

Regulatory Compliance News



MOUNTAIN WEST
Credit Union Association

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Compliance News

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PMI and Mortgage Debt Forgiveness Tax Relief Extended Through 2017

Last week, the Congress passed a short term "continuing resolution" to fund the government through March 23, 2018. Included in the bill was the Bipartisan Budget Act of 2018, laying the groundwork for a larger budget deal to fund the government for the remainder of fiscal year 2018. As part of this new law, the National Flood Insurance Program (NFIP) is reauthorized on the same track as government spending until March 23.

In addition, the new law includes two tax extender provisions of importance to credit unions. The discharge of mortgage debt forgiveness not treated as income is extended through the end of 2017 so people with forgiven mortgage debt won't have to pay federal taxes on the forgiven debt from 2017. This provision eliminates the requirement for most financial institutions (including credit unions) to file an IRS Form 1099-C ("Discharge of Indebtedness") on a mortgage default involving an individual's primary residence. Should the provision not have been extended, credit unions would have been required to file IRS Form 1099-Cs on certain serviced mortgages, adding to the already high compliance burden on credit unions.

The second tax provision in the law deals with mortgage insurance premiums. Insurance premiums paid in 2017 will be deductible as homeowners file their 2017 tax returns.

So, what is this going to mean for all of those 1098s that have already been filed in compliance with the pre-February 9th law that did not allow for PMI tax relief? Standard procedure would be to issue amended 1098s. CUNA hopes the IRS will offer some guidance quickly.

As of this newsletter, the IRS website says:

The IRS is reviewing the legislation signed Feb. 9 that retroactively

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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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extended and modified numerous tax provisions covering 2017. We are assessing these significant changes in the tax law and beginning to determine next steps. The IRS will provide additional information as quickly as possible for affected taxpayers and the tax community.

Source: CUNA Compliance Blog

Indirect Lending Under the Military Lending Act

The Department of Defense's December guidance on the Military Lending Act (MLA) has impacted several credit union services, and a recent [CUNA CompBlog post examines](#) its effect on indirect dealer lending programs. The post discusses what loans must be in compliance with the MLA rule, and steps credit unions involved in indirect lending should take.

Depending on what is financed, a creditor may find a portion of its loans are exempt from the MLA, while the remainder will require compliance.

Loans that don't finance GAP or credit insurance and that don't provide additional cash-out financing that is unrelated to the vehicle's purchase, are still exempt from the MLA rule.

However, a loan that finances GAP or credit insurance, or provides additional cash out financing that is unrelated to the vehicle's purchase, will lose its exemption and the creditor must comply with the MLA rule requirements.

Credit unions involved in indirect dealer programs should:

- Make sure the automobile dealer can check the active duty status of the servicemember through either of the two safe harbor methods—checking the DoD's database directly through the Defense Manpower Data Center or through a nationwide credit reporting agency;
- Make sure the dealer has MLA compliant loan documents, policies, and procedures;
- Make sure the dealer can calculate the military APR for the loan prior to consummation;
- Once a specific dealer is fully able to comply, audit that auto dealer's compliance efforts on a routine basis to insure continued compliance;
- If the automobile dealer is currently unable to fully comply with the MLA Rule's requirements, a credit union should consider closing covered loans in-house, that sell GAP or credit insurance, until the dealer is capable of fully complying with the MLA rule; and
- Consider asking your legal counsel to review your indirect lending agreement and revising it in light of these new issues.

The blog post also addresses confusion stemming from one question in the DOD's guidance, a question that CUNA has requested the DOD remove due to confusion it is causing for credit unions and other lenders.

Source: CUNA News

Department of Justice Goes After Massive Cyberfraud Ring

The Department of Justice has charged 36 people and arrested 13 in a takedown of a brazen global cyberfraud ring that bought and sold debit and credit card information, banking and financial data, stolen identities, personal information, malware and other illegal items. The action marks one of the largest cyberfraud enterprise prosecutions the DOJ has ever undertaken. [Read the recent article from CU Times here.](#)

Source: CU Times

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 or (720) 479-3325 or 1 (800) 477-1697 ext. 3325



Americans with Disabilities Act (ADA) Audits and Website Accessibility

The subject of ADA and website accessibility has become a hot topic in recent months. As excerpted from this channel on InfoSight:

"ADA website accessibility presents litigation risk. By not taking the steps within the regulation to address auxiliary aids and services, a credit union is likely not to meet the guidelines that require a method to effectively communicate with individuals with disabilities. ADA allows the DOJ to assess civil penalties with amounts currently ranging from \$75,000 for the first violation to \$150,000 for additional violations. ADA regulations do not authorize statutory penalties for plaintiffs, however a court has the authority to force a credit union to meet accessibility standards as part of a private lawsuit.

Neither the Act nor the existing regulation specifically addresses access to websites, however the DOJ stands on its position that the ADA is broad enough to apply to websites. Despite not adopting a formal website accessibility standard, the DOJ continues to require a standard to avoid enforcement actions. Title III is listed as inactive on the current agenda and a final decree may not happen until sometime in 2018. Although there is no

Advocacy Highlight

CUNA Joins Trades in Letter to CFPB on TILA/RESPA Mortgage Servicing Rule

CUNA joined a number of financial trades in sending a letter to Acting Director Mulvaney to advise the CFPB on the significant unaddressed issues in the CFPB's 2016 amendments to the 2013 TILA/RESPA Mortgage Servicing Rule that is scheduled to go into effect in April 2018. The rule requires mortgage servicers to send monthly billing statements to consumers in active bankruptcy cases and certain other bankruptcy cases.

The signers of the letter point out, "The CFPB's final rule is contrary to this strong public policy of protecting bankruptcy debtors, will cause conflict within the administration of the bankruptcy case, and will unnecessarily subject mortgage servicers to serious liability under the Bankruptcy Code" and attempts to address a mistakenly perceived issue.

"The CFPB's rule, in its current form, presents significant risk of diluting the Judiciary's efforts in effectively administering its bankruptcy cases and usurps the Judiciary's rule-making power in deciding what information should and should not be provided to a debtor during a bankruptcy proceeding. Our concerns focus on a series of forced communications and potential violations of the Bankruptcy Code that will lead to significant consumer confusion."

Should the CFPB not repeal its proposed rules, the organizations ask the Bureau to address several concerns, including:

- Update the rules to allow the mortgage servicer up to 90 days before sending its first statement;
- Clarify whether it is permissible to continue to send the Chapter 11 bankruptcy statement during the period where the case has been administratively closed but no final decree has been entered or no discharge order has been entered;
- Update the rule's commentary to allow the servicer to include in pre-confirmation cases either the amount of the post-petition payment and corresponding due date, or a statement that information is "to be determined" or otherwise unavailable; and
- Provide additional commentary that allows a servicer to add disclaimers and/or adjust language in the final charge-off statement so the servicer can avoid an unintended violation of the automatic stay or discharge injunction.

CUNA will continue to advocate on the repeal of this rule or at the very least a delay in the effective date to leave time for the serious issues to be addressed. [Read the letter here.](#)

Source: CUNA Removing Barriers Blog

Keeping up with CUNA Advocacy

To stay abreast of the issues on which CUNA has provided input to lawmakers and regulators, [here is a list of those topics.](#)

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

formal rule in place, credit unions remain at high risk for private litigation."

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 3rd Quarter of 2017 and tells credit unions what to prepare for in the 4th Quarter of 2017 as well as what's coming up in the first half of 2018.

Effective Dates New and Revised Rules

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 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](#)

April 1, 2019

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

August 19, 2019

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

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.



Training & Events Calendar

2018 Webinars

February 22

Webinar: [Opening Consumer Accounts: Regulations, CDD & Documentation](#)

February 28

Webinar: [CECL Rule Overview: Preparation, Planning & Data Collection](#)

March 1

Webinar: [Supervisory Committee Overview: Rules, Regulations & Best Practices](#)

March 6

Webinar: [Opening Deposit Accounts for Nonprofit Organizations](#)

March 8

BSA Officer Training - Phoenix

March 8

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

March 14

Webinar: [ACH Rules Update 2018](#)

March 15

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

March 20

Webinar: [Recent Call Report Changes & Top 10 Errors](#)

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](#)

April 3

Webinar: [FFIEC Cyber Security Assessment Tool: Issues & Answers](#)

April 4

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 Comment Calls – Due Dates on Proposed Rules

February 12, 2018~CFPB

[Consumer’s Experience with Free Access to Credit Scores](#)

March 5, 2018~Federal Reserve

[Consumer Leasing \(Regulation M\)](#)

March 27, 2018~CFPB

[Bureau Civil Investigative Demands and Associated Processes](#)

March 30, 2018~FHFA

[Credit Score Requirements](#)

April 2, 2018~NCUA

[Modernizing Data Collection for Supervision of Credit Unions](#)

April 2, 2018~NCUA

[Involuntary Liquidation of Federal Credit Unions and Claims Procedures](#)



Compliance Calendar

January 28, 2018

- 5300 Call Report Due to NCUA

February 19, 2018

- President’s Day – Federal Holiday

April 29, 2018

- 5300 Call Report Due to NCUA

May 28, 2018

- Memorial Day – Federal Holiday

July 4, 2018

Webinar: [BSA Special Risks: Policy, Law Enforcement & Regulator Issues](#)

April 5

Webinar: [Dealing with Dormant Accounts, Unclaimed Property & Escheatment](#)

April 10

[BSA Officer Training - Denver](#)

April 12

Webinar: [Impact of Reg CC Rule Changes on RDC & ACH](#)

April 17

Webinar: [How to Complete & File UCC-1 Financing Statements](#)

April 18

Webinar: [Compliance Rules All Staff Must Know: Red Flags for Identity Theft, Bribery, Privacy & Ethical Considerations](#)

April 19

Webinar: [Top 25 Things to Know About Reg CC Changes Before July 1, 2018](#)

April 26

Webinar: [Denied Loan Requirements: Consumer, Commercial & Real Estate](#)

**For 2018 webinar questions, please contact MWCUA@cuwebtraining.com.*

Compliance Lunch & Learn - Denver

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

- Feb. 22: [Compliance Lunch & Learn](#): Denver, CO

• Registration deadline end of day Feb. 16th

- Independence Day – Federal Holiday

July 29, 2018

- 5300 Call Report Due to NCUA

September 3, 2018

- Labor Day – Federal Holiday

October 8, 2018

- Columbus Day – Federal Holiday

November 12, 2018

- Veterans Day (observed) – Federal Holiday

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

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