

Regulatory Compliance News



MOUNTAIN WEST
Credit Union Association

September 29, 2017

Compliance News

NCUA Publishes Letter to Credit Unions FAQ on New Accounting Standards

NCUA recently published [Letter to Credit Unions 17-CU-05](#) announcing additional frequently asked questions related to FASB's new accounting standard on Financial Instruments – Credit Losses. Questions 24 – 37 have been added to the list of questions that were released in December 2016. The regulatory reporting effective date for credit unions is December 31, 2021.

Source: NCUA

CFPB Issues Proposed Policy Guidance on the Disclosure of Loan-Level HMDA Data

On September 8th, the Consumer Financial Protection Bureau (CFPB) issued proposed policy guidance regarding the disclosure of loan-level HMDA data.

Background

In 2015, the CFPB finalized several amendments to Regulation C (HMDA) that take effect January 1, 2018. Among these, institutions subject to HMDA will begin collecting and reporting several new data points next year. Because HMDA generally requires this data to be made publicly available, the Dodd-Frank Act of 2010 required the CFPB to engage in a balancing test to determine what data should be modified and/or excluded prior to disclosure to protect applicant/borrower privacy.

Proposed Policy Guidance

The CFPB proposes to EXCLUDE the following loan-level HMDA data from public availability:

- Universal Loan Identifier (ULI);
- Application date;
- Date action was taken on the application/loan;
- Property address;
- Credit score of the applicant;
- NMLSR unique identifier of the mortgage loan originator;
- Any result generated by an automated underwriting system used by the credit union; and
- The following free-form text fields:
 - The name of any automated underwriting system used by the credit union;
 - The applicant's race and ethnicity;
 - The name of any scoring model used by the credit union to generate a credit score used in connection with the application; and

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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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- Denial reasons.

The CFPB proposed to MODIFY the following loan-level HMDA data prior to public disclosure:

- Loan amount
 - Disclosed as the midpoint of the \$10,000 interval in which the loan falls
 - Example - the applicant submits an application for \$117,834. The loan amount is disclosed as \$115,000 (the midpoint between \$110,000 and \$120,000)
- Age
 - First, the CFPB will disclose whether the applicant is 62 or older
 - Second, the applicant's age will be disclosed by range
 - Under 25
 - 25 to 34
 - 35 to 44
 - 45 to 54
 - 55 to 64
 - 65 to 74
 - Over 74
- Debt-to-income ratio
 - Disclosed by range
 - Less than 20%
 - 20% to 30%
 - 30% to 40%
 - 40% to 50% (In this range, the debt-to-income ratio will be disclosed as a specific numerical value, e.g. 43%)
 - 50% to 60%
 - Over 60%
- Property value
 - Disclosed as the midpoint of the \$10,000 interval in which the property value falls
 - Example - the property value is \$227,900. The property value is disclosed as \$225,000 (the midpoint between \$220,000 and \$230,000)

Comments on the CFPB's proposed policy guidance must be received on or before November 24, 2017. If you have any questions about the proposed policy guidance, please don't hesitate to contact CUNA's Compliance Team at cucomply@cuna.coop.

Source: CUNA Compliance 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.



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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 Heimbuck at: mheimbuck@mwcua.com or (720) 479-3325 or 1 (800) 477-1697 ext. 3325



InfoSight Highlight

Servicemembers (and Dependent) Consumer Lending (Military Lending Act)

As required by the John Warner National Defense Authorization Act for Fiscal Year 2007 which added 10 USC 987, the Department of Defense (DOD) issued a regulation that implements the Military Lending Act (MLA) regarding the terms of consumer credit extended by creditors to service members and their dependents.

In July 2015, the changes were made that impacted the MLA and became effective on October 1, 2015. Credit unions were required to comply with the changes on October 3, 2016. Credit unions should have policies and procedures in place to determine if their new borrower(s) are considered "covered borrowers" under the MLA. If the borrower(s) are determined to be covered under the rules, the credit union must also determine if the loan a "covered loan." If the borrower(s) and the loan are both covered under the rules, the credit union should understand their Military Annual Percentage Rate (MAPR) limitations as well as the required disclosures that need to be provided prior to consummation.

Loans Covered Under the Rule

The rule defines "consumer credit" as any credit offered

Training & Events Calendar

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:

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

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

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](#).

or extended to a covered borrower primarily for personal, family, or household purposes and that is:

- Subject to a finance charge; or
- Payable by a written agreement in more than four installments.

Exceptions

The definition of consumer credit DOES NOT mean:

- A residential mortgage (any credit transaction secured by an interest in a dwelling, including a transaction to finance the purchase or initial construction of the dwelling, any refinance transaction, home equity loan or line of credit or reverse mortgage);
- A credit transaction that is expressly intended to finance the purchase of a motor vehicle when the credit is secured by the vehicle being purchased;
- A credit transaction that is expressly intended to finance the purchase of personal property when the credit is secured by the property being purchased;
- A credit transaction that is an exempt transaction for purposes of Regulation Z;
- A credit transaction for a non-covered borrower.

Credit unions should be mindful that if they are refinancing a loan for a borrower, it may be deemed a covered loan. For example, if the credit union is refinancing an auto loan from another lender in order to provide the member with a lower rate, that would not be a credit transaction that is expressly intended to finance the purchase of a motor vehicle and would therefore be a “covered loan” and subject to the MAPR limitations and disclosure requirements.

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

Advocacy Highlight

CUNA Staff and Credit Unions Attend SBA Office of Advocacy Roundtable on Small Business Lending

Credit unions traveled from throughout the country to discuss the CFPB’s request for information (RFI) about collecting additional data on small business lending at a Small Business Administration (SBA) Office of Advocacy Roundtable.

The CFPB’s RFI stems from Section 1071 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) which amends the Equal Credit Opportunity Act (ECOA) to require financial institutions to compile, maintain, and report information concerning credit applications made by women-owned, minority-owned, and small businesses.

CUNA has [previously weighed in](#) on this RFI with the CFPB and the SBA Office of Advocacy noting that they support the intent of this potential rule but have serious concerns that unintended consequences of overly burdensome regulations in this area could have the effect of limiting

September 15, 2017

- [Same-day ACH – Phase 2](#)

September 30, 2017

- [New Call Report Form](#)

October 3, 2017

- [MLA – Limitations on Terms of Consumer Credit Extended to Service Members & Dependents](#)

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](#)

April 1, 2018 ~ CFPB

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

CUNA Comment Calls – Due Dates on Proposed Rules

September 18, 2017~DOL

[DOL Overtime Rule RFI](#)

September 29, 2017~CFPB

[Federal Mortgage Disclosure Requirements Under TILA \(Reg Z\)](#)

September 29, 2017~NCUA

[Emergency Merger CC](#)

November 3, 2017~NCUA

[Regulatory Reform Agenda](#)

access to small business loans for credit union members.

The group reiterated many of these concerns to CFPB staff, SBA staff, and SBA Office of Advocacy staff. Specifically, the representatives urged the CFPB to exempt credit unions from any additional data collection requirements for small business loan data since credit unions are serving unique fields of membership in an already consumer friendly way. Additionally, they reiterated concerns that any data collected for this effort would be a very small percentage of the market, and would largely be useless when compared to the large Wall Street banks for the purpose of drawing any policy conclusions because of credit unions different rules for business lending.

The credit union representatives at the meeting included Jason L. Herlitzke from Summit Credit Union, Steve Hazan from State Employees Credit Union of Maryland, Stephanie Sievers from ANECA Federal Credit Union, and Mira Ness from New York University FCU, as well as Leah Dempsey CUNA’s Senior Director of Advocacy and Counsel.

CUNA plans to continue to engage with the CFPB, the SBA, and the SBA Office of Advocacy about this potential rule and will continue to push for Congressional efforts which modify Section 1071 of the Dodd-Frank Act.

Home Depot Data Breach Lawsuit Settlement Approved

Judge Thomas W. Thrash Jr. approved a settlement last week between Home Depot and financial institutions in a lawsuit brought in the wake of a 2014 data breach. CUNA, state leagues and a number of credit unions are among the plaintiffs.

“Credit unions and their members have borne numerous costs due to data breaches such as the one that occurred at Home Depot, and this settlement is a step toward making them whole again,” said CUNA President/CEO Jim Nussle. “CUNA will continue to pursue a legislative solution to achieve stricter merchant data security standards, and we hope to see more victories in ongoing data breach lawsuits.”

The settlement includes creation of a \$25 million fund by Home Depot for distribution through a claims process, and an agreement from Home Depot to strengthen its future data security measures. Home Depot will now be required to fund the settlement and the payout of claims made should commence in the next 90 days.

CUNA will soon hold a member call with the counsel that represented CUNA in the Home Depot litigation to discuss credit union’s legal remedies against Equifax in the credit reporting agency’s massive data breach.

NCUA Field-of-Membership Rule

Get more information about the NCUA's new field-of-membership rule by watching the [agency's webinar online](#) and review [questions and answers](#) from the event.

The NCUA Board unanimously approved the new field-of-membership rule at its [October 2016 open meeting](#).

Compliance Videos

Quarterly Update for Q2 and Q3 2017

This [video](#) reviews 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.

CUNA Files Comment on Request for Information about DOL Overtime Rule

CUNA filed a comment letter with the Department of Labor (DOL) this week concerning its finalized rule on overtime pay. The rule is intended to increase the threshold salary level for overtime pay to the 40th percentile of weekly earnings for full-time salaried workers. Specifically, the final rule increases the standard salary level from \$455 per week (\$23,660 for a full-year worker) to \$913 per week (\$47,476 for a full-year worker).

In the comment, CUNA expressed concerns that the overtime rule raises the threshold by nearly double and establishes requirements for having to come into compliance with automatically updating salary and compensation levels occurring every three years. In the comments, CUNA wrote that credit unions support the intent of the overtime rule. However, they have concerns that it sweeps in a disproportionate number of credit unions and that there are recurring compliance burdens associated with it. It further notes that a substantial percentage of credit union employees, specifically employees of smaller credit unions and those in rural or underserved areas, fall under the salary threshold to be eligible for overtime pay under the new rules.

As CUNA has [blogged](#), litigation challenging the 2016 Final Rule is currently pending before the Fifth Circuit Court of Appeals and in the U.S. District Court for the Eastern District of Texas. By district court order, the Department is enjoined from implementing and enforcing the final rule as currently written.

CUNA notes in its comments that as this litigation continues, they appreciate the DOL's analysis of the rule to determine whether it is having unintended consequences for employees and employers and causing unreasonable compliance burdens on a recurring basis.

Source: CUNA Removing Barriers Blog

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

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