

## Regulatory Compliance News



**MOUNTAIN WEST**  
Credit Union Association

September 8, 2017

### Compliance News

#### Joint Memo on Combating Elder Financial Exploitation

FinCEN and the CFPB have issued a [joint memorandum](#) on financial institution and law enforcement efforts to combat elder financial exploitation. It contains helpful information regarding the response of financial institutions and their role in detecting, responding to, and preventing elder financial exploitation.

*Source: CFPB, Dept. of Treasury and FinCEN*

#### Bureau Issues TILA Annual Threshold Adjustments

The CFPB has published [\[82 FR 41158\]](#) in the *Federal Register* a final rule amending the official interpretations for Regulation Z, which implements the Truth in Lending Act (TILA). The rule revises, as applicable, the dollar amounts for provisions implementing TILA and amendments to TILA. Specifically—

- For open-end consumer credit plans under TILA, the threshold that triggers requirements to disclose minimum interest charges will remain unchanged at \$1.00 in 2018.
- For open-end consumer credit plans under the CARD Act amendments to TILA, the adjusted dollar amount for the safe harbor for a first violation penalty fee will remain unchanged at \$27 in 2018 and the adjusted dollar amount for the safe harbor for a subsequent violation penalty fee will remain unchanged at \$38 in 2018.
- For HOEPA loans, the adjusted total loan amount threshold for high-cost mortgages in 2018 will be \$21,032. The adjusted points and fees dollar trigger for high-cost mortgages in 2018 will be \$1,052.
- For the general rule to determine consumers' ability to repay mortgage loans, the maximum thresholds for total points and fees for qualified mortgages in 2018 will be
  - 3 percent of the total loan amount for a loan greater than or equal to \$105,158;
  - \$3,155 for a loan amount greater than or equal to \$63,095 but less than \$105,158;
  - 5 percent of the total loan amount for a loan greater than or equal to \$21,032 but less than \$63,095;
  - \$1,052 for a loan amount greater than or equal to \$13,145 but less than \$21,032; and
  - 8 percent of the total loan amount for a loan amount less than \$13,145.

The rule will be effective January 1, 2018.

*Source: CFPB*

#### Early Bond Redemption Authority Expanded

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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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### Association Compliance Forums

Click on one of the below links to subscribe

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[BSA Compliance Officer Forum](#)

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

Federal Reserve Bank Services has [updated its earlier announcement](#) to savings bond agents serving Texas counties affected by Hurricane Harvey authorizing the early redemption of Series EE and I savings bonds less than one year old presented during the months of August, September, and October 2017. This authorization pertains not only to bond owners still residing in affected areas, but also to those who evacuated from those areas. The list of counties affected has been expanded to include Aransas, Bee, Brazoria, Calhoun, Chambers, Colorado, Fayette, Fort Bend, Galveston, Goliad, Hardin, Harris, Jackson, Jasper, Jefferson, Kleberg, Liberty, Matagorda, Montgomery, Newton, Nueces, Orange, Refugio, Sabine, San Jacinto, San Patricio, Victoria, Waller, and Wharton. Agents should not require evidence of hardship but must continue to abide by guidelines in the Guide to Cashing Savings Bonds and savings bond processing instructions provided through FRBservices.org. This authorization will remain in effect through the end of October 2017.

In addition, TreasuryDirect account holders in or evacuated from the affected areas can request a waiver of the one-year holding period for savings bonds by sending an email from within the account explaining their circumstances. Bond redemption agents who are asked for help from TreasuryDirect account holders because they are unable to access their accounts have been asked to obtain the account holders' names and contact information, including daytime telephone numbers, and relay the information via email to [retailfrbhelpdesk@fiscal.treasury.gov](mailto:retailfrbhelpdesk@fiscal.treasury.gov).

*Source: FRB Services*

### OFAC Sanctions ISIS Finance Emir

In late August, the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) targeted Salim Mustafa Muhammad al-Mansur (Mansur), an Islamic State of Iraq and Syria (ISIS) finance emir. Mansur was designated as a Specially Designated Global Terrorist pursuant to Executive Order 13224 for acting for or on behalf of ISIS. As a result of the designation, all property and interests in property of Mansur subject to U.S. jurisdiction are blocked, and U.S. persons are generally prohibited from engaging in transactions with him.

*Source: OFAC*

## Advocacy Highlight

### Labor Publishes Proposed Extension of Transition Period For Fiduciary Rule

The Department of Labor's Employee Benefits Security Administration published [\[82 FR 41365\]](#) in the *Federal Register* a proposed extension to July 1, 2019, of the special transition period for several exemptions to its fiduciary conflict of interest regulations, to give the Department the time necessary to consider possible changes and alternatives to sections of the regulations. The proposed amendments to these exemptions would affect participants and beneficiaries of plans, IRA owners and fiduciaries with respect to such plans and IRAs. **Comments on the proposal will be accepted through September 15, 2017.**

*Source: Department of Labor*

### Illinois Credit Union League Champions Sweeping Charter Update

Recently, the Illinois Credit Union League successfully championed the enactment of an amendment to the state's credit union act, HB 1792. The amendment includes parity provisions that would ensure state chartered credit unions remain on par with their federal counterparts. The bill

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](mailto:mheimbeck@mwcu.com) or (720) 479-3325 or 1 (800) 477-1697 ext. 3325



## InfoSight Highlight

### League InfoSight Survey

It's strategic planning time of year and InfoSight is asking for your assistance by [completing a short survey](#) on League InfoSight products. All survey results are reviewed and incorporated into the planning process, so your participation is very important to help prioritize and determine future system enhancements and development.

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

## Compliance Videos

### Quarterly Update for Q2 and Q3 2017

This [video](#) reviews of a few important laws and regulations that will impact our credit unions in the 2<sup>nd</sup> and 3<sup>rd</sup> 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 1<sup>st</sup> set of changes made to **Mortgage Servicing**.

### Mortgage Servicing Rule

This [video](#) provides more detailed information from Glory

improves credit union operations and services by permitting credit union members to vote electronically, adjusting the limit on loans to members, expanding the ability of credit unions to market their products and services and allowing credit unions to invest in corporate bonds and loan pools.

The electronic voting amendment is beneficial in that it would increase member participation by allowing access to a more convenient option for voting on questions and in elections of the credit union. Federal credit unions are authorized to conduct electronic voting pursuant to Article V of the Federal Credit Union Bylaws.

While the loan limit amendment, Section 48, makes no change regarding a credit union's loan limits, it deletes an outdated reference to loans in excess of \$200. Another amendment, Section 53, removes the reference that credit union to credit union lending limits must be recorded in the bylaws and instead authorizes the board of directors to set such limits by policy.

Further under HB 1792, credit unions may create and use descriptive and brand references to promote and market their identities, services and products to members. However, credit unions electing to use branding references for marketing purposes must continue to utilize their formal name in official documentation and for legal purposes.

The bill also authorizes Illinois credit unions to invest in investment grade corporate bonds, provided that the credit union has established a written policy addressing investment procedures and risk management. Credit unions can also invest in a pool of loans, in whole or in part, from other depository institutions and financial type institutions including mortgage banks, finance companies, insurance companies, and other loan sellers. The bill passed by wide margins in both the Illinois House and Senate and became effective on August 25.

### Small Dollar Loan Rule Expected in September

The CFPB's much anticipated rule on payday and small dollar lending is expected to be out in the next few weeks. CUNA and the Leagues have [been highly active](#) in seeking changes to the CFPB's rule which was proposed last summer. The rule, as originally proposed, sweeps in a number of credit union small dollar loan products and even certain products not similar to a payday loan such as auto refinance loans.

[CUNA filed a 61-page comment letter](#) outlining why the CFPB should make significant changes to the proposed rule to ensure that credit unions are not impacted. In addition, CUNA included an attached legal opinion from the Dentons law firm explaining how and why the CFPB should make these changes. Both [NCUA](#) and the SBA Office of Advocacy, with CUNA's support, also sent letters to the CFPB seeking changes to the rule for the protection of credit union members.

Among the dozens of concerns identified by CUNA were:

- CFPB did not take into account the unique way credit unions operate in this market, nor did they consider the existing regulatory oversight that provides significant consumer protection.
- Credit unions typically offer these loans as a member service, often at a loss.
- CFPB only provided a limited conditional exemption for NCUA's PAL program which has been widely recognized as a model for

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 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

### September 15, 2017

- [Same-day ACH – Phase 2](#)

### September 30, 2017~NCUA

- [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

consumer-friendly lending. The proposed rule imposes additional regulatory requirements on and prohibitions to credit unions originating loans under existing NCUA PAL programs.

- While CUNA supports curbing the abuses in the market, the CFPB must do so in a manner that maintains credit availability to meet consumer demands. Otherwise only those that choose to engage in predatory behavior and otherwise skirt the law will be the sole source for consumers.
- While the rule was written to target abuses in the payday lending market, the rule could sweep in numerous other products by credit unions where there is no evidence of abuse by credit unions (auto refinances, auto purchases, credit cards, etc.)
- The underwriting requirements for a small \$100 loan are in some instances more onerous than that of a \$500,000 mortgage.

There have been several reports that the CFPB is now considering a bifurcated rule that focuses primarily on loans that are under 45 days and more flexible underwriting requirements for certain providers. These reports appear to be in line with some of CUNA's recommendations and could create a path where credit unions are able to continue to offer many of their consumer friendly small dollar loans.

*Source: CUNA Removing Barriers Blog*



#### Training & Events Calendar

##### **September 11**

Webinar: Preparing for Reg CC Rule Changes Part 1: Impact, Detailed Changes & Action Plan

##### **September 12**

Webinar: Regulator Issues for the Credit Analyst

##### **September 13**

Webinar: Minor Accounts: Ownership, Documentation & Access

##### **September 19**

Webinar: Managing & Mitigating Data Breaches: Fraud, Forensics & Incident Response

##### **September 20**

Webinar: Supporting Documentation for the ALLL: Current Rules & Future Expectations Under CECL

##### **September 21**

Webinar: ACH Specialist Series: RDFI Returns: 2 Day v 609 Calendar Days – Understanding the Difference

##### **September 27**

Webinar: Step by Step SAR Completion: Dos & Don'ts

##### **September 28**

Webinar: Record Retention & Destruction Rules: Compliance & Best Practices

## **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**

### **August 14, 2017~NCUA**

Corporate Credit Union Proposal

### **August 28, 2017~NCUA**

National Credit Union Share Insurance Fund Equity Distributions

### **August 31, 2017~CFPB**

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

### **September 18, 2017~DOL**

DOL Overtime Rule RFI

### **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 Lunch & Learn September 21 - Grand Junction, CO**

Compliance professionals on the Western Slope can join their 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](mailto: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



**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](#)

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](#).

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

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