



Compliance News

October is Cybersecurity Awareness Month

October marks the 12th annual National Cybersecurity Awareness Month, and the National Credit Union Administration is offering a number of resources to help credit unions and their members keep their electronic communications secure.

“Criminals, hackers and terrorists work around-the-clock to pilfer sensitive data, steal money and disrupt networks,” said NCUA Chair Debbie Matz. “NCUA works hard every day of the year to provide detailed information to help the credit unions we regulate and the consumers we protect to prevent, detect and respond to these threats.”

She noted that Internet commerce and communications dominate the lives of most people every day, demanding constant vigilance on the part of consumers, financial institutions and government agencies.

Credit unions can find information, including cybersecurity regulations and guidance on the NCUA’s Cyber Security Resources [page](#), and the NCUA’s [Pocket Cents](#) site has tips for consumers.

The NCUA is scheduled to host a consumers’ Twitter chat with the Federal Trade Commission Oct. 22. The agency plans to release a new video for credit unions that discusses online security and the Federal Financial Institutions Examinations Council’s new Cybersecurity Assessment [Tool](#).

In addition, the NCUA will post periodic updates to its [Facebook](#) and [Twitter](#) pages throughout the months designed to help credit unions and members make electronic communications more secure.

National Cybersecurity Awareness Month is an [initiative](#) sponsored by U.S. Department of Homeland Security in cooperation with the National Cyber Security Alliance and the Multi-State Information Sharing and Analysis Center.

Source: CUNA

Consumer Financial Protection Bureau Provides Guidance About Marketing Services Agreements

The Consumer Financial Protection Bureau (CFPB) today issued a bulletin providing guidance to the mortgage industry regarding marketing services agreements. The bulletin offers an overview of the federal prohibition on mortgage kickbacks and referral fees, and describes examples from the Bureau’s enforcement experience as well as the risks faced by lenders entering into these agreements. During the course of supervising mortgage lenders and enforcing federal law, the Bureau has found that marketing services

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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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agreements carry legal and regulatory risk for lenders.

"We are deeply concerned about how marketing services agreements are undermining important consumer protections against kickbacks," said CFPB Director Richard Cordray. "Companies do not seem to be recognizing the extent of the risks posed by implementing and monitoring these agreements within the bounds of the law."

The CFPB is responsible for enforcing the Real Estate Settlement Procedures Act, which was enacted in 1974 as a response to abuses in the real estate settlement process. A primary purpose of the law is to eliminate kickbacks or referral fees that tend to increase unnecessarily the costs of settlement services. The law covers any service provided in connection with a real estate settlement, such as title insurance, appraisals, inspections, and loan origination.

The bulletin explains that while marketing services agreements are usually framed as payments for advertising or promotional services, in some cases the payments are actually disguised compensation for referrals. Any agreement that entails exchanging a thing of value for referrals of settlement service business likely violates federal law, regardless of whether a marketing services agreement is part of the transaction.

The bulletin describes a number of legal violations the Bureau has encountered in investigations involving kickbacks and referral fees. For example, the CFPB found a title insurance company that entered into marketing services agreements where the fees paid by the company were based in part on the number of referrals it received, as well as the revenue generated by those referrals. In another case, a settlement service provider did not disclose its affiliate relationship with an appraisal management company and did not tell consumers that they had the option of shopping for services before directing them to the affiliate.

The CFPB's enforcement actions against companies and individuals for violations of the Real Estate Settlement Procedures Act have resulted in more than \$75 million in penalties to date. The payment of improper kickbacks and referral fees has been the basis of almost all of those actions. As the bulletin notes, the CFPB intends to continue actively scrutinizing the use of such agreements and related arrangements in the course of its enforcement and supervision work.

The bulletin is available at:

http://files.consumerfinance.gov/f/201510_cfpb_compliance-bulletin-2015-05-respa-compliance-and-marketing-services-agreements.pdf

Source: CFPB

Advocacy Highlight

2016 CUNA GAC - THE BIGGEST CU ADVOCACY EVENT OF THE YEAR

February 21-25, 2016 • Washington, D.C.

CUNA Governmental Affairs Conference is the largest gathering of credit union advocates rallying on behalf of America's more than 103 million credit union members.

Join thousands of credit union leaders to leverage the power of our united system and share credit unions' positive impact with lawmakers from all 50 states.

Click [here](#) to register and get more information.

Source: CUNA

RBC2 Headlines Oct. 15 NCUA Agenda

A final vote on the National Credit Union Administration's revised risk-based capital (RBC2) proposal was on the agenda for the agency's Oct. 15 meeting.

basic annual compliance package that includes BSA, ACH, SAFE Act, and Website compliance.

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InfoSight Highlight

Fair Credit Reporting Act

The purpose of the Fair Credit Reporting Act ("FCRA" or "Act") is to ensure fair and accurate reporting of consumer credit information. It regulates "consumer reporting agencies," including credit bureaus; restricts the use of consumer reports to their legitimate purposes; prohibits the dissemination of outdated credit information; and requires disclosure to consumers and employees when adverse action is taken as the result of credit reports or other consumer information.

The FCRA applies any time a credit report is used as a factor in establishing a member's eligibility for or in making changes to the member's consumer credit, share or deposit accounts and other services. It also applies when credit reports are used in hiring or other employment decisions.

The FCRA does **not** apply to reports about business, commercial or professional entities, reports about a credit union's own experiences with a consumer, or reports by anyone based solely on their own experience with a consumer.

The Federal Trade Commission enforces compliance with the FCRA by consumer reporting agencies and state-chartered credit unions. The **Consumer Financial Protection Bureau (CFPB)** is charged with enforcing the provisions of the Act (12 CFR 1022).

On December 4, 2003, President Bush signed the Fair and Accurate Credit Transactions Act (FACT Act) into law. This Act amended the Fair Credit Reporting Act in several important ways. It permanently reauthorized the seven existing preemption provisions which were scheduled to sunset on January 1, 2004, and extended preemption to certain areas related to identity theft prevention and mitigation.

How does the FCRA affect credit unions?

Note: The Consumer Financial Protection Bureau announced that the ceiling on allowable charges under Section 612(f) of the FCRA will increase to \$12.00 effective January 1, 2015. The CFPB is required to increase the amount referred to in Section 612(f)(1)(A)(i) of the FCRA on January 1 of each year, based proportionally on changes in the Consumer Price Index (CPI), with fractional changes rounded to the nearest fifty cents.

The [agenda](#) names three other items for consideration, including permissible investment activities.

The agency issued RBC2 in January after its original proposed rule was introduced last year. The revised proposal has a number of improvements, but CUNA continues to believe, in the words of President/CEO Jim Nussle, that it is a "solution in search of a problem."

However, CUNA noted roughly 25 key improvements over the agency's first risk-based capital proposal. These include:

- Limiting the scope of the proposal by increasing the asset threshold to \$100 million;
- Lowering the risk-based capital requirement for well-capitalized credit unions;
- Improving risk weights;
- Permitting goodwill in supervisory mergers to be included in risk-based capital; and
- Delaying compliance until Jan. 1, 2019.

NCUA Chair Debbie Matz, in a letter sent to legislators, said "the final risk-based capital rule will be calibrated to affect only a few dozen credit union outliers not carrying sufficient capital to match the risks on their balance sheets." CUNA requested the NCUA make those calibrations.

CUNA made a number of other suggestions in its comment letter, including:

- The new proposed capital adequacy provisions beyond net worth and risk-based capital ratio requirements should be dropped;
- The identification of "complex" credit unions should be based on something more than asset size, and should include only credit unions with at least \$500 million in assets; and
- Implementation should be delayed until 2021, to coincide with expected refunds from the Temporary Corporate Credit Union Stabilization Fund.

The other items on the agenda include the proposed rule on permissible investment activities-bank notes, delegations of authority for the approval of community charter requests and a quarterly update on the National Credit Union Share Insurance Fund.

The NCUA has indicated that it will issue proposals on field of membership and supplemental capital by the end of this year.



[Training & Events Calendar](#)

Regulatory Compliance & BSA School - Phoenix

Be sure to mark your calendars for the Regulatory Compliance & BSA School. And, if you are tight on funds, professional development scholarships are available through Mountain West Credit Union Foundation. Click [here](#) to view the Scholarship Application.

[October 20-21: Phoenix, AZ](#)

October 26

Webinar: [Clarifying the Confusion: TRID & FAQs](#)

October 27

Webinar: [Adverse Action Consumer & Mortgage Loan Best Practices](#)

October 28

Webinar: [Supervisory Committee Duties & Responsibilities](#)

Requirements of FCRA are applicable to credit unions that are:

- "Consumer reporting agencies" by providing credit information (other than their own experience with a member) to third parties (other than affiliates);
- Users of consumer reports from consumer reporting agencies; **and**
- Furnishers of information to consumer reporting agencies.

Credit unions are likely to be subject to FCRA as credit grantors, purchasers of dealer paper, issuers of credit cards, and as employers. When credit unions use consumer report information, the provisions of the FCRA that apply relate to transactions where an "adverse action" is taken partially or wholly on the basis of the information from a "consumer report."

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



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.



[Compliance Calendar](#)

October 1

⬇ [Flood Insurance Rule Effective Date – Part 1](#)

October 1

⬇ [Credit/Debit Card Liability Shift](#)

October 3

⬇ [CFPB: Know Before You Owe Disclosure - Effective Date](#)

October 3

⬇ [CFPB: Integrated Mortgage Disclosures - Effective Date](#)

October 23

⬇ [5300 Call Report Due to NCUA](#)

November 1

⬇ [Daylight Savings Time Ends](#)

November 11

⬇ [Veterans Day - Federal Holiday](#)

November 26

⬇ [Thanksgiving Day – Federal Holiday](#)

December 25

⬇ [Christmas Day – Federal Holiday](#)

December 31

October 29

Webinar: [CFPB Final Amendments for Small Creditors & Rural or Underserved Areas, Effective January 1, 2016](#)

November 4

Webinar: [Director Series: Interest Rate Risk Policies, Considerations & Consequences: What Directors Should Know](#)

November 9

Webinar: [Preparing for the Impact of Same Day ACH](#)

November 12

Webinar: [Regulatory Requirements for the Board & Senior Management](#)

November 24

Webinar: [Top 10 Mistakes in Deposit Compliance Exams](#)

December 3

Webinar: [Advanced ACH Specialist Series: Reg E Error Resolution Rules vs NACHA Operating Rules – Obligations, Consumer Disputes & Case Studies](#)

December 9

Webinar: [BSA Special Risks: Policy, Law Enforcement & Regulator Issues](#)

December 15

Webinar: [Robbery Prevention, Apprehension & Recovery](#)

CUNA Schools and Webinars

November 19

Webinar: [Identify Interest Rate and Market Risk](#)

December 17

Webinar: [Managing Credit Risk](#)

• [Foreign Account Tax Compliance Act Effective Date](#)

Effective Dates New and Revised Rules

October 1, 2015~DOD (*Compliance Mandatory 10/3/2016*)
[Military Lending Act Rule](#)

October 3, 2015~CFPB
[TILA-RESPA Integrated Disclosure Rule](#)

December 31, 2015~IRS
["Foreign Account Tax Compliance Act" \(FATCA\) Rule](#)

CUNA Comment Calls – Due Dates on Proposed Rules

• **September 30, 2015~NACHA**
[NACHA Third-Party Sender Registration Request for Comment](#)

• **October 19, 2015~CFPB**
[Request to Develop Survey on POS/ATM Overdraft Disclosure](#)

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

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