

Regulatory Compliance News



MOUNTAIN WEST
Credit Union Association

December 9, 2016

Compliance News

OFAC Sanctions Supporters of North Korean Government

In response to North Korea's September 2016 nuclear test, ongoing prohibited development of weapons of mass destruction (WMD), and continued violations of United Nations Security Council resolutions (UNSCRs), the U.S. Department of the Treasury has [announced](#) that its Office of Foreign Assets Control (OFAC) has designated 16 entities and seven individuals for their ties to the Government of North Korea or its nuclear and weapons proliferation efforts and identified 16 aircraft blocked as property of a designated entity. The targets include individuals and companies from North Korea's transportation, mining, energy and financial services industries. 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. Additionally, U.S. persons are generally prohibited from engaging in transactions involving the designated persons and listed aircraft.

Source: OFAC

How to Respond to an Inquiry from a Successor in Interest on a Mortgage

Q: The new mortgage servicing rules require mortgage servicers to respond to certain written requests from a person who may be a successor in interest. How can we tell that the request is from a potential successor in interest?

A: The CFBP has included a non-exhaustive list of examples in the commentary to the rule specifically to assist mortgage servicers in understanding the types of documents that will be considered Requests of Information from potential successors in interest (§1024, 36(i)).

These examples include, but are not limited to:

- A written statement from a person other than a borrower indicating that there has been a transfer of ownership to the person;
- A written statement from a person other than a borrower indicating that there has been a transfer of an ownership interest in the property to the person;
- A written statement from a person other than the borrower that the borrower has been divorced, legally separated or has died;
- A written loss mitigation application received from a person other than the borrower.

For more information see the [Supplement I to Part 1024](#)—Official Bureau Interpretations.

Bureau Warns Some Tax Refunds Will be Delayed

An [article on the CFPB Blog](#) explains why a new law will cause some refund claims on an individual tax return to be delayed. Tips for filing a

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Association Compliance Forums

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[BSA Compliance Officer Forum](#)

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return and managing for a refund delay were also provided.

CFPB Fall 2016 Rulemaking Agenda Update

The CFPB has [announced on the Bureau Blog](#) the fall semiannual update of its rulemaking agenda. The items listed included:

- Know Before You Owe (TRID) mortgage disclosure rule (reviewing comments on proposed revisions)
- HMDA (working on proposed fine-tuning amendments to 2018 HMDA rule)
- Larger participants and non-depository lender registration (ongoing)
- Arbitration (reviewing comments on proposed rule)
- Payday, auto title, and similar lending products (reviewing comments on proposed rule)
- Debt collection (potential proposed rule for debt collectors soon; ongoing study on need for rule for first-party collectors)
- Overdraft services (under research)
- Reporting under ECOA of info on credit applications from women-owned, minority-owned and small businesses (outreach and research)

Source: CFPB

CU Insured Deposits and Shares Exceed \$1T

The NCUA has [reported](#) that insured shares and deposits in federally insured credit unions grew, for the first time, to more than \$1 trillion and membership reached 106.2 million in the third quarter of 2016. Total loans outstanding at federally insured credit unions reached \$847.1 billion at the end of the third quarter of 2016, an increase of 10.1 percent from third quarter 2015. Total investments by federally insured credit unions stood at \$266.3 billion at the end of the third quarter, down 1.4 percent from the third quarter of 2015. The delinquency rate at federally insured credit unions was 77 basis points in the third quarter, down 1 basis point from 2015.

NCUA Consumer Assistance Center Portal Adds Flexibility for Credit Unions - Policy Change Allows Access to One Additional Authorized Official

Credit unions will have more flexibility to use the National Credit Union Administration's Consumer Assistance Complaint portal, the agency announced today.

NCUA has improved its consumer complaint process to allow for expanded portal access by additional authorized credit union staff.

Credit union chief executive officers may now designate an additional credit union employee or official to use the portal to view consumer complaints submitted to the Consumer Assistance Center concerning their credit unions. Previously, only CEOs had access to the portal on behalf of their credit unions. This expanded access will help credit unions provide timely responses to consumer complaints received through the portal.

The portal, which opened in November 2015, is located on NCUA's [MyCreditUnion.gov](#) site. It allows credit unions to correspond with NCUA's Consumer Assistance Center about complaints concerning their institutions. Information contained within the portal is not accessible by the public.

Using the portal is voluntary; however, users must first register to gain

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InfoSight Highlight

IRS Form 1098

Credit unions (i.e., "interest recipients"/lenders) who receive mortgage interest payments of \$600 or more during a calendar year, must report those interest payments to both the member (i.e., payer of record making those payments) and to the IRS on "Form 1098, Mortgage Interest Statement."

In 1994, the IRS issued a final regulation on reporting prepaid interest in the form of points paid on residential mortgages. Although this regulation took effect December 8, 1994, the reporting requirements do not apply to points received before January 1, 1995.

The IRS compares the 1098 provided by the credit union with the mortgage interest payments claimed as deductions on the member's income tax return.

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 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.

Advocacy Highlight

What Congressional Organizational Elections Mean for Credit Unions

CUNA's attention and focus for the better part of the last

access. Credit unions that want to use the portal should review the newly updated [frequently asked questions](#) available on the agency's website for information on how to register or request an additional user be added to their user profiles.

NCUA's Consumer Assistance Center also implemented complaint resolution procedures last year to improve the way the agency handles consumer complaints involving federal consumer financial protection laws and regulations. NCUA informed federally insured credit unions about these improvements in a June 2015 [Letter to Credit Unions](#).

Under the new complaint handling procedures, a complaint filed with the Consumer Assistance Center involving a federal consumer financial protection matter is sent to the credit union for attempted resolution, as appropriate. If the complaint remains unresolved after 60 days, the Consumer Assistance Center may begin its own investigation to determine compliance with federal consumer financial protection laws and regulations.

Source: NCUA



Training & Events Calendar

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 available [here](#).

18 months has been centered rightfully on the presidential and congressional elections, but elections for key leadership positions in Congress have taken place in just the last two weeks. The outcome of these races can have a significant impact on CUNA's ability to advance the advocacy agenda.

While Speaker of the House Paul Ryan (R-WI) was not formally challenged for reelection, his return to the top spot in the House of Representatives ensures credit unions have a strong supporter of the credit union tax status leading the chamber. On the Democratic side, Minority Leader Nancy Pelosi (D-CA) survived a challenge from Representative Tim Ryan (D-OH), but made several concessions that could open up new leadership positions for credit union leaders in the future.

With most of the remaining leadership in both parties returning to their current roles, CUNA paid close attention to the outcome of several down ballot races. Democrats, for example, elected Representative Linda Sanchez (D-CA) to serve as Vice Chairman of the House Democratic Caucus in a razor close election over Representative Barbara Lee (D-CA). Both Sanchez and Lee are strong credit union supporters; however, Sanchez has become a vocal supporter of the credit union tax status in her position on the House Ways and Means Committee.

Speaking of the Ways and Means Committee, current Ranking Member Sander Levin (D-MI) stepped aside from his top spot on the committee. In doing so, he appeared to set up a contested election between Representatives Richard Neal (D-MA) and Xavier Becerra (D-CA). However, California Governor Jerry Brown (D) tapped Becerra to be California attorney general, replacing Senator-elect Kamala Harris (D-CA). This move leaves Neal, who has demonstrated a strong understanding of the credit union difference, a clear shot at the top Democratic seat on Ways and Means.

Republicans had their share of noteworthy down ballot elections, but one to which CUNA paid particularly close attention was an election for the top seat on the House Energy and Commerce Committee, which has joint jurisdiction over data breach legislation. Representatives Greg Walden (R-OR) and John Shimkus (R-IL) faced each other in a race to succeed term-limited Chairman Fred Upton (R-MI), with Walden prevailing. Walden is a credit union supporter and has worked closely with the Northwest Credit Union Association. Late in this term, he held a subcommittee hearing on reauthorizing the Telephone Consumer Protection Act (TCPA) and CUNA has found him to be receptive to their concerns regarding merchant data breach.

With most of the House Committee chairs and ranking



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 Comment Calls – Due Dates on Proposed Rules

December 9, 2016~NCUA

[Field of Membership](#)

December 16, 2016~NCUA

[Private Flood Insurance](#)

members having been determined, subcommittee leadership will be flushed out in the coming days and weeks. These decisions are important, just like the down ballot elections mentioned above, because they help set up the next group of committee leaders. CUNA will be following these decisions closely and eager to work with the new leaders.

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

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](#)

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

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