

Regulatory Compliance News



MOUNTAIN WEST
Credit Union Association

January 13, 2017

Compliance News

Updated Resources for HMDA Data Collection

The [Resources for HMDA Filers](#) webpage has been updated with additional resources. These materials are also accessible from the [FFIEC website](#).

In addition, we remind HMDA filers of changes to financial institution coverage in effect from January 1, 2017 to December 31, 2017. On October 15, 2015, the Consumer Financial Protection Bureau (CFPB) issued a final rule amending Regulation C, which implements HMDA. The final rule narrows the scope of depository institutions subject to Regulation C in 2017. A depository institution will not be subject to Regulation C in 2017 unless it: (1) meets the current Regulation C asset-size, location, federally related, and loan activity tests, and (2) originated at least 25 home purchase loans, including refinancings of home purchase loans, (as those terms are defined in current Regulation C) in each of the two preceding calendar years (i.e., at least 25 in 2015 and at least 25 in 2016). A [2017 HMDA institutional coverage chart](#) illustrates how to determine whether an institution is covered by Regulation C in 2017.

CFPB Announces 2017 HMDA Thresholds (No Change)

The CFPB announced the exemption threshold for the Consumer Financial Protection Bureau's (CFPB) Regulation C (Home Mortgage Disclosure) (HMDA) will remain at \$44 million. A link to the final rule amending the official commentary can be found [here](#). Further, the CFPB's 2017 Informational [Guide Letter](#) is also now available containing geographic changes in the 2017 FFIEC Census Files and information on submitting 2017 HMDA data. Finally, the [FFIEC HMDA website](#) was recently updated to reflect the recent adjustments.

Source: CFPB

Two CRAs to Refund \$17.6M and Pay \$5.5M CMP

The CFPB has issued a [press release](#) announcing that TransUnion and Equifax and their subsidiaries have agreed to change practices that the Bureau found misled consumers about the value of the credit scores they marketed and sold. In their advertising, the two credit reporting agencies misrepresented that the credit scores they provided to consumers were the same scores that lenders typically use to make credit decisions. The companies have also agreed to return more than \$17.6 million to consumers and pay penalties totaling \$5.5 million.

Source: CFPB

OFAC Announces Cuba Updates

Treasury's Office of Foreign Assets Control has updated its [FAQs regarding Cuba](#) to add five new FAQs regarding vessel transactions with Cuba. OFAC

Your Credit Union's Regulatory Compliance Support Staff

Mark Robey

Sr. VP of Regulatory Affairs

Phone: 800-477-1697, ext. 3327

Direct: 720-479-3327

Melia Heimback

Director of Compliance Operations

Phone: 800-477-1697, ext. 3325

Direct: 720-479-3325

Julie Kappenman

Director of Association Compliance Services

Phone: 800-477-1697, ext. 3324

Direct: 720-479-3324

Donna Gibbs

Coordinator Association Services/Compliance

Phone: 800-477-1697, ext. 3281

Direct: 720-479-3281

InCompliance Implementation Materials

The Association's InCompliance Materials are provided to help your credit union meet the challenges of implementing new and changing regulations. InCompliance publications provide you with a brief summary of the rule to quickly assess its impact, a detailed analysis for compliance staff charged with implementation, sample policies, implementation checklists and, as appropriate, sample forms. In addition, these materials are updated with Q&As (InResponse), and other materials such as charts and matrices as questions are raised and issues are identified.

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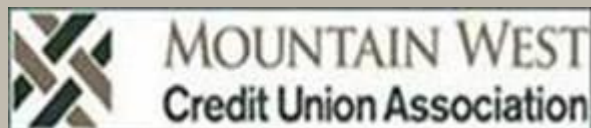
also updated its Specially Designated Nationals List to remove 28 CUBA-designated listings. For identification information on the individuals and entities removed, see [OFAC's SDN List Update](#).

Source: US Department of the Treasury

NCUA Compliance Resources

To help credit unions of all sizes, the NCUA has developed a number of resources that provide critical regulatory and supervisory information into a single, one-stop source of information on key topics. It is available [here](#).

Source: NCUA



Training & Events Calendar

January 18

Webinar: [Identifying Fraudulent Transactions: Including Recent FinCEN Advisory on Email Fraud Schemes](#)

January 19

Webinar: [ACH Specialist Series: Direct Deposit Tax Refunds – Posting & Exceptions](#)

January 23

Webinar: [Part 1, New FFIEC Consumer Compliance Rating System, Effective 3/31/2017 Oversight & Compliance Management Program](#)

January 24

Webinar: [Same-Day ACH: Lessons Learned & FAQs for RDFIs](#)

January 25

Webinar: [IRA & HAS Review & Update, Including New Fiduciary Rule Implications](#)

January 26

Webinar: [Procedural & Compliance Responsibilities of the Board Secretary](#)

February 2

Webinar: [Mobile Device Use & the New Overtime Rules](#)

February 6

Webinar: [The New World of Debt Collection: What Recent CFPB Actions Indicate About the Future of Regulations & Enforcement](#)

February 7

Webinar: [Regulation E Series: Handling Provisional Credit Under Reg E; Rules, Best Practice & FAQs](#)

February 8

Webinar: [Real Estate Series: Understanding TRID Tolerance Cures](#)

February 9

Webinar: [Establishing Compliant E-SIGN Act Procedures for Electronic Documents & Statements](#)

February 13

Webinar: [Part 2 – New FFIEC Consumer Compliance Rating System, Effective 3-31-17: Violations of Law & Consumer Harm](#)

February 14

and email address. The subscriber will receive a welcome e-mail that details how to access the forum.



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InfoSight Highlight

Loan Workouts and Non-accrual Policy, and Regulatory Reporting of Troubled Debt Restructured Loans

NCUA has amended its regulations to require federally insured credit unions (FICUs) to maintain written policies that address the management of loan workout arrangements and non-accrual policies for loans, consistent with industry practice or Federal Financial Institutions Examination Council (FFIEC) requirements. The final rule includes guidelines, set forth as an interpretive ruling and policy statement (IRPS) and incorporated as an appendix to the rule, that will assist FICUs in complying with the rule, including the regulatory reporting of troubled debt restructured loans (TDR loans or TDRs) in FICU Call Reports.

Final Rule and IRPS

Lending Policies

The final rule requires FICUs to adopt policies that govern loan workout arrangements and non-accrual practices. A FICU's written non-accrual standards must include the discontinuance of interest accrual on loans that are past due by 90 days or more and requirements for returning such loans, including MBLs workouts, to accrual status.

Webinar: [Military Lending Act: Exam Procedure Changes, Post Implementation Considerations & FAQs](#)

February 16

Webinar: [BSA Compliance Series: FinCEN's CCD Rules & BSA Compliance](#)

February 22

Webinar: [Flood Compliance in Lending Part 1: Loan Origination](#)

February 27

Webinar: [Everything You Need to Know About Reg CC: Holds, Funds Availability, Compliance & More](#)

Three Compliance Lunch & Learn Sessions Set for February 2017

Three Compliance Lunch & Learn Sessions Set for February 2017

We're starting off 2017 with a set of three Compliance Lunch & Learns for credit union members in Denver, Phoenix and Tucson. The topic for this set of sessions is Business/Entity Accounts.

- On **February 8, Tucson** will host the first Lunch & Learn at Pima Federal Credit Union.
- On **February 9, Phoenix** will hold the second session in the Arizona Central Credit Union building.
- On **February 23, Denver** will host the third round of Lunch & Learn sessions at the Sterner Center at the Mountain West offices.

Discussion and presentation in Tucson and Phoenix will be led by Arizona attorney Jeremy Goodman, Goodman Law PLLC. Colorado attorney Bob Wilson of Berenbaum Weinshienk PC will lead the discussion at Denver's session. Cost for Lunch & Learns at all locations is \$35. To register for any of the Lunch & Learns, email Jodi Weiser at Training@mwcu.com. We hope to see you in February!

Advocacy Highlight

State Legislatures Convene with Credit Union Charter Enhancements on Agenda

Legislatures in 17 states convened this week and lawmakers were met with bills that would provide credit unions with the clarity, flexibility and powers to effectively serve their members.

The Montana League successfully introduced a prize-linked savings (PLS) measure, S 25. If enacted, Montana credit unions will be permitted to conduct savings promotions in which a minimum deposit in an amount predetermined by the financial institution qualifies for a chance to win prizes. Carin McClain, Political Advocacy Director at the Montana League, testified in support of the measure on Thursday. PLS programs are expressly permitted in 22 other states.

A bill that would permit credit unions to accept public deposits was introduced in New York this week. State and local governments deposit billions of dollars in financial institutions, primarily in banks and if S 286 is passed and signed, New York credit unions would be permitted to accept those deposits as well.

The New York Legislature is also considering a measure, S 436, that would allow credit unions to participate in the state's Excelsior Linked Deposit

To set NCUA's supervisory expectations and assist FICUs in compliance, the final rule includes an appendix to Part 741, which thoroughly addresses the loan workout account management and reporting standards FICUs must implement in order to comply with the rule. It also explains how FICUs report their data collections related to TDRs on Call Reports.

[Appendix C to Part 741, Interpretive Ruling and Policy Statement on Loan Workouts, Non-accrual Policy, and Regulatory Reporting of Troubled Debt Restructured Loans](#)

InfoSight -- [AZ](#), [CO](#), [WY](#)

Compliance Videos

Q4 2016 Overview and Q1 2017 Changes Coming

In this [NEW video](#), Glory LeDu reminds us of the regulatory changes that became effective in the 4th quarter of 2016 (which includes the DELAY of the DOL Overtime rules). Glory also provides a review of the changes effective in the 1st Quarter of 2017 including the updates to Member Business Lending and the new requirements for HMDA reporting for 2017. This also includes the updated threshold changes effective on 1/1/2017.

Member Business Lending

[This new video](#) provides the details you will need to know to comply with the NCUA's Member Business Lending rules.



Compliance Calendar

January 1, 2017

- [HMDA – Reg C, excludes low volume depository institutions from coverage – Effective Date](#)

January 1, 2017

- [MBL](#)

January 16, 2017

- Martin Luther King, Jr Birthday – Federal Holiday

January 20, 2017

- [Federal Credit Union Occupancy, Planning and Disposal of Acquired and Abandoned Premises: Incidental Powers](#)

January 29, 2017

- 5300 Call Report Due to NCUA

Program, which encourages financial institutions to make affordable loans to small companies that have limited access to capital at affordable lending rates. To induce an institution to charge a participating company a lower interest rate, the State “links” a deposit, usually in the form of a certificate of deposit, to a business loan at a participating institution.

Across the country in Washington, lawmakers will return to a bill, H 1053, that would authorize credit unions to create audit committees in lieu of supervisory committees. Supervisory committees are unique to credit unions and have voluntary members that are separate from credit union boards. The key role of supervisory committees is to perform the audit function of credit unions. Because boards have the fiduciary duty to credit unions, many appoint audit committees of the board to perform the audit function as well. This change would reduce the redundancy of having two committees perform the same function. The bill also clarifies the grounds for calling a special membership meeting.

Also this week, a data security measure, A 180, was introduced in New York. The bill would require entities to disclose breaches within five days of discovery. Legislation regulating transportation network companies, H 130 and S 185, was introduced in Missouri as well.

Court Challenge to Overtime Rule to Continue

In [late November](#), a federal district court in Texas in the case Nevada v. U.S. Department of Labor, U.S. District Court for the Eastern District of Texas, granted an emergency preliminary injunction stopping the Department of Labor (DOL) from enforcing its rule for overtime pay, which was set to go into effect on December 1. This month the court ruled that the appeal can continue, which means the court could at any time grant the request to permanently stop the rule from moving forward.

The DOL appealed this ruling and oral arguments are set for January 31. Notably however, they will happen after President-elect Trump takes office on January 20 and appoints a new Secretary of Labor. Andrew Puzder, who President-elect Trump has indicated is his choice for the new Secretary of Labor, has expressed opposition to the overtime rule. Accordingly, it is possible the DOL will withdraw the appeal after the new Administration takes office. It is also possible the DOL will make changes.

As CUNA previously noted, while many credit unions have already made changes to come into compliance with the rule, a court decision or legislation modifying the rule could help relieve the compliance challenge of having to continue to make changes every three years.

CUNA also expects that Congress will once again be introducing legislation that makes changes to the DOL final rule. We will continue to update credit unions about the progress of the litigation and any potential Congressional actions.

DOL Fiduciary Delay Legislation Introduced in New Congress

Rep. Joe Wilson (R-S.C.) introduced the Protecting American Families’ Retirement Advice Act last week that would delay the Department of Labor’s (DOL) fiduciary rule. The [legislation](#) would delay implementation of the rule for two additional years after April 2017, when the first implementation date is currently set.

CUNA supports the intent of the DOL rule to protect investors but sought

February 6, 2017

- [Chartering and FOM Manual](#)

February 20, 2017

- Washington’s Birthday/President’s Day – Federal Holiday

April 10, 2017

- [Fiduciary](#)

April 30, 2017

- 5300 Call Report Due to NCUA

July 30, 2017

- 5300 Call Report Due to NCUA

September 15, 2017

- [Same-day ACH – Phase 2](#)

October 1, 2017

- [Prepaid Accounts under the EFT Act/Reg E and TILA/Reg Z](#)

October 19, 2017

- [Amendments to 2013 Mortgage Rules under RESPA/Reg X and TILA/Reg Z](#)

October 29, 2017

- 5300 Call Report Due to NCUA

January 1, 2018

[HMDA/Reg C](#)

March 16, 2018

- [Same-day ACH - Phase 3 \(Final phase\)](#)

April 19, 2018

- [Amendments to 2013 Mortgage Rules under RESPA/Reg X and TILA/Reg Z](#)

May 11, 2018

- [Customer Due Diligence/CDD](#)

CUNA Comment Calls – Due Dates on Proposed Rules

December 16, 2016~NCUA

[Private Flood Insurance](#)

February 1, 2017~CFPB

[Consumer Access to Financial Records](#)

Effective Dates New and Revised Rules

January 1, 2017~CFPB

[HMDA – Regulation C](#)

January 1, 2017~NCUA

[Member Business Loan Rule](#)

April 10, 2017~DOL

clarity about the overly broad definition of investment advice in addition to other concerns with the DOL's rule, which was finalized in April 2016. Our [comment letter and a follow-up letter](#) outlined concerns about how the DOL's fiduciary rule could impact credit unions and CUSOs, and their ability to continue to serve investors of all means, including those with low-or-moderate incomes.

CUNA was pleased that the [DOL addressed](#) some of its questions, and provided clarifications about what activities are considered education v. advice in the final rule. However, credit unions recommending specific investment products in individual retirement accounts (IRAs) and CUSOs can still be implicated by the rule, and have faced compliance burdens in navigating the applicability and complexity of it.

CUNA [previously](#) supported Congressional efforts modifying the DOL rule last Congress and believe the new legislation would benefit credit union members, as credit unions continue to determine how their offerings for saving and planning could be impacted.

Source: CUNA Removing Barriers Blog

Fiduciary

September 15, 2017~NACHA
[Same-day ACH \(NACHA\) – Phase 2](#)

October 1, 2017 ~ CFPB
[Prepaid Accounts under the EFT Act/Reg E and TILA/Reg Z](#)

October 19, 2017~CFPB
[Amendments to 2013 Mortgage Rules under RESPA/Reg X and TILA/Reg Z](#)

CUNA Advocacy Report

The [CUNA Advocacy Update](#) is published at the beginning of every week and keeps you on top of the most important changes in Washington for credit unions--and what CUNA is doing to monitor, analyze, and influence government agencies and federal law. Additional Advocacy efforts may also be found under CUNA's [Removing Barriers](#) blog.

Please respond to [Mark Robey](#) with any questions or concerns regarding content of this newsletter.

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