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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.

Do your policies, procedures, and training outline the six pieces of information that define an application?

Check out this week's lead article below.

Regulatory Compliance News



MOUNTAIN WEST
Credit Union Association

January 9, 2015

Compliance News

Receipt of an Application Under the New TILA-RESPA Rule

Under the new TILA-RESPA rule, receipt of an application for a closed-end credit transaction secured by real property, other than a reverse mortgage, triggers a credit union's obligation to provide the Loan Estimate to the consumer within three business days. So the question is what is considered an application under the new TILA-RESPA rule?

Currently neither TILA nor RESPA defines the term Application. Regulation X defines Application as the submission of a borrower's financial information in anticipation of a credit decision relating to a federally related mortgage loan, which shall include the borrower's name, the borrower's monthly income, the borrower's social security number to obtain a credit report, the property address, an estimate of the value of the property, the mortgage loan amount sought, and any other information deemed necessary by the loan origination. Prior to the TILA-RESPA rule, Regulation Z did not define the term Application but permitted credit unions to rely on the definition in Regulation X. Under the new TILA-RESPA rule, Regulation Z includes a definition for the term Application that consists of two parts. The first part is the submission of a consumer's financial information for purposes of obtaining an extension of credit. This first part is a general definition for all credit transactions subject to Regulation Z. The second part provides that an Application consists of six pieces of information including the consumer's name, income, social security number to obtain a credit report, the property address, an estimate of the value of the property, and the mortgage loan amount sought. This second part is specific for transactions subject to the integrated disclosure requirements. This new definition eliminates the catch all phrase "any other information deemed necessary by the loan originator".

For further clarity of the definition, the rule also includes that the submission of the application may be in written or electronic format and includes a written record of an oral application. If the consumer does not have a social security number, the credit union may instead request whatever unique identifier the credit union uses to obtain a credit report, such as a tax identification number. The imposition of a fee is permitted to obtain the consumer's credit history prior to the delivery of the early disclosures. Whether or when such fees are received is irrelevant for the purposes of the definition and the timing requirements of the disclosures. One

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detail to keep in mind is this new definition of Application under Regulation Z does not change the definition of Application under Regulation B or Regulation C.

The change in the definition may seem small but there are some points credit unions need to consider. Although the definition specifically identifies the six items that are needed to trigger disclosure of the Loan Estimate, it does not require the credit union to collect the items in a certain order or prevent a credit union from collecting whatever additional information it deems necessary to give a reliable estimate of costs prior to collecting the six pieces of information. It only requires that once the credit union has received all six pieces of information it must provide the disclosures within three business days. The rule also does not prevent a credit union from collecting additional information after it receives the six specific pieces of information for underwriting purposes. It is important to note that although the credit union may request additional information, it may not require the consumer to submit documentation to verify the information before providing the required disclosures. For example a credit union may ask for the sale price and address of the property, but may not require the consumer to provide a purchase and sale agreement to support the information the consumer provides orally before the credit union provides the required disclosures. When preparing for implementation of the new rule, credit unions should consider their underwriting criteria and process, and sequence the collection of information in a way that will best suit the credit unions' needs.

Another area to consider is the credit union's responsibility when working with mortgage brokers. If a mortgage broker receives a consumer's application, either the credit union or the mortgage broker is required to provide the consumer with the disclosures. If the mortgage broker provides the disclosures, the mortgage broker must comply with all relevant requirements but ultimately the credit union is responsible for ensuring that the disclosures are provided as required. Disclosures provided by a mortgage broker in accordance with the requirements satisfy the credit union's obligation. Credit unions that work with mortgage brokers should review their policies, procedures, and training to ensure adequate controls and communication are in place to maintain compliance.

New NCUA Video Outlines Field of Membership Options and Strategies

Federal credit unions can better assess their field of membership needs as a result of the *Strive to Thrive* video released on NCUA's [YouTube](#) channel.

"A strong membership base is ultimately the cornerstone of a credit union's success," NCUA Board Chairman Debbie Matz said. "I encourage credit unions to take full advantage of the resources we have made available to help them increase membership penetration and growth. A growing membership base often leads to loan, share and net worth growth."

Strive to Thrive, available [here](#), provides an overview of the various field of membership types available to federal credit unions. The video also identifies expansion and conversion opportunities available for each field of membership type.

Credit unions may also contact NCUA's Division of Consumer Access at dcamail@ncua.gov or 703-518-1150 with questions about field of membership options and strategies.

Strive to Thrive is part of NCUA's Consumer Report series developed by the Office of Consumer Protection. Established in 2010, the office handles consumer affairs, consumer compliance and outreach, and consumer access issues.

Lawyers' Trust Accounts Now Insurable at Credit Unions New IOLTA Law Removes Constraints, Creates Parity with Banks

With President Barack Obama's signing of the Credit Union Share Insurance Fund Parity Act, lawyers' trust accounts at federally insured credit unions are now insured to the limit allowed by the Share Insurance Fund, National Credit Union Board

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.

For more information about our compliance services, please contact Melia Heimbeck at: mheimbeck@mwcu.com or (720) 479-3325 or 1 (800) 477-1697 ext. 3325



Reminder to Review Policies/Procedures for Year-end Updates

At the end of each year, the CFPB and other regulatory agencies may update certain monetary thresholds based on the Consumer Price Index (CPI) or IRS changes. Please review existing policies and procedures to ensure you are complying with the new changes.

Suspicious Activity Reports

An effective BSA compliance program will be able to recognize that certain transactions are suspicious in nature. A credit union must know its members to be able to make an informed decision as to the suspicious nature of a particular transaction and whether to file a Suspicious Activity Report (SAR). Refer to Appendix K in the BSA Manual for information on Customer (Member) Due Diligence. Also, refer to the Member Due Diligence Topic for more information on this subject.

SARs can be filed on any transaction occurring in any department. SARs must be filed no later than 30 days after the date of initial detection of facts that may constitute a basis for filing a SAR.

Credit unions **must** file a SAR following the discovery of:

- Insider abuse involving any amount;
- Violations of federal law aggregating \$5,000 or more when a suspect can be identified;
- Violations of federal law aggregating \$25,000 or more regardless of a potential suspect;
- Transactions aggregating \$5,000 or more that involve potential money laundering or violations of the BSA if the credit union knows, suspects, or has reason to suspect that the transaction:
 - Involves funds from illegal activities or is intended or conducted to hide or disguise illicit funds or assets as part of a plan to violate or evade any law or regulations or to avoid any transaction reporting requirement under federal law;
 - Is designed to evade any of the BSA regulations; or
 - Has no business or apparent lawful purpose or is not the sort in which the particular member would normally be expected to

Chairman Debbie Matz said in late December.

"Credit unions now have parity with banks and, effective immediately, can fully insure lawyers' trust accounts up to \$250,000 for each owner of the funds, which they could not do before," Matz said. "An attorney who is a member of the credit union where the trust account is opened now has a choice of financial institutions for that trust account. This enhances public confidence in both the banking and the credit union systems now that federal share and deposit insurance programs administered by NCUA and the FDIC are the same.

Previously, credit unions could not offer the same level of insurance for these accounts as banks because not all clients of a lawyer were members of the credit union that held the trust account. This placed credit unions at a competitive disadvantage because it was impractical to require attorneys to establish multi-client lawyers' trust accounts in different credit unions to ensure full Share Insurance coverage.

Matz said NCUA will make changes to its regulations to fully conform to the Act, but that accounts are fully insurable under the new law.

Credit unions should check their state requirements regarding the opening of Lawyer's Trust Accounts in their state.

Source: NCUA & MCUL

NCUA Regulatory Alert Addresses Privacy Notice Questions

A new regulatory alert from the National Credit Union Administration informs federally insured credit unions how to fulfill privacy notice requirements by posting them online.

The [letter](#) (14-RA-11), sent to boards of directors and CEOs, informs credit unions of changes required by a final privacy notice [rule](#) issued by the Consumer Financial Protection Bureau (CFPB) in October.

According to the letter, the CFPB's rule "makes it easier to access information about a financial institution's privacy policies any time during the year, and reduces regulatory burden by allowing financial institutions to reduce printing and mailing costs."

The rule applies to annual privacy notices delivered to credit union members. Under the rule, privacy notices can be delivered using an "alternative delivery method" of posting the notice online. The new method can be used if the credit union:

- Does not disclose customers' nonpublic personal information to nonaffiliated third parties other than for purposes for which an exception is provided in the implementing [regulation](#) ;
- Does not include an "opt out" under the Fair Credit Reporting Act (FCRA) on your annual privacy notice;
- Has previously satisfied the affiliate marketing provisions of FCRA and its implementing regulation, Regulation V, if applicable, or the annual privacy notice is not the only notice provided to satisfy those requirements;
- Has not changed the information in the most recent privacy notice other than to eliminate categories of information shared or parties; and
- The form provided in the regulation's appendix is used for the annual privacy notice.

A credit union must provide a notice to its members that the privacy notice is available online, and must provide the member notice in a "clear and conspicuous manner" on an account statement with a specific Web address, and the most current privacy notice must be posted in a "clear and conspicuous manner" on a Web page that does not require a login.

According to the NCUA, if a credit union prefers to continue delivering annual privacy notices by the other existing methods contained in the regulation, no action is needed.

engage, and the credit union knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction.

CU Compliance Connection – 2014 Year End Review

[This presentation](#) on CUBE TV is a 2014 year-in-review and will provide credit unions with a summary of the compliance items that became effective in 2014.



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.

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



Compliance Calendar

January 10

- [FHA ARM Notification Requirements](#) – Effective date

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 19, 2014~NCUA

Credit Unions Hit by Massive Loan Scam

More details emerged this week about a huge nationwide fraud ring that hit more than 21 financial institutions, mainly credit unions, including a Pennsylvania cooperative that [helped federal authorities stop the loan scam](#) by reporting suspicious activity.

Seven people from four states were indicted this week by a Pennsylvania federal grand jury on charges of bank fraud and conspiracy to commit bank and wire fraud, the U.S. Attorney's Office said. The scam included fake car dealerships in California and a network of straw borrowers who falsified bank loan documents and supporting documentation to obtain auto and consumer loans and lines of credit, the court documents said.

The alleged fraud ring netted between \$1 million and \$2.4 million, prosecutors said. Straw borrowers allegedly used fake earnings statements, tax returns, employment information and vehicle identification numbers belonging to cars already owned by other consumers or on lots at legitimate auto dealers, the documents said. From 2009 to 2013, a total of 64 phony borrowers applied for at least 150 bogus loans, according to court documents. Prosecutors did not say how many loans were successful.

The alleged scammers hit more than 15 credit unions.

Source: Credit Union Times

Advocacy Highlights

Comments Due March 23 on Prepaid Financial Product Protections

Comments on a Consumer Financial Protection Bureau (CFPB) proposal to create consumer protections for prepaid financial products are due March 23.

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

Proposed Interagency Flood Insurance Rule

December 30, 2014~NCUA

[Proposed Corporate Credit Unions Rule](#)

January 1, 2015~IRS

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

January 1, 2015~FHFA

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

January 23, 2015~NACHA

[Same Day ACH Proposal](#)

Effective Dates 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 13

Webinar: [HMDA: What to Know Now & What's on the Horizon?](#)

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](#)

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, the Credit Union National Association 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.

Comments on the proposal are [due](#) to the CFPB by March 23.

Source: CUNA

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

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

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