

Regulatory Compliance News



MOUNTAIN WEST
Credit Union Association

August 11, 2017

Compliance News

Chase Fined \$4.6M for FCRA Reporting Violations

The CFPB has taken action against JPMorgan Chase Bank, N.A. for failures related to information it provides for checking account screening reports. The Bureau said that Chase broke the law by failing to comply with its obligations outlined in the Fair Credit Reporting Act by not having adequate policies in place regarding the accuracy of information it reported about consumers' checking account behavior. The Bureau also said that Chase failed to provide consumers who disputed their information with the results of its investigation, and failed to tell certain consumers which consumer reporting company supplied the information that resulted in Chase's denial of their checking account application. Under the Consent Order issued by the Bureau, Chase will pay a \$4.6 million civil money penalty.

CFPB Unveils Prototypes of "Know Before You Owe" Overdraft Disclosures

The Consumer Financial Protection Bureau (CFPB) recently unveiled new *Know Before You Owe* overdraft disclosure prototypes designed to improve the model form that banks and credit unions already provide to consumers weighing overdraft coverage. The Bureau is currently testing four prototypes that each have a simple, one-page design aimed at making the costs and risks of opting in to overdraft coverage easier to understand and evaluate. People who frequently attempt to overdraw their checking accounts typically pay almost \$450 more in fees if they opted in to debit card and ATM overdraft coverage, according to a new CFPB study published today. The study found that most of these frequent overdrafters are financially vulnerable, with lower daily balances and lower credit scores than people who do not overdraft as often.

"Our study shows that financially vulnerable consumers who opt in to overdraft risk incurring a rash of fees when using their debit card or an ATM," said CFPB Director Richard Cordray. "Our new *Know Before You Owe* overdraft disclosure prototypes are designed to help consumers better understand the consequences of the opt-in decision."

See [this article](#) for additional information; prototypes of the "Know Before You Owe" overdraft disclosure are available at: http://files.consumerfinance.gov/f/documents/201708_cfpb_A-9-form-ficus_overdraft-model-forms-prototypes.pdf

Source: CFPB

CUNA Final Rule Analysis 2.0

CUNA Compliance is pleased to announce publication of its Final Rule Analysis ("FRA") which discusses the Consumer Financial Protection

Your Credit Union's Regulatory Compliance Support Staff

Mark Robey

Sr. VP of Regulatory Affairs

Phone: 800-477-1697, ext. 3327

Direct: 720-479-3327

Melia Heimback

Director of Compliance Operations

Phone: 800-477-1697, ext. 3325

Direct: 720-479-3325

Julie Kappenman

Director of Association Compliance Services

Phone: 800-477-1697, ext. 3324

Direct: 720-479-3324

Donna Gibbs

Coordinator Association Services/Compliance

Phone: 800-477-1697, ext. 3281

Direct: 720-479-3281

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.

Visit mwcua.com to register

Association Compliance Forums

Click on one of the below links to subscribe

[Compliance Forum](#)

[BSA Compliance Officer Forum](#)

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

Bureau's ("CFPB") recently issued rule amending the Integrated Disclosure Rule ("TRID").

The CFPB issued its final rule on July 7, 2017. It contains several clarifying amendments and technical corrections, including:

- All loans secured by a cooperative unit are subject to TRID regardless of whether the cooperative unit is classified as real or personal property under applicable state law;
- Certain housing assistance loans are exempt from TRID provided they meet a handful of conditions;
- Numerous clarifications to the process of issuing and delivering both the Loan Estimate and Closing Disclosure;
- Further explanation regarding proper delivery of the Escrow Closing Notice; and
- Additional interpretations of how TRID impacts construction loans.

The final rule carries a mandatory compliance date of October 1, 2018. The FRA is available on www.cuna.org under Compliance / Resources / CompNotes: Final Rule Analyses.

Does Your State Offer These Accounts?

Q: My credit union is discussing ideas for "age-friendly" accounts for our older members, particularly to combat elder financial abuse. I seem to recall a discussion at CUNA's 2016 Regulatory Compliance School (RCS) about an alternative joint account that would help decrease elder fraud. Do you have any additional information on these accounts?

A: Multiple-party accounts (also known as "convenience accounts", "agency accounts", "joint fiduciary accounts" and "multi-party accounts") are governed by state law – the Uniform Multiple-Person Accounts Act.

Generally, these accounts vary from traditional joint accounts in the following ways:

- Parties own funds in the account in proportion to net contributions;
- The funds in the account are legally required to be used solely for the benefit of the owner of the funds;
- Upon death of the party who owns the funds in the account, the funds pass to the party's estate – there is no right of survivorship.

Although no one monitors day-to-day usage of these accounts, establishing this type of account makes the older member's intentions clear, particularly upon their death. It also makes it illegal for another party to use the funds in the account in any manner that does not directly benefit the older member.

Credit unions should check with their state credit union associations to determine what type of multiple-party accounts are permitted in your state.

Also, for information on how your front line staff can help combat elder financial exploitation – see CUNA's new Front Line Webinar: "[Shine a Spotlight on Elder Financial Abuse](#)".

Source: CUNA

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 Loans

An advertisement subject to the Truth-in-Lending Act and Regulation Z is any commercial message that promotes consumer credit or a consumer lease. Advertisements may appear:

- In newspapers, magazines, leaflets, flyers, catalogs, direct mail literature, or other printed material;
- On radio, television, or a public address system;
- On an inside or outside sign or display, or a window display; or
- In point-of-sale literature, price tags, signs and billboards.

A commercial message is any message that promotes a sale or lease. Thus, materials that are educational and do not solicit business or that are required by law are not advertisements. For example, a brochure issued by a credit union explaining FHA mortgages is not a commercial message, nor is a rate sheet prepared and used solely for internal business purposes. A state-required sign explaining credit terms is also not an advertisement. On the other hand, a brochure or sign that combines a sales message with educational or state-required information is an advertisement.



Training & Events Calendar

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 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](#)

Just like deposit advertisements, the credit union's loan advertisements must disclose the terms of the credit clearly and conspicuously. This means that the advertisement must be legible and reasonably understandable. There are no required type or font guidelines under the Act or Regulation Z outside of credit card requirements. However, the credit union will apply a reasonableness standard to insure that all advertising is legible and can be easily understood by the average member. Also keep in mind the 8-point type limitations at the lower end of the Schumer Box requirements as some guidance. (NOTE: Clear and Conspicuous Standard for All Advertisements -- Effective October 1, 2009, subsection 1026.24(b) was added to Regulation Z that simply states that the disclosures that are required in connection with advertisements for closed-end credit must be made clearly and conspicuously. This rule applies to all closed-end loan advertisements.)

The advertisement for a credit product must state the specific terms being offered by the credit union to its members. The credit union should never advertise credit terms that are not actually available. If the credit union imposes a condition on a credit product, this must also be stated in the advertisement. This does not mean the credit union cannot offer a special rate that is available for only a limited time period, nor does it prohibit the credit union from advertising terms that will become available at a future date.

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

Compliance Videos

Quarterly Update for Q2 an Q3 2017

This [video](#) reviews of a few important laws and regulations that will impact our credit unions in the 2nd and 3rd quarters of 2017. League InfoSight CEO Glory LeDu covers the **DOL – Fiduciary Rule** effective 6/9/17, Phase II of the **NACHA Same Day ACH**, the changes to the **DOD - Military Lending Act** related to credit cards, and an overview to the 1st set of changes made to **Mortgage Servicing**.

Mortgage Servicing Rule

This [video](#) provides more detailed information from Glory LeDu, CEO of League InfoSight, regarding the upcoming **Mortgage Servicing Rules, effective 10/19/2017**. Be sure to review this video to ensure you are in compliance with these upcoming changes.

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

CUNA Files Three Comment Letters with the NCUA

[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:

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

This week, CUNA filed three comment letters with the NCUA. The letters were in response to NCUA proposed rules to update the [agency's voluntary merger rule](#), [appeals for material supervisory determinations](#) and [appeals procedures](#).

CUNA requested that NCUA make several substantive changes to the voluntary merger rule. Specifically, CUNA does not support additional disclosures when the disclosures do little to help credit union members decide whether to approve a merger or can slow or stop mergers. CUNA also does not support merger notice periods that do not line up with current NCUA requirements or the onerous member to member communication requirement. CUNA stressed in the letter that credit unions do not want updates to the merger rule to increase credit unions' regulatory burden.

CUNA also filed comment letters supporting NCUA proposed Part 746 – appeals for supervisory determinations and appeals process. Both of these proposals would expand and clarify a multitude of NCUA appeals processes and credit union appeals rights to NCUA staff, the Supervisory Review Committee (SRC), and the Board.

The addition of Subpart A to Part 746 amends procedures for appealing material supervisory determinations to the NCUA Supervisory Review Committee (SRC). The rule expands the number of supervisory determinations appealable to the SRC and provides credit unions with the opportunity for additional review by the Director of the Office of Examinations and Insurance.

The addition of Subpart B to Part 746 would adopt procedures to govern appeals to the NCUA Board that apply to agency regulations that currently have their own embedded appeals provisions. The procedures would apply in cases in which a decision rendered by a regional director or other program office director is subject to appeal to the Board.

CUNA will continue to work with the NCUA to communicate credit union concerns with the proposed merger rule, to eliminate or reduce any regulatory burden that could result from an updated rule.

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.

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.

Regulatory Compliance School October 25 & 26 – Phoenix 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 October 11, 2017.** To register for the **Oct. 25-26 Regulatory Compliance School** in Phoenix, AZ, [click here](#).



Compliance Calendar

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 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](#)

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 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

[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](#)

TILA/Reg Z

May 11, 2018

• Customer Due Diligence/CDD

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

Sign up to receive Regulatory Compliance News by sending an email to [Donna Gibbs](#).

Archived Regulatory Compliance Newsletters can be accessed [here](#) or on our website www.mwcua.com – Compliance News.

If you're having trouble viewing content, please check your viewer's settings.