

Regulatory Compliance News



MOUNTAIN WEST
Credit Union Association

April 21, 2017

Compliance News

OFAC Adds SDN Designations

The Treasury Department's Office of Foreign Assets Control (OFAC) has added one entity and six individuals to its SDN List with a combination of designations under OFAC's SDGT, LIBYA3, ISIL and IRAN-HR sanctions programs. It has also added two individuals to its list of Specially Designated Nationals under its Central African Republic (CAR) sanctions. The office also removed a Zimbabwe sanctions listing.

Source: OFAC

Bureau Proposes Amendments to Clarify HMDA Rule

The Consumer Financial Protection Bureau has released a proposed rule to help financial institutions comply with the 2015 HMDA Final Rule by clarifying the information they will be required to collect and report about their mortgage lending. The [proposed rule](#) contains a number of clarifications, technical corrections, and minor changes to the HMDA regulation. These include clarifying certain key terms, such as "temporary financing" and "automated underwriting system." The proposal would also, for example, establish transition rules for reporting certain loans purchased by financial institutions. Another proposed change would facilitate reporting the census tract of a property, using a new geocoding tool the CFPB plans to provide online. Comments on the proposal will be accepted for 30 days after its publication in the *Federal Register*.

Source: CFPB

ACH Operations Bulletin #2-2017: Same Day ACH and Debit Processing

NACHA's rollout of Same Day ACH is proceeding to Phase 2, as Same Day debit capabilities will go live on September 15. In preparation for this milestone, NACHA has released a list of recommended action items to be performed in advance of September 15.

Most of these steps can be categorized as "hygiene," e.g., confirming the accuracy of Effective Entry Dates, and ensuring that third-party senders and software vendors are adhering to proper practices. However, one of NACHA's messages is worthy of emphasis: *"Even those not planning to use same-day processing for ACH debits should take reasonable care to prevent unintentional same-day ACH debits."*

The September 2016 Phase 1 rollout of same day ACH credits went extremely smoothly, with no reports of significant operational issues and more than \$5 billion of monthly volume being processed. The September 2017 event will be more complex. Greatly expanded use cases will likely lead to higher volume, while the process flow of ACH debits heightens the potential for the unintentional transactions NACHA notes above.

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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.

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Network rules require that all financial institutions stand ready to receive same day ACH debits by September 15, even those that elect not to originate them.

A complete version of NACHA's bulletin is available [here](#).

Source: CUNA/NACHA

Back 2 Basics: 5 Steps to Follow When You Receive a Garnishment Notice

1. Determine whether a "Right to Garnish Federal Benefits" is Attached

Prior to taking any other action related to a garnishment order, and no later than two business days after receiving the order, a credit union must review the order to determine if the United States or a State child support enforcement agency has attached or included a Notice of Right to Garnish Federal Benefits.

If such a notice is attached or included with the garnishment order, then the credit union must follow its customary procedures for handling garnishments.

If no such notice is attached or included, then the credit union must perform an account review to determine whether the account holds any federal benefit payments, and if necessary, protect such federal benefit funds from garnishment.

2. Perform a Federal Benefits Account Review

No later than two business days following receipt of the order the credit union must perform an account review.

In an account review the credit union will examine the deposits made into the account for the previous two-month period (the lookback period) to determine if a benefit agency has deposited a benefit payment into the account during that time. For example, the credit union receives a garnishment order on Wednesday, March 17 and begins the account review that same day. The lookback period begins on Tuesday, March 16 (the day preceding the beginning of the account review) and ends two months earlier, on January 16.

If the account review shows that a benefit agency did not deposit a benefit payment into the account during the lookback period, then the credit union must follow its customary procedures for handling the garnishment order.

If the account review shows that a benefit agency deposited a benefit payment into the account during the lookback period, then the credit union must protect the benefit funds as required by this regulation. ([31 CFR Part 212—Garnishment Of Accounts Containing Federal Benefit Payments](#))

The credit union must perform an account review regardless of:

- The presence of other funds, from whatever source, that may be co-mingled in the account with funds from a benefit payment;
- The existence of a co-owner on the account;
- The existence of benefit payments to multiple beneficiaries, and/or under multiple programs, deposited in the account;
- The balance in the account, provided the balance is above zero dollars on the date of account review;

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 or (720) 479-3325 or 1 (800) 477-1697 ext. 3325



InfoSight Highlight

Children's Online Privacy Protection Act

The Children's Online Privacy Protection Act (COPPA) was enacted to prevent unfair or deceptive acts or practices in the collection, use, and/or disclosure of personal information from and about children under 13 years of age on the Internet. Operators of websites or online services (operators) who have actual knowledge that they are dealing with a minor must comply with COPPA.

COPPA required the Federal Trade Commission (FTC) to issue rules concerning the collection of personal information from children under the age of 13. Under COPPA, NCUA has authority to enforce compliance with the act by Federal credit unions. The FTC enforces compliance with COPPA by state-chartered credit unions.

How does COPPA affect the credit union?

Before the credit union collects or maintains personal information obtained from the Internet from a child, the credit union must adopt policies or procedures detailing how such information will be collected, used, disclosed, and what methods will be used to ensure confidentiality.

If a credit union is currently collecting information on the Internet from children, the credit union should

- Instructions to the contrary in the order; or
- The nature of the debt or obligation underlying the order.

The credit union must perform the account review separately for each account in the name of an account holder named on the garnishment.

3. Protect Your Members' Benefit Payments

The credit union must immediately calculate and establish the protected amount for each account in the name of an account holder and ensure that the account holder has full and customary access to any protected funds. The credit union must not freeze federal benefits in response to the garnishment order.

For any funds in an account in excess of the protected amount, the credit union must follow its customary procedures for handling garnishment orders, including the freezing of funds.

The credit union must perform the account review only one time upon the initial service of a garnishment order. If the credit union is subsequently served a new or different garnishment order against the same account holder, the credit union must perform a separate and new account review.

The credit union must not continually garnish amounts deposited or credited to the account following the date of account review, and must not freeze any funds subsequently deposited or credited, unless the credit union is served with a new or different garnishment order.

The credit union may not charge or collect a garnishment fee against a protected amount. The credit union may charge or collect a garnishment fee up to five business days after the account review if funds other than a benefit payment are deposited to the account within this period, provided that the fee does not exceed the amount of the non-benefit deposited funds.

4. Notify Your Member

The credit union must send a notice to the member named in the garnishment order when:

- A benefit agency deposited a benefit payment into an account during the lookback period;
- The balance in the account on the date of account review was above zero dollars and the credit union established a protected amount; and
- There are funds in the account in excess of the protected amount.

The credit union must send the notice within 3 business days from the date of the account review, directly to the account holder. Only information and documents pertaining to the garnishment order, including other notices or forms that may be required under State or local government law, may be included in the communication. The credit union may issue one notice with information related to multiple accounts of an account holder.

The notice must provide information to your member explaining:

- *Why am I receiving this notice?*
- *What is garnishment?*
- *What has happened to my account?*
- *Do I need to do anything to access my protected funds?*

immediately review what it is collecting, how it is used, what disclosures are being made, and whether its practices comply with COPPA.

COPPA is of particular concern for credit unions that have portions of their website that have content that is designed to appeal to children. If any information is collected about children over the website, then credit unions should examine whether they are subject to COPPA requirements.

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

Compliance Videos

First Quarter 2017 Recap and Second Quarter Outlook

This [new video](#) provides a recap from Glory LeDu, Director of League System Relations, of the first quarter compliance updates and gives a “sneak peek” of what is to come in the second quarter of 2017. Included are such topics as the NCUA changes to Member Business Lending, the Fixed Assets Rule and the Chartering and Field of Membership Manual as well as a minor revision to the CFPB’s HMDA information. There were also annual updates from the CFPB, FRB and the IRS. The FFIEC has also updated the Uniform Interagency Consumer Compliance Rating System, which is mentioned in this video as well as covered in depth in a separate video (see below).

FFIEC Consumer Compliance

In this [new video](#), Glory LeDu explains the updates made to the Uniform Interagency Consumer Compliance Rating System by the Federal Financial Institutions Examination Council (FFIEC), as well as the CFPB’s requirements for an effective Consumer Compliance Management System. Credit unions should review this video to determine how their current compliance management system stacks up, as examiners will be using this rating system to evaluate credit unions on compliance factors and will be assigning an overall Consumer Compliance Rating.

Member Business Lending

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

Advocacy Highlight

Governors in Montana and Tennessee Consider Credit Union Bills

Montana’s governor, Steve Bullock, is contemplating signing prize-linked savings legislation, S. 25. The measure would authorize credit unions and banks to conduct the promotional programs. The programs are designed to help individuals save, linking winning to savings. Program advocates describe it as a win-win for consumers as they set some money aside into savings, gain interest and earn chances to win. While there are many prize winners, even

- *Who garnished my account?*
- *What types of Federal benefit payments are protected from garnishment?*

Sample notices are available in Appendix A to the rule.

5. Retain Your Records

A credit union must retain records of account activity and actions taken in response to a garnishment order for a period of not less than two years from the date on which the credit union receives the garnishment order.

Source: CUNA Compliance Blog



Training & Events Calendar

April 26

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

April 27

Webinar: [Form UCC-3 & Amending, Continuing or Terminating Security Interests](#)

May 3

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

May 4

Webinar: [Complex ACH Origination Issues for ODFIs: Compliance, Exceptions, Monitoring](#)

May 11

Webinar: [Surviving an FFIEC IT Security Exam](#)

May 16

Webinar: [Legal & Compliance Issues in Obtaining Priority in Collateral, Including Purchase Money Security Interests](#)

May 17

Webinar: [Conducting an RDC Risk Assessment: Compliance Findings & Regulatory Guidance](#)

May 18

Webinar: [HMDA Data Collection Rules: Preparing for the Extensive Jan 1, 2018 Changes](#)

May 23

Webinar: [How to Handle Unauthorized Electronic Fund Transfers Under Reg E](#)

May 24

Webinar: [Account Documentation Series: Non-resident Alien Accounts](#)

May 31

Webinar: [Mastering Escrow Compliance: Analysis, Rules, Forms & Accounting](#)

MLO Training

Mountain West Credit Union Association has partnered with the Credit Union National Association (CUNA) to bring you an [8 Hour SAFE](#)

those who don't win a prize, walk away with the savings they set aside and any interest earned. Montana's credit unions lobbied extensively for the bill and the Governor has until May 9 to sign it.

In Tennessee, the amount that a credit union can pay out from a deceased member's account or safe deposit box will increase to \$15,000 from \$10,000 if Governor Haslam signs H. 150. The change would give credit unions greater flexibility to assist the families of deceased members during difficult times.

Letter Sent in Support of Reducing the Regulatory Burden

On 4/4/17, CUNA and the Leagues [sent a letter](#) to Chairman Crapo (R-ID) and Ranking Member Brown (D-OH) of the Senate Committee on Banking, Housing and Urban Affairs. The letter is in response to the [Committee's hearing](#) on fostering economic growth, held at the end of March, where they requested proposals to spur the economy.

In the letter, CUNA and the Leagues outline a number of changes that should be made in order to reduce the one-size fits all overly burdensome regulations currently imposed on credit unions – which in turn would help grow the economy and stop impeding their ability to provide safe and affordable products and services.

Highlights Include

- Further clarifying and enhancing the CFPB's [Exemption Authority](#);
- Providing Parity in the treatment of 1-4 Family Non-Owner Occupied Residential Loans;
- Eliminating the Statutory Member Business Lending Cap; and
- Modernizing the Credit Union Fields of Membership.

In addition to suggested changes, which were selected in an effort to be directly responsive to the Committee's emphasis on economic growth, there are several more ways to reduce regulatory burden, and CUNA and the Leagues will continue to work with both the [House](#) and Senate to fight for a common-sense regulation agenda. This includes structural changes to the CFPB, modifications to harmful CFPB rules, among other priorities to reduce the regulatory burden on credit unions allowing them to more fully serve their members.

Learn more and get involved with the [Campaign for Common-Sense Regulation](#)!

Source: CUNA Removing Barriers Blog

CUNA Advocacy Report

The [CUNA Advocacy Update](#) is published at the beginning of every week and keeps you on top of the

[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](#)

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

May 1, 2017~CFPB
[Alternative Data](#)

May 4, 2017~CFPB
[CFPB's Amendments to Equal Credit Opportunity Act \(Reg B\) Ethnicity and Race Information Collection](#)

May 9, 2017 ~ NCUA
[Alternative Capital](#)

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

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](#)

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