

## Regulatory Compliance News



**MOUNTAIN WEST**  
Credit Union Association

January 5, 2018

### Compliance News

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#### **Q&A: When a Credit Union Destroys Records, Does the CEO or a VP Have to Sign Off That the Records Were Destroyed?**

Answer: There is not a specific requirement that the CEO or a VP sign off on the destruction of records. Appendix A to part 749 of NCUA's Rules and Regulations provides guidance on records destruction. The guidance states that the destruction of records should ordinarily be carried out by at least two persons whose signatures, attesting to the fact that records were actually destroyed, should be affixed to the listing of the destroyed records.

#### **The 2017 Tax Reform Bill: FAQs on the Deductibility of Home Equity Interest**

CUNA Compliance has received several questions as of late regarding how the recently enacted tax reform legislation (H.R. 1) will affect the deductibility of interest for home equity loans and lines of credit going forward. Let's take a closer look, keeping in mind that we are not tax law experts. Members should be advised to consult their tax advisor for further information regarding the deductibility of interest and other charges.

#### ***Under the new tax law, is interest on home equity lines of credit (HELOCs) deductible or was that deduction removed?***

Section 11043 of the tax bill amends Section 163(h)(3) of the Internal Revenue Code which is found in Title 26 of the United States Code.

It provides that a deduction for interest paid on home equity indebtedness shall not be allowed for taxable years 2018 through 2025. There is no grandfather provision for this disallowance, meaning that the deduction

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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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has been temporarily eliminated for ALL home equity indebtedness regardless of when the debt was incurred.

NOTE: Section 11043 also reduces the current \$1,000,000 cap on the deductibility of interest for acquisition indebtedness to \$750,000. However, acquisition indebtedness incurred before December 15, 2017 is grandfathered at the \$1,000,000 limit.

### **What debt qualifies as “home equity indebtedness” for purposes of this discussion?**

Section 163(h)(3)(C) defines home equity indebtedness as **any** indebtedness (other than acquisition indebtedness) secured by a qualified residence to the extent the aggregate amount of such indebtedness does not exceed:

- The fair market value of such qualified residence, reduced by
- The amount of acquisition indebtedness with respect to such residence.

Use of the word “any” would seem to indicate that either a closed-end home equity loan or home equity line of credit meets the definition of home equity indebtedness.

NOTE: The Internal Revenue Code defines “acquisition indebtedness” as any indebtedness which is incurred in acquiring, constructing, or substantially improving any qualified residence of the taxpayer, so long as it is secured by such residence.

### **Does any of this affect our advertising responsibilities when it comes to home equity loans and lines of credit?**

Not really. Credit unions are strongly encouraged to not place themselves in the position of giving tax advice to their members. In addition, the advertising requirements found in Sections 1026.16 (for open-end credit) and 1026.24 (for closed-end credit) of Regulation Z remain. These sections provide that in advertisements for loans secured by the member’s principal dwelling, the credit union must clearly and conspicuously state that the member should consult a tax advisor for further information regarding the deductibility of interest and charges.

*Source: CUNA Compliance Blog*

### **Agencies Announce Leniency on 2018 HMDA Data**

OCC, FDIC, and a [public statement from the CFPB](#) all state that the respective agencies do not intend to require data resubmission unless data errors are material or assess penalties with respect to errors for data collected in 2018 and reported in 2019 under HMDA and Regulation C.

The Bureau also announced it intends to open a rulemaking to reconsider various aspects of its 2015 HMDA rule, such as the institutional and transactional coverage tests and the rule’s discretionary data points.

### **Delay of Prepaid Accounts Rule Likely**

The CFPB has issued a [statement on its Prepaid Accounts Rule](#), indicating that it “expects to issue a final rule amending certain aspects of its 2016 rule governing prepaid accounts soon after the new year. As part of that process, the Bureau expects, based on its review of the comments received, to further extend the effective date of the 2016 rule to allow additional time for implementation of the final rule. The Bureau proposed making changes to the prepaid rule in June; the comment period on the proposal ended in August.”

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**

#### **IRS Form 1098**

Credit unions (i.e., "interest recipients"/lenders) who receive mortgage interest payments of \$600 or more during a calendar year, must report those interest payments to both the member (i.e., payer of record making those payments) and to the IRS on "Form 1098, Mortgage Interest Statement."

In 1994, the IRS issued a final regulation on reporting prepaid interest in the form of points paid on residential mortgages. Although this regulation took effect December 8, 1994, the reporting requirements do not apply to points received before January 1, 1995.

The IRS compares the 1098 provided by the credit union with the mortgage interest payments claimed as deductions on the member's income tax return.

#### **What is a mortgage?**

For purposes of this reporting requirement, a mortgage is defined as an obligation (e.g., a loan) secured (all or in part) by real property. It is the credit union's responsibility, as the interest recipient, to make the determination as to what a mortgage is. Note that real property includes a manufactured home, including certain

## Bureau Announces HMDA Tools Additions

The CFPB circulated an email notice last week that it has launched a HMDA Check Digit Tool and Rate Spread Calculator, both available on the CFPB/FFIEC [Resources for HMDA filers](#) webpage.

Source: CFPB

## NCUA Issues Letter to Credit Unions Regarding Examination Priorities

In case you missed it, the NCUA recently issued a Letter to Credit Unions highlighting the agency's areas of examination focus for 2018: cybersecurity, bank secrecy (customer due diligence), internal controls and fraud prevention, interest rate and liquidity risk, auto lending, commercial lending, consumer compliance (HMDA, MLA, and overdraft policies). [Click here to read the details of the NCUA letter.](#)

Source: NCUA

## Advocacy Highlight

### Fed Publishes Reg M Proposal

The Federal Reserve Board has published its previously announced proposal to amend its Regulation M (12 CFR Part 213) to define its limited scope following enactment of the Dodd-Frank Act and the CFPB's issuance of its Regulation M. Both regulations implement the Consumer Leasing Act; the Fed's regulation only applies to certain motor vehicle dealers. Comments on [the Fed's proposal](#) are **due by March 5, 2018**.

Source: Federal Reserve

### Tax Reform Bill Passed

At the end of 2017, the Congress passed the House-Senate tax reform conference committee of the compromise "Tax Cuts and Jobs Act" (TCJA), which would cut taxes by roughly \$1.5 trillion over ten years and would make significant changes to and simplify our nation's tax laws. [Use this link to read the details](#) of the recent passage of the tax reform bill that allows credit unions to maintain their non-profit status, among many other provisions.

Source: CUNA Advocacy

## 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 Advocacy Page](#). Additional Advocacy efforts may also be found under [CUNA's Removing Barriers blog](#). With the recent updates to CUNA's website, Advocacy information has also changed. To view recent advocacy issues and see ways your credit union can become involved, visit the [Priorities](#) or [Actions](#) pages.



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mobile homes.

### How do multiple mortgages effect credit unions?

The credit union must file a separate 1098 for each mortgage on which it received interest of \$600 or more during a calendar year. If the credit union receives less than \$600 of interest on a mortgage then no reporting is required.

### What are mortgage interest payments?

According to Form 1098, the term mortgage interest includes "interest on any obligation secured by real property, including a home equity, line of credit, or credit card loan."

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.



## Compliance Calendar

### January 15, 2018

- Martin Luther King Day - Federal Holiday

### February 19, 2018

- President's Day – Federal Holiday

### May 28, 2018

- Memorial Day – Federal Holiday

### July 4, 2018

- Independence Day – Federal Holiday

### September 3, 2018

- Labor Day – Federal Holiday

### October 8, 2018

- Columbus Day – Federal Holiday

### November 12, 2018

## 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

#### **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**

Join your credit union compliance peers for instruction and a discussion regarding Advertising & Sweepstakes Rules - review important advertising

• Veterans Day (observed) – Federal Holiday

## **Effective Dates New and Revised 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**

• 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

#### **January 19, 2018**

• Emergency Mergers

#### **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

regulations, and discuss how to avoid pitfalls with promotional giveaways, sweepstakes and contests. Cost is \$35/ person. Instruction, networking and lunch included.

- Feb. 7: [Compliance Lunch & Learn](#): Phoenix, AZ
- Feb 8: [Compliance Lunch & Learn](#): Tucson, AZ
- Feb. 22: [Compliance Lunch & Learn](#): Denver, CO

## CUNA Comment Calls – Due Dates on Proposed Rules

**December 28, 2017~CFPB**

[Consumer Response Intake Form](#)

**December 28, 2017~CFPB**

[Generic Information Collection Plan for Consumer Complaint and Information Collection System](#)

**December 28, 2017~CFPB**

[Submission for OMB Review](#)

**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](#)

**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](#)*

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

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