



January 31, 2014

### Compliance News

#### Be Careful About Security Breach Emails

At least one major retailer has sent emails to millions of customers potentially affected by the recent mega security breaches. Be on the lookout for scammers who mimic them (*CNN Money* Jan. 20).

Homeland security investigators have warned several large retailers about sophisticated malware that has potential to compromise customers' credit card numbers and other personal information on an unprecedented scale. Target alone has as many as 110 million affected customers.

While the hacking is under investigation, if you receive email from a retailer regarding a security breach, here's what to do:

*Don't automatically open the email:* First go to the retailer's website or call to make sure the information online matches the email you received. One adviser, Adam Levin of *Credit.com*, cautions that even opening a fraudulent email could allow malware to be installed on your computer.

*If you've already opened the email:* Don't click on any links until you verify the information with the retailer by going online or calling.

*If you've already clicked a link to an external website and entered personal information:* Verify the information in the email with the retailer at its website. If the information in the email doesn't match the retailer's information, take action quickly:

- If the retailer is offering free fraud-monitoring, take advantage of it. Your credit union also might offer a fraud-monitoring service or recommend an affordable and reliable outside service.
- Check and confirm your debit and credit card transactions every day via your financial institution's online platform.
- Alert your financial institution, the credit card company, and call the "big three" credit reporting agencies--Equifax, TransUnion, and Experian--to tell them you clicked through on a bogus link and shared info you wish you hadn't.
- Ask to have a fraud alert placed on your account. It costs nothing to place a fraud alert on your credit report if your information is compromised, and the alert will remain in place for 90 days.
- Alert the Federal Trade Commission (FTC). Report fraud via [FTC.gov](http://FTC.gov) or by calling 877-438-4338.
- If you're really worried, request a credit freeze, which prohibits any credit from being extended under your name.

To learn more about protecting your accounts from fraud, talk to the professionals at your credit union. They can recommend steps you can take to keep your information safe.

For related information about credit cards, read "How to Tell If Your Identity Has Been Stolen" in the *Home & Family Finance Resource Center*.

### 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

#### Donna Gibbs

#### Administrative Assistant

Phone: 800-477-1697, ext. 3821

Direct: 720-479-3821

### Daily Compliance News



#### Highlight

#### Record Retention

The purpose of record retention requirements and a record retention program is to provide a comprehensive and cost-effective way to promote effective member service by providing credit unions access to important member information. State laws provide procedural guidelines, and federal laws mandate record retention time periods.

The beginning of the year is a good time to make sure that all staff members are knowledgeable about the guidelines and laws that apply to record retention. The Record Retention channel of InfoSight is an

## Data Protection, QM Concerns Lead CFPB Hearing

Consumer data protection and qualified mortgage regulations were two main themes of Tuesday's House Financial Services Committee hearing on the progress of the Consumer Financial Protection Bureau.

CFPB Director Richard Cordray also delivered his semi-annual report on agency activities during the hearing. He also fielded questions on some of the major rules coming down the pike, including:

- Rules addressing credit ratings for small business owners;
- Prepaid card regulations; and
- Overdraft protection rules.

Committee members during the hearing raised concerns regarding the security of consumer data that is collected by the CFPB, the agency's collection of that data, and the ability of the bureau to reverse-engineer that data to tie it to a particular consumer. Cordray was adamant that the CFPB aggregates the data and has no reason to reverse engineer the information.

The Credit Union National Association has supported the Consumer Right to Financial Privacy Act (H.R. 2571), which would prohibit the CFPB from requesting, accessing, collecting, using, retaining or disclosing nonpublic personal information about a consumer unless proper disclosures are provided to the consumer, and H.R. 3183, which would require the CFPB to provide at a consumer's request one free annual report disclosing all of the information about the consumer held by the CFPB.

Rep. Ed Perlmutter (D-Colo.) during Tuesday's hearing asked what actions the CFPB has taken to address recent merchant data breaches. Cordray said the CFPB issued an alert to consumers on what they should do if their credit or debit card has been compromised, and acknowledged that there are broader issues regarding how retailers keep data secure.

Regarding QM rules, several legislators said they are concerned by the rigid nature of the regulations. Rep. Bill Huzeinga (R-Mich.) spoke on points-and-fees issues created by the regulation, noting that nearly 60% of loans under \$60,000 would not qualify as QMs if an affiliate's title policy was included on the CFPB's points-and-fees calculation. Current CFPB regulations dictate that for a mortgage to be considered a "qualified mortgage," total points and fees generally may not exceed 3% on a loan of \$100,000 or greater. These fees include affiliate and non-affiliate charges such as title insurance, surveys, appraisal fees, underwriting, processing and application fees. Rep. Huzeinga has introduced legislation to change the overly restrictive definition of points and fees, which CUNA supports.

Cordray reiterated that the CFPB gives lenders three QM options, and noted that thousands of credit unions and community banks are allowed to take advantage of provided small issuer adjustments. CUNA has suggested to the Committee that credit unions should be exempt from the ability-to-repay/qualified mortgage rule.

For CUNA comment letters on consumer data security and QM issues, use the resource links provided below:

- [H.R. 3183 Comment Letter](#)
- [CUNA QM Letter](#)
- [CUNA CFPB Testimony](#)
- [CUNA Data Collection Letter](#)

Source: CUNA

## Periodic Statement Questions Tackled in CUNA CompBlog

In a new *CompBlog* post, Credit Union National Association Senior Compliance Counsel Mike McLain outlines what documents credit unions must provide to borrowers that make

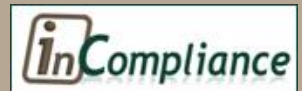
excellent resource for all staff members at your credit union. This channel provides the guidelines you need to remain in compliance. For instance, in the Additional Resources area of the channel, you will find the following information:

- Catastrophic Act Preparedness Guidelines
- CUNA E-Guide: Federal Rules of Civil Procedure
- CUNA E-Guide: Record Retention
- Record Retention Checklist
- Record Retention Detailed Analysis
- Record Retention FAQs
- Record Retention Guidance

This channel also provides links to the laws and regulations that govern record retention. Finally, the Record Retention channel gives links to model documentation and policies.

## CU Compliance Video: FFIEC Social Media

The long awaited [FFIEC Social Media Guidance](#) has been issued. The guidance does not implement additional requirements, but it does require that credit unions review their processes and procedures in relation to social media services and interactions with members to ensure that all Federal and state regulations and laws are being followed.



### Materials Available On-line

InCompliance Implementation materials can be found on our website at [www.mwcu.com](http://www.mwcu.com). These materials are located under the Compliance tab and "Resources" link.



Ready for 2014?

conventional payments as well as those that make automatic payments for a closed-end mortgage loan.

New mortgage servicing regulations require credit unions to provide periodic statements for fixed-rate and adjustable-rate mortgage loans. An exception permits credit unions to provide coupon books containing certain required information for fixed-rate mortgage loans. However, credit unions would still be required to send periodic statements for the remaining adjustable-rate mortgage loans. This is true even if a borrower has automatic payments for a closed-end mortgage loan, McLain said.

The Consumer Financial Protection Bureau's final mortgage servicing rule requires mortgage servicers to meet new periodic statement requirements, provide additional notices of rate changes on adjustable-rate mortgage loans to borrowers and help ensure that consumers know their options to prevent foreclosures. The servicing rule contains a number of exemptions for credit unions and other financial institutions that meet the bureau's "small servicer" definition.

"Only small servicers are exempt from the periodic statement requirements," McLain said. A credit union would be considered a small servicer if the credit union, together with any affiliates, service 5,000 or fewer mortgage loans, and the credit union (or an affiliate) are the creditor or assignee for all of them, he clarified.

Only closed-end "mortgage loans" should be counted to determine if a credit union is a small servicer. "Do not include loans the credit union voluntarily services for a creditor or an assignee that is not an affiliate and for which the credit union does not receive any compensation or fees. Also do not count any reverse mortgages, or timeshare plans," McLain wrote.

The small servicer exemption is determined each calendar year based on the loans a credit union and its affiliates service as of Jan. 1 for the remainder of the year. A credit union may lose the small servicer exemption if it:

- Services more than 5,000 loans; or
- Takes on the servicing of a loan it does not own or did not originate.

Credit unions that lose their exemption will have six months from the date it stopped being a small servicer or until the next Jan. 1, whichever is later, to comply with the periodic statement requirements, McLain said.

[CUNA CompBlog Post](#)  
CUNA

Source:

### **NCUA Approves Final Derivatives Investment Rule**

A proposal that will allow well-run federal credit unions to use simple derivatives to hedge against interest rate risks has just been approved at today's National Credit Union Administration board meeting.

The NCUA plan would allow only well-managed credit unions with \$250 million or more in assets to invest in derivatives.

The final rule includes key changes sought by the Credit Union National Association, such as removing the fees for supervision of the use of these products. CUNA in general has supported derivatives investments for credit unions.

There will not be an application fee for credit unions wishing to be approved for derivatives authority, and the rule will not apply to federally insured state credit unions.

The final rule addresses permissible derivatives and characteristics, limits on derivatives, operational requirements, counterpart and margining requirements, and the procedures a federal credit union must follow to apply for derivatives authority.

The supervisory costs will be covered by the National Credit Union Share Insurance Fund, the agency said. The NCUA has also budgeted \$750,000 for 2014 and 2015 to cover related consulting costs.

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](mailto:mheimbeck@mwcu.com) or (720) 479-3325 or 1 (800) 477-1697 ext. 3325



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 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 31**

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

### **February 17**

Washington's Birthday/President's

Nearly 400 credit unions would be eligible to apply for derivatives investment authority, and the agency estimated that 30 to 60 credit unions would likely apply for the authority within the first two years of the program

[NCUA Final Rule](#)

Source: CUNA

## Advocacy Highlights Joint Diversity Standards Proposal

The NCUA, CFPB, and several other federal financial regulators are accepting comments until February 7 on a joint proposal regarding the diversity policies and practices of credit unions and other regulated entities.

While CUNA supports standards for assessing diversity policies and practices, they plan to include several comments and suggestions for the Agencies to consider as they develop a final set of standards.

- CUNA strongly supports the intent behind section 342 as well as the objectives of the proposed diversity standards.
- CUNA questions the approach of developing standards jointly by the Agencies, which regulate a wide-range of entities within the financial services marketplace. Specifically, as member-owned, not-for-profit financial cooperatives, credit unions are quite different from most other types of financial service providers.
- The language that precedes each proposed factor, "In a manner reflective of the individual entity's size and other characteristics," is quite broad and provides little in the way of direction for regulated entities for compliance purposes. While CUNA does not seek prescriptive diversity standards, which would undoubtedly place a significant compliance burden on credit unions, CUNA believes the current, broad approach may present compliance challenges.
- CUNA believes the criteria included in the proposed standards can be helpful as examples of how a regulated entity can express its commitment to diversity and inclusion. However, CUNA sees no benefit in requiring or even recommending that regulated entities develop policies and practices that expressly adhere to the very descriptive factors included in the proposal.
- CUNA has serious concerns with the proposed standard that would require regulated entities to assess diversity practices in their relationships with suppliers and contractors. Specifically, CUNA is concerned because credit unions have no way of measuring diversity in these relationships; as such information is generally not readily available or easily obtainable. Additionally, credit unions, as not-for-profit entities, must stress effectiveness and cost-efficiency in their vendor relationships above and beyond other considerations. In addition, it is important to recognize that many regulated entities, including credit unions, serve small, rural communities where populations are less diverse than those of larger cities.
- CUNA has concerns that diversity-related assessments could lead to additional and unnecessary burdens for credit unions. CUNA reminds the Agencies of the explicit language in section 342(b)(4) of Dodd-Frank that, "Nothing in paragraph (2)(C) may be construed to mandate any requirement on or otherwise affect the lending policies and practices of any regulated entity, or to require any specific action based on the finding of the assessment." CUNA interprets this to mean that NCUA and the other Agencies are authorized to collect data, but may not—as written in the statute— require credit unions to implement specific diversity-related policies or practices.
- While CUNA strongly favors a self-assessment approach over an examination-based approach, as discussed above, even self-assessment of the proposed standards is likely to be quite burdensome for credit unions, including those already reporting diversity data to the EEOC. CUNA appreciates the Agencies acknowledgement in the proposed standards that the Agencies will not assess diversity policies and practices as part of entities' examinations. Thus, CUNA urges the NCUA and other regulators to state explicitly in the final standards that they will not use the examination or supervision process in connection with assessing an entity's diversity policies and practices.

See CUNA's [Regulatory Call to Action](#) for additional information on the proposed standards.

Source: CUNA

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

**April 25**  
5300 Call Report Due to NCUA

**April 30**  
Credit Card Quarterly Agreement  
Submission Due to CFPB (10,000  
or more open credit card accounts)

## CUNA 2014 Effective Dates of New and Revised Rules

- **January 10, 2014–CFPB**  
[Homeownership Counseling List  
for High-Cost Mortgages](#)

[Reg Z Ability-to-Repay & QM  
Standards re Escrows](#)

[Amendments to the 2013  
Mortgage Rules under  
Regulations B, X and Z](#)

[Mortgage Servicing Amendment  
to Reg X \(RESPA\)](#)

[Mortgage Loan Originator  
Compensation Rule](#)

[High-Cost Mortgage Rules  
under HOEPA](#)

[Ability-to-Repay and Qualified  
Mortgages](#)

[Mortgage Servicing Amendment  
to Reg Z \(TILA\)](#)

- **January 18, 2014–CFPB**  
[Exemptions from Appraisal  
Requirements for Certain  
Higher-Priced Mortgage Loans](#)  
[Interagency Rule on Appraisals  
for Higher-Priced Mortgage  
Loans](#)



# MOUNTAIN WEST Credit Union Association

## 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.mwcua.com/am](http://www.mwcua.com/am) for more details.

### **Available Now! February Telephone Trainings**

February 4: Marketing Compliance- Quickbite

February 13: Social Media-Promote Without Being Pushy  
Telecourse: 9:00-11:00 a.m. AZ/CO/WY  
Quickbite: 9:00-10:00 a.m. AZ/CO/WY

### **February 12**

Webinar: Imaged Documents: What to Keep, What to Destroy, What Holds Up in Court

### **February 13**

Webinar: REAL ESTATE LENDING SERIES: Construction to Permanent Lending Under the New CFPB Mortgage Rules

### **February 19: 8:30 – 10:30 a.m.**

Compliance Networking Council

### **February 20**

Webinar: Expanding Your Required IT Risk Assessment Program

### **February 27**

Webinar: Essential HR Recordkeeping from Hiring to Firing

### **March 4**

Webinar: Creating a Social Media Policy & Strategy That Everyone Can "Like"

### **March 6**

Bank Secrecy Act: Phoenix, AZ

### **March 20**

AZ: Consumer Lending Basics for Non-Lenders

### **May 22**

CO: Consumer Lending Basics for Non-Lenders

### **May 29**

Bank Secrecy Act: Denver, CO

## **CUNA Compliance Trainings**

### **February 4**

Webinar: Financial Statement Analysis

Webinar: How to Successfully Develop and Implement a Holistic Security Strategy at Your Credit Union

[Copy of Appraisals and Other Written Valuations under Reg B](#)

- **March 31, 2014~NCUA**  
[NCUA Emergency Liquidity Rule](#)
  - **December 31, 2015~IRS**  
["Foreign Account Tax Compliance Act" \(FATCA\) Rule](#)
- 
- ### **2014 CUNA Comment Calls**
- #### **Due Dates on Proposed Rules**
- **February 24, 2014~FRB**  
[Emergency Lending Authority](#)
  - **March 24, 2014~FRB**  
[2013 Regulation CC Proposal \(Check Collection and Return Rules\)](#)

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**February 6**

Webinar: Call Center Security

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**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

Please respond to [mrobey@mwcua.com](mailto:mrobey@mwcua.com) with any questions or concerns regarding content of this newsletter.  
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