

## Regulatory Compliance News



**MOUNTAIN WEST**  
Credit Union Association

March 10, 2017

### Compliance News

#### Proposal to Delay Labor Department Fiduciary Rule

The Department of Labor's Employee Benefits Security Administration has published in this week's *Federal Register* a [proposal](#) to extend for 60 days the April 10, 2017, applicability date of Labor's "Fiduciary Conflict of Interest" rule defining who is a "fiduciary" under the Employee Retirement Income Security Act (ERISA) and the Internal Revenue Code of 1986 (Code), and the applicability date of related prohibited transaction exemptions including the Best Interest Contract Exemption and amended prohibited transaction exemptions (collectively PTEs) to address questions of law and policy. The proposed delay would be to afford the Labor Department time to examine whether the fiduciary rule may adversely affect the ability of Americans to gain access to retirement information and financial advice, and to prepare an updated economic and legal analysis concerning the likely impact of the final rule as part of that examination, all as required by a [Presidential Memorandum to the Secretary of Labor](#).

See the "Advocacy Highlight" section of this newsletter for information on commenting on this change.

*Source: Federal Register*

#### From the GAC: Call Report Modernization – Update

The Call Report Modernization (CRM) project is underway, and here is some preliminary information, from the recent GAC. It consists of four phases:

- Outreach (on-going)
- Analyze (happening now)
- Decide
- Implement

There's an internal NCUA working group focused on the CRM project.

The working group is in the "analysis" phase and is reviewing the 53 comments received during "outreach." While the comment period has closed, NCUA is still interested in hearing from credit unions. If you have suggestions for improvements please email [CallReportMod@ncua.gov](mailto:CallReportMod@ncua.gov).

The working group is conducting a review of all account codes, data fields, forms and instructions that are used in the Call Report and the CU Profile, to determine where improvements are needed and where functionality can be streamlined and/or enhanced.

As for implementation, credit unions can look for the first wave of Call Report changes brought forth by the CRM project and the working group, in about a year, March 2018.

### Your Credit Union's Regulatory Compliance Support Staff

#### Mark Robey

**Sr. VP of Regulatory Affairs**

Phone: 800-477-1697, ext. 3327

Direct: 720-479-3327

#### Melia Heimback

**Director of Compliance Operations**

Phone: 800-477-1697, ext. 3325

Direct: 720-479-3325

#### Julie Kappenman

**Director of Association Compliance Services**

Phone: 800-477-1697, ext. 3324

Direct: 720-479-3324

#### Donna Gibbs

**Coordinator Association Services/Compliance**

Phone: 800-477-1697, ext. 3281

Direct: 720-479-3281

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

A full completion date for the project is currently undetermined--but once the project is completed the reporting process will offer improved instruction, less redundancy, and more clarification.

### From the GAC – Extended Exam Cycle

For those of you unable to attend CUNA's GAC, here are seven takeaways on the extended examination cycle from the breakout session on NCUA examinations and Call Reports...

It may take two years for NCUA to fully transition qualifying credit unions to the extended exam cycle, so there may be instances where NCUA schedules exams that aren't following the extended cycle.

NCUA will notify credit unions approximately four weeks in advance of the examination.

Small federal credit unions with limited segregation of duties that would otherwise qualify for an extended examination cycle, may be examined more frequently (remember that a limited segregation of duties was listed as a supervisory concern and an area of focus for 2017).

For federal credit unions between \$30 - \$50 million coded CAMEL 1, 2, or 3, it is up to the discretion of the NCUA region to determine if the examination will follow the procedures used for the small credit union examination program (SCUEP).

There's a pilot program underway in Region 4 to reduce NCUA's presence on-site. Region 4 consists of CO, IL, IA, KS, MN, MO, MT, NE, NM, ND, OK, SD, TX, and WY. Looking ahead long-term, NCUA is thinking virtual examinations.

NCUA will try to conduct federally insured state-chartered credit union examinations with the appropriate state supervisory authority. If NCUA is unable to schedule a joint exam, then NCUA will conduct an independent insurance review.

NCUA has established its working group with state regulators. Based on the discussions of future meetings of the working group, it is possible that NCUA may adopt an alternating exam approach for federally insured state-chartered credit unions.

*Source: CUNA Compliance Blog*

### NCUA Webinar on Providing Electronic Financial Services

[The NCUA has announced](#) it will host a webinar, "Pathways to Offering E-Services," to help credit unions better understand how to put electronic financial services to work for their members. The free 90-minute webinar will be presented on Wednesday, March 22, 2017, beginning at 2 p.m. EDT.

### McWatters Discusses Possible Closing of Stabilization Fund

NCUA acting Chairman McWatters, in an [address](#) at the CUNA 2017 Governmental Affairs Conference, has informed credit unions they can anticipate a "thoughtful loosening" of regulations, a streamlined agency budget, and the possible closure of the Temporary Corporate Credit Union Stabilization Fund in 2017.

*Source: NCUA*

### NMLS Posts Reactivation Reminder

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



### Put a CCRS at Your Fingertips!

Easily apply [Consumer Compliance Rating System](#) (CCRS) expectations with AffirmX. CCRS is a supervisory policy for evaluating a financial institution's adherence to consumer compliance requirements. By adding AffirmX to your team of experts, a credit union can meet examiner expectations to proactively prevent, self-identify, and correct compliance issues. AffirmX is the leading cloud-based compliance solution that delivers a near-real time risk-based dashboard of your compliance operations. AffirmX provides document review for all areas of regulatory compliance, including ACH, Advertising, BSA, Deposits, Loans, and Operations, as well as helps you create and manage your Cybersecurity Risk Assessment.

For more information about our compliance services, please contact Melia Heimbeck at: [mheimbeck@mwcu.com](mailto:mheimbeck@mwcu.com) or (720) 479-3325 or 1 (800) 477-1697 ext. 3325



### InfoSight Highlight

#### Truth In Lending Act (Regulation Z)

The purpose of the Truth in Lending Act (TILA), implemented by Regulation Z, is to promote the informed use of consumer credit by requiring disclosures about its terms and costs, to ensure that consumers are provided with greater and more timely information on the nature and costs of the residential real estate settlement process, and to effect certain changes in the settlement process for residential real estate that will result in more effective advance disclosure to home buyers and sellers of settlement costs. The regulation also includes substantive protections. It gives consumers the right to cancel certain credit transactions that involve a lien on a consumer's principal dwelling, regulates certain credit card practices, and provides a means for fair and timely resolution of credit billing disputes.

Regulation Z applies to each individual or business that offers or extends credit, when four conditions are met:

- The credit is offered or extended to consumers;
- The offering or extension of credit is done regularly;
- The credit is subject to a finance charge or is payable by a written agreement in more than four installments; and
- The credit is primarily for personal, family or household

The NMLS has posted a reminder of the need for any mortgage loan originator who failed to complete the renewal process by December 31, 2016, to [reactivate that registration](#) before acting as a mortgage loan originator in 2017.

Source: NMLS

## Advocacy Highlight

### Delay of Fiduciary Rule – Opportunity to Comment

As indicated in the Compliance News section of this newsletter, the Department of Labor (DOL) has proposed a 60-day delay of the agency's fiduciary ("conflict of interest") rule. The rule, which currently requires compliance by April 10, 2017, would impact anyone who provides investment advice or recommendations for a fee or other compensation with respect to ERISA-covered retirement plans or IRAs.

The [proposed delay was published](#) in response to President Trump's [February 3, 2017 memorandum](#) directing the DOL to examine whether the final fiduciary rule "may adversely affect the ability of Americans to gain access to retirement information and financial advice."

The Presidential Memorandum also instructs the DOL to prepare an updated economic and legal analysis concerning the likely impact of the fiduciary rule, considering among other things:

- Whether the anticipated applicability of the fiduciary rule has harmed or is likely to harm investors due to a reduction of Americans' access to certain retirement savings offerings, retirement product structures, retirement savings information, or related financial advice;
- Whether the anticipated applicability of the fiduciary rule has resulted in dislocations or disruptions within the retirement services industry that may adversely affect investors or retirees; and
- Whether the fiduciary rule is likely to cause an increase in litigation, and an increase in the prices that investors and retirees must pay to gain access to retirement services.

President Trump's memo directs the DOL to rescind or revise the rule if the review determines that it is inconsistent with the Administration's priorities regarding consumer access to retirement information and financial advice.

**Comments on the proposal to extend the applicability date for 60 days must be submitted to DOL on or before March 17, 2017.**

**Comments regarding the examination described in the President's Memorandum must be submitted on or before April 17, 2017.**

Click [here](#) for the proposal. The proposed delay will be effective once the final rule is published in the Federal Register.

CUNA plans to comment on the proposed delay. Please contact [Leah Dempsey](#) in CUNA Advocacy by March 13, 2017 with your credit union's concerns regarding the fiduciary rule.

### TCPA Petition Seeks to Make it More Difficult for Credit Unions to Contact Members

A recent TCPA petition filed by Craig Cunningham and Craig Moskowitz urges the Commission to initiate a rulemaking to overturn the longstanding interpretation that "prior express consent" includes implied consent resulting from a party's providing a telephone number to the caller. The petitioners have requested that the Commission issue a

purposes.

If a credit card is involved, however, certain provisions apply even if the credit is not subject to a finance charge, or is not payable by a written agreement in more than four installments, or if the credit card is to be used for business purposes.

In addition, certain requirements apply to persons who are not creditors, but who provide applications for home equity plans to consumers.

Certain provisions within Regulation Z apply to institutions of higher education.

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

## Compliance Videos

### Q4 2016 Overview and Q1 2017 Changes Coming

In this [NEW video](#), Glory LeDu reminds us of the regulatory changes that became effective in the 4<sup>th</sup> quarter of 2016 (which includes the DELAY of the DOL Overtime rules). Glory also provides a review of the changes effective in the 1<sup>st</sup> Quarter of 2017 including the updates to Member Business Lending and the new requirements for HMDA reporting for 2017. This also includes the updated threshold changes effective on 1/1/2017.

### Member Business Lending

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

## 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.



## Compliance Calendar

**April 10, 2017**

- [Fiduciary](#)

**April 30, 2017**

- 5300 Call Report Due to NCUA

declaratory ruling to remove uncertainty regarding the meaning of “prior express consent” resulting from the 1992 and 2008 Orders, and from 2012, 2014 and 2015 Commission orders to the extent they reiterate the Commission’s positions in the 1992 and 2008 Orders.

In short, the petition is urging the FCC to adopt a rule requiring that every call made to either a cell phone or residential line must be made pursuant to consent that is expressly stated, specifically pertaining to auto-dialed or pre-recorded calls, at a specified number, and in writing. This means that a credit union could not rely on implied consent when for instance a member provides their cell phone number in an application, or other form.

This petition would reverse the FCC’s 25-year old interpretation that persons who knowingly release their phone numbers have given their consent to be called under the TCPA.

We believe that such a dramatic change would prevent credit union members from receiving important communications on their mobile phones, communications that provide critical information that consumers want and need to receive. It would also likely require credit unions to make fundamental changes to their practices for obtaining consent in conformity with the TCPA’s requirements.

*Source: CUNA Removing Barriers Blog*



### Training & Events Calendar

#### **March 14**

Webinar: [Fair Lending Risks in Third-Party Relationships](#)

#### **March 15**

Webinar: [Flood Compliance in Lending Part 2: Post Loan Closing](#)

#### **March 16**

Webinar: [Reg E Requirements for Debit Card Error Resolution](#)

#### **March 21**

Webinar: [Opening Deposit Accounts Online: Rules, Risks & Best Practices](#)

#### **March 22**

Webinar: [Form UCC-1: Initial Filing & Perfection of Security Interests](#)

#### **March 28**

[BSA Officer Training - Phoenix](#)

#### **March 29**

Webinar: [20 Common Collection Pitfalls](#)

#### **March 30**

Webinar: [ACH Rules Update 2017](#)

#### **April 5**

Webinar: [CFPB Real Estate Loan Collection Rules for Mortgage Servicers & Your Credit Union](#)

#### **April 20**

Webinar: [How to Build an Effective & NCUA Compliant MBL Credit Administration Program](#)

#### **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](#)

#### **January 1, 2018**

[HMDA/Reg C](#)

#### **March 16, 2018**

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

#### **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**

#### **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](#)

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

#### **March 9, 2017**

[Telephone Consumer Protection Act \(TCPA\)](#)

#### **March 13, 2017**

[DOL Fiduciary Rule](#)

#### **March 15, 2017**

[FinCEN Update of SAR Fields](#)

#### **May 1, 2017~CFPB**

[Alternative Data](#)

#### **May 9, 2017 ~ NCUA**

**April 25**  
[BSA Officer Training - Denver](#)

**April 26**  
Webinar: [BSA Compliance Hotspots: Regulators, Litigation, Policies & Procedures](#)

### **MLO Training**

Mountain West Credit Union Association has partnered with the Credit Union National Association (CUNA) to bring you an [8 Hour SAFE Comprehensive Mortgage Loan Originator Course](#). This course will cover the necessary Federal laws and regulations and meets the continuing education requirements of the SAFE Act inclusive of (3) hours federal laws & regulations, (3) hours ethics, consumer protection & fair lending, and (2) hours lending standards for the non-traditional mortgage product marketplace. Event pricing and registration is made available directly through the CUNA website – click on the location below for details.  
*Registration will require a CUNA username and password.*

- **May 9** - [Mortgage Loan Originator Training - Denver](#)

[Alternative Capital](#)

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

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