

## Regulatory Compliance News



**MOUNTAIN WEST**  
Credit Union Association

March 24, 2017

### Compliance News

#### Bureau Levies \$1.75M HMDA Penalty

Last week, the CFPB ordered Nationstar Mortgage, a national nonbank mortgage lender, to pay a \$1.75 million penalty for HMDA reporting errors. This is the largest HMDA civil penalty imposed by the Bureau to date, and the action stems from Nationstar's repeated and substantial reporting errors due to its flawed HMDA compliance system.

On three separate data reviews over a three-year period, the Bureau found error rates exceeding the applicable resubmission threshold of 10%.

Additionally, multiple deficiencies in Nationstar's compliance mechanisms were found, including:

- Lack of centralized HMDA data collection and validation procedures;
- Failing to clearly define employees' roles and responsibilities for HMDA data collection and reporting;
- Not performing formal compliance tests, audits, or transaction tests of HMDA data;
- Allowing inconsistent data definitions among different business lines;
- Inadequate vendor monitoring; and
- Not implementing adequate compliance management measures to detect and prevent these deficiencies.

This enforcement action stems from data collected and reported from 2012-2014, but it is important to keep in mind that when the new HMDA rule becomes effective next year, credit unions will be required to collect and report significantly more data points than under the current rule. Now is the time to start ensuring that your internal HMDA compliance management system is accurate and effective, and that your vendors are getting up to speed as well. The Nationstar action shows that this is a hot topic on the CFPB's radar, and in this new administration they seem to be focusing on enforcement rather than rulemaking, at least for the time being. You can view the full text of the consent order [here](#). Additionally, please refer to CUNA's [HMDA Final Rule Analysis](#) and the HMDA section of the [E-guide](#) for more information on the rule.

*Source: CFPB and CUNA Blog*

#### OFAC Sanctions Kuwait-based Terrorist Financier

OFAC has announced it has taken action against al-Nusrah Front (ANF) and al-Qa'ida (AQ) facilitator Muhammad Hadi al-'Anizi (al-'Anizi). The Kuwaiti-based terrorist financier is being designated as a Specially Designated Global Terrorist (SDGT) pursuant to Executive Order 13224, which targets terrorists and those providing support to terrorists or acts of terrorism. As a result of today's action, all property and interests in property of al-'Anizi subject to U.S. jurisdiction are blocked, and U.S.

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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.

Visit [mwcua.com](http://mwcua.com) to register

### Association Compliance Forums

Click on one of the below links to subscribe

[Compliance Forum](#)

[BSA Compliance Officer Forum](#)

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

persons are generally prohibited from engaging in transactions with him.

Source: OFAC

### Agencies Issue EGRPRA Report to Congress

A joint [press release](#) has [been issued](#) by the member agencies of the FFIEC regarding their delivery to Congress of a [joint report](#) detailing their review of rules affecting financial institutions. The review was conducted as part of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA), which requires the federal banking agencies, along with the FFIEC, to conduct a review of their rules at least every 10 years to identify outdated or unnecessary regulations.

Source: FFIEC

## Advocacy Highlight

### Prepaid Accounts Rule Delay Proposal Published

The CFPB's previously announced proposal to delay for six months the effective date of its Prepaid Accounts rule was [published](#) in the *Federal Register*. The 21-day comment period ends on April 5, 2017.

### CU Growth Trends Continue

The NCUA [Quarterly U.S. Map Review for the fourth quarter 2016](#) has been posted, and indicates federally insured credit unions saw continued improvement in nearly every category during the fourth quarter of 2016, according to state-level data compiled by the NCUA.

### New Mexico Legislature Passes Data Breach Notification and CDFI Bill

After months of advocating with New Mexico lawmakers, the New Mexico League scored two major victories for credit unions in the state legislature.

The New Mexico legislature unanimously passed a credit union-supported data breach notification bill, The Data Breach Notification Act, H 15. The legislation requires retailers and any other entity that gathers and stores personal information to notify affected parties within 30 days if the entity believes there is a serious risk of identity theft or fraud. The bill is expected to help stop fraud and identity theft.

Businesses that do not comply could be fined up to \$150,000. If the measure becomes law, Alabama and South Dakota would be left as the only states without a data breach notification law.

The New Mexico League also successfully ushered H 342, The Community Development Financial Institution Act, through the New Mexico Legislature. The bill is expected to grow jobs in New Mexico by allowing the State to invest in economically distressed communities through public-private partnerships. In addition to helping to create jobs, the bill would also provide affordable financial services and assist small businesses with seed capital. The bill is in response to growing concern that distressed New Mexico communities need direct support.

### Credit Union Bills Pass Legislatures in Georgia and Iowa

Recently, a Georgia League-backed bill, H 143, with multiple pro-credit union provisions to help improve operations and alleviate compliance, has passed the state legislature and is being considered by the Governor. If enacted, the measure would:

- Create flexibility and enhancements in the audit provisions for smaller credit unions by permitting different forms of audits to be held on a

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

### EMV Implementation (Credit Card Security)

EMV stands for Europay, MasterCard and Visa, the developers of global standards for integrated circuit cards (IC cards or "chip cards"). Credit cards that use EMV technology have an embedded microprocessor chip instead of a magnetic stripe. While magnetic stripes store credit card numbers and expiration dates, which can be used to make counterfeit cards, EMV-enabled cards encrypt transaction data differently each time the card is used.

Major credit card companies are pushing merchants and financial institutions to switch to EMV-enabled cards by making them liable for any fraudulent charges if they haven't converted. The liability shift became effective for MasterCard/Visa POS transactions and for MasterCard ATM transactions Oct 1, 2016. The liability shift for Visa ATM transactions will occur in October 2017. The shift in liability for automatic fuel dispensers for MasterCard/Visa is expected to occur in October 2020.

Currently, Point of Sale (POS) counterfeit fraud liability is held by card issuers. With the liability shift, if a contact chip card is presented to a merchant that has not adopted contact chip terminals, liability for counterfeit fraud will

case-by-case basis;

- Modify the law governing merger votes;
- Outline that businesses headquartered within the field of membership may be eligible for membership in the same manner as a person;
- Add "working" to the eligible criteria for field of membership when an individual is working in the approved geographic area;
- Add whole loans to the permissible items for investment;
- Improve the law that governs fixed assets and real estate property held by the credit union;
- Outline the ability of financial institutions to charge a convenience fee;
- Permit financial institutions to operate on Sundays;
- Permit the regulator to include third-party providers in its examinations;
- Streamline the calculation for lending limits; and
- Increase the age at which a minor can open an account.
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- In Iowa, the League is supportive of the credit union regulator's clean-up bill, S 409, which has also passed the state legislature and is being considered by the Governor. With a limited scope, the legislation would:
  - Create a process by which the regulator can share confidential exam information with a third party (like a potential merger partner) and;
  - Permit the regulator to call a meeting of a credit union board unrelated to the examination process.

The Iowa league is also working on a bill that would permit credit unions to provide deferral payment programs and an amendment to the bill that will provide regulatory relief by allowing credit union employees and directors access to overdraft protection.

## 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](#)

#### 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](#)

#### April 26

shift to the merchant's acquirer, according to Visa's website. Visa required U.S. acquirers to support merchant acceptance of chip transactions by April 1, 2013.

Unfortunately, EMV does not protect consumers from "card-not-present transactions" -- those made via the Internet or phone in which the cardholder is not physically present -- because no chip transaction is involved. Additionally, when a merchant terminal and/or point-of-sale system is hacked, an EMV chip still may have provided enough information to be used by criminals online. In countries using EMV technology, fraud is down at stores, but online fraud has increased.

Chip technology comes in two types: contact and contactless. Contact chips include an integrated circuit or chip that communicates information to a point of transaction terminal. Contactless chips employ a radio frequency or infrared technology that allows the terminal to communicate or transact without physically touching the card.

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.

most important changes in Washington for credit



## Compliance Calendar

### April 10, 2017

- [Fiduciary](#)

### April 30, 2017

- 5300 Call Report Due to NCUA

### July 30, 2017

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

**May 3**

Webinar: [Revisiting TRID Line-by-Line Part 1: Loan Estimate](#)

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### **BSA Officer Training**

Mountain West is offering BSA Officer Training on April 25 in Denver, CO, led by Chris Collver. See details below.

This full day seminar provides new and experienced BSA officers not only the newest information as it relates to the Bank Secrecy Act and OFAC requirements, but also the fundamentals of the duties of being a BSA Officer. The registration fee is \$229/ person and includes instruction, lunch and materials.

- April 25: [BSA Officer Training – Denver, CO](#)
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### **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](#)

- 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](#)
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### **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](#)

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### **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](#)

**March 27, 2017**

[Prepaid Accounts – Proposed Delay](#)

**May 1, 2017~CFPB**

[Alternative Data](#)

**May 9, 2017 ~ NCUA**

[Alternative Capital](#)

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

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