

## Regulatory Compliance News



**MOUNTAIN WEST**  
Credit Union Association

January 15, 2016

### Compliance News

#### FTC and Florida Sue Payment Processor and Execs

An [amended complaint](#) has been filed in federal court by the Federal Trade Commission and the State of Florida charging a payment processing business with credit card laundering, illegally assisting, and facilitating a nationwide debt relief telemarketing scheme that allegedly bilked millions of dollars from consumers. The complaint alleges CardReady LLC, an independent sales organization, and its executives, Brandon A. Becker, James F. Berland and Andrew S. Padnick, arranged for at least 26 shell merchant accounts to be used to process credit card payments for a debt relief operation, E.M Systems & Services LLC. The agencies [originally sued](#) E.M. Systems in June, 2015.

#### Payday Lenders Pay \$4.4M for Illegal Fees

The Federal Trade Commission has [announced](#) that two payday lenders have settled Commission charges that they illegally charged consumers across the country undisclosed and inflated fees. The two companies, Red Cedar Services Inc. and SFS Inc., have each paid \$2.2 million and collectively waived \$68 million in fees to consumers that were not collected. The settlements stem from FTC charges filed in federal court in April 2012 alleging that the lenders and others misrepresented how much loans would cost consumers, in violation of the FTC Act.

- [Settlement](#)

#### Operation Collection Protection Shuts Down Abusive Collectors

The Federal Trade Commission has announced the blocking of illegal debt collection tactics of four debt collection operations. In addition, other federal and state law enforcement officials have taken 12 more actions as part of a federal-state-local law enforcement initiative against deceptive and abusive debt collection practices. The cases bring to 130 the number of actions taken over the past year by more than 70 law enforcement partners in [Operation Collection Protection](#).

Source: FTC

#### Overdraft Programs – Disclosure Review

According to a recent article in Credit Union Times, “A wave of overdraft lawsuits has struck credit unions across the country, and many more could be on the way, according to lawyers familiar with the matter.

“Since September, at least one dozen credit unions in nine states have been hit with [class-action suits over their overdraft practices](#), according to court documents. Often, the dispute is over how credit unions disclose the methods under which they apply overdraft fees.”

For suggestions on how you can avoid such action, read [here](#).

Source: CU Times

### Your Credit Union’s Regulatory Compliance Support Staff

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### Association Compliance Forums

Click on one of the below links to subscribe

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[BSA Compliance Officer Forum](#)

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## Advocacy Highlight

### 2016 Regulatory Issues Overview – Make Your Voice Heard!

For a preview of the issues CUNA expects will be “hot topics” in 2016, click [here](#). Remember that all credit unions have the opportunity and ability to provide input on these issues before they become regulation by commenting to CUNA staff or by using [PowerComment](#) to write directly to Regulators.

### FinCEN Posts Info on Customer Due Diligence Proposal

FinCEN has published a [Notice of Availability](#) [80 FR 80308] of two related documents that are part of the proposed rulemaking on Customer Due Diligence Requirements for Financial Institutions that was published on August 4, 2014: a [Regulatory Impact Assessment](#) (RIA) and an [Initial Regulatory Flexibility Analysis](#) (IRFA). Comments on the RIA and/or IRFA will be accepted through January 25, 2016.

The comment period for the August 4, 2014, proposed rule closed on October 3, 2014. FinCEN received a total of 135 comments representing a wide range of views covering most aspects of the Notice of Proposed Rule Making (NPRM). A large number of commenters asserted that the NPRM lacked sufficient data to support its estimate of costs and substantially underestimated implementation and compliance-related costs. Based on comments and information received during further outreach to some financial institutions that provided comments on the proposal, FinCEN determined that the implementation and compliance-related costs may exceed \$100 million annually, making this rulemaking an “economically significant regulatory action.” In such cases, agencies are required to conduct an RIA, and publish it for comment.

### Field of Membership Rule Published in the Federal Register

NCUA's proposed field of membership (FOM) rule was published in the Federal Register, and is now open for comment. Comments will be due to the NCUA by **February 8, 2016**.

NCUA's proposed FOM rule would provide extra flexibility for federal credit unions of all federal charters. These changes should give federal credit unions additional flexibility in determining areas and people to serve that are not available in the current regulation.

The amendments would implement changes in policy affecting:

- The definition of a local community, a rural district, and an underserved area;
- The expansion of multiple common bond credit unions and members' proximity to them;
- The expansion of single common bond credit unions based on a trade, industry or profession; and
- The process for applying to charter or expand a federal credit union.

CUNA has [prepared a detailed summary](#) to help credit unions parse through the proposed rule to determine how it would impact them, and encourages all credit unions to review the proposed rule and comment to NCUA. CUNA has also developed an [FOM resource page](#) to help credit

looking for, we now provide individual loan reviews and a basic annual compliance package that includes BSA, ACH, SAFE Act, and Website compliance.

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

### Anti-Redlining Requirements

#### Prohibition on Mortgage Redlining

Credit unions must establish lending policies and practices which promote equal lending opportunity and prohibit redlining. The statute provides a credit granting institution shall not deny a loan, vary the interest rate, term to maturity, percentage down payment, the application or appraisal procedures, or other terms or conditions of a loan due to the racial or ethnic characteristics or trends in the neighborhood where the real estate is located or due to the age of the structure or the age of other structures in the neighborhood in which the real estate is located, except on the basis of written policies or criteria uniformly applied to all neighborhoods within an MSA (metropolitan statistical area) or within a county in areas outside MSAs.

*Note: An MSA refers to a city with a population of at least 50,000, or a total metropolitan area with a population of at least 100,000.*

#### Lending Policy Considerations

Under the statute, a credit granting institution's lending policies and criteria used in consideration of a loan application must include, without limitation, the following:

- Consideration of the credit eligibility of the applicant and the market value of a proposed security.
- Consideration of those factors, known to the credit granting institution, as the presence of active community and neighborhood organization, the presence of government, nonprofit and private programs in the neighborhood intended to eliminate negative environmental influences, other revitalization efforts, and any other factors potentially mitigating the effect of physical decline.
- Credit unions may use different loan application procedures and contract terms for loans to construct new dwellings as compared to loans to purchase existing dwellings.

unions wade through the proposed rule and to comment to the NCUA. We have been working with credit unions, leagues and other stakeholders to provide important feedback to NCUA on FOM and will continue these efforts through the comment period.

Source: CUNA

## CUNA Advocacy Update

Each year, CUNA provides the "CUNA State Government Affairs Year End Review" which provides the results of advocacy activities throughout the country. For the 2015 review, click [here](#).

The Regulatory Advocacy Report is now combined with CUNA's Legislative Update into a comprehensive CUNA Advocacy Update. The new Advocacy Update is published at the beginning of every week, is accessible [here](#) 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.

Prior CUNA Regulatory Advocacy Reports have been archived and are available [here](#).



### Training & Events Calendar

#### January 27

Webinar: [Demystifying Rules for TRID Tolerances](#)

#### January 28

Webinar: [Completing the CTR Line-by-Line](#)

#### February 3

Webinar: [New Compliance Officer Boot Camp](#)

#### February 11

Webinar: [Avoiding Compliance Violations in Advertising](#)

#### March 8

[Cyber Security Workshop: Denver](#)

#### March 10

[Cyber Security Workshop: Phoenix](#)

#### March 22

[BSA Seminar : Phoenix](#)

### **Power of Attorney: A Compliance Lunch and Learn**

Mountain West is hosting an attorney-led Compliance Lunch and Learn on Handling the Powers of Attorney. The two-hour program includes a presentation, networking time and an open-forum discussion to assist credit unions in properly handling powers of attorney.

The program will be held from 11:30 am - 1:30 pm at the dates and locations listed below.

#### **Colorado**

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



## Compliance Calendar

### December 31

- Foreign Account Tax Compliance Act Effective Date

### January 1

- Flood Insurance Rule Effective Date – Part 2

### January 12

- Microsoft Discontinues Support of Older Versions of Internet Explorer

### January 22

- 5300 Call Report Due to NCUA

### February 15

- President's Day – Federal Holiday

### March 13

- Daylight Savings Time Begins

## Effective Dates New and Revised Rules

### December 31, 2015~IRS

["Foreign Account Tax Compliance Act" \(FATCA\) Rule](#)

## CUNA Comment Calls – Due Dates on Proposed Rules

### January 13, 2016~FinCEN

[Regulatory Impact Assessment & Initial Regulatory Flexibility Analysis Regarding FinCEN's CDD Proposal](#)

### January 27, 2016~NIST

[NIST RFI: Updates to the Cybersecurity Framework](#)

### February 1, 2016~FTC

[The Holder Rule](#)

### February 8, 2016~NCUA

[NCUA Field of Membership Proposal](#)

## CUNA Schools and Webinars

### February 9 – April 7

[CUNA Regulatory Compliance Introduction eSchool](#)

Denver, CO: Wednesday, January 27, 2016

Presenter: Attorney Bob Wilson, Berenbaum Weinshienk PC

**Registration deadline: January 22<sup>nd</sup>**

### **Arizona**

Phoenix, AZ: Wednesday, February 3, 2016

Tucson, AZ: Thursday, February 4, 2016

Presenter: Attorney Jeremy Goodman, Goodman Law PLLC

**Registration deadline: January 29<sup>th</sup>**

The cost is \$30 per person and registration is required to attend. To register, please e-mail Shay Jacobs: [sjacobs@mwcua.com](mailto:sjacobs@mwcua.com).

**February 24 – December 7**

Webinar: [2016 CUNA Frontline Compliance Series](#)

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

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