



Compliance News

Financial Regulators Issue Final Guidance on Social Media

The Federal Financial Institutions Examination Council (FFIEC), on behalf of its members, released final guidance on the applicability of consumer protection and compliance laws, regulations, and policies to activities conducted via social media by banks, savings associations, and credit unions, as well as nonbank entities supervised by the Consumer Financial Protection Bureau. The guidance is effective immediately.

The guidance does not impose any new requirements on financial institutions. Rather, it is intended to help financial institutions understand potential consumer compliance and legal risks, as well as related risks such as reputation and operational risks, associated with the use of social media, along with expectations for managing those risks. The guidance provides considerations that financial institutions may find useful in conducting risk assessments and crafting and evaluating policies and procedures regarding social media.

The FFIEC published the guidance in proposed form in January 2013 and invited public comments through March 25, 2013. The agencies received 81 comments through that process and took those comments into account in making certain revisions to the guidance.

[Attachment](#)

Source: FFIEC

NCUA Improves Share Insurance Estimator

The NCUA has improved the online share insurance estimator tool used by members and credit union employees to calculate share insurance coverage. The calculator was updated so that credit union members would have an easier time getting answers to questions and keeping track of their share insurance coverage. Along with the redesign comes a new name - once known as the E-Calculator the redesigned [Share Insurance Estimator](#) is easier to use and has expanded content.

"Our new Share Insurance Estimator makes it easy for consumers to calculate share insurance coverage and receive immediate answers to questions about share insurance," NCUA Board Chairman Debbie Matz said. "NCUA encourages credit unions to share with their members this useful tool and other consumer information resources available on our consumer website [MyCreditUnion.gov](#)."

The redesign of the site includes new graphics, larger icons and buttons for ease of use, and resources and instructions centered to highlight their availability. The pop-up help features will assist members in entering the correct information to accurately calculate share insurance coverage. The new functionality also allows users to input information while simultaneously using the NCUA's reference materials available on the site. The features important to credit union employees who are assisting their members is still present and it may be even easier to create and print a Share Insurance Estimator Insurance Report.

For any questions about the Share Insurance Estimator or any other share insurance inquiries, contact the Office of Consumer Protection's Division of Consumer Access toll free at 1-800-755-1030 (select option 2) or by email at DCAMail@ncua.gov.

Source: NCUA

Consumer Financial Protection Bureau

On January 3, 2014, Consumer Financial Protection Bureau Director Cordray sent out a letter to credit union leagues and state financial services associations addressed to credit unions. This letter is attached and addresses the new Regulation Z Ability to Repay requirements.

[Click here for Letter](#) or paste following link into your browser

https://master.leagueinfosight.com/files/infosight/1/file/CFPB/Director%20Cordray%20letter%20to%20credit%20unions_Jan%202014.pdf

Source: CFPB

Pay Attention to Indirect Auto Lending and Fair Lending Violations

Credit unions that allow dealer mark-ups in their indirect lending program should be aware of details from a consent order to Ally Financial Inc. and Ally Bank. The [consent order](#) was issued Dec. 19 by the CFPB, in coordination with the Department of Justice.

The order explains Ally's indirect lending process: first, the dealers submit applications to Ally on behalf of their customers, Ally then provides the dealer with a "buy rate," reflecting the minimum interest rate at which Ally will finance or purchase a retail installment contract from the dealer. The dealer is then able to add a discretionary mark up above Ally's buy rate. The difference between the buy rate and the consumer's interest rate on the installment contract is known as the dealer markup. Ally then compensates dealers from the increased interest revenue derived from the dealer markup. Ally limits the dealer markups to 250 basis points for contracts with terms of 60 months or less and 200 basis points for terms greater than 60 months. Ally participates in the decision to extend credit, underwriting and setting the terms of credit, establishing the risk-based buy rate and communicating those terms with the dealer.

After analyzing a sample of Ally's retail installment contracts, the CFPB and DOJ determined that African-American borrowers were charged approximately 29 basis points more in dealer markups than similarly situated non-Hispanic whites. Hispanic borrowers were charged 20 basis points more and Asian/Pacific Islander borrowers were charged approximately 22 basis points more. The consent order goes on to note that these disparities are based on race and not based on creditworthiness or other objective criteria related to borrower risk.

The consent order notes that Ally did not monitor whether prohibited discrimination was occurring through the charging of markups across its portfolio and it did not offer comprehensive fair lending training to its network of dealers. Ally was ordered to pay a total of \$98 million dollars, \$80 million representing the amount of consumer monetary and other damages to be deposited in to a "Settlement Account" and another \$18 million in a civil money penalty.

"Whether or not Ally consciously intended to discriminate makes no practical difference," CFPB Director Richard Cordray said in prepared remarks. "In fact, we do not allege that Ally did so. Yet the outcome, and the harm to consumers, is the very same here."

Compliance Team

[Mark Robey](#)

Sr. VP of Regulatory Affairs

Phone: 800-477-1697, ext. 3327

Direct: 720-479-3327

[Melia Heimbeck](#)

Director of Compliance

Operations

Phone: 800-477-1697, ext. 3325

Direct: 720-479-3325

[Julie Kappenman](#)

Director of Association

Compliance Services

Phone: 800-477-1697, ext. 3324

Direct: 720-479-3324

[Daily Compliance News](#)



Highlight

Ability to Repay

A new page addressing the Ability to Repay (ATR) loan requirements has been added to League InfoSight.

Among the information provided in the topic are the eight required factors for ATR, which are:

- Current or reasonably expected income or assets that the member relies on to repay the loan (other than the value of the property that secures the loan);
- Current employment status;
- Monthly mortgage payment of the loan under consideration;
- Monthly payment on other simultaneous loans secured by the same property;
- Monthly payments for mortgage related obligations that could include (but is not limited to) property taxes, insurance, and homeowners association fees;
- Debts, alimony, and/or child support obligations;
- Monthly debt-to-income ratio and/or monthly residual income, calculated using the total of all of the mortgage and non-mortgage obligations as a ratio of gross monthly income; and
- The member's credit history

For additional information to help your credit union stay in compliance, visit the Ability to Repay topic ([AZ](#), [CO](#), [WY](#)) on the Loans and Leasing channel of InfoSight.

Review the information today to help your credit union remain in compliance

What can credit unions take away from this action? They must understand the serious risks associated with dealer markups and ensure that the credit union has appropriate internal and external expertise to understand and address the relevant risks.

If credit unions make the decision to continue allowing dealers to provide markups, they should read the [CFPB Auto Finance Bulletin](#) issued in March 2013. The bulletin advises credit unions to take steps to review their existing indirect relationships and lending programs to ensure they are operating in compliance with the Equal Credit Opportunity Act and Regulation B as applied to dealer markup and compensation policies. The bulletin indicates that credit unions allowing dealer markups will want to consider implementing systems for monitoring and providing corrective action by:

- Sending communications to all participating dealers explaining the ECOA, stating the lender's expectations with respect to ECOA compliance and articulating the dealer's obligation to mark up interest rates in a nondiscriminatory manner in instances where such markups are permitted;
- Conducting regular analyses of both dealer-specific and portfolio-wide loan pricing data for potential disparities on a prohibited basis resulting from dealer markup and compensation policies;
- Commencing prompt corrective action against dealers, including restricting or eliminating their use of dealer markup and compensation policies or excluding dealers from future transactions, when analysis identifies unexplained disparities on a prohibited basis; and
- Promptly remunerating affected consumers when unexplained disparities on a prohibited basis are identified either within an individual dealer's transactions or across the indirect lender's portfolio.

Credit unions also should provide appropriate training to compliance and business unit staff regarding the Fair Lending laws and should offer to provide similar training to staff at the dealerships.

Credit unions should consider receiving a signed receipt from dealerships acknowledging their understanding of the Fair Lending laws and credit unions should also have policies and procedures in place to address Fair Lending monitoring that will occur at the credit union and actions to take when lending violations are found. The credit union should also have a fair lending policy or statement in place approved by the credit union's board of directors.

Source: MCOL

Compliance Requirements in Responding to the Target Breach

Obviously, data breaches such as has occurred at Target trigger a variety of actions by credit unions, especially closely monitoring credit and debit card usage for fraudulent transactions. The question CUNA's compliance attorneys have been asked by credit unions is: What do federal regulations require we do? Section 748, Appendix B's "Guidance on Response Programs for Unauthorized Access to Member Information and Member Notice" only expects member notification when "an incident of unauthorized access to member information involves member information systems maintained by a credit union's service providers." Obviously, the breach occurred in Target's systems, not credit unions' systems. So no member notification is required by NCUA.

Therefore, it's a business decision of whether -- and if so, how -- a credit union wants to alert members about the Target breach. Obviously, it's in everyone's interest if members are encouraged to closely monitor share draft and credit card statements on an on-going basis.

Here's a brief reminder -- it's not like this hasn't happened before, just not right before Christmas and at a very large, nation-wide retailer.

Section 748 of NCUA's regulations requires federally insured credit unions to have a security program that contains a provision for responding to instances of unauthorized access to "sensitive" member information (privately insured CUs need similar programs). Appendix B to Part 748 ("Guidance on Response Programs for Unauthorized Access to Member Information and Member Notice") provides credit unions with direction on how to comply. (Banks have similar requirements.)

When a credit union becomes aware of an incident of unauthorized access to sensitive member information maintained by either the credit union or its contracted third party service provider, the credit union must conduct a reasonable investigation to promptly determine the likelihood that the information has been or will be misused. Sensitive information includes a member's name, address, or telephone number, in conjunction with the member's social security number, driver's license number, account number, credit or debit card number, or a personal identification number or password that would permit access to the member's account.

The Appendix B guidance states the credit union should have procedures in place to:

- Assess the nature and scope of the incident, and identify what member information systems and types of member information have been accessed or misused. CUNA's note: The card processors have of course provided this information to credit unions issuing their cards, and they continue their investigations.
- Notify the appropriate regulator (the NCUA regional director or applicable state supervisory authority for state charters) as soon as possible after becoming aware of the incident. CUNA's note: While we can safely assume that regulators are well aware of the general situation, each credit union is required to report the impact of the breach on their operations.
- Notify appropriate law enforcement authorities, and file a timely Suspicious Activity Report (SAR) in situations involving federal criminal violations requiring immediate attention, such as when a reportable violation is on-going. CUNA's note: Credit unions will of course also need to report incidents of possible fraud to their insurers and VISA and MasterCard.
- Take appropriate steps to contain and control the incident to prevent further unauthorized access to or use of member information (e.g., monitoring, freezing, or closing affected accounts) while preserving records and other evidence. CUNA's very obvious note: This will be a major on-going responsibility of credit unions for some time to come and at notable expense.
- Notify members when warranted. If the credit union determines that misuse of sensitive member information has occurred or is reasonably possible, it should notify the affected member(s) as soon as possible. If the credit union can determine which members' information has been improperly accessed, it may limit notification to only those members. However, if the credit union is unable to identify which specific member's information has been accessed, the credit union should notify all members in the group of files in question.

CUNA's notes on the membership notification issue: Under NCUA's regulations, credit unions are expected to use good judgment on notifying members who will possibly be impacted -- and there's no specific federal regulatory procedure on how and when. The Target breach has been widely reported, but not all members may have heard about it -- and it's never a bad thing to remind all members that they need to regularly and thoroughly review their credit card and share draft statements, not just for a few weeks following this latest data breach. Moreover, most states have laws requiring that people be notified of security breaches of their personal information -- and individual states may have more specific requirements as to who, what, when and how to do the notification.

Links to NCUA's Section 748 regulation and Appendix B can be found in CUNA's eGuide to Federal Laws and Regulation under our "Security Programs" topic at <http://www.cuna.org/Compliance/Compliance-E-Guide/E-Guide-Entries/Security-Program-Security-Of-Member-Information/>

Source: CUNA

Advocacy Highlight

CU Compliance Video Connection: [Private Student Lending](#)

In December the NCUA issued a letter providing guidance on Private Student Lending to Federally insured credit unions. The new guidance provides an in-depth look at new examination processes that will be undertaken by the NCUA field staff when reviewing private student lending. If your credit union offers members private student loans it will be important to understand the new requirements and examination focus as you enter the 2014 examination cycle. For more information on a Private Student Lending [Click Here](#) for the video.



Materials Available On-line

InCompliance Implementation materials can be found on our website at www.mwcu.com. These materials are located under the Compliance tab and "Resources" link.



Ready for 2014?

Be prepared to ride the wave of compliance rules effective in January 2014 by putting the industry's most powerful compliance tool at your fingertips! Compliance Solutions powered by NeighborBench offers a cloud-based, near real-time solution that identifies risks AND provides you access to experts. This innovative tool combines call-report data, onsite visits, and document review to create a visual dashboard depiction of your compliance risk. Quickly and efficiently manage compliance risk, and still have time to do what you do best - serve your members.

For more information about how we can support your credit union's compliance operations, contact Melia Heimbeck at: mheimbeck@mwcu.com or (720) 479-3325 or 1 (800) 477-1697 ext. 3325



CU PolicyPro Updates For 2014

CU PolicyPro content updates were released on or about December 23, 2013. These updates include several new policies including "Ownership of Fixed Assets", "Anti-Steering in Lending Practices", "Ability to Repay" (including a separate policy for "Small Creditor Ability to Repay"), "Mortgage Servicing" (including a separate policy for "Small Servicer Mortgage

CUNA Conducts Target Data Breach Survey

CUNA is conducting a brief survey of CUNA/league member credit unions that offer debit and credit cards about the effects and costs of the recent Target data breach. The data collected from the survey will be valuable as CUNA and the leagues represent credit unions to legislators, regulators, the media and potentially the courts. This advocacy is necessary to minimize potential costs of the Target data breach and to protect credit unions from harm from future data breaches. All affected credit unions are strongly encouraged to respond.

Credit unions may complete the survey anonymously, but they are encouraged to include their charter number so that CUNA can incorporate information from the credit union's 5300 Call Report and also share the results with the leagues.

Credit union leaders can complete the survey as soon as they have reasonable estimates of any costs to the credit union associated with the breach. [Click here](#) to take the survey.

Direct questions about the survey form to CUNA's Meg Jelak at (800) 356-9655, ext. 4172, or mjelak@cuna.coop

Source: CUNA

Regulatory Advocacy Report

The [CUNA Regulatory Advocacy Report](#) contains information from Bill Cheney about regulatory issues that affect credit unions. You can view the current report and past reports from the archive.



[Training & Events Calendar](#)

Fair Lending Basics for Volunteers Breakout Session at AMC

The world of Fair Lending has seen fines and the Department of Justice referrals skyrocket recently. While only a small number of credit unions have faced Fair Lending examinations, the number is increasing and expected to continue, likely resulting in additional enforcement actions. Make sure your board and committee members are up-to-speed by having them attend the 2014 Annual Meeting & Convention educational breakout session: *Fair Lending Basics for Volunteers* where attendees will walk out with a certificate of attendance that can be provided to regulators as proof of on-going education. Visit www.mwcu.com/am for more details.

January 14, 2014

Webinar: [Real Estate Collections Under the New CFPB Mortgage Servicing Rules](#)

January 28, 2014

Webinar: [FRONTLINE SERIES: Reg CC Funds Availability, Liability, Exceptions, Holds & More](#)

CUNA Compliance Trainings

January 10

Webinar: [Worst Security Mistakes](#)

[CUNA Security and Fraud Update eSchool](#)

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January 16

Webinar: [Social Media Attacks – What the Security Officer Needs to Know](#)

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January 23

Webinar: [Robbery Safety – A New Approach to an Old Peril](#)

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January 28

[CUNA CU Finance for Non-Financial Managers and Volunteers eSchool](#)

Webinar: [The Financial Statement Game – Starting With the Basics](#)

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January 30

Webinar: [2014 ACH Rule Changes](#)

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January 31

Webinar: [Internal Fraud – The Warning Signs](#)

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February 4

Webinar: [Financial Statement Analysis](#)

Webinar: [How to Successfully Develop and Implement a Holistic Security Strategy at Your Credit Union](#)

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February 6

Webinar: [Call Center Security](#)

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Servicing") and "HOEPA Rule Requirement".

At least 20 other policies will also be updated, including several of the real estate lending policies which will be amended to include all of the new CFPB regulations which are required by January 2014.

If you have not signed up for this great resource, please click [HERE](#) for further information.

2014 Compliance Calendar

January 10

Reg Z Sections Effective Date

CFPB Ability to Repay Rule Effective Date

CFPB Mortgage Originator Compensation Effective Date

CFPB High Cost Mortgage and Homeownership Counseling (HOEPA-Reg Z) Expanded Coverage Effective Date

CFPB Mortgage Servicing (Reg X & Reg Z) Effective Date

CFPB Mortgage Counseling List Availability Effective Date

January 18

Appraisals for Higher Priced Mortgage Loans Effective Date

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CFPB Copy of Appraisals and Other Written Valuations Effective Date

January 20

Martin Luther King, Jr. Birthday – Federal Holiday

January 24

5300 Call Report Due to NCUA

January 31

Credit Card Quarterly Agreement Submission Due to CFPB (10,000 or more open credit card accounts)

February 17

Washington's Birthday/President's Day – Federal Holiday

February 28

IRS Forms Due to IRS/SSA

March 1

2013 HMDA Reports Due

March 9

Daylight Savings Time Begins

March 21

NACHA Operating Rule Changes

March 31

NCUA Liquidity & Contingency Fund Plans Effective Date

CUNA 2014 Effective Dates of New and Revised Rules

- **January 1, 2014**–CFPB [Amendments to the 2013 Mortgage Rules under Regulations B, X and Z](#)
- **January 10, 2014**–CFPB [Mortgage Servicing Amendment to Reg X \(RESPA\)](#) [Mortgage Servicing Amendment](#)

February 10

[Webinar: Money Mission Demo – Online Financial Literacy Game](#)

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February 11

[Webinar: The Financial Statement Game – Getting a Bit More Sophisticated](#)

[Webinar: Auto Loan Pricing and the Impact of Credit Cycles](#)

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February 13

[Webinar: Threats, Trends and Best Practices in Fighting CyberCrime](#)

February 18

[Webinar: Rates, Risk and Return](#)

[Webinar Series: ACH Policies and Procedures – 2 part](#)

February 25

[Webinar: The Financial Statement Game – Gaining a Deeper Understanding](#)

to Reg Z (TILA)
[Mortgage Loan Originator Compensation Rule](#)
[Ability-to-Repay and Qualified Mortgages](#)
[High-Cost Mortgage Rules under HOEPA](#)
[Reg Z Ability-to-Repay & QM Standards re Escrows](#)

- **January 18, 2014–CFPB**
[Copy of Appraisals and Other Written Valuations under Reg B Interagency Rule on Appraisals for Higher-Priced Mortgage Loans](#)
- **March 1, 2014–CFPB**
[Defining Larger Participants of the Student Loan Servicing Market](#)
- **March 31, 2014–NCUA**
[NCUA Emergency Liquidity Rule](#)
- **August 1, 2015–CFPB**
[Integrated Mortgage Disclosures under the Real Estate Settlement Procedures Act \(Regulation X\) and the Truth In Lending Act \(Regulation Z\)](#)
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- **December 31, 2015–IRS**
["Foreign Account Tax Compliance Act" \(FATCA\) Rule](#)

2014 CUNA Comment Call: Due Dates on Proposed Rules

January 13: [Proposed Changes on Payment System Risk Policy and Related Reg J Changes](#)

