

## Regulatory Compliance News



**MOUNTAIN WEST**  
Credit Union Association

November 10, 2016

### Compliance News

#### How Many Regular Board Meetings Are Required?

With ever-increasing duties, obligations and commitments, both credit union management and directors are searching for ways to become more effective and efficient, including reducing the amount of time spent in meetings. Your credit union's bylaws likely set forth the minimum number of regular meetings the board must hold each year. So, can your credit union amend its bylaws to reduce the number of required regular board meetings?

For federally-chartered credit unions the answer is, unfortunately, no. The Federal Credit Union Act establishes by law that the board of directors shall meet at least once each month. Because the number of required meetings is prescribed by statute, the NCUA has no discretion to allow a credit union to reduce this number.

For Arizona state-chartered credit unions, the state Act was amended in 2016 to state that the board of directors must "meet at least ten times during each calendar year in ten different months." To take advantage of this change, a credit union must first amend its bylaws. The board of directors may adopt proposed amendments to the bylaws at any duly held meeting by a three-fourths majority vote. After proposed amendments have been approved, the board must submit the proposed amendments to the superintendent for his approval. The amendments are effective on approval of the superintendent. At the next regular or special meeting of the membership the board must submit all amendments to the bylaws to the members for ratification.

Finally, for Colorado state-chartered credit unions, there is no statutorily or regulatory prescribed number of regular board meetings. The standard bylaws issued by the Division of Financial Services state that the board of directors shall meet "at least once each month." The Division of Financial Services has informed the Association that it has no general or "blanket" objection to a credit union amending its bylaws to require fewer meetings, but that it will evaluate each request on a case-by-case basis to ensure that such a change does not compromise the safety and soundness of the credit union and is otherwise appropriate. Bylaw amendments must be approved by the Division Commissioner before they become effective.

#### FFIEC Issues Uniform Interagency Consumer Compliance Rating System

The Federal Financial Institutions Examination Council (FFIEC), recently announced the issuance of an updated [Uniform Interagency Consumer](#)

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### Association Compliance Forums

Click on one of the below links to subscribe

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[BSA Compliance Officer Forum](#)

Please provide the subscriber's name, credit union, title and email address. The subscriber will receive a welcome e-mail that details how to access the forum.



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[Compliance Rating System](#). The revisions reflect the regulatory, examination, technological, and market changes that have occurred since the release of the original rating system. The FFIEC member agencies plan to implement the updated rating system on consumer compliance examinations to begin on or after March 31, 2017.

The Consumer Compliance Rating System is a supervisory policy for evaluating financial institutions' adherence to consumer compliance requirements. The Uniform Interagency Consumer Compliance Rating System is designed to more fully align the rating system with the FFIEC agencies' current risk-based, tailored examination approaches. It was not developed with the intention of setting new or higher supervisory expectations for financial institutions. The rating system's adoption will represent no additional regulatory burden for financial institutions.

The FFIEC members proposed the guidance in May 2016 and invited public comments through July 5, 2016. The agencies received 17 comments through the proposal process. Those comments were taken into account in finalizing the Uniform Interagency Consumer Compliance Rating System. The attached updated rating system will be published shortly in the Federal Register.

*Source: FFIEC*

### **Treasury Finalizes Action to Further Restrict North Korea's Access to the U.S. Financial System**

The U.S. Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) recently issued a final rule under Section 311 of the USA PATRIOT Act to further restrict North Korea's access to the U.S. financial system. Specifically, the final rule prohibits U.S. financial institutions from opening or maintaining correspondent accounts for North Korean banks and also requires U.S. financial institutions to apply additional due diligence measures in order to prevent North Korean financial institutions from gaining improper indirect access to U.S. correspondent accounts. The rule was proposed in [June 2016](#) along with publication of the notice of finding that North Korea is a jurisdiction of "primary money laundering concern" engaged in illicit conduct, including using state-controlled financial institutions and front companies to engage in proliferation of WMD and ballistic missiles and to evade international sanctions.

"North Korea continues to use front companies and agents to conduct illicit financial transactions—some of which support the proliferation of WMD and the development of ballistic missiles—and evade international sanctions," said Adam J. Szubin, Acting Under Secretary for Terrorism and Financial Intelligence. "Such funds have no place in any reputable financial system."

While North Korea's financial institutions do not maintain correspondent accounts with U.S. financial institutions, the North Korean government continues to use state-controlled financial institutions and front companies to surreptitiously conduct illicit international financial transactions, some of which support the proliferation of weapons of mass destruction and the development of ballistic missiles. Section 311 of the USA PATRIOT Act grants the Secretary of the Treasury the authority, upon finding that reasonable grounds exist, to conclude that a foreign jurisdiction is of primary money laundering concern and to require domestic financial institutions and financial agencies to take certain

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### **InfoSight Highlight**

#### **IRS Form 1099-INT**

#### **Rules for Delivering Form 1099 Statements to Recipients**

The mailing must contain the official IRS Form 1099-INT or an acceptable substitute. The statement mailing can also contain the following enclosures:

- Form W-2, W-8, W-9, or other Forms 1098, 1099, and 5498 statements;
- A check from the account being reported;
- A letter explaining why no check is enclosed;
- A statement of the person's account that is shown on the 1099-INT; and
- A letter explaining the tax consequences of the information shown on the statement.

No additional enclosures, such as advertising, promotional material, or a quarterly or annual report, are permitted. Even a sentence or two on the year-end statement describing new services offered by the credit union is not permitted. However, logos are permitted on the envelope and on any non-tax enclosures.

There must be a legend on the outside of the envelope that states, "Important Tax Return Document Enclosed" in a bold and conspicuous manner. This legend must also appear on each letter explaining why no check is enclosed or on each check or account statement that is not perforated to the recipient statement. The legend is not required on any tax form, tax statement, or permitted letter of tax consequences included in a statement mailing.

Credit unions may provide a copy of Form 1099-INT to members electronically if the member electronically consents or agrees to receive the statement electronically; the credit union discloses certain information at or before the time the member consents to receive the statement electronically; and the credit union posts the statement on its website on or before January 31 and maintains access through October 15 of the following year after the year the payment was made.

“special measures” against the identified jurisdiction. Section 311 also provides the Secretary with a range of options that can be adapted to protect the U.S. financial system from specific money laundering and terrorist financing risks.

While current U.S. law already generally prohibits U.S. financial institutions from engaging in both direct and indirect transactions with North Korean financial institutions, this action supports international sanctions already in place against North Korea and provides greater protection for the U.S. financial system from North Korean illicit activity.

*Source: US Dept. of Treasury*

### NCUA Renames Office

The National Credit Union Administration published at [81 FR 76495](#) in the 11/3/16 *Federal Register* a notice renaming its Office of Consumer Protection. The new name, effective immediately, is the Office of Consumer Financial Protection and Access.

*Source: Federal Register*

### Justice Department Announces Pilot Program to Provide Military Communities Across the Country with Dedicated Legal Support

The U.S. Department of Justice has [announced](#) a new program, the Servicemembers Civil Relief Act Enforcement Support Pilot Program, to support enforcement efforts related to protecting the rights of current and former military personnel as part of the department’s Servicemembers and Veterans Initiative. The new pilot program funds Assistant U.S. Attorney and trial attorney positions to assist with SCRA enforcement, and also designates military judge advocates currently serving as legal assistance attorneys to serve as Special Assistant U.S. Attorneys to support the department’s enforcement efforts related to the SCRA. U.S. Attorneys throughout the country will also be appointing Initiative Liaisons to work with local military and veteran communities.

*Source: U.S. Department of Justice*

### 2017 HMDA Data Submission Changes

The CFPB has [posted information](#) on changes to the submission process listed in the [Filing Instructions Guide](#) for HMDA data collected in 2017. Beginning with the HMDA data collected in 2017, filers will submit their HMDA data to the CFPB using a web interface referred to as the HMDA Platform. HMDA filers will interact directly with the HMDA Platform to file their HMDA data. The Data Entry Software currently provided by the FFIEC will no longer be available as a method of data entry or data submission.

*Source: CFPB*

### New NCUA Guidebook: The Basics of Data Processing Contracts

NCUA's Small Credit Union Learning Center has released a guidebook on negotiating contracts with third-party vendors for digital services. The guidebook, [The Basics of Data Processing Contracts](#), covers the core elements of the contracting process such as:

- Requesting and evaluating bids
- Performing due diligence on potential vendors
- Negotiating terms, including pricing, performance requirements and liabilities; and
- Contract management and compliance.

*Source: CUNA Compliance*

The credit union must also notify the member on or before January 31 that the statement is available on its website.

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

## Compliance Videos

### Q3 and Q4 2016 Overview

In this [newly released video](#), Glory LeDu reminds us of the regulatory changes that became effective in the 3<sup>rd</sup> quarter of 2016 and provides an overview of those that are coming up in the 4<sup>th</sup> quarter, including FinCEN Member Due Diligence, NACHA Same Day ACH rules as well as the Military Lending Act and the Overtime Rule from the Department of Labor.

### 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 Connection on YouTube

Compliance videos are now on YouTube and are found on the [Compliance Connection!](#)

## Advocacy Highlight

### NCUA Proposes to Amend Chartering Rule

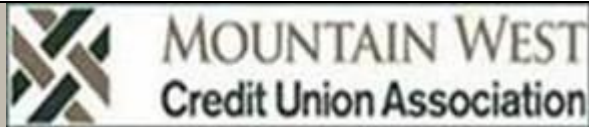
The NCUA Board has published at [81 FR 78748](#) a proposal to amend its chartering and field of membership rules at 12 CFR Part 701 to give applicants for community charter approval, expansion or conversion the option, in lieu of a presumptive community, to submit a narrative to establish common interests or interaction among residents of the area it proposes to serve, thus qualifying the area as a well-defined local community. The Board also proposes to increase up to 10 million the population limit on a community consisting of a statistical area or a portion thereof. Comments on the proposal are due by December 9, 2016.

*Source: NCUA*

### CFPB Seeks Feedback from Small Volume HMDA Filers

Beginning with Home Mortgage Disclosure Act (HMDA) data collected in 2017 and submitted in 2018, responsibility to receive and process HMDA data will transfer from the Federal Reserve Board (FRB) to the Consumer Financial Protection Bureau (CFPB). The HMDA agencies have agreed that filing HMDA data collected in or after 2017 with the CFPB will be deemed submission to the appropriate Federal agency.

As the new processor, the CFPB is developing and implementing a web-based data submission and edit-



### Training & Events Calendar

#### **November 15**

Webinar: Recognizing & Responding to Elder Fraud: What Every Staff Member Should Know

#### **November 16**

Webinar: What the Board Needs to Know to Manage IT

#### **November 17**

Webinar: Handling ACH Exceptions & Returns: Unauthorized, Revoked or Stop Payment

#### **November 22**

Webinar: Trust Accounts: Opening, Transacting, Deposit Insurance & More

#### **December 6**

Webinar: Cyber Series: Meeting Federal Requirements for Tech-Based Marketing Websites, Social Media, Robo Calls & More

#### **December 13**

Webinar: Loan Review: Consumer, Commercial & Real Estate

#### **December 14**

Webinar: Essential Compliance Training for the Board & Senior Management

#### **December 15**

Webinar: Powers of Attorney In-depth: Good Faith, Fraud & Fiduciary Capacity

#### **December 21**

Webinar: Emerging Need & Regulatory Expectations for Enterprise Risk Management Framework

### **CUNA Comment Calls – Due Dates on Proposed Rules**

#### **October 17, 2016**

FinCEN Requirements for Privately Insured Credit Unions

#### **October 31, 2016~CFPB**

RFI for Small Dollar Proposed Rule



### **Compliance Calendar**

#### **November 11**

- Veterans' Day – Federal Holiday

#### **November 24**

- Thanksgiving Day – Federal Holiday

check system ([the HMDA Platform](#)) to process HMDA data. The two primary functions the CFPB focused on in developing the HMDA platform are:

1. Reducing burden in the submission process, and;
2. Ensuring the historic high standards for data quality.

This means that the CFPB is eliminating the paper-based edit reports and time delays due to multiple submissions with the current process. Therefore, the current software developed by the FRB, the Data Entry Software (DES), will not be a supported tool beginning with the data collected in 2017.

The CFPB realizes that some financial institutions, typically those with small volumes of reported loans or those who do not use a vendor or other software to prepare their HMDA data for submission, will still need a software solution for integrating HMDA data from paper records or disparate systems. Therefore, CFPB is looking for feedback, from financial institutions with small volumes of reported loans or those who do not use a vendor or other software to prepare their HMDA data for submission, on how these institutions who manually enter data into the DES and who do not use a software vendor plan to submit their HMDA data.

If you are a current HMDA filer (25-200 loans) who manually enter data into the DES and who do not use a software vendor, this webinar is for you:

Thursday, December 1, 2016 | 9:30 am Eastern Standard Time

Click [here](#) to access the Webinar

Meeting number: 740 631 490

Meeting password: RtYgKA@2

*Source: CUNA Advocacy*

### **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.

### **Effective Dates New and Revised Rules**

#### **December 1, 2016~DOL**

New Overtime Rules

#### **January 1, 2017~CFPB**

**December 1**

- Overtime Rule (DOL)– Effective Date

**December 26**

- Christmas Day (observed)– Federal Holiday

**January 1, 2017**

- Member Business Loans; Commercial Lending (NCUA) – Effective Date

**January 1, 2017**

- HMDA – Reg C, excludes low volume depository institutions from coverage – Effective Date

**January 2, 2017**

- New Year’s Day (observed) – Federal Holiday

**April 10, 2017**

- Fiduciary

**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 underRESPA/Reg X and TILA/Reg Z

HMDA – Regulation C**January 1, 2017~NCUA**Member Business Loan Rule**April 10, 2017~DOL**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 underRESPA/Reg X and TILA/Reg Z

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

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