



Compliance News

CFPB, FDIC Release Resource for Older, Spanish-Speaking Adults

A financial resource designed to help older, Spanish-speaking adults has been released jointly by the Federal Deposit Insurance Corp. (FDIC) and Consumer Financial Protection Bureau (CFPB).

The English-language version of the "[Money Smart for Older Adults](#)" resource was released last year as a tool to help those over age 62 and their caregivers prevent elder financial exploitation.

"We know that senior citizens are increasingly targeted for financial exploitation," said FDIC Chair Martin Gruenberg. "With nearly 4 million Spanish-speaking older adults across the country, this tool adds a new resource to help Spanish-speaking seniors prevent, respond to, and report abuse."

The educational module is designed to be delivered to older adults and their caregivers by representatives of financial institutions, adult protective service agencies, senior advocacy organizations, law enforcement and others that serve this population.

The resource also includes a participant/resource guide and PowerPoint slides in Spanish that can be downloaded for free.

Source: CUNA News Now

IRS Releases Revised 'Certificate of Foreign Status' Form for Individuals

The IRS has issued a new [Form W-8BEN](#) (Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding and Reporting), which should be used exclusively for individuals who are not U.S. citizens or resident aliens to claim an exception from information reporting and backup withholding for certain types of income, including financial-institution deposit interest. Entities documenting their foreign status, FATCA status, or making a claim for treaty benefits will use a new Form W-8BEN-E, which has not yet been finalized.

Individuals who are not U.S. citizens or resident aliens may be subject to U.S. tax at a 30-percent rate on income they receive from certain U.S. sources. These individuals can use Form W-8BEN to claim an exception from information reporting and backup withholding for certain types of income, such as financial-institution deposit interest.

The new form is very similar to the old Form W-8BEN. References to anything other than individuals have been deleted, and the new form requires the individual's date of birth (Box 8).

For more information, see the updated [W-8BEN Instructions](#).

Source: NWCUA

Inside Washington

The National Credit Union Administration has posted a [supervisory letter](#) and [white paper](#) to its website that offer examiner guidance for evaluating the capital planning efforts of credit unions with \$10 billion or more in assets, i.e., the few very largest credit unions.

The letter reminds credit unions that their capital policy should "outline its process for capital planning and analysis, and must be consistent with the financial condition, size,

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complexity, risk profile, scope of operations, and level of capital of the credit union." It also notes that a credit union's board of directors is "ultimately responsible for overseeing the capital planning and analysis process, while senior management administers a comprehensive, integrated, and effective process that fits into the broader risk management of the credit union." Senior management responsible for capital planning and analysis must provide regular reports to the credit union's board of directors (or a designated committee of the board).

The guidance notes that the NCUA Office of National Examination and Supervision will evaluate each covered credit union's capital plan within the context of the organization's unique needs and circumstances and will apply the following three standards in performing the evaluation: The capital planning process is based on a sound foundation; the capital plan meets all the requirements of the regulation, and; the capital plan involves safe and sound practices.

Source: CUNA News Now

Deadline for 3Q Call Reports is Oct. 24

October 24 is the deadline for credit unions to submit their third quarter 5300 Call Reports to the National Credit Union Administration. After Oct. 24, credit unions could be assessed a civil money penalty for non-compliance.

The NCUA began fining credit unions that file late call reports this year.

The 2013 third quarter saw more than 1,000 credit unions miss the filing deadline and, according to NCUA Chair Debbie Matz, a large percentage of those filers were "chronically late, repeatedly filing after each quarterly deadline throughout the year."

"Such late filing impacts NCUA's ability to conduct effective off-site supervision and delays the release of quarterly industry data to the general public," Matz wrote in a Letter to Credit Unions.

Going forward, credit unions filing reports late can be subject to civil money penalties. Each quarter, after the agency determines which credit unions missed the deadline, it assesses each case if there were extenuating circumstances, such as a natural disaster, or incapacitation of key employees. Without extenuating circumstances, a late filer is likely to be fined.

The problem of tardy filing has improved significantly since last year, but the NCUA has said it wants full compliance.

In the first quarter of 2014, 104 credit unions missed the deadline, and 62 were eventually fined a total of \$57,750. The agency reported 75 credit unions filed late reports in the second quarter and has not released the final number of credit unions that will ultimately end up paying civil penalties.

Use this [link](#) to access an NCUA video explaining the online submission process for 5300 Call Reports.

Source: CUNA News Now

Technical Amendments Approved by the NCUA Board

Technical amendments approved by the National Credit Union Administration board at its September meeting have been published in the [Federal Register](#), making the changes effective as of Oct. 3. The Dodd-Frank Act repealed NCUA's rulemaking authority under the Federal Trade Commission Act, and as a result, the NCUA board has repealed the agency's regulations governing unfair or deceptive acts or practices. Other technical amendments conform regulations to the agency's current central and field office structures, as well as amend the payday alternative loans regulation to replace all references to "short-term, small amount loans" and "STS loans" with corresponding references to "payday alternative loans" and "PAL loans".

Source: CUNA News Now

What CUs Need to Know About U.S. Sanctions on Russia

In July, the U.S. Treasury Department imposed a broad-based package of economic sanctions on entities in the financial services, energy, and arms or related sectors of Russia, and on those undermining Ukraine's sovereignty or misappropriating Ukrainian property.

Treasury's Office of Foreign Assets Control (OFAC) introduced the Sectoral Sanctions Identifications (SSI) List to identify these sanction targets. The SSI List is not part of OFAC's Specially Designated Nationals and Blocked Persons List (SDN List), although some SSI targets may also appear on the SDN List.

CAN-SPAM Act – Canadian Anti-Spam Legislation (CASL)

Under the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (CAN-SPAM Act), the FTC is charged with issuing regulations for implementing the CAN-SPAM Act. The FTC has issued regulations that provide criteria to determine the primary purpose of e-mail messages.

The goals of the Act are:

- To reduce spam and unsolicited pornography by prohibiting senders of unsolicited commercial e-mail messages from disguising the source and content of their messages; and
- To give consumers the choice to cease receiving a sender's unsolicited commercial e-mail messages.

If a credit union sends advertisements to its members using e-mail, it must comply with the provisions of the CAN-SPAM Act. The credit union's board should direct management to implement procedures and train employees to ensure full compliance with the law.

In 2014, Canada passed the CASL which duplicates Can-Spam in most regards.

The law and its implementing regulations generally prohibit:

- Sending of commercial electronic messages without the recipient's consent;
- Alteration of transmission data in an electronic message resulting in the message being delivered to a different destination without consent;
- Installation of computer programs without the express consent of the owner of the computer system or its agent;
- Use of false or misleading representations while promoting products or services;
- Collection of personal information through accessing a computer in violation of Canadian law; and
- Collection of electronic addresses by the use of computer programs or the use of such addresses, without permission.

Visit the CAN-SPAM Act topic on the Advertising channel of InfoSight to review how the CAN-SPAM Act-CASL affects credit unions and the action your credit union should take.

Cloud Computing

As the need to address record and information storage demands increases credit unions continually look for new cost effective methods of processing and storing information. Cloud computing is a technological advancement that can be advantageous to credit unions. This presentation provides information on the requirements for Cloud Computing and how it impacts your credit union. Click [here](#) for the video.

Generally, U.S. persons are prohibited from providing debt financing longer than 90 days or new equity to any person/entity on the SSI List. But targets' assets under U.S. jurisdiction aren't "blocked" (i.e., frozen) under this particular sanction program. OFAC posted detailed information on how to handle SSIs on its website.

Earlier this year, OFAC issued another non-SDN List—the Foreign Sanctions Evaders (FSE) List—targeting individuals and entities involved in violating U.S. sanctions on Syria or Iran. Transactions by U.S. persons or within the United States involving FSEs are prohibited (CU Mag 4/14, p. 39). Make sure your OFAC software vendors are tracking the SSI and FSE Lists in addition to the SDN List.

Source: Credit Union Magazine

Advocacy Highlight

Final Reminder: CUNA Seeks Feedback on NACHA 2014 Compliance and Operational Topics Proposed Rule

CUNA continues to seek feedback from credit unions on our [Comment Call](#) through October 13 (**or shortly after**) regarding NACHA - the Electronic Payments Association's proposed rule to address certain compliance and operational topics on the Automated Clearing House (ACH) network. These proposed changes are intended to be technical amendments, and NACHA had similar proposed rules in 2013 and 2012. CUNA is interested in how this proposed rule would affect credit union operations and compliance on the ACH network. In particular, this proposed rule would amend five specific areas of the NACHA Operating Rules: 1) Recrediting Receiver, 2) TEL entries, 3) Clarification of RDFI warranties for Notification of Change, 4) Valid characters for ACH records, and 5) Disclosure requirements for POS entries. NACHA believes these changes would benefit ACH network participants.

CFPB Issues Proposal to Modify TILA-RESPA Rule

Late last week, the CFPB issued a [proposed rule](#) to modify and make technical amendments to its Truth in Lending Act (TILA) and Real Estate Settlement Procedures Act (RESPA) final rule. Comments are due to the agency by November 10, 2014. The proposed rule would amend section 1026.19(e)(3)(iv)(D), which states that, in order to revise the estimated amounts used to determine good faith pursuant to section 1026.19(e)(1), creditors must re-disclose interest rate dependent charges and loan terms on the date that the rate is locked. Under the proposal, the CFPB is proposing to relax the timing requirement to state that creditors must provide a revised disclosure no later than the next business day after the date the rate is locked, instead of the same date.

The Bureau is also proposing to amend section 1026.37(m) to provide for the placement of language relating to certain new construction loans on the Loan Estimate form that is required in order for creditors to re-disclose estimated charges. Specifically, the Bureau is proposing to add a new section 1026.37(m)(8), under the master heading "Additional Information About This Loan" and under the heading "Other Considerations," to allow creditors to make the statement that the creditor may issue revised disclosures on the Loan Estimate in situations where construction loans are reasonably expected to close more than 60 calendar days after the initial Loan Estimate is provided.

Finally, the proposal would make several technical, non-substantive amendments to the final rule to correct and update various citations and cross-references in both the regulatory text and commentary sections of the rule, including an amendment to section 1026.36(g)(2)(ii), adopted by the 2013 Loan Originator final rule, to provide for placement of the NMLSR ID on the integrated disclosures. The agency indicates in its [release](#) that it does not believe that these proposed changes will affect industry's ability to implement the rules on time for the August 1, 2015 effective date, and no changes have been proposed to amend the current effective date of the final rule. CUNA will be preparing a more detailed comment call in the coming days relating to the proposed rule.

CFPB Releases New TILA-RESPA Implementation Resources

Last week, the CFPB released an updated [Mortgage Rules Readiness Guide](#) to include information regarding the upcoming TILA-RESPA Integrated Disclosure rule. The guide now includes changes to final rules issued through August 1, 2014 covering both the Truth in Lending Act (TILA) as well as the Real Estate Settlement Procedures Act (RESPA). The TILA-RESPA rule goes into effect on August 1, 2015, but many changes to mortgage disclosure forms, systems, processes, and training programs will be necessary in preparing to comply

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

- CUNA Urges NCUA To Drop the 5% Asset Limit on FCU Fixed Assets
- CUNA Represents Credit Unions at U.S. Treasury Bank Secrecy Act Meeting; Upcoming BSA Issues
- Credit Unions, CUNA Participate in CFPB Forum on Checking Accounts
- Credit Union Leaders Continue Representing Credit Unions on Federal Reserve Board Council
- CFPB Releases New TILA-RESPA Implementation Resources
- CFPB Issues Proposal to Modify TILA-RESPA Rule
- Final Reminder: CUNA Seeks Feedback on NACHA 2014 Compliance and Operational Topics Proposed Rule

Be sure to visit our new [Risk-Based Capital blog](#) for the latest from CUNA staff and guest bloggers



2014 Compliance Calendar

October 17

- [Master Card Limitation of Liability Change](#)

October 24

- [5300 Call Report Due to NCUA](#)

October 31

- [Credit Card Qtrly Agreement Submission Due to CFPB \(10,000 or more open credit card accounts\)](#)

November 2

- [Daylight Savings Time Ends](#)

November 11

- [Veterans' Day – Federal Holiday](#)

November 27

- [Thanksgiving Day – Federal Holiday](#)

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](#)

2014 CUNA Comment Calls - Due Dates on Proposed Rules

September 22, 2014~FinCEN

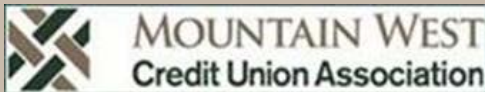
[Customer Due Diligence](#)

October 1, 2014~NCUA

[Fixed Assets](#)

with the final rule. CUNA continues to urge the agency to provide additional written guidance and clarifications to several unanswered questions to ensure that credit unions have as much accurate information as possible as they work to implement the rule in the coming months.

Additional information and resources related to the TILA-RESPA Integrated Disclosure rule may be accessed at the CFPB's website: <http://www.consumerfinance.gov/regulatory-implementation/tila-respa/>



[Training & Events Calendar](#)

October 29

Webinar: [Social Media Update: Facebook, LinkedIn, YouTube and Twitter](#)

November 4 – 6

[Regulatory Compliance School - Phoenix](#)

October 13, 2014~NACHA

[NACHA Compliance & Operational Topics](#)

October 15, 2014~CFPB

[Proposed Regulation on HMDA \(Reg C\)](#)

[CUNA Schools and Webinars](#)

October 20

Webinar: [Lending Compliance Hot Topics](#)

October 26 – 29

[CUNA Bank Secrecy Act Conference, Las Vegas, NV](#)

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

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