

Regulatory Compliance News



MOUNTAIN WEST
Credit Union Association

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Compliance News

FTC Issues Enforcement Policy Statement Addressing “Native” Advertising and Deceptively Formatted Advertisements

The Federal Trade Commission issued an enforcement policy statement explaining how established consumer protection principles apply to different advertising formats, including “native” ads that look like surrounding non-advertising content.

In the [Enforcement Policy Statement on Deceptively Formatted Advertisements](#), the Commission lays out the general principles the Commission considers in determining whether any particular ad format is deceptive and violates the FTC Act. The policy statement affirms the long-standing consumer protection principle that advertisements and promotional messages that promote the benefits and attributes of goods and services should be identifiable as advertising to consumers. “The FTC’s policy applies time-tested truth-in-advertising principles to modern media,” said Jessica Rich, Director of the Bureau of Consumer Protection. “People browsing the Web, using social media, or watching videos have a right to know if they’re seeing editorial content or an ad.”

The policy statement explains that an ad’s format is deceptive if it materially misleads consumers about the ad’s commercial nature, including through any implied or express representation that it comes from a party other than the sponsoring advertiser. If the source of advertising content is clear, consumers can make informed decisions about whether to interact with the advertising and the weight to give the information conveyed in the ad.

Also released was the [“Native Advertising: A Guide for Business”](#) to help companies understand, and comply with, the policy statement in the context of native advertising. The business guidance gives examples of when disclosures are necessary to prevent deception and FTC staff guidance on how to make clear and prominent disclosures within the format of native ads.

LifeLock to Pay \$100 Million to Consumers to Settle FTC Charges IT Violated 2010 Order

LifeLock will pay \$100 million to settle Federal Trade Commission contempt charges that it violated the terms of a 2010 federal court order that requires the company to secure consumers’ personal information and prohibits the company from deceptive advertising. This is the largest monetary award obtained by the Commission in an order enforcement action.

“This settlement demonstrates the Commission’s commitment to enforcing the orders it has in place against companies, including orders requiring

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reasonable security for consumer data,” said FTC Chairwoman Edith Ramirez. “The fact that consumers paid LifeLock for help in protecting their sensitive personal information makes the charges in this case particularly troubling.”

[The FTC’s filing in the case](#) alleged that LifeLock violated four components of the 2010 order. First, the FTC alleged that from at least October 2012 through March 2014, LifeLock failed to establish and maintain a comprehensive information security program to protect users’ sensitive personal information including their social security, credit card and bank account numbers.

Second, the filing alleged that during this period LifeLock falsely advertised that it protected consumers’ sensitive data with the same high-level safeguards used by financial institutions. Third, the FTC alleged that, from January 2012 through December 2014, LifeLock falsely advertised that it would send alerts “as soon as” it received any indication that a consumer may be a victim of identity theft. Finally, the FTC alleged that the company failed to abide by the order’s recordkeeping requirements.

Under the [terms of the settlement](#), LifeLock must deposit \$100 million into the registry of the U.S. District Court for the District of Arizona. Of that \$100 million, \$68 million may be used to redress fees paid to LifeLock by class action consumers who were allegedly injured by the same behavior alleged by the FTC. These funds, however, must be paid directly to and received by consumers, and may not be used for any administrative or legal costs associated with the class action.

Any money not received by consumers in the class action settlement or through settlements between LifeLock and state attorneys general will be provided to the FTC for use in further consumer redress.

In addition to the settlement’s monetary provisions, recordkeeping provisions similar to those in the 2010 order have been extended to 13 years from the date of the original order.

Source: FTC

2016 Standard Mileage Rates for Business, Medical and Moving Announced

The Internal Revenue Service today issued the 2016 optional standard mileage rates used to calculate the deductible costs of operating an automobile for business, charitable, medical or moving purposes.

Beginning on Jan. 1, 2016, the standard mileage rates for the use of a car (also vans, pickups or panel trucks) will be:

- 54 cents per mile for business miles driven, down from 57.5 cents for 2015
- 19 cents per mile driven for medical or moving purposes, down from 23 cents for 2015
- 14 cents per mile driven in service of charitable organizations

The business mileage rate decreased 3.5 cents per mile and the medical, and moving expense rates decrease 4 cents per mile from the 2015 rates. The charitable rate is based on statute.

The standard mileage rate for business is based on an annual study of the fixed and variable costs of operating an automobile. The rate for medical and moving purposes is based on the variable costs.

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InfoSight Highlight

Bankruptcy Forms Changed December 1st

Most Official Bankruptcy Forms were replaced on December 1, 2015, with substantially revised, reformatted, and renumbered versions. The 2015 forms are part of a forms modernization project that was begun by the Advisory Committee on Bankruptcy Rules in 2008. Among other things, the 2015 forms introduce different versions of case opening forms for individual debtors and non-individual debtors.

The revised forms are easier for debtors to understand and complete, and are designed to work with scheduled enhancements to the federal courts’ case opening and electronic case management system.

Virtually all director’s bankruptcy forms were also replaced by updated and renumbered versions on December 1, 2015.

Credit unions that have questions or concerns with completing the new forms should seek the advice of their counsel to discuss.

The new forms and their requirements can be found on the [US Courts](#) website.

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

Taxpayers always have the option of calculating the actual costs of using their vehicle rather than using the standard mileage rates.

A taxpayer may not use the business standard mileage rate for a vehicle after using any depreciation method under the Modified Accelerated Cost Recovery System (MACRS) or after claiming a Section 179 deduction for that vehicle. In addition, the business standard mileage rate cannot be used for more than four vehicles used simultaneously.

These and other requirements for a taxpayer to use a standard mileage rate to calculate the amount of a deductible business, moving, medical or charitable expense are in [Rev. Proc. 2010-51](#). [Notice 2016-01](#) contains the standard mileage rates, the amount a taxpayer must use in calculating reductions to basis for depreciation taken under the business standard mileage rate, and the maximum standard automobile cost that a taxpayer may use in computing the allowance under a fixed and variable rate plan.

Source: IRS

New Cyber-Related Sanctions Regulations

The Office of Foreign Assets Control has published in the Federal Register regulations to implement Executive Order 1394 issued on April 1, 2015 ("Blocking the Property of Certain Persons Engaging in Significant Malicious Cyber-Enabled Activities"). OFAC intends to supplement the new regulations at 31 CFR part 578 with a more comprehensive set of regulations, which may include additional interpretive and definitional guidance and additional general licenses and statements of licensing policy. The regulations became effective upon publication, on December 31, 2015 - 31 CFR part 578, 80 FR 81752

Source: OFAC

Advocacy Highlight

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 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.

January 18

- Martin Luther King, Jr. Birthday – Federal Holiday

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](#)



[Training & Events Calendar](#)

January 19

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

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](#)

Power of Attorney: A Compliance Lunch and Learn

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 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



The [CUNA Regulatory Advocacy Report](#) 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. You can view the current report and past reports from the archive.

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

Denver, CO: Wednesday, January 27, 2016

Presenter: Attorney Bob Wilson, Berenbaum Weinshienk PC

Registration deadline: January 22nd

Arizona

Phoenix, AZ: Wednesday, February 3, 2016

Tucson, AZ: Thursday, February 4, 2016

Presenter: Attorney Jeremy Goodman, Goodman Law PLLC

Registration deadline: January 29th

The cost is \$30 per person and registration is required to attend. To register, please e-mail Shay Jacobs: sjacobs@mwcu.com.

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