FINANCIAL INSTITUTIONS TODAY

News and topics of interest to financial institutions regulated by the Department of Banking and Finance

Monthly Bulletin #3 **March 2013**

Inside this issue:

DDoS Attacks in Financial Industry

On September 19, 2012, the Financial Services Information Sharing and Analysis Center raised the cyber threat level to "high" from "elevated" in an advisory to its members, citing recent credible intelligence regarding the potential for more intense cyber attacks.

Beginning in September 2012, a well-organized group announced intentions to attack a number of prominent U.S. financial institutions. The result has been ongoing distributed denial of service (DDoS) attacks on financial institutions' public facing web sites in an attempt to disrupt their Internet-based operations. These attacks may continue for an indeterminate period, change tactics, and expand to a wider number of financial institutions.

DDoS attacks are designed to overload public-facing web servers and disrupt access to the targeted company via the Internet. DDoS attacks may cause slower response times or failed login attempts by customers using Internet banking or other applications, or could slow or interrupt an institution's access to external on-line applications. In some cases, these attacks may cause the Internet-facing computers to stop responding.

Practical steps financial institutions can take:

- Review the functionality of your online banking site
  - ⇒ Identify large files that are available for download from the site (either remove them, or require additional authentication to start a download)
  - ⇒ Ensure the Secure Socket Layer (SSL) is only used for authentication/transactional content, and not generic web pages
  - ⇒ Have a plan to disable non transactional functionality (e.g. ATM search screens), in the event of an attack
  - ⇒ Review your policies around DDoS attacks (if you don't have a 3rd party DDoS mitigation service, you might want to do some research)
  - ⇒ Ensure there is a plan to be able to communicate with customers during a DDoS, and that your messaging is approved by leadership ahead of time
  - ⇒ Report any scans or probes of your front end web services that appear to be reconnaissance of your infrastructure (e.g. systematic browsing of your entire site, and use of every function)

Tax Refund Fraud and Related Identity Theft

If you've paid attention to the news lately, you've probably heard about the increasing trend in tax refund fraud. According to the Internal Revenue Service (IRS), there has been a significant increase in refund fraud that involves identity thieves who file false claims for refunds by stealing and using someone's Social Security Number.

In March 2012, the Financial Crimes Enforcement Network (FinCEN) released an advisory to financial institutions and stated: "Identity theft can be a precursor to tax refund fraud because individual income tax returns filed in the United States are tracked and processed by Taxpayer Identification Numbers (TIN) and the individual taxpayer names associated with these numbers. Fraudulent actors obtain TINs through various methods of identity theft, including phishing schemes and the establishment of fraudulent tax preparation businesses. In response to this problem, the IRS has developed a comprehensive strategy that is focused on preventing, detecting, and resolving instances of tax-related identity theft crimes." In February 2013, FinCEN issued a follow up advisory to provide red flags to assist in identifying tax fraud.

These two FinCEN advisories can be found at:

- http://www.fincen.gov/statutes_regs/guidance/pdf/FIN-2012-A005.pdf
- http://www.fincen.gov/statutes_regs/guidance/pdf/FIN-2013-A001.pdf

In addition to the FinCEN advisories noted above, the Electronic Payments Association (NACHA) and the IRS have implemented an Opt-In Program for Receiving Depository Financial Institutions (RDFIs) as a pilot program during the 2012 tax filing season. This program was established to combat tax return fraud and participation is voluntary for financial institutions. In order for a financial institution to participate, an agreement must be signed with NACHA and the IRS.

RDFIs are provided a voluntary method to return ACH credits to the IRS, where there is a name mismatch between the name on the Entry and the name(s) associated with the Receiver's account at the RDFI. The pilot program has two implementation phases. Currently, the first phase has been implemented. The first phase allows the return of funds that match the whole tax return amount. Phase two will be implemented in July 2013 and will allow for the return of partial tax returns.

For additional information, including a copy of the NACHA/IRS agreement on the Opt-In Program for RDFIs, go to https://www.nacha.org/node/1271

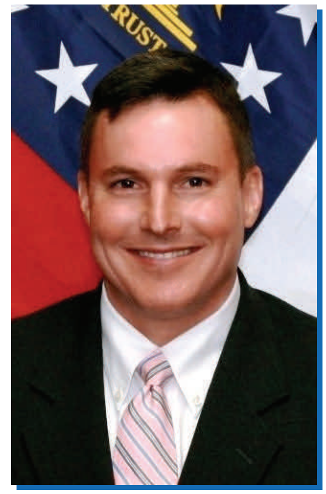
DBF Outreach
AND UPCOMING SPEAKING ENGAGEMENTS

- Commissioner Braswell and Deputy Commissioner for Non-Depository Financial Institutions Rod Carnes will be speaking at Morehouse College on **April 30th** in the Massey Leadership Auditorium.
- Commissioner Braswell will also be speaking at the GCUA Annual Convention on **May 10th** at the Savannah International Trade & Convention Center in Savannah, GA.
- Supervisory Manager Pam Keane will be participating at the Georgia Bankers Association school in Athens on **May 7th** through **May 9th**. She will assume the role of "Bank Examiner" for students as they participate in a bank simulation. Pam will also be leading a session on CAMELS ratings and Enforcement Actions for the Southern Operations Technology School. In addition, Training Director Heather Sartain will be participating in a commercial lending discussion panel.

Credit Union Q&A—An Interview with Senior Deputy Commissioner Steve Pleger

The following comments are from a Q&A session that Senior Deputy Commissioner Steve Pleger recently submitted for an article in the National Association of State Credit Union Supervisor's (NASCUS) publication, "Stateline."

In your view as a state regulator, why would a credit union choose to be state-chartered in Georgia?



Steve Pleger

Credit unions choosing a state charter in Georgia, or for that matter in virtually any state, are typically making the decision based on two primary factors: 1) direct local access to decision making authorities, and 2) a charter option designed to meet the unique characteristics and needs of the local market. For example, our Commissioner and staff are routinely engaged, by telephone or in person, by credit union managers and trade association representatives to discuss new authorities or activities in order to gauge the Department's perspective on the legalities and risks. In addition, these same representatives are often onsite at the Georgia State Capitol to directly voice their opinions on legislative matters, ensuring that state-chartered credit union interests are considered and appropriately balanced in the state lawmaking process. Through this collaborative effort involving lawmakers, credit unions, and regulators, a unique Georgia state charter has been designed to meet the specific wants and needs of Georgians; wants and needs that may differ materially from those in California, Kansas, or Maine due to the unique characteristics of each state's demographics and economy. Through this process, the states serve as laboratories of innovation, with the most beneficial ideas spreading through a combination of competition and best practice to other state charters as well as the federal system. A good example is the community-based charter, which as that charter is defined in Georgia, offers a very attractive business model option and broadened access to credit union services. Innovations in this charter option at the state level create a healthy tension with other state and federal regulators to ensure that their charter options retain equally safe, sound, and competitive characteristics.

CUNA's recent exam survey cited some dissatisfaction in credit unions with joint FISCU Examinations. NASCUS state regulators are committed to ensuring joint examinations are positive experiences. From your perspective, what can the states and the NCUA do to improve credit unions' experience during joint examinations?

What we state regulators and the NCUA can and should do is trust in and rely upon each other's work. Duplicating each other's efforts or failing to coordinate and communicate on the timing and nature of exam activities should not happen, or at least be the very rare exception. In addition, we should promote procedures that minimize the potential for mixed messages or muddled communication of exam findings and ratings on joint exams. Both the state and NCUA have legitimate stakes in the supervision of federally insured state-chartered credit unions, but a poorly coordinated or disjointed exam process diminishes the value of state charters and threatens the dual chartering system. The NCUA, with its unique structure as both federal chartering agency and deposit insurer, should be particularly sensitive to any actions on its part that may potentially damage the value of state charters, and we state regulators should be open and transparent in our engagement with the NCUA to ensure that it has full access to information critical to its important role as deposit insurer. In addition, we state regulators should be respectful of the role of the NCUA in its interpretation and enforcement of applicable federal laws. NCUA and NASCUS leadership have renewed their commitment to a strong and cooperative partnership. We must ensure that this renewed commitment is fully understood and practiced by examiners in the field, operating in a cooperative spirit of mutual respect. Otherwise, state-chartered credit unions get caught in the middle, and the dual chartering system suffers.

Credit Union Q&A—An Interview with Senior Deputy Commissioner Steve Pleger

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What are the regulatory or supervisory issues that keep you awake at night?

I would like to say that the supervisory issues that keep me awake at night are something new and exotic, but they're not. The issues that keep me awake at night are timeless fundamentals in the operation of safe and sound credit unions, such as governance, controls, and concentrations. Safety and soundness begin with an informed and engaged board of directors providing oversight to and establishing the tone for credit union management. Control functions, such as audit and loan review, serve as the board of directors' eyes and ears, ensuring that the board has timely, unfiltered, and actionable information to support oversight and strategic decision making. Concentrations, which we describe as putting too many eggs in one basket, are too often the killer of otherwise healthy credit unions when not accompanied by strong risk management processes and appropriately ample net worth positions. The need for constant vigilance and improvement in these three fundamentals are what keep me awake at night, and probably always will.

Do you have any other comments you would like to add?

It is essential that credit union charter choice be preserved -- that credit unions have access to a state or federal charter best aligned to the business model and service plan that its membership wants to pursue. True charter choice, versus a one-size fits all model, provides a check and balance on government excesses, whether that excess is overly restrictive or overly loose. Charter choice provides a market force to check the excesses. All regulators want to promote a safe, sound, and healthy credit union industry. In Georgia, it's our Department's statutory mandate. Finding that proper balance between safety and innovation is the challenge, and healthy competition between state and federal regulatory agencies in a system that provides for charter choice is an important balancing mechanism.

OFFICE CLOSING

This is a reminder that the Department will be closed on **Monday, April 22nd** for Confederate Memorial Day.

Action on Applications for the Month of March:

The following is a summary of official action taken on applications by State Financial Institutions under Chapter 7-1 of the Code of Georgia and petitions for Certificate of Incorporation of Financial Institutions and other matters of interest during the month of March 2013.

APPLICATIONS TO ESTABLISH A BRANCH OFFICE

FINANCIAL INSTITUTION	BRANCH OFFICE	APPROVAL	BEGIN BUSINESS
Fidelity Bank Norcross	Peachtree Medical Branch Office 2061 Peachtree Road Suite 150 Atlanta, GA 30309 Fulton County	12-14-2012	03-18-2013

APPLICATIONS FOR RESERVATION OF A NAME

PROPOSED NAME	COUNTY	APPLICANT
Flowers Foods Employees Credit League	County	Mr. Jack Singletary President Flowers Employees Credit League P.O. Box 3137 Thomasville, GA 31799
Macon-Bibb Employees Credit Union	County	Ms. Julianne Sinski City Employees' Credit Union P.O. Box 247 Macon, GA 31298-0001

CHECK CASHER LICENSES ISSUED

CITY	APPLICANT NAME	TRADE NAME
Macon	50 Shades, Inc.	Kevin's Check Cashing
Marietta	Alika Business Services, LLC	
Soperton	* Dennards, Inc.	Dennard Drugs
Locust Grove	* Devum & Mohit Desai, LLC	Locust Grove Chevron
Doraville	Jain One Corporation	Gwinnett Convenience Store
Lyons	Lyons Grocery Company, Inc.	Thriftway
Mableton	Mancilla Services, Inc.	Mancilla Services
Powder Springs	Preniker Yates	P2 Financial Services
Roswell	* Sarika Enterprises, Inc.	San-Miguel
Eastman	* Vadmata, LLC	P&P Food Mart
Townsend	Watford Auto Sales, LLC	Watford Auto Sales

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The Department is the state agency that regulates and examines banks, credit unions, and trust companies chartered by the State of Georgia. The Department also has regulatory and/or licensing authority over mortgage brokers/processors, lenders and loan originators, money service businesses, international banking organizations, and bank holding companies conducting business in Georgia.

Our **Mission** is to promote safe, sound, competitive financial services in Georgia through innovative, responsive regulation and supervision.

Our **Vision** is to be the best financial services industry regulator in the country – Progressive. Proactive. Service-Oriented.

Our Motto is: "Safeguarding Georgia's Financial Services"

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