

Regulatory Compliance News



MOUNTAIN WEST
Credit Union Association

July 28, 2017

Compliance News

IRS Changes Due Date for W-2 and 1099-MISC Filings

The Internal Revenue Service has published [\[82 FR 33441\]](#) final and temporary rules effective immediately affecting the due dates for submission of certain information returns, as required by section 201 of the Protecting Americans from Tax Hikes Act of 2015. Among the changes are a new due date of January 31 for information returns in the W-2 series, form W-3 and Forms 1099-MISC that report non-employee compensation. The changes affect those forms filed for information returns for calendar years beginning after 2015.

The changes impact a credit union's payroll processes (Forms W-2 and W-3) and submission of 1099-MISC information returns on director compensation, accounts payable, and other miscellaneous non-employee compensation. The changed deadlines are meant to reduce the IRS's exposure to paying tax refunds early each year before it has the information returns to confirm alleged income and withholding amounts on fraudulent tax returns.

Source: IRS

Distinguishing Between the MLA and SCRA When it Comes to Collections

CUNA Compliance has received several questions as of late about how the Military Lending Act (MLA) impacts the collections function within a credit union. More specifically, credit unions want to know if the MLA contains specific collections prohibitions like those found within the Servicemembers Civil Relief Act (SCRA). The direct answer is no.

The SCRA provides as follows:

- Section 532 - Property may not be repossessed from a Servicemember serving on active duty without a court order.
- Section 533 - Real estate may not be foreclosed upon while a Servicemember is serving on active duty and for a period of 12 months thereafter.

As stated previously, the MLA does not contain any specific collections prohibitions such as those found within the SCRA. However, some have argued that many of the loan product limitations found in Section 232.8 of the MLA do in fact affect the collections activities of the credit union.

Those loan product limitations include:

- The credit union may not require the covered borrower to waive any right to legal recourse available under Federal or State law.
- The credit union may not require the covered borrower to submit to arbitration.

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

- The credit union may not demand unreasonable notice from the covered borrower as a condition for legal action.
- The credit union may not take a security interest in the covered borrower's funds unless those funds were deposited after the extension of credit in an account established in connection with the credit transaction.
- The credit union may not require the covered borrower to repay the obligation through an allotment.
- The credit union may not prohibit the covered borrower from prepaying the obligation or charge the covered borrower a prepayment penalty for doing so.

Do these loan product limitations really affect the collections activities of the credit union? Not really.

To determine why, look at Section 232.9 of the MLA. It provides that any loan contract with a covered borrower that contains one or more of the prohibitions outlined above is void from inception of the contract. In other words, there is nothing for the collections department to collect as there is no legally enforceable promissory note between the credit union and the covered borrower.

CFPB Posts HMDA Resources

This week, the CFPB posted a couple of new resources to the HMDA implementation webpage that are worth reviewing if your credit union reports HMDA data. The CFPB made some updates to the technology preview, a system they are referring to as the "HMDA Platform" which will be available online only and is supposed to guide filers through the entire filing process. The preview provides some table views of the platform and gives us a better idea of what we can expect from the new data submission process, which is expected to be ready by the third quarter of 2017.

The platform will require every HMDA filer to register online for login credentials and establish an account. Once registered, the credit union can directly upload its LAR, check which stage it is in, complete the review and verification steps, then submit the LAR from within the platform. If the LAR is not properly formatted, the platform will display an error message and the filer must correct and refile the LAR. The CFPB has created a [LAR Formatting Tool](#) to help small institutions with smaller volumes of covered loans create a pipe delimited text file format that can be submitted on the platform. The platform will identify any HMDA edits which must be addressed before the data can be submitted. Once all edits have been addressed, an authorized representative from the filer's institution must certify the completeness and accuracy of the LAR before submitting the LAR. After submission, the platform provides a confirmation screen acknowledging date and time of submission.

Other new tools on the HMDA website include two separate Filing Instructions Guides (FIG), one for data collected in 2017 (available [here](#)) and another for data collected in 2018 (available [here](#)). These guides replace the FFIEC's "Getting it Right!" guide that HMDA filers have relied on for so many years. The 2017 FIG is necessary to explain the new submission process because data collected in 2017 and reported in 2018 will be submitted to the CFPB for the first time, rather than to the Federal Reserve. The new data reporting requirements in the HMDA Final Rule apply to data collected beginning on January 1, 2018, so a separate 2018

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

Bank Secrecy Act: Information Sharing

Section 314(a) of the USA Patriot Act authorized law enforcement authorities to communicate with financial institutions about suspected money launderers and terrorists (§1010.520).

A request for information under section 314(a) (referred to as a "314(a) request") will be made by the Financial Crimes Enforcement Network (FinCEN). Generally, requests will be batched and issued every two weeks and financial institutions, including credit unions, will have two weeks to respond to the request.

Searches will be limited to specific records and, unless otherwise noted, will be a one-time search. If the credit union identifies a match for a named subject, it should stop its search of accounts for that suspect and respond to FinCEN that it has a match and provide point-of-contact information for the requesting law enforcement agency to follow-up directly with the credit union. Searches need only encompass current accounts and accounts maintained by a named subject during the preceding twelve (12) months, and transactions not linked to an account conducted by a named subject during the preceding six (6) months. Any record that is not

FIG was created for that purpose.

With the HMDA effective date fast approaching, we recommend that you take some time to familiarize yourself with these new reporting instructions and resources. There is a [Frequently Asked Questions](#) document specific to the filing process that is also helpful. Getting your credit union up to speed for HMDA compliance is a lengthy process, so plan to start preparing soon.

Source: CUNA Compliance Blog

CFPB Updates Spring 2017 Rulemaking Agenda

The CFPB [posted an article](#) explaining that the CFPB participates in the federal agencies' Unified Agenda program and that the Office of Management and Budget (OMB) recently posted online the [CFPB's updated agenda](#). The objectives of the agenda are:

- Providing consumers with timely and understandable information to make responsible decisions about financial transactions
- Protecting consumers from unfair, deceptive, and abusive acts and practices and from discrimination
- Addressing outdated, unnecessary, or unduly burdensome regulations
- Enforcing federal consumer financial law consistently in order to promote fair competition, without regard to whether providers of financial services are banks, thrifts, credit unions, or other kinds of institutions
- Promoting the transparent and efficient operation of markets for consumer financial services to facilitate access and innovation

A brief summary of the various Bureau initiatives was also provided.

Source: CFPB



[Training & Events Calendar](#)

August 2

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

August 3

Webinar: [Business Signature Cards & Resolutions: Entities, Authority & Documentation](#)

August 8

Webinar: [How to Legally Compensate Mortgage Loan Originators](#)

August 9

Webinar: [Appraisals & Evaluations for Consumer Real Estate Lending](#)

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](#)

maintained in electronic form need only be searched if it is required to be kept under federal law or regulation.

Credit unions are not required by a 314(a) request to close any account or take any other action with respect to an account or a transaction by virtue of a match with any named subject. Credit unions do not need to maintain the list of named subjects for the purpose of evaluating whether to open an account or to conduct a transaction, unless specific instructions accompanying a 314(a) request state otherwise.

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

NCUA Reorganization Announced

Late last week the NCUA announced that the agency plans to reorganize its operations. The agency will consolidate the five regional offices into three by closing the Albany, New York, and Atlanta, Georgia offices and eliminate four of the agency's five leased facilities. NCUA will also:

- Create an Office of Credit Union Resources and Expansion by redefining and realigning chartering and field-of-membership, credit union development, grants

August 21

Webinar: [Revisiting Your HMDA Policies to Include Comprehensive Changes Effective Jan 1, 2018](#)

August 22

Webinar: [New Compliance Officer Boot Camp](#)

August 23

Webinar: [Vendor Problem Resolution: A Five-Step Approach](#)

August 24

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

August 30

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

September 7

Webinar: [Responding to Official Demands for Member Funds: Subpoenas, Garnishments, Summonses & Levies](#)

September 12

Webinar: [Regulator Issues for the Credit Analyst](#)

September 13

Webinar: [Minor Accounts: Ownership, Documentation & Access](#)

September 20

Webinar: [Supporting Documentation for the ALLL: Current Rules & Future Expectations Under CECL](#)

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

and loans, and minority depository institutions' programs

- Restructure the Office of Examination and Insurance into specialized working groups
- Realign the Asset Management and Assistance Center to include changes to the servicing business model and moving to a financial supervisory structure.

Federal Reserve Task Force Releases Final Paper on the Future of Faster Payments

The Federal Reserve's Faster Payments Task Force recently released its final paper on the future of payments in the U.S. The Task Force, of which CUNA is a member, has been working on the paper since 2015.

Part One of the Faster Payments Task Force Final Report, published in January 2017, provides an overview of the Faster Payments Task Force objectives and processes, a description of the U.S. payments landscape, and the benefits of faster payments. Part Two of the Final Report provides insights from the submitted solution proposals, reflects on several foundational issues that are important to address, and presents the task force's goals and recommendations for implementing faster payments in the United States.

While the release of the second half of the report officially concludes the work of the Faster Payments Task Force, CUNA continues to be involved as a member of the Federal Reserve's Secure Payments Task Force, which focuses on security issues associated with faster payments.

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 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

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

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](#)

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](#).

Compliance Lunch & Learn September 21 - Grand Junction, CO

Plan to join your compliance peers in Grand Junction, CO on September 21, 2017 for the next Compliance Lunch & Learn. This two-hour program includes a presentation, networking time, lunch and an open-forum discussion on Power of Attorney, Trusts & UDAAP. Mark Robey will provide an overview of opening, maintaining and closing accounts for trusts, and will discuss various power of attorney issues. Julie Kappenman will review recent regulatory activity. Mark and Julie will also lead a discussion about the Unfair Deceptive and Abusive Acts and Practices Act (UDAAP). Cost is \$35; registration deadline is September 15. To register, email Jodi Weiser at jweiser@mwcu.com.

Effective Dates New and Revised Rules

September 15, 2017~NACHA

[Same-day ACH \(NACHA\) – Phase 2](#)

October 19, 2017~CFPB

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](#)
-

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 17, 2017~NCUA

[2017 Regulatory Review](#)

July 21, 2017~CFPB

[Assessment of Ability to Repay / Qualified Mortgage Rule](#)

July 24, 2017~Department of Treasury

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

July 26, 2017~CFPB

[Temporary HMDA Threshold Increase](#)

July 28, 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

Proposed Amendments to Prepaid Accounts Rules Under Reg E and Reg Z

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

August 14, 2017~NCUA

Corporate Credit Union Proposal

August 31, 2017~CFPB

CFPB's Request for Information Regarding the Small Business Lending Market

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

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