

Regulatory Compliance News



MOUNTAIN WEST
Credit Union Association

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Compliance News

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FinCEN Corrects Beneficial Ownership Form

FinCEN has published [\[82 FR 45182\]](#) corrections to the Certification Form in Appendix A to 31 CFR 1010.230 (Beneficial ownership requirements for legal entity customers). FinCEN indicated that all the changes were technical corrections. The corrections were described as follows in the *Federal Register* document:

"As revised, appendix A (Certification Form) is identical to the original version except for the following: In the first sentence in Part I under the heading "What information do I have to provide?", the term "foreign persons" is changed to "non-U.S. persons"; and in Part II: The heading of Section II b. is changed to "b. Name, Type, and Address of Legal Entity for Which the Account is Being Opened:"; and in the headings of the last column in the Tables in Section II c and Section II d, the term "Foreign Persons" is changed to "Non-U.S. Persons" and the term "Social Security Number" is added after the term "persons"; and in footnote 1, the term "Foreign Persons" is changed to "Non-U.S. Persons" and "a Social Security Number," is inserted after the word "provide".

A quick analysis of the changes suggests that the addition of the "type" of legal entity business (corporation, LLC, etc.) as a required piece of information and of "Social Security number" as an acceptable identifying number for non-U.S. persons will require adjustments in the implementation plans of financial institutions and third-party service providers.

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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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Association Compliance Forums

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[Compliance Forum](#)

[BSA Compliance Officer Forum](#)

Please provide the subscriber's name, credit union, title

Source: FinCEN

OFAC Sanctions Banks and Reps Linked To North Korea Networks

OFAC has [announced](#) actions taken recently to further disrupt North Korea's access to the international financial system. OFAC designated eight North Korean banks and 26 individuals linked to North Korean financial networks. The individuals sanctioned are North Korean nationals operating in China, Russia, Libya and the United Arab Emirates who act as representatives of North Korean banks. OFAC also identified two banks as part of the Government of North Korea. As a result of this action, any property or interests in property of the designated persons in the possession or control of U.S. persons or within the United States must be blocked.

Source: OFAC

CFPB Shares Stories of Servicemembers Having Difficulty with Debt Collection Practices

Servicemembers, veterans, and their families consistently report their issues with debt collection practices to the CFPB. As of Aug. 1, 2017, 41 percent of the complaints received from servicemembers are related to debt collection—compared to just 26 percent of complaints from non-servicemembers.

The Fair Debt Collection Practices Act (FDCPA) protects servicemembers from debt collectors who use abusive, unfair, or deceptive practices to collect debts. Active-duty servicemembers can face the additional worry that an unpaid debt could affect their security clearance, adding an extra layer of stress.

To learn in what ways financial institutions may be violating regulatory requirements, read some of the stories [here](#).

Source: CFPB

Post-Data Breach: Fraud Loss Mitigation Webinar

CUNA joined CUNA Mutual Group and the Financial Services Information Sharing Center (FS-ISAC) for a webinar on how to mitigate fraud in the wake of the massive Equifax breach. View a [recorded version](#) of that webinar.

During the discussion, CUNA covered subjects such as how stolen information can be re-used on the dark web; best practices in fraud monitoring and detection; and how to proactively change a fraud strategy following a massive data breach. [Additional Data Breach resources](#).

Source: CUNA

Back to Basics: Is it Possible to Raise the APR on a HELOC Based on a Change on a Member's Credit Score?

Question: May a credit union increase the APR on a member's HELOC based on a change in the member's credit score?

Answer: No, a credit union may not increase the APR on a member's HELOC based on a change in the member's credit score or credit rating. Reg. Z, Section 1026.40(f), states that a creditor may not change the APR unless the change is based upon an index (such as the prime rate) that is not under the control of the creditor and the index is available to the general public. Otherwise, Reg Z only permits a creditor to make changes that are:

- Unequivocally beneficial to the borrower throughout the remainder of the plan,

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@mwcu.com or (720) 479-3325 or 1 (800) 477-1697 ext. 3325



InfoSight Highlight

ACH – Third Party Senders

NACHA amended their Operating Rules to require Originating Depository Financial Institutions (ODFIs) to identify and register their Third-Party Sender members. However, even credit unions that do not conduct third-party origination are still required to register and acknowledge that in a statement to NACHA. These changes become effective on September 29, 2017, which is the day the registry opens. Credit unions have an implementation period through March 1, 2018 to register all of their Third-Party Senders.

Exemption: If the credit union is not an Originating Depository Financial Institution (ODFI) this registration requirement would not apply.

About Third-Party Senders

A Third-Party Sender serves as an intermediary between the company originating the ACH payment and the Originating Depository Financial Institution (ODFI) of that transaction. A key point that differentiates a Third-Party Sender from other third parties is that it sends the payment on behalf of its client through its own financial institution as opposed to the financial institution of the client, or Originator – this means that the Third-Party

- Changes that are considered insignificant, or
- A specified change if the borrower specifically agrees to it in writing at that time.

However, a creditor may provide in the account opening agreement that it may prohibit additional extensions of credit or reduce the credit limit during any period in which the maximum APR is reached and may also provide that specified changes will occur if a specified event takes place. For example, the APR may be increased by a specified amount if the borrower leaves the creditor's employment. Furthermore, a creditor may change the index and margin if the original index is no longer available, the new index has a historical movement substantially similar to the original index, and the new index and margin would have resulted in an APR substantially similar to the rate in effect at the time the original index became unavailable.

Source: CUNA Compliance Blog

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.



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](#)

Sender is the customer of the ODFI and the ODFI does not have a direct business relationship with the Originator of the transaction.

When a Third-Party Sender is sending payments through its ODFI on behalf of another Third-Party Sender, that ODFI has the ultimate responsibility for those payments. For that reason, it is important that a financial institution knows that customer and whether it is a Third-Party Sender.

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

Advocacy Highlight

NCUA Board Meeting Recap: Board Votes to Close Stabilization Fund

The NCUA just wrapped their September board meeting, and as [predicted and supported by CUNA](#), the Board voted to close the Corporate Stabilization Fund. In addition to closing the fund, the Board also discussed a proposed rule and the NCUA's 2018-2022 strategic plan. You can find an overview and details below.

The next board meeting is scheduled for October 19th.

Proposed Rule, Part 740, Accuracy of Advertising and Notice of Insured Status

The NCUA proposed to revise provisions of NCUA's advertising rule. The advertising rule requires FICUs to use NCUA's "official advertisement statement" when advertising. In addition to being permitted to use any of the three current versions of the official advertising statement, the Board proposes to allow FICUs the option of using a fourth version, namely by stating "Insured by NCUA." The proposal would also: (1) expand a current exemption from the advertising statement requirement regarding radio and television advertisements; and (2) eliminate the requirement to include the official advertising statement on statements of condition required to be published by law.

NCUA's 2018 – 2022 Strategic Plan

The NCUA released a draft of the 2018–2022 draft strategic plan. The plan summarizes NCUA's analysis of the internal and external environment impacting NCUA; evaluates the agency's programs and risks; and provides goals and objectives for the next five years. The Draft Strategic Plan integrates the agency's mission and overarching risk management philosophy with clear goals and objectives. The Strategic Plan highlights the agency's three strategic goals and supporting strategic objectives, which reflect the outcome or greater impact of the broader strategic goals.

The three strategic goals for 2018 to 2022 are to: (1) ensure a Safe and Sound Credit Union System; (2) provide a regulatory framework that is transparent, efficient and

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](#)

Recorded Webinars:

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

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

Regulatory Compliance School October 25 & 26 – Phoenix Now Open for Registration

Credit union compliance professionals face a complex regulatory environment and challenging compliance issues. For those needing a refresher course or a solid understanding of the regulations and laws affecting their regulatory compliance responsibilities, plan to attend the Mountain West Regulatory Compliance School taught by compliance experts, Bruce Jolly and David Reed. This 2-day program will provide you with the latest information regarding operational compliance issues, and update you on current areas of concern expressed by regulators and examiners. Plan to attend this important program so you can stay up-to-date with the latest compliance regulations and ensure your credit union is operating within the current laws. Registration deadline is October 11, 2017. To register for the Oct. 25-26 Regulatory Compliance School in Phoenix, AZ, [click here](#).

improves consumer access.; (3); and maximize organizational performance to enable mission success.

CUNA will review the draft strategic plan and make comments to the agency detailing how the agency can more efficiently regulate credit unions.

Closing the Corporate Stabilization Fund and Setting the Normal Operating Level

As expected and supported by CUNA, the NCUA Board voted to close the Temporary Corporate Credit Union Stabilization Fund (Stabilization Fund). The Board also voted to set the National Credit Union Share Insurance Fund (Share Insurance Fund) normal operating level at 1.39%, which the Board supported with analysis from the Federal Reserve.

According to the NCUA, credit unions should receive a rebate or dividend in 2018 between \$600 million and \$800 million. The NCUA also stated that credit unions will also receive between \$600 million to \$1.1 billion in dividends between 2019 through 2021. Furthermore, corporate capital holders could have between \$1.1 billion and \$1.9 billion returned to them in 2021. We note that future dividends and capital returns are dependent on the performance of assets and the U.S. economy.

[CUNA was the only national trade association for credit unions](#) to advocate for NCUA to close the stabilization fund and merge it with the National Credit Union Share Insurance Fund, thus enabling credit unions to start receiving refunds in 2018. Additionally, CUNA raised the NCUA's proposal to set the normal operating level at 1.39% and advocated it be lowered

Source: CUNA Removing Barriers Blog



September 15, 2017

- [Same-day ACH – Phase 2](#)

September 30, 2017

- [New Call Report Form](#)

October 3, 2017

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

October 9, 2017

- Columbus Day – Federal Holiday

October 19, 2017

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

October 29, 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

CUNA Comment Calls – Due Dates on Proposed Rules

September 18, 2017~DOL

[DOL Overtime Rule RFI](#)

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](#)

[Regulatory Reform Agenda](#)

• 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](#)

May 11, 2018

• [Customer Due Diligence/CDD](#)

Effective Dates New and Revised Rules

September 15, 2017~NACHA

[Same-day ACH \(NACHA\) – Phase 2](#)

April 1, 2018 ~ CFPB

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

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

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