section  
19 208 to facilitate a least-cost resolution con-  
20 sistent with the best interests of the credit  
21 union system; and

22 “(C) with respect to a low-income credit  
23 union, includes secondary capital accounts that  
24 are—

25 “(i) uninsured; and

1                   “(ii) subordinate to all other claims  
2                   against the credit union, including the  
3                   claims of creditors, shareholders, and the  
4                   Fund.”.

5 **SEC. 4. STUDY OF NATIONAL CREDIT UNION ADMINISTRA-**  
6                   **TION.**

7           (a) **STUDY.**—The Comptroller General of the United  
8 States shall conduct a study of the National Credit Union  
9 Administration’s supervision of corporate credit unions  
10 and implementation of prompt corrective action.

11          (b) **ISSUES TO BE STUDIED.**—In conducting the  
12 study required under subsection (a), the Comptroller Gen-  
13 eral shall—

14                   (1) determine the reasons for the failure of any  
15 corporate credit union since 2008;

16                   (2) evaluate the adequacy of the National Cred-  
17 it Union Administration’s response to the failures of  
18 corporate credit unions, including with respect to  
19 protecting taxpayers, avoiding moral hazard, mini-  
20 mizing the costs of resolving such corporate credit  
21 unions, and the ability of insured credit unions to  
22 bear any assessments levied to cover such costs;

23                   (3) evaluate the effectiveness of implementation  
24 of prompt corrective action by the National Credit

1 Union Administration for both insured credit unions  
2 and corporate credit unions; and

3 (4) examine whether the National Credit Union  
4 Administration has effectively implemented each of  
5 the recommendations by the Inspector General of  
6 the National Credit Union Administration in its Ma-  
7 terial Loss Review Reports, and, if not, the ade-  
8 quacy of the National Credit Union Administration's  
9 reasons for not implementing such recommendation.

10 (c) REPORT TO COUNCIL.—Not later than 1 year  
11 after the date of enactment of this Act, the Comptroller  
12 General shall submit a report on the results of the study  
13 required under this section to—

14 (1) the Committee on Banking, Housing, and  
15 Urban Affairs of the Senate;

16 (2) the Committee on Financial Services of the  
17 House of Representatives; and

18 (3) the Financial Stability Oversight Council.

19 (d) COUNCIL REPORT OF ACTION.—Not later than  
20 6 months after the date of receipt of the report from the  
21 Comptroller General under subsection (c), the Financial  
22 Stability Oversight Council shall submit a report to the  
23 Committee on Banking, Housing, and Urban Affairs of  
24 the Senate and the Committee on Financial Services of  
25 the House of Representatives on actions taken in response

