

260

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.

Does your 2015 budget include additional costs for TILA-RESPA Integrated Disclosure Rule implementation? Be sure to include staff training, new/revised forms, technology upgrades, vendor agreement modifications, and process/control reforms.

Regulatory Compliance News



November 14, 2014

Compliance News

NCUA Sues Trustee of Mortgage-Backed Securities

The National Credit Union Administration has filed suit in federal court against Deutsche Bank National Trust Company, alleging the bank violated state and federal laws by failing to fulfill its duties as trustee for 121 residential mortgage-backed securities trusts.

NCUA's complaint is available online [here](#). The agency's suit seeks damages to be determined at trial.

Five corporate credit unions—U.S Central, WesCorp, Members United, Southwest and Constitution—purchased \$140 billion in residential mortgage-backed securities issued from the trusts between 2004 and 2007. Those securities lost value, contributing to the failure of all five corporates.

“Trustees have the basic duty to protect, and Deutsche Bank National Trust Company failed to comply with the duties imposed by federal and state law,” NCUA Board Chairman Debbie Matz said. “This failure harmed trust beneficiaries, including the corporate credit unions. NCUA will do all it can to pursue appropriate remedies and recoup the losses suffered by the credit union system.”

NCUA's complaint states the value of the securities depended on the quality of the pooled mortgage loans the trusts contained, and the bank, as trustee, had contractual and statutory duties to protect the interests of certificate holders. The complaint states that, despite knowing about defects in the mortgage loans, Deutsche Bank National Trust Company failed to provide required notices to certificate holders and other parties and failed to take timely action to force the repurchase, substitution, or cure of defective mortgage loans or otherwise preserve trust remedies.

FFIEC Releases Cybersecurity Assessment Observations, Recommends Participation in Financial Services Information Sharing and Analysis Center

The Federal Financial Institutions Examination Council (FFIEC), on behalf of its members, today released observations from the recent cybersecurity assessment and recommended regulated financial institutions participate in the Financial Services Information Sharing and Analysis Center (FS-ISAC).

During the summer of 2014, FFIEC members piloted a cybersecurity assessment at more than 500 community institutions to evaluate the institutions' preparedness to mitigate cybersecurity risks. The assessment supplemented regularly scheduled exams and built upon key supervisory expectations contained within existing FFIEC information technology

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handbooks and other regulatory guidance. The "FFIEC Cybersecurity Assessment General Observations," released today, provides themes from the assessment and suggests questions that chief executive officers and boards of directors may consider when assessing their institutions' cybersecurity preparedness.

The FFIEC also recommended that financial institutions of all sizes participate in the FS-ISAC as part of their process to identify, respond to, and mitigate cybersecurity threats and vulnerabilities. The FS-ISAC is a non-profit, information-sharing forum established by financial services industry participants to facilitate the public and private sectors' sharing of physical and cybersecurity threat and vulnerability information. Rapidly evolving cybersecurity risks reinforce the need for all institutions and their critical technology service providers to have appropriate methods for obtaining, monitoring, sharing, and responding to threat and vulnerability information. Financial institution management is expected to monitor and maintain sufficient awareness of cybersecurity threats and vulnerability information so that they may evaluate risk and respond accordingly.

Source: NCUA

CFPB Publishes Final Privacy Rule

The Consumer Financial Protection Bureau recently published its long-awaited revisions to [Regulation P](#) which provides credit unions with some minor regulatory relief with annual privacy notice requirements.

To comply with the annual privacy notice *alternative delivery method* prescribed by the regulation, the credit union would have to notify the membership in a clear and conspicuous manner, not less than annually, via an account statement, coupon book, or notice/disclosure that the credit union issues under any provision of law, that the privacy notice is available on its website, it will be mailed to members who request it by telephone, and that no changes have been made to the notice. Credit unions would then be required to post their current privacy notice in a continuous, clear and conspicuous manner on a page on their websites, where the only content is the model form privacy notice. The credit union cannot utilize or request a login name or any other steps that would require a member or potential member to agree to certain conditions to access the page. Credit unions will also be required to mail members who request the privacy notice by telephone within 10 days of the request.

The credit union can use the *alternative delivery method* of posting its privacy notice on its website if the following conditions are met:

- The credit union cannot disclose its member's nonpublic personal information to nonaffiliated third parties in a manner that triggers opt-out rights under the regulation
- The credit union does not include the opt-out notice required under the Fair Credit Reporting Act (603(d)(2)(A)(iii)) on its annual privacy notice
- The requirements of section 624 of the FCRA and the Affiliate Marketing Rule, if applicable, have been satisfied previously or the annual privacy notice is not the only notice provided to satisfy those requirements
- The information in the privacy notice has not changed since the member received the previous notice
- The credit union uses the model form provided in the [appendix of the Regulation](#).

Source: MCUL

CFSI: Opportunities Abound to Support Members' Financial Health

A new study from the Center for Financial Services Information (CFSI) indicates that credit unions have an opportunity to help their members achieve financial stability. Although only 30% of Americans say they are highly satisfied with their present financial condition, and fewer than half (45%) say they are confident they can meet their long-term goals for becoming financially secure, almost half (46%) expect their financial situation to be better in five years.

CFSI commissioned GfK, an online consumer research company, to deploy a national survey to collect data for its Consumer Financial Health Study. The survey was fielded from June through August. More than 7,000 individuals over age 18 responded to the survey.

When asked about saving money for the future, more than one quarter of Americans (27%) said the most important time frame for them is the next few weeks or months, and another 27% say the next year or few years. Only 19% indicate that their most important time frame for saving for the future is longer than 10 years.

"Consumers need their financial providers to partner with them, providing new tools and resources to make their optimism a reality," CFSI said in its report. "Innovative transactional and credit products could come equipped with features that enable consumers to make real-

answer for you, 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@mwcua.com or (720) 479-3325 or 1 (800) 477-1697 ext. 3325



RESPA – Real Estate Settlement Procedures Act

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

- To help consumers become better shoppers for settlement services; and
- 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 Housing and Urban Development's (HUD) Regulation X.

The following loans are exempt from RESPA:

- Loans for a "business purpose" (as defined in Regulation Z);
- Loans on property 25 acres or more;
- Temporary financing (such as a bridge loan, swing loan, or construction loan where the loan is not used or converted to permanent financing by the same lender for a 1-4 family residential home, or used to finance the transfer of title to the first user);
- Loans secured by vacant or unimproved land (unless within two years from the date of settlement of the loan, a structure or manufactured home will be constructed or placed on the real property using proceeds from the loan);
- Assumptions without lender approval;
- Loan conversions (so long as a new note is not required, even if the lender charges an additional fee for the conversion); and
- Secondary market transactions.

Compliance Video

Escrow Disclosures

As a part of the integrated mortgage requirements form the CFPB an Escrow Closing Disclosure must also be provided to members prior to their escrow account being closed. For a review of the disclosures and provision requirements please attend this CU Compliance Connection presentation. For the video, click [here](#).



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

time decisions about what spending they can afford or that facilitate making trade-offs among bills more seamlessly."

A significant percentage of consumers are still ill-prepared to weather financial setbacks, according to the survey. While more than a third of Americans (35%) said their household could make ends meet for more than six months, another 30% said they would only be able to make ends meet for three months or less. More than 1 in 5 (22%) said they do not know how long they could make ends meet if faced with an emergency.

CFSI suggested that financial institutions develop new products that spread the payment of some bills out over time or that better distribute the risk of ups and downs in income and spending.

Source: CUNA News Now

Advocacy Highlight

NCUA Flood Insurance Proposed Rule

A Regulatory Comment Call for NCUA's [proposed flood insurance](#) rule has been posted to CUNA's [Regulatory Advocacy](#) website. NCUA along with the other banking agencies are proposing to amend their regulations regarding loans in areas having special flood hazards to implement certain provisions of the Homeowner Flood Insurance Affordability Act of 2014.

The proposal would:

- Establish mandatory requirements with respect to the escrow of flood insurance payments for loans made on or after January 1, 2016. The proposal also includes exceptions to this requirement, including one for credit unions with assets of less than \$1 billion;
- Create an existing loan escrow option requiring credit unions to offer and make available to a borrower the option to escrow flood insurance premiums and fees for loans that are outstanding as of January 1, 2016; and
- Provide an exemption for certain detached structures from the mandatory flood insurance purchase requirement.

NCUA is accepting comments on the proposal until December 29; please send comments to CUNA staff by December 19.



Training & Events Calendar

November 19

Webinar: [Robbery Preparedness for All Staff](#)

November 25

Webinar: [Ability to Repay & Qualified Mortgages: Lessons Learned the Hard Way & 2015 Changes](#)

December 2

Webinar: [Handling ACH Exceptions & Returns, Including Recent NACHA Rule Changes](#)

December 8

Webinar: [New CFPB Rules for Annual Privacy Notices: Effective Immediately](#)

December 9

Webinar: [Residential Appraisal Review](#)

December 10

Webinar: [Self-Examination for Fair Lending Compliance](#)

December 16

Webinar: [Denied Loan Requirements: Consumer, Commercial & Residential](#)

December 17

Webinar: [Advertising Compliance: Website, Print, TV & Radio](#)

CUNA Schools and Webinars

December 8-11

- CUNA's Nussle Meets With CFPB's Cordray, Staff on Credit Union Issues
- CUNA Urges NCUA to Hold the Line on its Budget
- Federal District Court Strikes Down Disparate Impact Theory
- CUNA Seeks Comments on NCUA's Flood Insurance Proposal
- CUNA Comments on CFPB TILA-RESPA Proposed Amendments
- CFPB Issues Report on Debt Collection Complaints by Older Consumers
- Financial Literacy and Education Commission Holds Quarterly Meeting

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 27

- [Thanksgiving Day – Federal Holiday](#)

December 25

- [Christmas Day – Federal Holiday](#)

December 31

- [SAFE Act Audit Deadline](#)

December 31

- [ACH Compliance Review Deadline](#)

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

November 7, 2014~CFPB

[Amendments to 2013 TILA/RESPA Rule](#)

November 7, 2014~DOD

[Proposed Rule Re Military Lending Act](#)

December 1, 2014~CFPB

[Policy on No Action Letters](#)

[Enterprise Risk Management Certification Institute](#) – Las Vegas

[December 12](#)

[Webinar: IT Compliance & Enterprise Risk Management](#)

December 19, 2014~NCUA

[Proposed Interagency Flood Insurance Rule](#)

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

Sign up to receive Regulatory Compliance News by sending an email to [Donna Gibbs](#)