

Regulatory Compliance News



MOUNTAIN WEST
Credit Union Association

July 21, 2017

Compliance News

U.S. Targets Supporters of Iranian Military and Revolutionary Guard

The Treasury Department has [announced](#) OFAC's designation of 16 entities and individuals for engaging in support of illicit Iranian actors or transnational criminal activity. These designations include seven entities and five individuals for engaging in activities in support of Iran's military or Iran's Islamic Revolutionary Guard Corps (IRGC), as well as an Iran-based transnational criminal organization and three associated persons. Treasury's announcement reported that the State Department also designated two Iranian organizations involved in Iran's ballistic missile program. As a result of these actions, all property and interests in property of those designated subject to U.S. jurisdiction are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

Source: US Department of the Treasury/OFAC

CFPB Proposes Increase to HELOC Reporting Threshold Under HMDA

The Consumer Financial Protection Bureau (CFPB) has released a proposal to increase the HELOC reporting threshold under the Home Mortgage Disclosure Act (HMDA).

Background

In October 2015, the CFPB published amendments to Regulation C (HMDA) as required under the Dodd-Frank Act. One of these changes was to the institutional coverage test, identifying those credit unions responsible for collecting and reporting data about their mortgage lending activities. Under the revised institutional coverage test, beginning January 1, 2018, a credit union would be required to collect and report HMDA data if it:

- Had assets over a certain threshold as of 12/31/2017;
- Had a home or branch office located in a Metropolitan Statistical Area (MSA);
- Originated at least one home purchase or refinance transaction in the preceding calendar year;
- Was Federally insured or regulated;
- Originated at least 25 closed-end mortgage loans in each of the two preceding calendar years; and
- Originated at least 100 open-end mortgage loans in each of the two preceding calendar years.

Due to explosive growth in the HELOC market in recent years, the CFPB determined that reporting information on open-end mortgage loans was necessary to further the purposes for which HMDA was originally intended. The CFPB estimated that by setting the reporting threshold at 100 for open-end loans, the additional reporting requirement would

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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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extend to 749 financial institutions.

However, due to insufficient data regarding the HELOC market to date, the CFPB now believes that it may have underestimated the implementation challenges and compliance costs associated with setting the open-end reporting threshold at 100.

The Proposed Rule

On July 14th, the CFPB issued a 39-page proposed rule in which it intends to raise the open-end reporting threshold to 500 for calendar years 2018 and 2019. Thus, beginning January 1, 2018, a credit union would not be required to collect and report HMDA data on its HELOCs if it originated fewer than 500 in either of the two preceding calendar years. The proposed rule reinstates the 100 open-end reporting threshold beginning January 1, 2020.

The CFPB opines that increasing the open-end reporting threshold will lead to a 69% reduction in the number of financial institutions required to collect and report HELOC data under HMDA (from 749 FI's to 231 FI's). This will give credit unions some much needed breathing room when it comes to implementing the other changes mandated by the new HMDA rule. In addition, it will give the CFPB time to obtain necessary additional information about the HELOC market.

To be clear, the proposed rule does NOT:

- Adjust the reporting threshold for closed-end mortgage loans (currently 25). The CFPB believes it relied on sufficient market data in establishing this threshold.
- Postpone the January 1, 2018 effective date for other mandated HMDA changes.
- Make any other substantive changes to the HMDA rule.

The proposed rule can be found [here](#). Comments are due on or before July 31st.

Source: CUNA Compliance Blog

Children's Online Privacy Protection Rule (COPPA) – What You Need to Know

1. The Purpose of COPPA:

The purpose of the Children's Online Privacy Protection Act (COPPA) is to allow parents to control what information is collected online about their children. Enacted almost 20 years ago, COPPA applies to the online collection of personal information about children under the age of thirteen. The law details what a website operator must include in a privacy policy, when and how to seek verifiable consent from a parent or guardian, and what responsibilities an operator has to protect children's privacy and safety online including restrictions on the marketing of children under 13.

2. How to Determine whether COPPA applies to your website:

COPPA applies to your website if:

- Your website or online service is directed to children under 13 and you collect personal information from them;
- Your website or online service is directed to children under 13 and you let others collect personal information from them AND/OR;
- Your website or online service is directed to a general audience, but you have actual knowledge that you collect personal information from

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

Advertising Overdraft Programs

The NCUA addresses overdraft program disclosure requirements, regardless of whether a credit union promotes the payment of overdrafts, in Part 707.

All credit unions that charge fees for paying overdrafts are required to disclose them on the periodic statement, both for the statement period and for the year-to-date. The disclosure does not have to be provided if no fees have been charged (e.g., the credit union would not have to disclose "\$0" for the statement period or year-to-date).

The disclosure must be made in a tabular format and be near the other itemized fees. The rule includes a sample form for making this disclosure. Credit unions may either use the term "returned item fee" or "NSF fee" on the form to describe the fee for returning items unpaid. The regulations require that the periodic statement disclosure be provided in tabular format, as illustrated in NCUA's model form B-12.

Periodic Statements

The credit union must separately disclose on each periodic statement:

children under 13.

The FTC may determine your website is “directed” to children under 13 if you use, for example:

- Animated characters or other child-oriented activities and incentives;
- Child celebrities or celebrities that appeal to children;
- Young models or;
- Other evidence that suggests the age of your intended audience is under 13.

3. The 5 Steps You Must Take to Comply with COPPA:

- Post a privacy policy that complies with COPPA;
- Notify parents directly before collecting personal information from their kids;
- Get parents’ verifiable consent before collecting personal information from their kids;
- Honor parents’ ongoing rights with respect to personal information collected from their kids;
- Implement reasonable procedures to protect the security of kids’ personal information

4. Exceptions to COPPA’s Parental Consent Requirement:

- Where the sole purpose of collecting the name or online contact information of the parent or child is to provide notice and obtain parental consent. If you have not received consent within a reasonable time after you collected the information, you must delete the information from your records.
- Where the purpose of collecting a parent’s online contact information is to provide voluntary notice and update the parent about the child’s participation on the website – and you do not otherwise collect, use or disclose the child’s information. You must make reasonable efforts, using available technology, to ensure that the parent receives the notice.
- Where the sole purpose of collecting online contact information from a child is to respond directly on a one-time basis to a specific request from the child, and where such information is not used to re-contact the child or for any other purpose, and is deleted promptly after responding.
- Where the purpose of collecting a child’s and a parent’s online contact information is to respond directly more than once to a child’s specific request, and where such information is not used for any other purpose. You must make reasonable efforts, using available technology, to ensure the parent receives the appropriate notice. You will not be deemed to have made reasonable efforts where the notice to the parent was unable to be delivered.
- Where the purpose of collecting a child’s and a parent’s name and online contact information, is to protect the safety of the child, and where the information is not used for any other purpose. You must make reasonable efforts, using available technology, to ensure the parent receives the appropriate notice.
- Where the purpose of collecting a child’s name and online contact information is to: (1) protect the security and integrity of the website; (2) take precautions against liability; (3) respond to judicial process; or (4) to the extent permitted under law, to provide information to law enforcement agencies and where the information will not be used for

- The total dollar amount for all fees or charges imposed on the account for paying checks or other items when there are insufficient funds and the account becomes overdrawn, using the term “Total Overdraft Fees;” and
- The total dollar amount for all fees imposed on the account for returning items unpaid.

The overdraft services covered do not include a service providing for the transfer of funds from another share account of the member to permit the payment of items without creating an overdraft, even if a fee is charged for the transfer.

These disclosures must be provided for the statement period and for the calendar year to date.

The aggregate fee disclosures required must be disclosed in close proximity to the other itemized fees, using a format substantially similar to Sample Form B-12 in Appendix B of NCUA's Rules & Regulation.

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

any other purpose.

- Where you collect a persistent identifier and no other personal information and the identifier is used only to support the internal operation of the website. In this case notice is not required.
- Where you have collected a persistent identifier from a user who affirmatively interacts with you and whose previous registration indicates that the user is not a child. In this case notice is not required.

5. The Most Recent COPPA Guidance

In June 2017, the Federal Trade Commission (FTC) updated its COPPA guidance to reflect evolving technologies. Two new methods for acquiring parental consent were approved: (1) asking knowledge-based authentication questions, and (2) using facial recognition to get a match with a verified photo ID. The scope of the requirements has been expanded to include voice-activated devices that collect personal information and children's products intended to collect personal information, including voice recordings and geolocation data.

Source: CUNA Blog

CFPB Issues 2017 TILA-RESPA Final Rule and Executive Summary

The Bureau has issued a final rule (2017 TILA-RESPA Rule) amending and clarifying certain mortgage disclosure provisions implemented in Regulation Z. To support implementation of the 2017 TILA-RESPA Rule, the Bureau has issued an Executive Summary.

The CFPB has also issued a notice of proposed rulemaking regarding when a creditor may use a Closing Disclosure, instead of a Loan Estimate, to determine if an estimated closing cost was disclosed in good faith and within tolerance. The 2017 TILA-RESPA Rule does not make changes or clarifications related to this issue. Comments on the proposal are due 60 days after it is published in the Federal Register.

You can access the 2017 TILA-RESPA Final Rule on the Bureau's [website](#).

You can access the proposal on the Bureau's [website](#).

You can access the Executive Summary [here](#).

Source: CFPB

FinCEN Updates: CMIR Reporting Change

The Financial Crimes Enforcement Network (FinCEN) has notified filers that the Department of Homeland Security, U.S. Customs and Border Protection, has changed the mailing address for filing the Currency and Monetary Instrument Report (CMIR). Individuals and shippers and mailers that mail the report must use the following new address:

Attn: CMIR

Passenger Systems Program Directorate # 1256

CBP

7375 Boston Blvd.

DHS, VA 20598-1256

This address change has been included in the July 2017 version of the CMIR on the FinCEN website.

Source: FinCEN

Enhanced Public Record Data Standards

As of July 1, the three nationwide consumer reporting companies (Equifax, Experian and TransUnion) began enforcing stricter standards on the public records they collect. As part of the previously

CUNA Sends Letter in Support of CU Tax Status

At the request of Senate Finance Committee Chairman Orrin Hatch (R-UT), CUNA sent a [letter](#) to both Senator Hatch and Ranking Member Wyden earlier this week in support of the credit union tax status. The Committee requested stakeholders to submit comments and proposals to the Committee as they continue their work on tax reform.

In the letter, CUNA urges Congress to retain and reaffirm the credit union tax status and goes into further detail explaining the importance of not-for-profit credit unions in the financial services marketplace.

Congress should preserve the credit union tax status because:

- The tax treatment for credit unions continues to serve the purpose for which it was conveyed;
- The tax status represents good public policy because it causes the creation of substantial benefits to the public, far in excess of its cost; and,
- Taxing credit unions would represent a tax increase on 110 million Americans—taxpayers who paid a total of \$1.2 trillion in taxes in 2014—and would likely lead to the elimination of many, if not most, credit unions.

As Congress continues its tax reform efforts, CUNA will continue to advocate on behalf of America's credit unions and their 110 million members to ensure the credit union tax status is preserved.

Source: CUNA

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

July 30, 2017

- 5300 Call Report Due to NCUA

September 4, 2017

- Labor Day Federal Holiday

September 15, 2017

announced [National Consumer Assistance Plan](#) (NCAP), the credit bureaus have developed “enhanced” public record data standards for the collection and timely updating of civil judgments and tax liens.

The NCAP is an initiative launched by the 3 major credit bureaus to “make credit reports more accurate and make it easier for consumers to correct any errors on their credit reports.” The plan stemmed from a [2015 settlement](#) between the three credit bureaus and several state attorneys general. The plan has a 3-year implementation period: March 2015 – March 2018. See *the Consumer Data Industry Association’s (CDIA’s) March 9, 2015 [press release](#)*.

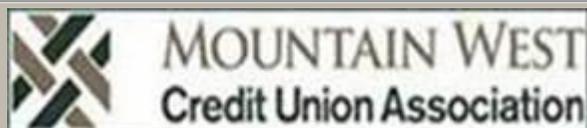
The new standards apply to new and existing public record data on credit reporting databases and require:

- A minimum of consumer personal identifying information (PII): name, address, and Social Security Number and/or date of birth; and
- A minimum frequency of courthouse visits to obtain newly filed and updated public records of at least every 90 days (i.e., public records will need to be updated on a regular basis in order to remain on a consumer report).

The standards apply to consumer reporting databases that maintain civil judgment data where, according to the CDIA, a vast majority of data may not meet PII requirements. With respect to tax lien data, approximately half of this data may not meet the PII requirements.

The goal is to remove incomplete and/or inaccurate public record data from consumer reports. The concern, however, is that removing this information could make some loan applicants appear to be a better credit risk than they actually are. Nevertheless, the CDIA states that “FICO and VantageScore show only modest credit scoring impacts and impact to predictive performance as a result of the changes to public record standards.” See *CDIA’s March 13, 2017 [press release](#)*.

Source: CUNA Compliance Blog



[Training & Events Calendar](#)

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

- [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

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

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

July 14, 2017~CFPB

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

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, 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](#)

August 24

Webinar: [When a Borrower Dies: Next Steps & Best Practices](#)

August 30

Webinar: [Comparing Regulation E with Visa & MasterCard Rules](#)

September 27

Webinar: [Step by Step SAR Completion: Dos & Don'ts](#)

September 28

Webinar: [Record Retention & Destruction Rules: Compliance & Best Practices](#)

October 16

Webinar: [Planning & Compliance Considerations for the New Fannie Mae & Freddie Mac Uniform Residential Loan Application](#)

October 26

Webinar: [Job-Specific BSA Training for Frontline: CTRs, SARs, CIP & More](#)

October 30

Webinar: [Preparing for the Impact of New Prepaid Card Rules Under Regulation E – Deadline April 1, 2018](#)

November 8

Webinar: [When a Depositor Dies: Next Steps & Best Practices](#)

November 9

Webinar: [Auditing for Reg E Compliance](#)

November 16

Webinar: [Required Compliance for the Board & Senior Management](#)

November 29

Webinar: [OFAC Sanctions Compliance: Update, Expectations & Best Practices](#)

December 6

Webinar: [Job-Specific BSA Compliance for Lenders](#)

Recorded Webinars:

Available June 30

Webinar: [CTR Technical Changes: New Data Fields, Amendments & Alternate Model Reporting](#)

July 17, 2017~NCUA

[2017 Regulatory Review](#)

July 24, 2017~Department of Treasury

[Request for Information About Regulations That Can Be Eliminated, Modified, or Streamlined in Order to Reduce Burdens](#)

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](#)

**Regulatory Compliance School
Sept. 13 & 14 – Denver
Now Open for Registration**

Credit union compliance professionals face a complex regulatory environment and challenging compliance issues. For those needing a refresher course or a solid understanding of the regulations and laws affecting their regulatory compliance responsibilities, plan to attend the Mountain West Regulatory Compliance School taught by compliance experts, Bruce Jolly and David Reed. This 2-day program will provide you with the latest information regarding operational compliance issues, and update you on current areas of concern expressed by regulators and examiners. Plan to attend this important program so you can stay up-to-date with the latest compliance regulations and ensure your credit union is operating within the current laws.

Registration deadline is August 30, 2017. To register for the **Sept. 13-14** Regulatory Compliance School in **Denver**, click [here](#).

Available August 18

Webinar: [New MLA Requirements for Credit Cards, Effective Oct 3, 2017](#)

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

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