

Regulatory Compliance News



MOUNTAIN WEST
Credit Union Association

June 16, 2017

Compliance News

FFIEC Updated CyberSecurity Tool

The Federal Financial Institutions Examination Council (FFIEC) released an update to the Cybersecurity Assessment Tool at the end of May. This update:

- Addresses changes to the FFIEC IT Examination Handbook by providing a revised mapping in Appendix A to the updated Information Security and Management booklets; and
- Provides additional response options, allowing financial institutions to include "supplementary or complementary behaviors, practices and processes that represent current practices of the institution in supporting its cybersecurity activity assessment."

Click [here](#) for the May 31, 2017 press release and [here](#) to access the updated tool.

Source: FFIEC

NCUA Releases New Call Report Form and Instructions

NCUA has released its new [5300 Call Report Form](#) and accompanying [Form Instructions](#), which become effective September 30, 2017. This release is especially important for credit unions engaged in commercial lending because the previous version of the call report had not yet been updated to reflect the January 2017 changes to the Member Business Loans (MBL) rule. One of the most significant changes to the rule is the new distinction between commercial loans and member business loans, and the new Call Report is updated to enable credit unions to report commercial loans and MBLs as separate categories on the form. CUNA has received a lot of questions about the definition of commercial loans vs. MBLs, which prompted them to create this [chart](#) a few months ago. The Call Report Instructions contain a very similar list to help clarify the distinction as well. They also provide illustrative examples to assist credit unions in calculating the loan amount they need to report for each category, for example:

Commercial Loan Definition Examples:

- A member has \$35,000 in commercial purpose loans and the credit union grants this member an additional \$40,000 in a commercial purpose line of credit, the credit union should report both loans as commercial loans as of the date of the second loan is granted regardless of whether the line is drawn on.
- In this example, the same member subsequently paid down the \$35,000 commercial purpose loan to \$15,000 and has a \$34,000 balance on the business line of credit, making the total outstanding balance \$49,000. The aggregate outstanding balance plus unfunded commitments less any portion secured by shares in the credit union or

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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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other financial institutions is still \$55,000. The credit union is required to list both of these loans as commercial loans.

Examples for reporting Business Loans on line 7.

- If a member has \$35,000 in business purpose loans and the credit union grants this member an additional \$40,000 in business purpose loans, the credit union should report the additional \$40,000 as a Member Business Loan.
- If, in the case above, the member subsequently pays down the \$35,000 business purpose loan to \$15,000 and the \$40,000 business loan to \$34,000, making the aggregate total business purpose loans \$49,000, the credit union is not required to list any of these loans as Member Business Loans since the new aggregate loan total is \$49,000 and is now below the \$50,000 threshold in §723.8(c) of NCUA's Rules and Regulations.

In addition to this guidance, the Instructions explain that the reporting of commercial loans will be broken down into subcategories such as construction and development loans, loans secured by farmland, secured by multifamily residential property, secured by owner occupied non-farm non-residential property, secured by non-owner occupied non-farm non-residential property, real estate secured commercial loans, loans to finance agricultural production and other loans to farmers commercial and industrial loans, unsecured commercial loans, unsecured revolving lines of credit granted for commercial purposes, and total commercial loans to members. For member business loans, credit unions will only report the net member business loan balance (NMBLB) and the NMBLB comprised of 1-4 Family Residential Properties. The Call Report Instructions are over 100 pages long, but you can find the portion pertaining to business and commercial lending on page 71 of the document.

Source: NCUA

Advocacy Highlight

FinCEN to Update DoEP Report

The Financial Crimes Enforcement Network (FinCEN) has published in the June 13, 2017, *Federal Register* a [Notice and Request for Comments](#) on a proposed update and renewal of the collection of information through its "Designation of Exempt Person" (DoEP) report, used by banks and others to designate eligible customers as exempt from currency transaction reporting requirements. The proposed minor changes would remove the obsolete reference to "Document Control Number" and to add a country field in Parts II and III of the report to accommodate reporting from U.S. territories. Comments will be accepted for 62 days, through August 14, 2017.

Reign In CFPB, Redesign CU Rules: Treasury Department

Financial regulators and Congress have done a poor job of tailoring regulations to the size of financial institutions, the Treasury Department said earlier this week, in calling for many of the changes long advocated by credit unions.

"As banking regulators are approaching the full implementation of Dodd-Frank, nearly seven years after its passage, regulation has proven to be insufficiently tailored to depository institutions based on the size and complexity of their business models," the Treasury Department said in releasing its first report on redesigning the financial regulatory regime.

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



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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

Authentication in an Internet Banking Environment

In October 2005, the FFIEC Agencies (Agencies) issued guidance that provided a risk management framework for financial institutions offering Internet-based product and services to their members. It stated that institutions should use effective methods to authenticate the identity of customers and that the techniques employed should be commensurate with the risks associated with the products and services offered and the protection of sensitive customer information.

In 2011 the Agencies issued a [Supplement to the Guidance](#) to reinforce the Guidance's risk management framework and update the Agencies' expectation regarding customer authentication, layered security or other controls in the increasingly hostile environment. The Supplement reiterates and reinforces the expectations described in the 2005 Guidance that financial institutions should perform periodic risk assessments considering new and evolving threats to online accounts and adjust their customer authentication, layered security and other controls as appropriate in response to identified risks. As per the guidance, these risk assessments should be performed each time the credit union adds services

The report singles out the CFPB for particular criticism. "The CFPB has brought a range of enforcement actions that allege violations of law for practices that are common among financial services providers and that had not previously raised concerns among other regulators," the Treasury Department said.

The report calls on Congress to repeal the agency's supervisory authority, returning all supervisory powers to the prudential regulators. Credit unions and the NCUA have accused the CFPB of usurping many of the powers of the credit union agency in such areas as payday lending. President Trump earlier this year directed Treasury Secretary Steven Mnuchin to lead an administrative effort to overhaul Dodd-Frank. The first report covers depository institutions, including community banks and credit unions.

The Treasury Department said that subsequent reports will examine capital markets, the asset management and insurance industries, and non-bank financial institutions. Some of the recommended changes can be made by regulation. Others will require action by Congress.

For credit unions, the Treasury Department recommends, among other things:

- Raising the scope of application for stress-testing requirements for federally-insured credit unions to \$50 billion in assets;
- Repealing the rule requiring credit unions to satisfy a risk-weighted capital framework;
- Increasing coordination between the CFPB, the NCUA and state regulators in conducting examinations; and
- Raising the threshold for credit unions to be eligible for 18-month exam cycles.

In the report, the Treasury Department calls for financial regulators to conduct stringent cost-benefit analysis before rules are issued.

The report calls on the CFPB to adopt regulations that more clearly delineate its powers to take actions based on Unfair, Deceptive or Abusive Acts or Practices. Credit union trade groups have complained that the agency has not provided guidance on its UDAAP authority.

The report calls on Congress to make the CFPB director removable at will by the president or restructure the agency as an independent multi-member commission. The agency should also be subject to the annual appropriations, the Treasury Department said.

The House last week passed its own plan to overhaul Dodd-Frank. Known as the Financial CHOICE Act, authored by House Financial Services Chairman Jeb Hensarling (R-Texas), H.R. 10 would overhaul Dodd-Frank, making a myriad of changes to the financial regulatory regime. It would diminish the powers of the CFPB, require congressional approval of significant agency rules and subject financial regulators, including the NCUA and CFPB, to the annual appropriations process.

The legislation was more far-reaching than the Treasury Department's recommendations. Mnuchin applauded House passage of the bill. On the Senate side of Capitol Hill, Banking Chairman Mike Crapo (R-Id.) and ranking Democrat Sherrod Brown (D-Ohio) have said they want to work on Dodd-Frank overhaul legislation on a bipartisan basis. The committee began a series of hearings on the issue last week.

through Internet Banking or every 12 months. It establishes minimum control expectations for certain online banking activities and identifies controls that are less effective in the current environment. It also identifies certain specific minimum elements that should be part of an institution's customer awareness and education program.

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.



Compliance Calendar

June 9, 2017

- [Fiduciary Rule](#)

July 4, 2017

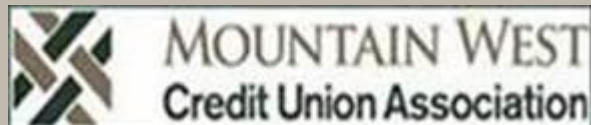
- July 4th Federal Holiday

July 30, 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.



Training & Events Calendar

June 20

Webinar: [Supervisory Committees: Understanding Expectations & Avoiding Landmines](#)

June 21

Webinar: [Adverse Action in Mortgage Lending: Are You in Compliance?](#)

June 22

Webinar: [New BSA Officer Training](#)

June 28

Webinar: [Top 10 Things You to Know About the CFPB's Amendments to Mortgage Servicing Requirements before Oct. 19](#)

June 29

Webinar: [Same-Day ACH: Preparing for Processing Debits, Effective Sept. 15, 2017](#)

July 10

Webinar: [Wire Transfer Security Controls: Regulatory Guidance, Risk Management & Monitoring](#)

July 18

Webinar: [Creating an Effective Suspicious Activity Program: Efficiency, Examinations & Fraud](#)

July 19

Webinar: [Regulation E Fundamentals: Back to Basics](#)

July 25

Webinar: [20 UCC Provisions Yu Must Know When Cashing or Depositing Checks](#)

July 26

Webinar: [E-Compliance Rules, Policies & Best Practices for Email, Web, Mobile & Social Media](#)

July 27

Webinar: [Risk Management Series: Conducting a Fair Lending Risk Assessment](#)

**CO Compliance Lunch & Learn
Set for June 29**

September 4, 2017

- Labor Day Federal Holiday

September 15, 2017

- [Same-day ACH – Phase 2](#)

September 30, 2017~NCUA

- [New Call Report Form](#)

October 1, 2017

- [Prepaid Accounts Under the Electronic Funds Transfer Act/Reg E and the](#)

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 1, 2018

- [Prepaid Accounts under the EFT Act/Reg E and TILA/Reg Z](#)

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

June 9, 2017~DOL

[Fiduciary Rule](#)

September 15, 2017~NACHA

[Same-day ACH \(NACHA\) – Phase 2](#)

October 19, 2017~CFPB

[Amendments to 2013 Mortgage Rules under RESPA/Reg X and TILA/Reg Z](#)

April 1, 2018 ~ CFPB

[Prepaid Accounts under the EFT Act/Reg E and TILA/Reg Z](#)

CUNA Comment Calls – Due Dates on Proposed Rules

May 25, 2017~CFPB

[Technical Corrections and Clarifying Amendments to the Home Mortgage Disclosure \(Reg C\) October 2015 Final Rule](#)

Colorado compliance professionals, get ready for the next Compliance Lunch & Learn, on Thursday, June 29, 2017 in the Sterner Center at the Mountain West offices in Denver, CO. This two-hour program includes a presentation, networking time, lunch and an open-forum discussion on Unfair Deceptive and Abusive Acts and Practices Act (UDAAP). Our presenter, attorney Bob Wilson, will discuss recent enforcement actions and violations, agency enforcement authority, and share best practices to help your credit union avoid liability. Cost is \$35 per person (includes lunch). The program takes place from 11:30 am – 1:30 pm. To register, contact Jodi Weiser at jweiser@mwcua.com.

July 10, 2017~CFPB

[CFPB's Notice of Assessment of 2013 RESPA Servicing Rule and Request for Public Comment](#)

July 13, 2017~Federal Reserve

[Ability of Funds and Collection of Checks \(Reg CC\)](#)

July 14, 2017~CFPB

[CFPB's Request for Information Regarding the Small Business Lending Market](#)

July 17, 2017~NCUA

[2017 Regulatory Review](#)

August 7, 2017~NCUA

[NCUA's Notice of Proposed Rulemaking Regarding Appeals Process](#)

[NCUA's Notice of Proposed Rulemaking Regarding Supervisory Review Committee; Procedures for Appealing Material Supervisory Determination](#)

[NCUA's Notice of Proposed Rulemaking Regarding Bylaws; Bank Conversions and Mergers; and Voluntary Mergers of Federally Insured Credit Unions](#)

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

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