

Regulatory Compliance News



MOUNTAIN WEST
Credit Union Association

November 13, 2015

Compliance News

CUNA Letter to CFPB on Overdraft Survey

The CFPB is currently reviewing the current model form for disclosure of overdraft programs, to identify whether alternative content or designs of the form may better support consumer comprehension and decision-making. As part of its review, the CFPB plans to develop a consumer survey to collect information on whether consumers could benefit from overdraft disclosures at the point of sale and ATMs. As is required by law, the CFPB is seeking approval of the Office of Management and Budget (OMB) to develop such a survey.

CUNA submitted a letter to the agency, urging them to open the survey up to public comment before it is used. The CFPB is still in the process of developing this survey. However, since overdraft protection is such an important service to so many credit union members, CUNA reiterated concerns previously shared with the CFPB.

Source: CUNA

Bureau Releases Fall 2015 Supervision Report

The CFPB has released its latest [supervision report](#) outlining the illegal practices uncovered by the Bureau's examiners from May 2015 to August 2015. The Bureau found violations in the student loan servicing, mortgage origination and servicing, consumer reporting, and debt collection markets. The report shows that CFPB supervisory actions resulted in \$107 million in relief to more than 238,000 consumers. Violations included:

- Student loan servicers allocated payments to maximize fees and failed to give consumers choices about how to apply payments
- Student loan servicers' unfair practices increased fees and interest for borrowers
- Student loan servicers deceive borrowers about student loan late fees
- Mortgage servicers failed to automatically terminate mortgage insurance and reimburse consumers
- Furnishers lacked adequate policies for accurately reporting information to consumer reporting agencies and failed to respond to disputes
- Debt collectors used illegal tactics to contact consumers

Source: CFPB

Most Retirees Need to Take Required Retirement Plan Distributions by Dec. 31

The Internal Revenue Service reminded taxpayers born before July 1, 1945, that they generally must receive payments from their individual retirement arrangements (IRAs) and workplace retirement plans by Dec. 31. Known as

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Association Compliance Forums

Click on one of the below links to subscribe

[Compliance Forum](#)

[BSA Compliance Officer Forum](#)

Please provide the subscriber's name, credit union, title and email address. The subscriber will receive a welcome e-mail that details how to access the forum.



What's New at AffirmX

Since launching its revolutionary Risk Intel Center platform a few years ago, AffirmX has continued to enhance its patented solution based on user input and to meet ever-expanding regulatory requirements. If you're unfamiliar with AffirmX's innovative solution, or if it has been awhile since you've seen what it can do, here is your chance to get quickly up to speed on how it can help your financial institution reduce workloads,

required minimum distributions (RMDs), these payments normally must be made by the end of 2015. But a special rule allows first-year recipients of these payments, those who reached age 70½ during 2015, to wait until as late as April 1, 2016 to receive their first RMDs. This means that those born after June 30, 1944, and before July 1, 1945, are eligible for this special rule. Though payments made to these taxpayers in early 2016 can be counted toward their 2015 RMD, they are still taxable in 2016.

The required distribution rules apply to owners of traditional, Simplified Employee Pension (SEP) and Savings Incentive Match Plans for Employees (SIMPLE) IRAs but not Roth IRAs while the original owner is alive. They also apply to participants in various workplace retirement plans, including 401(k), 403(b) and 457(b) plans.

An IRA trustee must either report the amount of the RMD to the IRA owner or offer to calculate it for the owner. Often, the trustee shows the RMD amount on Form 5498 in Box 12b. For a 2015 RMD, this amount is on the 2014 Form 5498 normally issued to the owner in January 2015.

The special April 1 deadline only applies to the RMD for the first year. For all subsequent years, the RMD must be made by Dec. 31. So, for example, a taxpayer who turned 70½ in 2014 (born after June 30, 1943 and before July 1, 1944) and received the first RMD (for 2014) on April 1, 2015 must still receive a second RMD (for 2015) by Dec. 31, 2015.

The RMD for 2015 is based on the taxpayer's life expectancy on Dec. 31, 2015, and their account balance on Dec. 31, 2014. The trustee reports the year-end account value to the IRA owner on [Form 5498](#) in Box 5. Use the [online worksheets](#) on IRS.gov or find worksheets and life expectancy tables to make this computation in the Appendices to Publication 590-B, Distributions from Individual Retirement Arrangements (IRAs).

For most taxpayers, the RMD is based on Table III (Uniform Lifetime Table) in IRS [Publication 590-B](#). So for a taxpayer who turned 72 in 2015, the required distribution would be based on a life expectancy of 25.6 years. A separate table, Table II, applies to a taxpayer whose spouse is more than 10 years younger and is the taxpayer's only beneficiary.

Though the RMD rules are mandatory for all owners of traditional, SEP and SIMPLE IRAs and participants in workplace retirement plans, some people in workplace plans can wait longer to receive their RMDs. Usually, employees who are still working can, if their plan allows, wait until April 1 of the year after they retire to start receiving these distributions. See Tax on Excess Accumulations in [Publication 575](#). Employees of public schools and certain tax-exempt organizations with 403(b) plan accruals before 1987 should check with their employer, plan administrator or provider to see how to treat these accruals.

Find more information on [RMDs](#), including answers to [frequently asked questions](#), on IRS.gov.

Source: IRS.gov

Hackers Siphon Off \$31 Million from British Bank Accounts

Hackers have stolen more than £20 million (\$31 million) from British online bank accounts using hostile, intrusive software that harvested user log-in details.

The UK's National Crime Agency has partnered with the FBI and European

anxieties and costs.

This webinar will cover:

- The six top features of the Risk Intel Center, including two new features clients love
- An overview of the new compliance solution option called AffirmX Lite
- An introduction of the new Vendor Management Module

For your convenience, this one-hour webinar will be offered at your choice of two times – register below.

[November 17 -- 11am – Noon Eastern](#)

[November 19 – 2pm – 3pm Eastern](#)

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



InfoSight Highlight

Real Estate Settlement Procedures Act (RESPA)

Many changes were made to InfoSight as a result of the recent TILA-RESPA Integrated Disclosure requirements, effective in October, 2015. This highlights one of the changed topics.

The CFPB has published a final rule implementing new combined mortgage disclosures under Truth in Lending (TILA) and the Real Estate Settlement Procedures Act (RESPA), effective October 3, 2015. The new disclosures will replace the existing Good Faith Estimate and Early TIL with a Loan Estimate, and will replace the current HUD-1 and Final TIL with a Closing Disclosure. Click the following links to view the rules [12 CFR 1024](#) and [12 CFR 1026](#).

The Real Estate Settlement Procedures Act (RESPA), passed in 1974, is a consumer protection statute that has the following two purposes:

1. To help consumers become better shoppers for settlement services; and
2. To eliminate kickbacks and referral fees that unnecessarily increase the costs of certain settlement services.

RESPA covers loans secured by a first or subordinate lien on a one-to-four family residential property (a "federally-related mortgage"). These include most purchase loans, assumptions, refinances, property improvement loans, and equity lines of credit. RESPA is implemented by the Consumer Financial Protection

crime agency Europol to investigate the breach, which they say was perpetrated using malware called Dridex, first detected around November 2014. Once a computer has been infected with Dridex, hackers can gain access and steal the owner's bank details. Money can then be slowly siphoned out of an account on a monthly basis.

The National Crime Agency warned Internet users in the UK to be vigilant, particularly people using computers running Windows software.

Only British bank accounts have been affected so far, but financial institutions worldwide have been targeted by Dridex. The malware was created by highly adept cybercriminals from Eastern Europe, the crime agencies said, and has been designed to go unnoticed. That makes the hackers themselves extremely difficult to track down.

Malware attacks aimed at nabbing people's banking information have been around since the advent of online banking. But they increased 9 percent last year, according to security researcher Kaspersky Labs. Before Dridex, there was Cridex, and before Cridex there were many other types of malware. As consumers grow increasingly wise to malware attacks, hackers become ever-more accomplished at disguising them.

"Those who commit cybercrime are very often highly skilled and can be operating from different countries and continents," Robert Anderson, executive assistant director of the FBI, said in a statement. "They can and will deploy new malware and we, along with our partners, are alive to this threat and are constantly devising new approaches to tackle cybercrime."

Cyberattacks by professional hackers usually target individuals by tricking them into clicking a link that downloads malicious software to their devices, often without them knowing. Attackers can then use the malware to either steal from a device, or to remotely take control of it.

When computers are taken over like this they're used to form a botnet -- effectively a network of computers an attacker can control and use to spread viruses and spam to others. The National Crime Agency and the FBI are currently undertaking simultaneous "sinkhole" operations, through which they try to cut off communication between the hackers and the botnets they're using to circulate Dridex.

According to the National Crime Agency, it has "rendered a large portion of the botnet harmless" and is "now initiating remediation activity to safeguard victims". Law enforcement agencies from multiple countries have also coordinated to secure one "significant" arrest.

"This is a particularly virulent form of malware and we have been working with our international law enforcement partners, as well as key partners from the industry, to mitigate the damage it causes," said Mike Hulett, operations head at the National Crime Agency's National Cyber Crime Unit. "Our investigation is ongoing and we expect further arrests to [be] made."

Source: CNET

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

Bureau's (CFPB) Regulation X.

How does RESPA affect credit unions?

Federally insured credit unions that make loans secured by a first or subordinate lien on a member's residence or refinance such a loan must comply with RESPA.

For credit unions that are not federally insured that make such loans, RESPA applies only if the loans, in whole or in part, are insured, guaranteed, or assisted by the federal government or are intended to be sold on the secondary market.

RESPA also prohibits anyone from giving or accepting a fee, kickback, or anything of value in exchange for referrals of settlement services in connection with any loan covered by RESPA. The Act also prohibits fee splitting and receiving unearned fees for services not actually performed.

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

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

December 31, 2015~IRS

"Foreign Account Tax Compliance Act" (FATCA) Rule

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.

Investment and Deposit Activities – Bank Notes

NCUA issued a proposal to amend the agency's investment and deposit regulation in Part 703. The proposed rule would amend the maturity requirement for bank notes to be permissible investments for FCUs. Specifically, it would remove the word "original" from the current requirement that bank notes have "original weighted average maturities of less than 5 years." This rule would permit FCUs to purchase bank notes that had original maturities greater than 5 years but have remaining maturities of less than 5 years.

According to NCUA, this amendment will provide regulatory relief for FCUs and will expand the list of permissible offerings. NCUA states that this will result in: (1) cheaper execution prices, as the "less than 5 years" element resulted in bank notes often selling at a premium; (2) flexibility for FCUs to purchase bank notes that were originally issued with maturities greater than 5 years; and (3) FCUs being able to spend less time and effort finding suitable offerings.

Provide feedback [here](#) (by 11/19/2015) Docket/Identifying # RIN 3133-AE55 or via [PowerComment](#).

CUNA Schools and Webinars

November 19

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

December 17

Webinar: [Managing Credit Risk](#)

CUNA Comment Calls – Due Dates on Proposed Rules

November 19, 2015~NCUA

[Investment & Deposit Activities – Bank Notes](#)



[Training & Events Calendar](#)

November 19

Webinar: [Responsibilities & Liability When Check or ACH Fraud Occur](#)

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 7

Webinar: [Examining the Proposed Federal Changes to Overtime Pay Exemptions & the Potential Impact to Credit Unions](#)

December 9

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

December 10

Webinar: [Managing Accounts & Records for Nonresident Aliens: Opening, Identifying, Monitoring & Tax Reporting](#)

December 14

Webinar: [Revised TRID Mortgage Exam Procedures: Reviewing September 15, 2015 Changes](#)

December 15

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

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

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