

## Regulatory Compliance News



**MOUNTAIN WEST**  
Credit Union Association

December 22, 2017

### Compliance News

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#### FinCEN Updates BSA Frequently Asked Questions

FinCEN announced on Friday it has updated its [Answers to Frequently Asked Bank Secrecy Act \(BSA\) Questions](#) on its website. The updates removed several outdated questions, updated references to the Code of Federal Regulations, and modified the answer to question 16 regarding how to address a current issue involving the Designation of Exempt Person (DEP) form.

*Source: FinCEN*

#### Amending/Correcting a SAR Filing

**Q: What's the process for filing a corrected or amended Suspicious Activity Report (SAR) in FinCEN's BSA E-Filing System?**

**A:** According to FinCEN's [SAR Frequently Asked Questions](#) (see Q&A #6), credit unions should check "Correct/amend prior report" and enter the previous Document Control Number (DCN)/BSA Identifier (ID) in the appropriate field.

To find the DCN/BSA ID for the previous filing, you'll need the acknowledgement you received after successfully submitting the report into the BSA E-Filing System. If the previous DCN/BSA ID is not known, filers should enter all "zeros" (14 in total) for the previous DCN/BSA ID. (See Q&A #7)

The credit union should then complete the FinCEN SAR in its entirety, including the corrected/amended information and noting those corrections at the beginning of the narrative, save (and print, if desired) a copy of the filing, and submit the filing. The corrected/amended FinCEN SAR will be assigned a new BSA ID.

#### DoD's Revised MLA Guidance

The long-awaited second round of MLA guidance from the DoD was published in the Federal Register on December 14, 2017.

CUNA has been urging The DoD, since late 2016, to provide additional guidance to clarify many of the issues in the MLA rule that have caused confusion for credit unions. CUNA's efforts included four letters to the DoD in a seven-month period, a number of face-to-face meetings with the DoD,

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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

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and engagement with regulators and members of Congress.

The DoD's first Interpretive Rule, consisting of nineteen questions and answers was issued on August 26, 2017. This new Interpretive Rule amends the guidance in three of the previous nineteen questions and clarifies a fourth issue that wasn't discussed in the initial Interpretive Rule.

#### **Purchase-money Vehicle Loans:**

Question #2 from the DoD's August 2017 Interpretive Rule stated that a purchase-money vehicle loan (or personal property loan) would lose its exemption under the MLA rule if additional money was loaned beyond the purchase price of the vehicle or personal property that was not related to the vehicle or personal property purchase itself or if additional cash-out was provided.

Question #2 from the recent Interpretive Rule clarifies that whether a purchase-money loan loses its exemption from the MLA Rule depends on what is financed. Generally, financing costs that are related to the collateral's (vehicle or personal property) purchase will not eliminate the loan's exemption from the MLA rule, but financing credit-related products will disqualify the loan from the exemptions.

For example, a loan that finances the purchase of a vehicle (and is secured by that vehicle) and finances optional third row seating or an optional GPS display within that vehicle and finances an extended warranty for service of the vehicle, is still eligible for the exemption under the MLA Rule.

Furthermore, if a covered-borrower trades in a motor vehicle with negative equity as part of the purchase of another vehicle, and the loan to purchase the second vehicle includes financing to repay the credit on the trade-in vehicle, the entire transaction is still eligible for the exemption because the trade-in of the first vehicle is expressly related to the purchase of the second vehicle.

However, a loan that finances a credit-related product or service is not eligible for the exemption. For example, a loan that includes financing for Guaranteed Auto Protection (GAP) Insurance does not qualify for the exemption.

This new Interpretive Rule restates the concept from the initial Interpretive Rule that: a loan that provides purchase-money secured financing of a vehicle or personal property along with additional "cash-out" financing that is unrelated to the purchase, does not qualify for the exemption and must comply with the MLA rule's requirements.

#### **Security Interests in Covered Borrower's Deposit Accounts:**

Question #17 from the recent Interpretive Rule states that the MLA Rule prohibits a creditor from using the borrower's account information to create a remotely created check or payment order to collect payments. However, the rule permits a covered borrower to convey security interests to creditors in their checking, savings, or other deposit accounts provided that they are not prohibited by other applicable law and the creditor complies with all other provisions of the MLA Rule.

In addition, Question #18 from the recent Interpretive Rule states that the MLA Rule permits a creditor to exercise a statutory right to take a security interest in a covered borrower's deposit account in connection with all types of consumer credit covered by the MLA Rule (including credit card

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



#### **InfoSight Highlight**

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

#### **Compliance Videos**

##### **NEW! Compliance Outlook for Q4 2017**

In this [video](#), Glory LeDu provides a brief summary of the key changes of the new HMDA rules becoming effective in January.

##### **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.

#### **CUNA Advocacy Update**

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. To receive this update, click on "Get CUNA Updates" on the CUNA

accounts) at any time, including enforcing statutory liens, provided that it is not prohibited by other applicable law and the creditor complies with all other provisions of the MLA Rule.

### Determining Covered-borrower Status:

Question #20 from the recent Interpretive Rule clarifies that a creditor qualifies for the Safe Harbor under the MLA Rule when the covered borrower check is conducted at the time a consumer initiates a credit transaction or applies to establish an account, or up to 30 days prior to the action taken by the consumer.

[Click here to access the DoD's New Interpretive MLA Rule.](#)

*Source: CUNA Compliance Blog*

### The Stats on Voice Banking

More than half of consumers have used a voice-activated device in the past year. When consumers talk, it's always a good idea to listen. And right now, they're talking about voice banking. In response, you should ask an important question: Is our credit union ready to meet those expectations?

The popularity of voice banking—or conversational banking, which includes chat messaging functions—is evident across multiple market indicators, including the most recent quarterly consumer trends survey by Fiserv.

The [Expectations & Experiences: Channels and New Entrants](#) survey found that half of consumers used a voice-activated device in the past year, with 79% doing so through their smartphones. The research, surveyed adults who used their checking accounts to pay a bill or make a purchase in the 30 days prior to the survey, also found that 8% of consumers used a hands-free voice-activated device, such as Amazon Echo or Google Home in the past year. That percentage doesn't seem so small when you consider the product category was not even widely available until mid-2015.

Is this something your credit union is ready for? [Click here to read the rest of this interesting article.](#)

*Source: CUNA*



### Training & Events Calendar

#### 2018 Webinars

**IMPORTANT NOTE:** For the past ten years we have partnered with the Credit Union Webinar Network to provide timely, relevant webinars. We are excited to announce an expansion of our partnership! Beginning in 2018, they will also assist us in marketing and managing these webinars. Click on the link above for a full list of webinar offerings and for more detailed information.

#### January 4

Webinar: [Top Issues for 2017 HMDA Reporting: Due March 1, 2018](#)

[Advocacy Page](#). Additional Advocacy efforts may also be found under CUNA's [Removing Barriers blog](#).

## Advocacy Highlight

### House Passes CUNA-backed Privacy Notice Clarification

On 12/14/17, the House voted 275-146 in favor of a CUNA-backed bill that would provide privacy notice clarity. The Privacy Notice Technical Clarification Act (H.R. 2396) would update the Gramm-Leach-Bliley Act to update the exception for certain annual notices provided by financial institutions.

"This bill would provide credit unions the flexibility they need to ensure members have access to the relevant sections of the credit unions' privacy policy," said CUNA Chief Advocacy Officer Ryan Donovan.



## Compliance Calendar

### December 25, 2017

- Christmas Day – Federal Holiday

### January 1, 2018

- New Years Day – Federal Holiday

### January 15, 2018

- Martin Luther King Day - Federal Holiday

### February 19, 2018

- President's Day – Federal Holiday

## 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](#)

### January 1, 2018

**January 18**

Webinar: [Navigating Compliance Issues for Promotions, Bonuses, Contests & Sweepstakes](#)

**January 24**

Webinar: [Preparing for a Military Lending Act Audit](#)

**January 30**

Webinar: [Compliance Series: Job-Specific Compliance Training for the Frontline](#)

**February 6**

Webinar: [Fair Lending Challenges for HMDA Data Rule Changes: Expanded Data Fields & Lending Practices](#)

**February 8**

Webinar: [Simplifying the Compliance Function: Tools & Checklists to Keep You on Track](#)

**February 14**

Webinar: [Preparing for the New Mortgage Servicing Rules: Final Implementation Date, April 19, 2018](#)

**March 8**

Webinar: [Revisiting CDD Policies & Procedures to Include Beneficial Ownership Rule Changes Effective May 11, 2018](#)

**March 15**

Webinar: [Flood Insurance Compliance Review & Update 2018](#)

**March 21**

Webinar: [Compliance & Legal Risks in Mobile Banking: Rules & Security Requirements](#)

**March 22**

Webinar: [Completing the CTR Line-by-Line Effective May 28, 2018: Technical Changes, New Data Fields & Alternate Model Reporting](#)

**March 28**

Webinar: [Collections & The Servicemember: From the MLA to SCRA](#)

*\*For 2018 webinar questions, please contact [MWCUA@cuwebtraining.com](mailto:MWCUA@cuwebtraining.com).*

## 2018 Compliance Lunch & Learn Sessions Begin in February

The first Compliance Lunch & Learn sessions for 2018 begin in February in Phoenix, AZ on February 7 and in Tucson, AZ on February 8. Join your credit union compliance peers for instruction and a discussion regarding Advertising & Sweepstakes Rules. Arizona attorney Jeremy Goodman will review important advertising regulations, and discuss how to avoid pitfalls with promotional giveaways, sweepstakes and contests. Cost is \$35/person. Instruction, networking and lunch included. [Click here](#) for more information and to register for this program.

## CUNA Comment Calls – Due Dates on Proposed Rules

**December 4, 2017~NCUA**

[NCUA Draft 2018-2022 Strategic Planning](#)

- [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 \(Final phase\)](#)

**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](#)*

**December 4, 2017~NCUA**

Accuracy of Advertising and Notice of Insured Status

**December 28, 2017~CFPB**

Consumer Response Intake Form

**December 28, 2017~CFPB**

Generic Information Collection Plan for Consumer Complaint and Information Collection System

**December 29, 2017~NCUA**

Capital Planning and Supervisory Stress Testing

**January 2, 2018~NCUA**

Electronic Loan, Deposit, and Investment Data Collection

**January 8, 2018~CFPB**

Financial Coaching Program for Veterans and Low-income Consumers

**January 16, 2018~CFPB**

Web-based Quantitative Testing of Point of Sale/ATM Overdraft Disclosure Forms

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

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