

Regulatory Compliance News



MOUNTAIN WEST
Credit Union Association

June 23, 2017

Compliance News

Federal Reserve Raises Federal Funds Interest Rates

On Wednesday June 14, 2017, the Federal Open Market Committee (FOMC), which sets monetary policy for the Federal Reserve, announced it would raise interest rates by a quarter point (0.25%) due to increasing concern over tight labor markets and the related risk of rising inflation pressures, bringing the target range to 1.00% to 1.25%.

In response to a similar increase in the Fed Funds rate, a CUNA Blog Post from December 18, 2015 explains how the rate increase affects your credit union's loan rates and what disclosures may be required when the credit union's loan rates are raised. To read the 2015 blog Post, click [here](#).

OFAC Issues FAQs on New U.S. Cuba Policy

The Office of Foreign Assets Control (OFAC) has posted [new frequently asked questions](#) (FAQs) to address last Friday's [announcement](#) of changes to United States policy toward Cuba. The new policy channels commercial activities away from the Cuban military; tightens travel restrictions on U.S. tourism to Cuba; and reaffirms the U.S. statutory embargo of Cuba.

The policy [memorandum](#) directs the Treasury and Commerce Departments to begin the process of issuing new regulations within 30 days. The policy changes will not take effect until those Departments have finalized their new regulations, a process that may take several months.

OFAC's FAQs provide additional detail on the impact of the policy changes on U.S. travelers and businesses. Of interest to credit unions, the announced policy changes will not change the authorizations for sending remittances to Cuba. The announced changes also include an exception that will allow for transactions incidental to the sending, processing, and receipt of authorized remittances to the extent they would otherwise be restricted by the new policy limiting transactions with certain identified Cuban military, intelligence, or security services. As a result, the restrictions on certain transactions in the new Cuba policy will not limit the ability to send or receive authorized remittances. (See FAQ #8) In addition, the forthcoming regulations will be prospective and will not affect existing contracts and OFAC licenses. (See FAQ #10)

Source: CUNA Compliance Blog

Consumer Compliance Outlook

The first issue of 2017 for the Federal Reserve Bank's Consumer Compliance Outlook contains great information that also applies to credit unions, such as *Combating Elder Financial Abuse*, *Understanding Finance Charges for Closed-End Credit*, and more. The issue can be accessed [here](#).

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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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Advocacy Highlight

CFPB Proposes Changes to Prepaid Rule – Comments Needed

The CFPB is seeking comment on [proposed amendments](#) to the agency's 2016 prepaid accounts rule. The rule, which established "comprehensive protections" for prepaid accounts under Regulation E and Regulation Z, is currently scheduled to go into effect next April. Comments on the proposed changes will be due 45 days after the proposal is published in the Federal Register.

The proposal would:

- Revise the prepaid rule's error resolution and limited liability provisions under Reg E. Financial institutions would not be required to resolve errors or limit consumers' liability on unverified prepaid accounts. However, for accounts where the consumer's identity is later verified, financial institutions would be required to limit liability and resolve errors with regard to disputed transactions that occurred prior to verification, consistent with the timing requirements of the prepaid rule.
- Create a limited exception to the prepaid rule's credit-related provisions under Reg Z for certain business arrangements between prepaid account issuers and credit card issuers that offer traditional credit card products. This exception is intended to address certain complications in applying the credit provisions of the prepaid rule to credit card accounts linked to digital wallets that can store funds where the credit card accounts are already subject to Reg Z's open-end credit card rules in circumstances that appear to pose lower risks to consumers.
- Make clarifications or minor adjustments to the rule's provisions regarding: an exclusion from the definition of prepaid account, unsolicited issuance of access devices, several aspects of the rule's pre-acquisition disclosure requirements, and submission of prepaid account agreements to the CFPB.

[In April 2017](#), the CFPB delayed the general effective date of the prepaid rule by six months, to April 1, 2018. In this current proposal, the CFPB is requesting comment on whether a further delay would be necessary and whether industry needs an express provision addressing early compliance with the rule.

The CFPB also released an updated version of its small entity compliance guide for the prepaid rule. That update reflects the recent effective date delay and clarifications on several other issues raised by industry feedback. The revised guide is available [here](#).

More information about the Bureau's prepaid rule is available at www.consumerfinance.gov/prepaid-rule/.

Source: CUNA/CFPB

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.



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

Broker-Dealers

Note: The Department of Labor (DOL) recently issued its final regulation known as the "Fiduciary Rule," resulting in updates to this InfoSight channel. Below is a portion of the updated section.

Fiduciary Rule

Department of Labor (DOL) issued its final regulation, known as the "Fiduciary Rule," which expands the definition of "fiduciary" of an employee benefit plan under the Employee Retirement Income Security Act (ERISA) and a plan (including an individual retirement account (IRA)) under the Internal Revenue Code of 1986 (IRC).

How does the Fiduciary Rule affect credit unions?

Credit unions that offer IRA accounts and/or refer members to a broker dealer will need to ensure they are complying with the proper exemptions or refrain from certain activities.

A few basics to the Fiduciary Rule are:

The Fiduciary Rule is generally limited to investment advice concerning IRAs and ERIS-covered retirement plans.



Training & Events Calendar

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 11

Webinar: [Account Documentation Series: Closing or Changing Deposit Accounts for Consumer & Businesses](#)

July 13

Webinar: [Call Reports: Financial Statements & Schedules B-E](#)

July 18

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

July 19

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

July 20

Webinar: [Working with Troubled Members: Loan Extensions, Deferments, Re-Aging, Refinancing & Incentives](#)

July 24

Webinar: [Special Rules for Credit Card Compliance: Changes in Terms, APR Increases, Protected Balances, Offsets, Fee Limits & More](#)

July 25

Webinar: [20 UCC Provisions You 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](#)

August 2

Webinar: [Advertising Compliance: Website, Print, TV & Radio](#)

August 15

Webinar: [TILA Rules for Non-Mortgage & Non-Credit Card Lending](#)

August 16

Webinar: [Job-Specific BSA for Deposit Operations: SAR Monitoring,](#)

A person is an investment advice fiduciary if the person provides "investment advice" to a plan, plan fiduciary, plan participant or beneficiary, IRA, or IRA owner for a fee or other compensation, directly or indirectly.

"Investment advice" is defined as a "recommendation" with respect to funds of a plan or IRA for a fee or other compensation, direct or indirect. Credit unions should determine if their employees:

- a. Make "recommendations" regarding investments (e.g., buying, holding, selling, or exchanging securities or other investment property) or the management of investments (e.g., rollovers, transfers, or distributions from a plan or IRA); and
- b. Receive direct or indirect fees or other compensation in connection with the transaction or service. The fee or compensation must be paid "in connection with or as a result of" the transaction or service (e.g., commission or bonus, as opposed to a base salary that would be paid regardless of the transaction).

If both requirements shown in bullet points "a" and "b" above are triggered, the Fiduciary Rule would apply. Credit unions that refer members to a broker dealer should also be sure the provider is compliant with the rule.

Credit unions should also refer to their legal counsel on any further guidance if there are concerns about coverage.

Additionally, this statement was added to the IRA Summary, the Traditional IRA, Roth IRA and Coverdell ESA pages of the Accounts channel:

Broker Dealers

Due to the recently expanded definition of "fiduciary", credit unions that offer IRA accounts and/or refer members to a broker dealer will need to ensure they are complying with the proper exemptions or refrain from certain activities.

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

314(1) Requests & CIP

August 21

Webinar: Revisiting Your HMDA Policies to Include Comprehensive Changes Effective Jan 1, 2018

August 22

Webinar: New Compliance Officer Boot Camp

Recorded Webinars:

Available June 30

Webinar: CTR Technical Changes: New Data Fields, Amendments & Alternate Model Reporting

Available August 18

Webinar: New MLA Requirements for Credit Cards, Effective Oct 3, 2017

CO Compliance Lunch & Learn Set for June 29

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@mwcu.com.



Compliance Calendar

June 9, 2017

- Fiduciary Rule

July 4, 2017

- July 4th Federal Holiday

July 30, 2017

- 5300 Call Report Due to NCUA

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

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.

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

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

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

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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