

TILA-RESPA Integrated Disclosure Rule

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With one of the most sweeping regulatory changes for credit unions in decades effective Oct. 3rd, MWCUA is dedicated to helping you prepare. Over the past 11 months, we have presented a weekly topic, question, or idea taking you one step closer to successful implementation.

Day until
October 3, 2015

Do you have controls in place to monitor compliance and a process to ensure timely correction of any areas found to be out of compliance?

Regulatory Compliance News



MOUNTAIN WEST
Credit Union Association

October 2, 2015

Compliance News

Fed's Same-Day ACH Rule Draws Criticism

The Federal Reserve Board put its [stamp of approval on same-day ACH](#), but not without objections from members of the credit union industry.

A review of letters sent to the Fed during the public comment period highlights two of the most controversial parts of the new rules: The requirement that receiving depository institutions accept same-day ACH transactions, and the cost of those transactions.

Paul Guttormsson, the director of compliance services and regulatory counsel for the Wisconsin Credit Union League, said mandatory participation will strain the already thin ranks of small credit unions.

"Wisconsin credit unions – as small institutions – would incur greater expenses from this proposal than larger ACH participants would incur," Guttormsson wrote in a letter to the Federal Reserve. "As of March 2015, Wisconsin's 159 credit unions had a median asset size of just \$32 million. At that size, a credit union is likely to have only about 10 employees in total (full- and part-time). Yet those employees are expected to handle not only ACH processing, but to provide all of the credit union's other member services."

Guttormsson and Cherie Monson, who is general counsel and vice president of legal services at Eastman Credit Union, also said credit unions should have the choice to opt into sending and receiving same-day ACH. The \$3.2 billion Eastman Credit Union is headquartered in Kingsport, Tenn. and has 161,000 members.

The move aligns the Fed's same-day ACH service with NACHA's rules. Trades express concern about costs to credit unions.

"Since the inception of the FedACH SameDay Service in 2010, RDFI participation has been optional," Monson wrote. "According to the Board, fewer than 100 depository institutions use the service. ECU believes lack of

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Spend more time with members and less time worrying

participation is ultimately due to an industry-wide belief that the benefit of such service is outweighed by the increased operational and financial costs required to process same-day transactions.”

Not everyone had a problem with mandatory participation, however.

“If Same Day ACH was optional, and should largest financial institutions be the only participants utilizing Same Day ACH, smaller institutions such as PCFCU would see a significant impact to the ability to service our members,” James Morrell, president/CEO of Peninsula Community FCU in Shelton, Wash., wrote. “The relative impact on rural communities such as those we serve would be even greater.” Peninsula FCU has \$158 million in assets and 18,000 members.

Commenters also spoke out about the \$0.052 interbank fee per transaction for originating depository institutions.

Guttormsson said with that rate, which is about 37% lower than what the Fed originally proposed, it will take close to 16 years for financial institutions to recover their costs of implementing same-day ACH. “That is hardly an acceptable return on investment for any credit union,” he added.

The Missouri Credit Union Association, the Indiana Credit Union League and the Georgia Credit Union Affiliates expressed similar concerns.

Even Navy Federal, the nation’s largest credit union at \$70 billion in assets and with 5.7 million members, appeared skeptical.

In its letter to the Federal Reserve, President/CEO Cutler Dawson said, “Navy Federal is among the largest ACH receivers by volume in the U.S.; however, even at our volume, the (same-day ACH) volumes projected by NACHA are likely to be insufficient to generate income to cover our one-time and ongoing expenses.”

Some have all but written the costs off.

“RDFIs will likely never fully recover their initial expenses,” AlaskaUSA Federal Credit Union’s vice president of electronic services, Joel Swanson, wrote. “It is more likely that existing technological changes already in progress will result in other (non-ACH) interconnected networks providing immediate, good-funds based financial transactions in the near term (far less than 15 years).” His credit union has \$5.9 billion in assets and 543,000 members.

“To fully understand what can occur in 15 years, one only need remember that just 10 years ago none of the following technologies existed: Smartphones, tablets, NFC mobile payments, Low-Energy Bluetooth, EMV, P2P payments, QR codes, Apple Pay and so on,” he said.

The new rules will begin to take effect almost exactly one year from now.

Source: Credit Union Times

CFPB Takes Action Against Fifth Third Bank for Auto-Lending Discrimination and Illegal Credit Card Practices

The Consumer Financial Protection Bureau (CFPB) announced two separate actions against Fifth Third Bank for discriminatory auto loan pricing and for illegal credit card practices. The joint CFPB and Department of Justice (DOJ) auto-lending enforcement action requires Fifth Third to change its pricing and compensation system to minimize the risks of discrimination, and to pay \$18 million to harmed African-American and Hispanic borrowers. The CFPB’s action against Fifth Third’s deceptive marketing of credit card add-on products requires the bank to provide an estimated \$3 million in relief to eligible harmed consumers and pay a \$500,000 penalty.

“We are committed to promoting fair and equal access to credit in the auto

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InfoSight Highlight

Compliance Calendar

October is a busy month! Several regulations will be updated this month, some with immediate effective dates:

- Flood Insurance Rules (Part 1)
- Credit/Debit Card Liability Shift (aka EMV Card Technology)
- Military Lending Act
- Integrated Mortgage Disclosures

The Compliance Calendar in InfoSight is kept updated with Compliance Dates and Other Important Reminders and Information.

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

finance marketplace,” said CFPB Director Richard Cordray. “Fifth Third’s move to a new pricing and compensation system represents a significant step toward protecting consumers from discrimination. We are also obtaining millions of dollars in relief today for consumers affected by deceptive marketing of credit add-on products.”

The enforcement action is the result of a CFPB examination that began in January 2013. The examination evaluated Fifth Third’s indirect auto-lending program for compliance with the Equal Credit Opportunity Act, which prohibits creditors from discriminating against loan applicants in credit transactions on the basis of characteristics such as race and national origin. The CFPB and DOJ’s joint investigation concluded that Fifth Third’s policies:

- **Resulted in minority borrowers paying higher dealer markups:** Fifth Third violated the Equal Credit Opportunity Act by charging African-American and Hispanic borrowers higher dealer markups for their auto loans than non-Hispanic white borrowers. These markups were without regard to the creditworthiness of the borrowers.
- **Injured thousands of minority borrowers:** Fifth Third’s illegal discriminatory pricing and compensation structure meant thousands of minority borrowers from January 2010 through September 2015 were charged, on average, over \$200 more for their auto loans.

For the complete action announcement from the CFPB, click [here](#):

Source: CFPB

Online Training for Credit Union Board Members

A new seven-part video series is available from the NCUA to provide credit union board members valuable information to help them be more successful. The first installment, “What Every Board of Directors Should Know,” covers topics including:

- Developing a sound governance program,
- Traits of effective and ineffective chairmen, and
- Evaluating and supporting the manager.

The video series also features case studies to help board members analyze the kinds of leadership issues they can face in their credit unions. The video series, available online [here](#), also features case studies to help board members analyze the kinds of leadership issues they can face in their credit unions. Users can take an [online test](#) to measure what they have learned, and they can earn a certificate of completion if they have a satisfactory score. Other videos in the series will be available by the end of the year.

Source: NCUA

NCUA to Hold Fair Lending Webinar

A free NCUA [webinar](#), “2015 Interagency Fair Lending Laws Hot Topics” will be held on October 15, 2015, beginning at 2 p.m. ET. The 90-minute presentation will provide information to credit unions on compliance with fair lending laws. Sponsored by the Federal Reserve System, the session will feature experts from the NCUA, FRB, CFPB, FDIC, OCC, DOJ and HUD. Register [here](#).

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.

October 12

• Columbus Day – Federal Holiday

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

• 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](#)

October 19, 2015~CFPB

[Request to Develop Survey on POS/ATM Overdraft Disclosure](#)

September 30, 2015~NACHA

[NACHA Third-Party Sender Registration Request for Comment](#)

December 31, 2015~IRS

["Foreign Account Tax Compliance Act" \(FATCA\) Rule](#)

CUNA Schools and Webinars

November 19

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

December 17

Webinar: [Managing Credit Risk](#)



[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 8

Webinar: [Reg E Requirements for Debit Card Error](#)

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

CFPB Rules Build Hurdles for CUs' Member Service: CUNA to Congress

Despite promises to “level the playing field,” the impact of nearly every Consumer Financial Protection Bureau (CFPB) rule to date has made it more difficult and expensive for credit unions to serve their members. That’s what CUNA [wrote](#) to U.S. House Financial Services Committee leadership this week in a comprehensive, 18-page letter sent in advance of CFPB Director Richard Cordray’s semi-annual appearance before the committee.

“Many credit unions have limited or eliminated certain financial products and services traditionally provided to their members as a direct result of the CFPB’s rules,” CUNA’s letter reads. “When a CFPB rule or action results in credit unions reducing or abandoning service offerings, consumers have not been protected; they have been stripped of the key market-based consumer protection that is access to credit union services. To put it bluntly: consumers lose when the CFPB keeps credit unions from serving them.”

CUNA cited examples such as CFPB’s international remittance transfer rule, the Truth in Lending Act-Real Estate Settlement Procedures Act integrated disclosures (TRID) rule and the pending Home Mortgage Disclosure Act reporting requirements, as regulations that remove services from credit union members.

To the committee regarding the CFPB, CUNA recommended the following Congressional actions:

- Enact legislation that would expand CFPB leadership to a five-person board (H.R. 1266); exclude from the points and fees calculation title insurance charges and escrowed home insurance premiums (H.R. 685); deem residential real estate mortgages made by credit unions and held in portfolio Qualified Mortgages (H.R. 1210); allow the Financial Stability Oversight Council to stay or set aside any regulation upon determination of a majority of its members (H.R. 1263); and provide a TRID safe harbor through Feb. 1, 2016 (H.R. 3192);
- Expand and specify the CFPB’s exemption authority to reflect that credit unions do not engage in the consumer abuse the bureau was created to address;
- Fund the CFPB through the appropriation process in order to provide an additional layer of supervision over bureau activities; and
- Enact legislation that would increase the size of the institution that the CFPB can examine to \$50 billion, up from the current \$10 billion.

Rep. Frank Guinta (R-N.H.), a subcommittee members, has [said](#) he will ask Cordray directly about providing a TRID safe harbor during the hearing.

Source: CUNA

CUNA Comment Calls – Due Dates on Proposed Rules

September 8, 2015~NCUA

[NCUA's Economic Growth and Regulatory Paperwork Reduction Act \(EGRPRA\) Regulatory Review; No. 3](#)

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](#)

[Resolution: Processing, Disclosure and Investigations](#)

October 13

Webinar: [The New Flood Rules, Including the Mandatory Escrow Rule Effective January 1, 2016](#)

October 15

Webinar: [BSA Compliance: Identifying, Monitoring and Reporting Suspicious Activity](#)

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](#)

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 9

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

New Date: Compliance Networking Council – rescheduled for October 15

The scheduled October 8th Compliance Networking Council **has been changed** to Thursday, October 15, 2015.

The Compliance Council brings together compliance professionals to discuss the challenges inherent in keeping credit unions compliant with the regulations that govern them. The council provides opportunities to meet with your counterparts from other credit unions, discuss upcoming regulatory changes, as well as strategies to minimize their impact. This council will take place in Denver, CO, Phoenix, AZ and Rock Springs, WY. For more information or to register, please e-mail: training@mwcua.com.

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

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