

Regulatory Compliance News



MOUNTAIN WEST
Credit Union Association

November 20, 2015

Compliance News

NCUA Consumer Assistance Portal Now Open

The NCUA has announced that credit unions can now use a portal, located on the NCUA's MyCreditUnion.gov site, to receive correspondence from the Consumer Assistance Center about complaints concerning them, to send responses and complaint information, and to check the status of complaints concerning their institutions that were filed with the Consumer Assistance Center since August 24, 2015. Information contained within the portal is not accessible by the public. A [set of FAQs regarding the portal](#) was also posted on the NCUA website.

A free panel discussion, "[Unique Challenges and Opportunities Serving Hispanic Credit Union Members](#)," will be hosted by the NCUA on December 1, 2015, from 2 p.m. to 3:30 p.m. ET, at NCUA's Central Office, 1775 Duke Street, Alexandria, Virginia. Seating is limited to the first 100 registrants.

Source: NCUA

FFIEC Releases Revised Management Booklet

The Federal Financial Institutions Examination Council (FFIEC) members recently issued a revised *Management* booklet, which is part of the *FFIEC Information Technology Examination Handbook* (IT Handbook).

The *Management* booklet, including the examination procedures, has been substantially revised. The booklet outlines the principles of sound governance and, more specifically, information technology (IT) governance. The booklet explains how IT risk management relates to enterprise-wide risk management and governance.

The updated examination procedures assist examiners in evaluating the following areas:

- IT governance as part of overall governance in financial institutions.
- IT risk management as part of enterprise-wide risk management in financial institutions.

Other relevant changes include:

- Incorporation of cybersecurity concepts as part of information security.
- Incorporation of management-related concepts from other booklets of the IT Handbook.
- Augmentation and further delineation of the stages of the IT risk management process, including risk identification, measurement, mitigation, monitoring, and reporting.

The IT Handbook is available at <http://ithandbook.ffiec.gov/it-booklets/management.aspx>.

NCUA Publishes FFIEC's Cybersecurity Assessment Tool Videos

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From Your Regulatory Compliance Team

Please note there will be no newsletter Friday, Nov 27th

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.

Credit unions now have another resource from the National Credit Union Administration to help them use the Federal Financial Institutions Examination Council's cybersecurity assessment tool to evaluate their ability to address cyber risks. The [video](#) provides an overview of how the assessment tool works. The assessment tool can help credit unions pinpoint strengths and weakness in their cyber security programs.

Source: NCUA

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.

Field of Membership Proposal Expected to be Released Thursday

This week, NCUA is expected to propose a new field of membership regulation that incorporates several of the [recommendations CUNA proposed earlier this year](#).

As part of CUNA's ongoing and comprehensive effort to improve the operating environment for credit unions to serve their members, they encouraged NCUA to adopt new field of membership regulations that recognize and adapt to the changes that have taken place in the marketplace and in how credit unions serve members. CUNA encouraged the agency to take immediate administrative action in areas that did not require a change in regulation, to propose new regulations to expand consumer and small business access to credit unions, and to support statutory changes that go beyond what is presently permitted by law.

The first fruit of this effort took place last month when NCUA shaved at least two months off the amount of time necessary to expand a community charter by delegating approval authority to the Office of Consumer Protection. Previously these approvals required a full vote of NCUA's board.

Here are some things CUNA recommended:

- Include a combined statistical area in the definition of well-defined local community.
- Allow a Congressional district to be considered a well-defined local community (this would allow credit unions to serve an entire state in a state that has only one Congressional district).
- Eliminate the population test associated with the definition of "rural district."
- Reinstate a narrative approach for defining a community.
- Eliminate the geographic limitations on TIP charters.
- Allow TIP charters to serve independent contractors and others who support the work of the TIP.



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If a full suite of compliance reviews isn't what you are looking for, we now provide individual loan reviews and a basic annual compliance package that includes BSA, ACH, SAFE Act, and Website compliance.

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

Board of Director Liability

A credit union director (or officer) is referred to as a fiduciary by law. This means a director holds a position of trust. A director has an affirmative duty to care for the property of others and can be held liable for failing to perform that duty. Because the members of a credit union are too numerous to handle any but the most basic decisions for the credit union, the law provides for them to elect directors/fiduciaries to act on their behalf.

The position of volunteer is not a shield of immunity from personal liability. A volunteer bears these duties:

- A duty of loyalty. A director must be focused solely on, and be faithful to, the required duties and responsibilities of fulfilling his or her role as a director. Directors must never engage in self-dealing or self-serving transactions. An example of this would include a director persuading other board members to utilize a board member's spouse to handle credit union investments and to purchase the investments through the spouse's employer.

- The duty of due care. This is displaying the degree of care, which an ordinarily prudent and diligent person would exercise under similar circumstances. Further, if the credit union is suffering financial problems, directors are required to devote extra time and effort

- Allow groups with 3,000 or more potential members to more easily be added to multi-group federal credit unions.

The proposal was expected to be released on Thursday, 11/19/15.

CUNA Seeks "Yes" Vote on House Bill Addressing QM Loans

CUNA is encouraging U.S. House lawmakers to vote yes this week on a measure that would remove barriers for credit unions. The Portfolio Lending and Mortgage Access Act (H.R. 1210) would allow credit unions, and other lenders, to treat mortgages held in portfolio as qualified mortgages (QM) for purposes of the Consumer Financial Protection Bureau's (CFPB) mortgage lending rules.

"Treating loans that financial institutions hold on their balance sheets as a QM loan is appropriate because the lender retains all of the risk involved with these mortgages and is subject to significant safety and soundness supervision from its prudential regulator," wrote CUNA President/CEO Jim Nussle.

If this change is enacted, Nussle explained, it would provide meaningful regulatory relief for credit unions, and would allow them to more fully serve their members. Nearly three-quarters of mortgage-originating credit unions retain their mortgages in portfolio, and the mortgages these credit unions originate represents approximately 60% of all credit union first mortgage originations.

Mortgage lending, Nussle noted, is a key service that credit unions provide to their members.

The house was expected to vote on H.R. 1210 this week. The measure was approved, with CUNA's strong support, by the house Financial Services Committee in July by a 38-18 vote.



[Training & Events Calendar](#)

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](#)

to the affairs and activities of the credit union.

NCUA recently added regulations further defining the fiduciary duties of directors of federal credit unions, in NCUA Regulations Part 701.4. These regulations provide guidance on the above duties of Loyalty and Due Care, and require the director to "carry out his or her duties as a director in good faith, in a manner such director reasonably believes to be in the best interest of the membership of the Federal credit union as a whole, and with the care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances." A director also must administer the affairs of the Federal credit union fairly and impartially and without discrimination in favor of or against any particular member and direct management's operations of the Federal credit union in conformity with the requirements set forth in the Federal Credit Union Act, applicable law, and sound business practices.

[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 23

- ♦ 5300 Call Report Due to NCUA

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

December 14

Webinar: Revised TRID Mortgage Exam Procedures: Reviewing September 15, 2015 Changes

December 15

Webinar: Robbery Prevention, Apprehension & Recovery

CUNA Schools and Webinars**December 17**

Webinar: Managing Credit Risk

**Effective Dates
New and Revised Rules****December 31, 2015~IRS**

"Foreign Account Tax Compliance Act" (FATCA) Rule

CUNA Comment Calls – Due Dates on Proposed Rules**October 19, 2015~CFPB**

Request to Develop Survey on POS/ATM Overdraft Disclosure

November 19, 2015~NCUA

Investment & Deposit Activities – Bank Notes

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

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