

197

Days Until  
Aug 1, 2015

With one of the most sweeping regulatory changes for credit unions in decades less than three months away, MWCUA is dedicated to helping you prepare. Each week we will present a topic, question, or idea taking you one step closer to successful implementation.

**Has your credit union identified all third-party service providers that will be impacted by the TILA-RESPA Integrated Disclosure Rule and created a project management work plan to ensure readiness?**

*Regulatory Compliance News*



**MOUNTAIN WEST**  
Credit Union Association

January 16, 2015

## Compliance News

### NCUA Releases Supervisory Priorities for 2015

The National Credit Union Administration sent a letter to Federally Insured Credit Unions outlining their 2015 exam priorities, which had subtle differences from their 2014 priorities.

Similar to last year, cyber-security, interest rate risk (IRR), money servicing businesses (MSB), and liquidity management are all high on the list of exam priorities, but this year the NCUA provided additional details on what specifically is expected.

The [Letter to Credit Unions 15-CU-01](#) will assist credit unions in preparing for NCUA examinations in 2015. As always, agency field staff will be focusing on the areas of highest risk in the credit union system and compliance with new regulations.

In order to minimize burdens on small credit unions with lower risks, NCUA will be streamlining examinations for credit unions with assets up to \$50 million and CAMEL ratings of 1, 2, or 3.

NCUA's specific areas of supervisory focus for 2015 are:

- **Cybersecurity:** NCUA field staff will focus on proactive measures credit unions can take to protect their data and will also be evaluating credit unions' capacity to recover and resume operations in the event a security breach does occur.
- **Interest-rate risk (IRR):** NCUA staff will continue to use existing guidance to assess credit unions' interest-rate risk -- the agency is in the process of updating such guidance. NCUA staff will also evaluate compliance with the interest-rate risk rule (credit unions with assets over \$50 million are required to draft and implement a written IRR policy and develop a program to identify, measure, monitor, and control IRR).
- **Bank Secrecy Act (BSA) compliance:** NCUA staff will continue to assess BSA compliance, with a focus on credit unions' relationships with money services businesses.
- **Liquidity and contingency funding plans rule:** Full compliance with relevant

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provisions of the NCUA's liquidity rule will be examined by agency staff.

- **Truth in Lending Act-Real Estate Settlement Procedures Act (TILA-RESPA) integrated disclosure rule:** The rule will become effective August 1, 2015 and NCUA staff will be assessing compliance with the rule once it goes into effect.
- **Ability-to-repay and qualified mortgage standards rule:** NCUA staff will be looking at credit unions' compliance with the required provisions, and ensuring that their mortgage lending programs are being operated in a safe and sound manner.
- **Lending programs:** NCUA continues to monitor trends in credit union loan portfolios, and staff will examine whether institutions are performing due diligence in all loan products and services, particularly new ones that have become available in recent years.

A table was also included in the Letter summarizing the types of exams federal credit will be subject to by CAMEL rating and asset size.

*Source: NCUA/NWCUA*

### New NCUA Video – Consumer Report: Frauds, Scams and Cyber Threats

To help credit union managers and volunteers educate their members about frauds, scams and cyber threats, the National Credit Union Administration has released [part 1](#) and [part 2](#) of a two-part video on how to recognize, avoid, and report cyber fraud. The video is available on the [NCUA YouTube channel](#).

*Source: NCUA*

### NCUA Unveils New RBC Proposal January 15

Credit unions got their first look at a revised regulatory risk-based capital (RBC) plan from the National Credit Union Administration January 15. The new plan was unveiled at the Jan. 15 open board meeting.

The revised proposal comes out almost a year after the NCUA first proposed a RBC regime, one that met with a serious outcry from stakeholders, federal lawmakers and more.

Jim Nussle, Credit Union National Association president/CEO, thanked the NCUA for slating the RBC discussion for the January meeting.

Nussel stated CUNA will review and carefully evaluate the second risk-based capital proposal from the NCUA presented at the January 15<sup>th</sup> meeting. "We remain deeply concerned regarding several aspects of the original risk-based capital proposal," he said.

"We know some of the concerns we raised in our comment letter are being considered in the second proposal, including, but not limited to: the 10.5% requirement to be well-capitalized, risk weights, ensuring a second comment period and the allotted time for the implementation period."

Nussle added, "We hope the agency will adequately address our concerns given the significance to the credit union system and the feedback that the agency received from both the credit union movement and policymakers."

CUNA, noting the NCUA's continuing strides to increase transparency, has requested the agency look into cost-efficient ways to live-stream discussions as important to the credit union movement as the RBC proposal, and then going forward for all public meetings. The NCUA has stated that increased transparency is an agency priority.

CUNA has organized a webinar to detail and discuss the new RBC proposal and answer questions as time permits. The webinar, titled "Update on NCUA's Risk Based Capital Proposal," is scheduled for Jan. 26 at 1 p.m. (ET).

*Source: NCUA*

### Comments Sought On Prepaid Accounts

CFPB issued a proposed rule that applies to prepaid accounts (including general

compliance risks with one easy-to-read dashboard that saves you time and money. If a full suite of compliance risk assessments isn't what you are looking for, we now offer a basic annual compliance package, including BSA, ACH, SAFE Act, and Website compliance for one low price.

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### Information Security Program

With so many instances of identity theft and security breaches occurring almost daily and costing financial institutions hundreds of thousands of dollars, it is critical for the credit union to have an effective Information Security Program in place.

An Information Security Program (ISP) is designed to:

- Ensure safety and confidentiality of member records.
- Protect against anticipated threats or hazards to the security or integrity of such records.
- Protect against unauthorized access or use of such records that could result in substantial harm and reduce inconvenience to a member.

A credit union should consider the following:

- Perform security audits on an on-going basis.
- Use and constantly update anti-virus software.
- Place servers and other physical devices that contain databases in secure surroundings.
- Monitor the electronic trail of access to stored data, including read-only data.
- Not use vendor-assigned default passwords to security programs.
- Install up-to-date patches developed by software companies after defects in their security programs are found.

### How do ISP failures affect credit unions?

ISP failures will likely result in reputation loss, out-of-pocket expenses to correct the deficiency, and, depending on the severity of the breach, potential lawsuits from affected members.



This week's [Regulatory Advocacy Report](#) will bring you up to speed on the following issues:

- RBC Proposal on NCUA Agenda
- CUNA Seeks Feedback on CFPB Prepaid Accounts Proposed Rule by March 9
- CUNA's Recent Comment Letters to NCUA
- CUNA Opposes FHFA Proposal on Federal Home

purpose reloadable cards as well as other types of prepaid accounts such as digital wallets) that are offered to consumers. Prepaid products are among the fastest growing types of consumer financial products in the U.S.; the total dollar value loaded onto general purpose reloadable cards was expected to grow to nearly \$100 billion through 2014.

Specifically, the proposed rule would extend to prepaid accounts many consumer protections under Regulation Z, as well as protections under Regulation Z for prepaid accounts that offer credit options.

Read the detailed summary and provide feedback [here](#).

Source: CUNA

### Obama Announces New Data Security Proposal

In a speech at the Federal Trade Commission Monday, President Obama will announce new cybersecurity proposals, including the Personal Data Notification & Protection Act, which contains a notification requirement.

“This proposal clarifies and strengthens the obligations companies have to notify customers when their personal information has been exposed, including establishing a 30-day notification requirement from the discovery of a breach, while providing companies with the certainty of a single, national standard. The proposal also criminalizes illicit overseas trade in identities,” a White House Fact Sheet said.

In an effort to prevent identity theft, the White House announced that the \$29 billion State Employees’ Credit Union in Raleigh, N.C., and JP Morgan Chase are joining the list of financial institutions offering FICO scores for free.

USAA and State Employees’ Credit Union will also offer free credit scores to their members, and Ally Financial is further widening the community of companies taking this step by making credit scores available to their auto loan customers, the White House Fact Sheet said.

“Through this effort, over half of all adult Americans with credit scores will now have access to this tool to help spot identity theft, through their banks, card issuers, or lenders,” the White House Fact Sheet said.

This bill, modeled on a landmark California statute, builds on the recommendations of the White House Big Data and Privacy review released earlier this year, according to the White House.

“[The bill] would prevent companies from selling student data to third parties for purposes unrelated to the educational mission and from engaging in targeted advertising to students based on data collected in school – while still permitting important research initiatives to improve student learning outcomes, and efforts by companies to continuously improve the effectiveness of their learning technology products,” the White House said.

John McKechnie, partner with the Washington-based lobby and strategy firm Total Spectrum, told *CU Times*, “Consumers have a right to know about a data breach affecting their personal information, and it’s time the retail industry was held accountable. This proposal is something that credit unions can get behind – hopefully it will be the start of Congressional action on data security legislation that has real teeth.”

CUNA President/CEO Jim Nussle said CUNA welcomes Obama’s engagement in tackling the issue of data breaches.

“We hope that any legislation that is enacted requires merchants to follow the same type of data security standards that credit unions and other financial institutions must follow, enables consumers to be notified in a timely manner, and ensures that credit unions are reimbursed for costs they incur as a result of merchant data breaches – all issues CUNA has been voicing to Congress,” he said.

Source: CU Times

Loan Bank Membership Eligibility

- Next Phase of CUNA-SBA Partnership: Development of a Comprehensive List of Credit Unions Interested in Pursuing SBA Lending
- HMDA and HPML Thresholds for 2015
- CUNA Seeks Feedback on NACHA Same Day ACH Proposed Rule by January 23; Chicago Fed Faster Payments Update
- Chick-fil-A Investigating Data Breach
- NCUA Fixed Assets Proposed Rule

Be sure to visit CUNA’s [Risk-Based Capital blog](#)



### Compliance Calendar

#### January 19

- [Martin Luther King, Jr Birthday - Federal Holiday](#)

#### January 21

- [FHA Prepayment Rule Handling – Effective date](#)

#### January 23

- [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 16

- [Washington's Birthday/President's Day - Federal Holiday](#)

#### March 3

- [Permissible Derivatives - Effective Date](#)

#### March 8

- [Daylight Savings Time Begins](#)

#### March 30

- [NACHA Operating Rules Changes](#)

### CUNA Comment Calls – Due Dates on Proposed Rules

#### December 30, 2014~NCUA

[Proposed Corporate Credit Unions Rule](#)

#### January 1, 2015~IRS

[Removal of 36-Month Non-Payment Testing Period Rule](#)

#### January 12, 2015~FHFA

[Proposed Regulation on Federal Home Loan Bank Membership](#)

#### January 23, 2015~NACHA

[Same Day ACH Proposal](#)

#### March 9, 2015~CFPB

[Prepaid Accounts](#)

### Effective Dates

## Advocacy Highlights

### Comments Sought on Prepaid Financial Product Protections

Comments on a Consumer Financial Protection Bureau (CFPB) [proposal](#) to create consumer protections for prepaid financial products are due to CUNA March 9.

The proposal, if approved in final form, would amend Regulation E (which implements the Electronic Fund Transfer Act), Regulation Z (which implements the Truth in Lending Act) and the official interpretations to the regulations.

The protections, proposed by the CFPB in November, were published in the Dec. 23 *Federal Register*, thereby establishing the comment deadline.

"The proposal would expressly bring such products within the ambit of Regulation E as prepaid accounts and create new provisions specific to such accounts," reads the notice in the *Federal Register*. "The proposal would generally cover those prepaid accounts that are cards, codes, or other devices capable of being loaded with funds and usable at unaffiliated merchants or for person-to-person transfers, and are not gift cards."

The proposal would:

- Modify Regulation E to establish specific prepaid account requirements that would require financial institutions to provide certain disclosures to consumers prior to and after the acquisition of a prepaid account;
- Include an alternative to Regulation E's periodic statement requirement that would permit prepaid product providers to make available certain methods for access to account information in lieu of sending periodic statements;
- Apply Regulation E's limited liability and error resolution provisions to prepaid accounts with certain modifications, including applying these provisions after account registration;
- Require prepaid account issuers to provide the bureau with terms and conditions for such accounts, to be posted on a website maintained by the CFPB. Issuers would also be required to post the terms and conditions on their own sites or make them available upon request;
- Subject prepaid cards that access overdraft services or credit features to Regulation Z's credit card rules;
- Require that consumers consent to overdraft services or credit features and give them at least 21 days to repay the debt incurred in connection with using such services or features;
- Amend Regulation E to include disclosures about overdraft services or credit features that could be linked to prepaid accounts; and
- Amend the compulsory use provision under Regulation E to prohibit prepaid account issuers from requiring consumers to set up preauthorized electronic fund transfers to repay credit extended through an overdraft service or credit feature.

While only a limited number of credit unions offer prepaid cards, CUNA has a variety of concerns about the impact of the proposal on these financial products now and into the future, such as treating overdrafts on prepaid cards as a loan.

CUNA will be working with its consumer protection subcommittee, payments subcommittee and CUNA Council credit union members to identify all concerns and develop recommendations to modify or oppose various provisions in the proposal.

*Source: CUNA*

## New and Revised Rules

### August 1, 2015~CFPB

[TILA-RESPA Integrated Disclosure Rule](#)

### December 31, 2015~IRS

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

## CUNA Schools and Webinars

### January 21

Webinar: [BSA Training for the Frontline and Beyond](#)

### January 21

Webinar: [2015 ACH Rule Changes](#)

### January 22

Webinar: [Service Members Civil Relief Act](#)

### January 29

Webinar: [The Current State of UDAAP Unfair, Deceptive or Abusive Acts or Practices](#)

### April 12

[Regulatory Compliance School – Las Vegas](#)



[Training & Events Calendar](#)

### January 20

Webinar: [The Revised BSA/AML Examination Manual: Reviewing December 2014 Changes](#)

### January 29

Webinar: [Member Complaint & Response Management](#)

### February 4

Webinar: [Revisiting Your RESPA & TILA Policies to Include the New Integrated Disclosure Requirements](#)

### February 12

[Compliance Networking Council](#) – Denver, Rock Springs, Tucson

### February 24

Webinar: [FFIEC Guidelines & Recent Developments in Cyber Security Risk Management](#)

### March 26 – 28

Mountain West 2015 Annual Meeting & Convention - Phoenix: [www.mwcua.com/am](http://www.mwcua.com/am)

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

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