

## Regulatory Compliance News



**MOUNTAIN WEST**  
Credit Union Association

December 1, 2017

### Compliance News

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#### Payday Loan Rule Published

The Consumer Financial Protection Bureau published its final rule, "Payday, Vehicle Title, and Certain High-Cost Installment Loans," at [82 FR 54472](#) in the 11/17/17 *Federal Register*. The rule is to become effective January 16, 2018, with most sections carrying a compliance date of August 19, 2019. This will start the 60-legislative-day period under the Congressional Review Act during which Congress can nullify the rule with a joint resolution approved by the president.

#### CFPB Proposes Testing Overdraft Disclosures

The Bureau is seeking approval from the Office of Management and Budget for, and comments on, its plans to conduct online testing of ATM/debit card overdraft disclosures with 8,000 individuals. The testing will explore consumer comprehension and decision-making in response to overdraft disclosure forms. It will also explore financial product usage, behavioral traits, and other consumer characteristics that may interact with a consumer's experiences with overdraft programs and related disclosure forms. Comments on the CFPB's [notice and request for comment](#) will be accepted through January 16, 2018.

*Source: CFPB*

#### Bureau Sets FCRA Charge Limit for 2018

The CFPB has published a *Federal Register* notice [[82 FR 53481](#)] announcing that the ceiling on allowable charges assessed by credit reporting agencies for making a disclosure to a consumer under the Fair Credit Reporting Act (FCRA) will remain unchanged at \$12.00, effective for 2018.

#### Are Credit Report Fees Considered Finance Charges Under Regulation Z?

*John, the new lending officer at ABC Federal Credit Union, is not sure whether credit report fees should be considered finance charges under*

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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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Regulation Z so he has asked Sarah, the credit union's compliance officer, for help. What should Sarah tell John concerning credit report fees?

- A. Credit report fees are always considered finance charges under Regulation Z.
- B. Credit report fees are never considered finance charges under Regulation Z.
- C. Credit report fees are considered finance charges on transactions secured by real property and are not considered as finance charges for all other loans.
- D. Credit report fees are not considered finance charges on transactions secured by real property but are considered finance charges for all other loans.

Answer: The correct answer is "D". Credit report fees are not considered finance charges on transactions secured by real property but are considered finance charges for all other loans.

Regulation Z Section 226.4(b)(4) indicates that credit report fees are considered finance charges unless specifically excluded. Paragraph (c) states that credit report fees are excluded from the finance charge for transactions secured by real property or in a residential mortgage transaction if the fees are bona fide and reasonable in amount.

Therefore, credit report fees are not considered finance charges for mortgage loans as long as they are bona fide and the amount is reasonable, however credit report fees are considered finance charges for all other loans

Source: CUNA Compliance Blog

### CTR Reporting Brochure for Members

FinCEN reminds credit unions of the agency's [downloadable CTR brochure](#) that may be handed out to members explaining that "structuring" their currency transactions to avoid CTR filing is illegal.

Source: FinCEN

### The Clearing House Launches its Real Time Payments System

The Clearing House (TCH), the payments and settlement company jointly owned by 25 of the largest US banks, announced the official launch of its real time payments system on November 14, 2017. The new set of rails, which TCH touts as the first new US core payments infrastructure in more than 40 years, has handled precisely one transaction to date - a transfer between accounts at BNY Mellon and US Bank. Other owner banks (Citi, SunTrust, PNC and J.P. Morgan) are slated to soon follow suit.

TCH stresses that its system, being marketed as RTP, is open to all US depository institutions and that its owner banks will not receive preferred pricing. TCH has communicated a goal of achieving ubiquity by 2020. RTP operates on a "credit push" model and includes two-way messaging capabilities and payment request functionality - features that TCH expects will expand the scope of potential use cases.

RTP is built in part on technology from Vocalink (acquired in 2016 by MasterCard), which played a pivotal role in the rollout of real time payments in the UK almost a decade ago. For perspective, while such payments are growing at double digit rates as new use cases continue to be introduced, they still represent only a nominal share of UK payment volume.

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



### InfoSight Highlight

#### Business Continuity Planning: Board Responsibilities

A credit union's board and senior management are responsible for overseeing the business continuity planning process, which includes:

- Establishing policy by determining how the credit union will manage and control identified risks;
- Allocating knowledgeable personnel and sufficient financial resources to implement the BCP;
- Ensuring that the Business Contingency Plan (BCP) is independently reviewed and approved at least annually;
- Ensuring employees are trained and aware of their roles in the implementation of the BCP;
- Ensuring the BCP is regularly tested on an enterprise-wide basis;
- Reviewing the BCP testing program and test results on a regular basis; and
- Ensuring the BCP is continually updated to reflect the current operating environment.

It is the responsibility of the credit union's board and management to ensure that risks are identified, assessed, prioritized, managed, and controlled as an integral part of the business continuity planning process. The board and

Read the full TCH press release [here](#).



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### Training & Events Calendar

#### **December 4**

Webinar: [HMDA-LAR Changes Part 2: Completing New Fields with No Predefined Codes, Effective January 1, 2018](#)

#### **December 5**

Webinar: [Conducting a Collections Risk Assessment](#)

#### **December 6**

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

#### **December 11**

Webinar: [Critical HMDA Issues for HELOC Applications & Coverage Changes for Commercial Lenders, Effective January 1, 2018](#)

#### **December 12**

Webinar: [All About 1099 Reporting Part 2: Forms 1099-INT & 1099-MISC: Vendor Payments, Prizes & Interest on Deposit Accounts](#)

#### **December 13**

Webinar: [ACH Risk Management & Assessment: Risks, Controls & Ratings](#)

#### **December 14**

Webinar: [Real Estate Series: Mortgage Loan Disclosure Timing Issues](#)

#### **December 19**

Webinar: [The ALLL with TDRs & Foreclosed Assets](#)

#### **December 20**

Webinar: [Preparation Plan for CDD Changes to Beneficial Ownership Rules: Effective May 11, 2018](#)

### **Effective Dates New and Revised Rules**

#### **December 1, 2017**

- [New Bankruptcy Rules](#)

#### **January 1, 2018**

- [HMDA/Reg C](#)

#### **January 1, 2018**

- [Supervisory Review Committee; Procedures for Appealing Material Supervisory Determinations](#)

#### **January 1, 2018**

- [Appeals Procedures](#)

management should establish policies that define how the credit union will manage and control the identified risks. Once policy is established, it is also important for the board and management to understand the consequences of these identified risks and support continuity planning on a continuous basis.

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

### **Compliance Videos**

#### **Quarterly Update for Q4 and Review of Q3**

This newly released Compliance Connection [video](#) reviews those laws and regulations effective in the 3<sup>rd</sup> Quarter of 2017 and tells credit unions what to prepare for in the 4<sup>th</sup> Quarter of 2017 as well as what's coming up in the first half of 2018.

### **Advocacy Highlight**

#### **Senate Financial Services and General Government Appropriations Act Released**

On November 21, the Senate Appropriations Committee released its draft spending package to fund agencies and government functions under the jurisdiction of the Senate Appropriations Subcommittee on Financial Services and General Government through the end of Fiscal Year 2018. This bill includes many significant wins for credit unions! For details, [click here](#).

#### **CUNA Comment on NCUA Regulatory Reform Agenda**

CUNA submitted a comment letter to NCUA regarding its comprehensive Regulatory Reform Agenda, issued by a Task Force charged with culling all relevant regulations, with recommendations to streamline and eliminate ineffective, outdated, and excessively burdensome regulations. The agenda parses regulatory recommendations into multi-year efforts, and temporarily supersedes the agency's standard one-third annual regulatory review, which is slated to re-commence in 2020.

A number of the recommendations have already been through the regulatory pipeline, as proposals or adopted regulations. Examples of provisions that have been addressed include capital standards, member lending, and structural procedures relating to appeals, mergers, and field of membership. CUNA is pleased with the commitment and focus of NCUA in managing the process timeline.

CUNA highlighted the need for reform in Bank Secrecy Act compliance, including higher Currency Transaction and Suspicious Activity reporting thresholds. CUNA also advocated for independent third-party review of examiners.

*Source: CUNA Removing Barriers Blog*

**January 1, 2018**

- [Amendments to Equal Credit Opportunity Act \(Reg B\) Ethnicity and Race Information Collection](#)

**January 1, 2018**

- [Truth in Lending Annual Threshold Adjustments](#)

**January 16, 2018**

- [Payday Lending, Vehicle Title, and Certain High-Cost Installment Loans](#)

**March 16, 2018**

- [Same-day ACH - Phase 3 \(Final phase\)](#)

**March 19, 2018**

- [Arbitration Rule](#)

**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](#)

**May 25, 2018**

- [EU's General Data Protection Regulation](#)

**July 1, 2018**

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

**October 1, 2018**

- [Amendments to the Integrated Disclosure Rule](#)

**January 1, 2019**

- [HMDA Thresholds/Reg C](#)

**January 1, 2019**

- [Risk-Based Capital](#)

**August 19, 2019**

- [Payday Lending, Vehicle Title, and Certain High-Cost Installment Loans](#)

**January 1, 2020**

- [HMDA Threshold/Reg C](#)

**December 15, 2020**

- [Current Expected Credit Losses](#)

**January 1, 2022**

- [Amendments to Equal Credit Opportunity Act \(Reg B\) Ethnicity and Race Information Collection](#)

\*For detailed information on rules and effective dates, click [here](#)

**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****December 25, 2017**

- Christmas Day – Federal Holiday

**CUNA Comment Calls – Due Dates on Proposed Rules**

**November 20, 2017~NCUA**  
[Regulatory Reform Agenda](#)

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

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