

Regulatory Compliance News



MOUNTAIN WEST
Credit Union Association

December 2, 2016

Compliance News

NCUA Posts 2017 Call Report Deadlines

The National Credit Union Administration has [announced](#) that, beginning with the Call Report for the quarter ending December 31, 2016, federally insured credit unions will have until the last Sunday of the month following quarter end to file Call Reports. The due dates in 2017 are January 29, April 30, July 30, and October 29. This change gives credit unions, on average, an additional seven days to file.

Source: NCUA

FinCEN Bulletin and Fact Sheet – November, 2016

FinCEN has recently released a couple of great resources:

- [314\(a\) Facts and Feedback](#)
- [Section 314\(b\) Fact Sheet](#)

Source: FinCEN

Overtime Rule Blocked by Federal Judge

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. The injunction is effective nationwide and will remain in effect pending further order of the court.

Credit unions [have expressed concerns](#) that the regulatory burdens associated with this rule, and potential negative unintended consequences even for the employees the rule intends to help, outweigh the good intention of the rule.

Small credit unions and those in rural and underserved areas are particularly harmed by this rule. About 35% of all credit unions have no employees making salaries over the DOL's threshold, and approximately 46% of all credit union CEOs work at credit unions with \$20 million or less in total assets. In certain areas, and at credit unions with smaller asset sizes, even CEOs can make below the threshold or approximately \$50,000.

The DOL will very likely appeal this decision. However, it is also likely President-elect Trump will appoint a new Labor Secretary in 2017, and the appeal could potentially be dropped eventually.

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.

The final rule currently requires employers to automatically update the

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Association Compliance Forums

Click on one of the below links to subscribe

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[BSA Compliance Officer Forum](#)

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salary level every three years, maintaining the standard salary level at the 40th percentile of full-time salaried workers in the lowest-wage Census region, and the HCE total annual compensation level at the 90th percentile of full-time salaried workers nationally.

Source: CUNA

Bureau Publishes Rule and Notice

The CFPB published two documents in a recent *Federal Register*:

- The [final rule](#) on Prepaid Accounts, which becomes effective October 1, 2017.
- The Bureau's [Request for Information](#) on consumer access to financial account and account-related data.

Publication of the Request for Information began a 90-day response period, which will end on February 21, 2017.

FCRA Fee Ceiling Unchanged

The CFPB has [announced](#) that the ceiling on allowable charges under section 612(f) of the Fair Credit Reporting Act will remain unchanged at \$12.00, effective for 2017.

Source: CFPB



Training & Events Calendar

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

December 9, 2016~NCUA

[Field of Membership](#)

December 16, 2016~NCUA

[Private Flood Insurance](#)

NCUA to Host Vendor Management Webinar

The NCUA [will host](#) a free 90-minute webinar, "Vendor Due Diligence," on December 7, 2016, beginning at 2 p.m. EST. Online registration is

If a full suite of compliance services is not what you are looking for, we now offer self-assessment tools, individual loan reviews, and a basic annual compliance package that includes ACH, BSA, SAFE Act, and Website compliance.

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InfoSight Highlight

Trust Accounts

A trust is a tool used to transfer, control and distribute property. A formal trust is one created under a written agreement drafted by an attorney. The trust establishes a relationship among three parties: the person who creates the trust (called the "Grantor"); the person who manages the assets of the trust (called the "Trustee"); and the person who benefits from the trust, (called the "Beneficiary"). There may be one or more Grantors, Trustees, or Beneficiaries of a trust. In some trusts, the grantor, the trustee and the beneficiary are all the same person. The Trustee holds legal title to the property of the trust and is required to manage the trust property for the benefit of the beneficiaries in accordance with the terms set out by the grantor in the trust document.

An informal trust is created when a person sets up a deposit account in his or her own name, followed by the words "trustee for" a named beneficiary. The term "Totten Trust" or "Payable on Death" is used to describe this type of trust. The person who sets up the account is deemed to be the owner of the funds and is entitled to deposit and withdraw funds from the account as he or she deems fit. When the depositor dies, any funds in the account automatically become the property of the beneficiary.

Trusts may be revocable or irrevocable. A revocable trust is one that may be altered, changed, modified or revoked after it is established. An irrevocable trust, as the name implies, is not revocable once it has been established. Once a Grantor transfers property to an irrevocable trust, the Grantor can no longer take the property back from the trust.

Trusts that are created during the Grantor's lifetime are called "living trusts." Trusts that are included in a will and therefore do not take effect until after the death of the Grantor are called "testamentary trusts".



Compliance Calendar

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

January 29, 2017

- 5300 Call Report Due to NCUA

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

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

Advocacy Highlight

Privately-Insured Credit Unions Allowed Membership to the FHLB under Proposed Rule

As part of the Fixing America’s Surface Transportation Act (FAST Act) recently passed by Congress, Section 4(a) of the Federal Home Loan Bank Act (Bank Act) was amended to authorize certain credit unions without Federal share insurance to become members of the Federal Home Loan Bank (FHLB). FHLBs are a reliable, low-cost source of liquidity for financial institutions and further provide access to the secondary market for the sale of home mortgages. CUNA filed its comment letter supporting the proposed rule implementing these changes. With a few exceptions the application and reporting requirements will generally be reasonable and in conformity with the treatment of insured credit unions. Although there is no timeline set for adoption of a final rule, CUNA expects this rulemaking to be completed in relatively short order in 2017. A copy of the comment letter can be viewed [here](#).

Consumer Protection Subcommittee in DC for CFPB and NCUA Meetings

As part of CUNA's coordinated advocacy efforts, this week the Consumer Protection Subcommittee will be coming to DC to meet with regulators at CFPB and NCUA. During this event, Subcommittee members representing credit unions from across the country, will express their concerns regarding increasing regulatory burden and potential ways that credit unions can receive broad and specific exemptions from rules and provisions that should instead be focused on addressing problematic behavior in the marketplace. The Subcommittee and CUNA staff will be discussing issues relating to the MLA requirements; the CFPB's rulemakings on payday/small dollar loans and debt collection practices; the agencies' interpretations of its unfair, deceptive and abusive acts and practices authority; the new HMDA requirements; and upcoming regulatory changes regarding overdraft protection services.

CUNA and NAFCU File Amicus Brief Supporting NCUA’s Motion to Dismiss MBL Lawsuit

On 11/22/16, CUNA and the National Association of Federal Credit Unions (NAFCU) filed [an amicus brief](#) in the U.S. District Court of the Eastern District of Virginia supporting the National Credit Union Administration’s (NCUA) motion to dismiss the lawsuit recently filed by the Independent Community Bankers of America (ICBA) which challenges the agency’s authority to issue that latest member business lending rule. In the brief, CUNA argues that NCUA’s interpretation of the Federal Credit

New and Revised Rules

January 1, 2017~CFPB

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 under RESPA/Reg X and TILA/Reg Z

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 3rd quarter of 2016 and provides an overview of those that are coming up in the 4th 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.

Union Act in the rule is well within the agency's legal authority and defend NCUA's definition of "member business loan" (MBL) noting it has not substantively changed since 2003 and by definition can only include loans made to a member of the lending credit union.

ICBA's main complaint in their lawsuit is that the NCUA's 2016 final MBL rule improperly excludes non-member loan participations from the definition of MBL and thus does not count loan participations against the statutory MBL lending cap. NCUA has not defined a loan participation as an MBL since 2003 but had required credit unions count loan participations in the statutory cap calculation unless a credit union obtained a waiver. The 2016 rule eliminates that and all other waiver requirements to provide regulatory relief to credit unions. CUNA and its attorneys will continue to closely monitor the litigation and support NCUA's MBL rulemaking effort.

Feedback Requested on Flood Insurance Proposal

CUNA seeks your input on an interagency proposal regarding loans in areas having special flood hazards that would implement the private flood insurance provisions of the Biggert-Waters Flood Insurance Reform Act of 2012.

Specifically, the proposed rule would require lending institutions—including credit unions—to accept policies that meet the statutory definition of "private flood insurance" in the Biggert-Waters Act. The proposal would also permit institutions to accept flood insurance provided by private insurers that does not meet the statutory definition of "private flood insurance" but does meet certain established criteria.

NCUA and the other agencies are accepting comments until January 6. Please review CUNA's [detailed summary](#) of the proposed changes and [share your input](#) by December 16.

Source: CUNA Advocacy

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

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