

Regulatory Compliance News



**MOUNTAIN WEST
Credit Union Association**

October 20, 2017

Compliance News

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Web Content Accessibility Guidelines (WCAG 2.0)

As most of you are aware, we remain in a holding pattern when it comes to the Department of Justice (DOJ) issuing website accessibility regulations under Title III of the Americans with Disabilities Act (ADA). Waiting for official regulations, however, is no longer an option as the number of lawsuits alleging inaccessible websites continues to grow.

In the absence of regulations, credit unions have asked what technical standard they should use since current Title III regulations do not specify a standard for accessible websites. The gold standard is the [Web Content Accessibility Guidelines \(WCAG\) 2.0](#), developed by the World Wide Web Consortium (W3C). The W3C is an international community that "develops open standards to ensure the long-term growth of the Web."

So, where do you get started? The WCAG 2.0 is a technical standard written for web developers. But there are a number of non-technical explanatory resources available on the consortium's website as well. Additional resource links appear below, but you may want to begin with [Easy Checks - A First Review of Web Accessibility](#). Then move on to [Tips for Getting Started with Web Accessibility](#), which includes:

- Designing for Web Accessibility: tips for user interface and visual design.
- Writing for Web Accessibility: tips for writing and presenting content.
- Developing for Web Accessibility: tips for markup and coding.

The United States Access Board [adopted WCAG 2.0 as its accessibility standard for federal agency websites](#) in January 2017 (note: these are not DOJ Title II regulations for public entities -- they're on hold as well). So, it's quite likely that the DOJ will also adopt this standard for non-agency websites whenever it gets around to issuing Title III regulations for "public

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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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accommodation" websites. However, please note that WCAG 2.1 is currently under development and is scheduled to be published as a standard some time in 2018. It's a good idea to evaluate and create a plan of action for your website sooner rather than later to bolster your credit union against the recent flood of ADA web-related lawsuits.

Resources:

- [W3C Web Accessibility Initiative \(WAI\)](#)
- [United States Access Board](#)
- CUNA News Now: [CUNA, leagues push for ADA website guidance from DOJ](#) (10-11-17)
- CompBlog Post: [ADA Website Accessibility: Common Problems and Solutions](#) (2-8-17)

Back to Basics: Disaster Preparedness

Hurricanes Harvey, Irma, and Maria, as well as the wildfires in California, serve as a harsh reminder of the importance of disaster preparedness – for both institutions and individuals. Federally-insured credit unions (FICUs) are required to have disaster recovery and business resumption contingency plans in place to address all types of operational disruptions, from short-term power outages to natural disasters that have the potential to physically destroy the credit union's premises. The question is: how prepared is your credit union to respond to the next unforeseen catastrophic event?

According to NCUA's many risk alerts and guidance letters on the subject, a credit union's disaster preparedness program should:

- Be commensurate with the institution's complexity of operations;
- Minimize interruptions of service to members and maintain member confidence in times of emergency; and
- Be reviewed at least annually, and address changes in the credit union's operations.

NCUA's Catastrophic Act Preparedness Guidelines (Part 749, Appendix B) provide recommendations for developing (and maintaining) a disaster recovery program, with the oversight and approval of the credit union's board of directors. The program should include the following elements:

- A business impact analysis to evaluate potential threats. After evaluating the credit union's exposure to a full range of possible disasters, management and/or the disaster recovery team should consider the cost, duration, and impact of critical service/system disruptions on the credit union's operations or financial condition. For example, how will the credit union handle a power outage that disrupts all electronic forms of payments for several days? What would the credit union do if its main and/or branch office facilities are not available for an extended period of time?
- A risk assessment to determine critical systems (buildings, hardware, software, power sources, telecommunications, etc.) and necessary resources (financial, personnel, etc.) Credit unions should prioritize the risks to critical systems/services and develop contingency plans accordingly.
- A written plan addressing:
 - Individuals with authority to enact the plan (e.g., senior management, disaster recovery team members);
 - Preservation and ability to restore vital records (per NCUA's Part 749);

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



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For more information about our compliance services, please contact Melia Heimbuck at: mheimbuck@mwcua.com or (720) 479-3325 or 1 (800) 477-1697 ext. 3325



InfoSight Highlight

Other Real Estate Owned (OREO)

What actions should federal credit unions take to ensure compliance with OREO accounting and auditing requirements?

According to the NCUA Examiner's Guide, federal credit unions should account for and value foreclosed assets acquired by the credit union as OREO as follows:

- Presume OREO is "held-for-sale". The credit union should obtain appraisals or broker price opinions and onsite inspections as warranted to support the value of the property in question. (Note: generally, federal credit unions cannot hold OREO for the production of income. Therefore, this discussion of the accounting rules for OREO is limited to OREO-held-for-sale).
- Record OREO at foreclosure at fair value less estimated cost to sell. After foreclosure, the credit union should account for OREO held-for-sale at the lower of fair value minus estimated costs to sell, or at cost. Credit unions should periodically evaluate the property for impairment and write down its carrying value if warranted. Often foreclosures need substantial refurbishments, such as new paint and carpeting, to make them marketable. Credit unions should factor estimated refurbishment costs into the carrying value.

- A method for restoring of vital member services through identification of alternate operating location(s) or mediums to provide services, such as telephone centers, shared service centers, agreements with other credit unions, or other appropriate methods;
- Communication methods for employees and members (also vendors, bonding company, and any business partners, as necessary);
- Notification of regulators (i.e., catastrophic act report required by NCUA's Part 748);
- Training and documentation of training to ensure all employees and volunteer officials are aware of procedures to follow in the event of destruction of vital records or loss of vital member services; and
- Testing procedures, including a means for documenting the testing results.

• **Internal controls** for reviewing the plan at least annually and for revising the plan as circumstances warrant, for example, to address changes in the credit union's operations; and

• **Annual testing** - To ensure the contingency plans actually work, a credit union should test (i.e., validate) the plan at least annually or when a significant change takes place. The test should determine if the credit union could recover to an acceptable level of business within the time-frame stated in the disaster recovery plan. Examples of testing methods include, but are not limited to, simulations, role-play, walk-throughs, and alternate site reviews. Disaster drills should include all critical functions and areas of the credit union. The credit union should document the test and maintain work papers to demonstrate that responsible staff tested all critical functions and areas of the institution.

Source: CUNA Comp Blog

CFPB Updates HMDA Implementation Tools

The CFPB has notified those on its mailing lists that it has updated selected implementation tools for its 2017 HMDA Final Rule (effective January 1, 2018):

- Updated Filing Instructions Guide (FIG), found on the Bureau's [Resources for HMDA Filers](#) webpage.
- Found on the Bureau's [HMDA Implementation](#) webpage:
- Chart on Collection and Reporting of HMDA Information about Ethnicity and Race
- New chart, Reportable HMDA Data: A Regulatory and Reporting Overview Reference

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.

• Report as a liability the principal amount of any debt to which the OREO is subject, and not deduct it from the carrying amount of the asset (i.e., tax lien, mechanic's lien).

For Federal Credit Unions under \$10 million in assets, Section 300 of the NCUA Accounting Manual provides additional guidance and illustrations of accounting for OREO.

Pursuant to NCUA Letter to Credit Unions 08-CU-25, when determining the appropriate program and time-frame for holding foreclosed assets, credit unions should perform a risk assessment and develop policies and procedures establishing overall limits and guidelines for the level of risk the credit union could sustain and still ensure continued safety and soundness. Credit unions should also take various factors into consideration when marketing foreclosed assets for sale.

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

Compliance Videos

Quarterly Update for Q2 an Q3 2017

This [video](#) reviews of a few important laws and regulations that will impact our credit unions in the 2nd and 3rd quarters of 2017. League InfoSight CEO Glory LeDu covers the **DOL – Fiduciary Rule** effective 6/9/17, Phase II of the **NACHA Same Day ACH**, the changes to the **DOD - Military Lending Act** related to credit cards, and an overview to the 1st set of changes made to **Mortgage Servicing**.

Mortgage Servicing Rule

This [video](#) provides more detailed information from Glory LeDu, CEO of League InfoSight, regarding the upcoming **Mortgage Servicing Rules, effective 10/19/2017**. Be sure to review this video to ensure you are in compliance with these upcoming changes.

Member Business Lending

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

Advocacy Highlight

NCUA Proposes Relief for its Official Advertising Statement

NCUA issued a proposal to allow for a fourth (shorter) official advertising statement option - "Insured by NCUA". The proposal also exempts radio and TV advertisements of less than 30 seconds from the official advertising statement requirement. This is a change from the current 15 second radio and TV ad exemption. (Basically, this will put the exemption back to its pre-2011 status, equal with FDIC's requirements for banks).



MOUNTAIN WEST Credit Union Association

Training & Events Calendar

October 16

Webinar: [Planning & Compliance Considerations for the New Fannie Mae & Freddie Mac Uniform Residential Loan Application](#)

October 26

Webinar: [Job-Specific BSA Training for Frontline: CTRs, SARs, CIP & More](#)

October 30

Webinar: [Preparing for the Impact of New Prepaid Card Rules Under Regulation E – Deadline April 1, 2018](#)

November 7

Webinar: [CFPB's TRID Amendments: Understanding the Clarifications & New Expectations](#)

November 8

Webinar: [When a Depositor Dies: Next Steps & Best Practices](#)

November 9

Webinar: [Auditing for Reg E Compliance](#)

November 14

Webinar: [Account Documentation Series: Accepting Powers-of-Attorney on Deposit Accounts](#)

November 15

Webinar: [ACH Specialist Series: Federal Government ACH Payments: Reclamations & Garnishments](#)

November 16

Webinar: [Required Compliance for the Board & Senior Management](#)

November 29

Webinar: [OFAC Sanctions Compliance: Update, Expectations & Best Practices](#)

November 30

Webinar: [Robbery Preparedness for All Staff](#)

December 6

Webinar: [Job-Specific BSA Compliance for Lenders](#)

December 12

Webinar: [All About 1099 Reporting Part 2: Forms 1099-INT & 1099-MISC: Vendor Payments, Prizes & Interest on Deposit Accounts](#)

December 13

Webinar: [ACH Risk Management & Assessment: Risks, Controls & Ratings](#)

December 14

Webinar: [Real Estate Series: Mortgage Loan Disclosure Timing Issues](#)

December 19

Webinar: [The ALLL with TDRs & Foreclosed Assets](#)

Finally, the proposal eliminates the requirement to include the official advertising statement on "statements of condition required to be published by law."

NCUA is requesting comments about "whether the regulation should be modified to facilitate the trend in advertising via new types of social media, mobile banking, text messaging and other digital communication platforms, including Twitter and Instagram. The comments should focus on specific recommendations that balance the regulation's goal to inform the public with space and other constraints inherent in new forms of advertising."

Here's your chance to share all of your frustrations and challenges regarding this rule with NCUA. Comments are due to the agency by December 4, 2017. Share comments, bullet points, or your thoughts in any form with CUNA's Regulatory Advocacy team by the end of November to be included in CUNA's letter. Or send your thoughts through cucomply@cuna.com and they will be passed on to CUNA's Advocacy Team.

For more information: [Accuracy of Advertising and Notice of Insured Status](#)

Source: CUNA Comp Blog

TCPA Petition: Member Webinar Held to Discuss Petition and CU Participation

CUNA and counsel addressed the Telephone Consumer Protection Act (TCPA) petition recently filed with the FCC with more than 230 credit union professionals in a member webinar.

"With new leadership at the FCC, we recognized there might be an opportunity for some relief from the onerous TCPA requirements we've been seeing over the past few years," said Leah Dempsey, CUNA Senior Director of Advocacy and Counsel. "FCC Chairman [Ajit] Pai and Commissioner [Michael] O'Rielly, who are now in the majority at the FCC, were dissenters to the 2015 order that has been so problematic for credit unions."

CUNA has asked the FCC for [an exemption for certain calls](#) and texts from credit unions to members' cell phones from the TCPA's prior consent requirement. The FCC [issued](#) CUNA's petition for public comment. If granted, the exemption would apply to:

- Wireless informational calls to credit union member-owners with whom the credit union has an established business relationship; or
- A call or text that is free to the receiving party.

CUNA provided the FCC with a clear road map as to how credit unions and their members are impacted by the lack of clarity surrounding compliance with the TCPA.

In addition to submitting the petition and hosting the webinar, CUNA also:

Recorded Webinars:

Webinar: [CTR Technical Changes: New Data Fields, Amendments & Alternate Model Reporting](#)

Webinar: [New MLA Requirements for Credit Cards, Effective Oct 3, 2017](#)

Save The Date – Compliance Lunch & Learns

Mark your calendars and set reminders on your smart phones! Check out the following Compliance Lunch & Learn dates and times. More information to come. Cost is \$35/ person. If you have any questions, please send an email to Jodi Weiser at jweiser@mwcua.com.

Nov. 14 - Phoenix, AZ: 11:30 am – 1:30 pm

Nov. 15 – Tucson, AZ: 11:30 am – 1:30 pm

Nov. 16 – Denver, CO: 11:30 am – 1:30 pm



Compliance Calendar

September 30, 2017

- [New Call Report Form](#)

October 3, 2017

- [MLA – Limitations on Terms of Consumer Credit Extended to Service Members & Dependents](#)

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

November 10, 2017

- Veterans' Day Observed (FRB will be open)

November 23, 2017

- Thanksgiving Day – Federal Holiday

December 25, 2017

- Christmas Day – Federal Holiday

January 1, 2018

- [HMDA/Reg C](#)

March 16, 2018

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

April 1, 2018

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

April 19, 2018

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

- Created a webpage with the [latest TCPA Information](#);
- Reached out the NCUA & CFPB to request support for the petition;
- Is finalizing a Grassroots Action Center for credit unions to participate in the process;
- Is in the process reaching out to Members of Congress; and,
- Working with coalition partners to back the petition.

CUNA is excited about the opportunity for the credit union system to participate and inform the FCC of how the TCPA affects the way they communicate with their member-owners.

A [recorded version](#) of the webinar is available for CUNA members.

Source: Removing Barriers Blog

CUNA Comment Calls – Due Dates on Proposed Rules

September 29, 2017~CFPB

[Federal Mortgage Disclosure Requirements Under TILA \(Reg Z\)](#)

September 29, 2017~NCUA

[Emergency Merger CC](#)

November 3, 2017~NCUA

[Regulatory Reform Agenda](#)

Effective Dates New and Revised Rules

April 1, 2018 ~ CFPB

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

May 11, 2018

• Customer Due Diligence/CDD

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

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