

Regulatory Compliance News



MOUNTAIN WEST
Credit Union Association

December 11, 2015

Compliance News

Holiday Season Reminders On The Bank Bribery Act!

During the holiday season, credit union employees are often given gifts from vendors and members. Can you accept these? It depends. If your credit union has a policy to address such, follow it. If your credit union does not have a policy, your employees should not accept the gift, or better yet, adopt a policy for your credit union.

Why? The problem lies with the “gift” being considered by the authorities as a potential bribe. Even a box of chocolates can cause a problem if your credit union does not have a policy.

Does your credit union have a policy in place for gifts or incentives that employees receive from time to time? If not, consider these serious consequences:

- Both parties are subject to prosecution, both the person(s) giving the bribe/gift and the person(s) receiving the bribe/gift.
- Bribes/gifts of \$100 or less subject violators to fines not to exceed \$1,000 and/or prison terms of up to 1 year.
- Bribes/gifts of more than \$100 subject violators to fines of up to \$1,000,000 or three times the bribe, whichever is greater, and/or prison terms of up to thirty years.

The Bank Bribery Act prohibits any officer, director, committee member, employee, agent, or attorney of a credit union from giving and receiving bribes (anything of value) in connection with the credit union’s business affairs.

Your credit union should have a code of conduct and written policy that clearly states what’s prohibited, what’s permitted, and to whom the policy applies. Some model policies, based on the prosecution guidelines found in the Act, suggest that gifts under \$100 could be accepted on an occasional basis. If your credit union permits occasional gifts of nominal value, make sure to require that any such gifts are recorded and reported to management immediately.

The credit union’s code of conduct may include the following exceptions to the general prohibition regarding the acceptance of things of value in connection with credit union business:

- Gifts or favors based on family or personal relationships.
- Meals, refreshments, or entertainment of reasonable value and where the purpose is credit union business.
- A regular member loan from the credit union.
- Advertising or promotional material of nominal value, such as pens, calendars, etc.

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Association Compliance Forums

Click on one of the below links to subscribe

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If a full suite of compliance reviews isn’t what you are

- Discounts or rebates on merchandise or services that do not exceed those available to other members.
- Gifts of reasonable value that are related to commonly recognized events/occasions, such as a promotion, new job, wedding, retirement, or holiday (that box of chocolates).
- Civic, charitable, educational, or religious awards for recognition of service and accomplishment.
- Bona fide salary, wages, fees, or other compensation, or expenses paid or reimbursed.

If the “gift” is given to the credit union and in turn, the credit union distributes it to its employees, the credit union should be fairly well protected from prosecution.

For example, if a vendor wishes to give an incentive for the employee that sells the most insurance, the vendor should give it to the credit union and the credit union then award it to the winning employee. If the gift provides educational value to the credit union (i.e., training seminar), the credit union should be fairly well protected.

Source: GA Credit Union Affiliates

Bureau Fines Credit Reporting Company \$8 Million

The Consumer Financial Protection Bureau has announced it has taken action against a Florida-based nationwide credit reporting company, Clarity Services, Inc., and its owner, Tim Ranney, for illegally obtaining consumer credit reports. The company also violated the law, reported the Bureau, by failing to appropriately investigate consumer disputes. The Bureau is ordering the company and its owner to halt their illegal practices and improve the way they investigate consumer disputes and obtain, sell, and resell consumer credit reports. The company and Ranney must also pay an \$8 million penalty to the Bureau.

The Bureau found that Clarity violated the Fair Credit Reporting Act by illegally obtaining the consumer reports of tens of thousands of consumers—without a permissible purpose—for use in marketing materials for potential clients. The company also failed to investigate consumer disputes, including consumer disputes about unauthorized credit inquiries. For further details, click [here](#) for the Bureau's action.

CFPB 2016 Rural Counties List Updated

The CFPB has posted [updated lists of rural or underserved counties](#) for 2016. Some businesses with volume in rural or underserved counties that outweighs volume in other counties are exempt from certain regulatory requirements in Ability to Repay and Qualified Mortgage Standards and Escrow Requirements under the Truth in Lending Act such as creating escrow accounts and not including balloon payment provisions to get “qualified mortgage” status.

Source: CFPB

Bitcoin Mining Companies Charged by SEC

The SEC has [announced](#) it has charged two Bitcoin mining companies and their founder with conducting a Ponzi scheme that used the lure of quick riches from virtual currency to defraud investors. According to a [complaint](#) filed by the SEC in federal court in Connecticut, “mining” for Bitcoin or other virtual currencies means applying computer power to try to solve complex equations that verify a group of transactions in that virtual currency. The first computer or collection of computers to solve an

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

Bankruptcy Forms Changed December 1st

Most Official Bankruptcy Forms were replaced on December 1, 2015, with substantially revised, reformatted, and renumbered versions. The 2015 forms are part of a forms modernization project that was begun by the Advisory Committee on Bankruptcy Rules in 2008. Among other things, the 2015 forms introduce different versions of case opening forms for individual debtors and non-individual debtors.

The revised forms are easier for debtors to understand and complete, and are designed to work with scheduled enhancements to the federal courts’ case opening and electronic case management system.

Virtually all director’s bankruptcy forms were also replaced by updated and renumbered versions on December 1, 2015.

Credit unions that have questions or concerns with completing the new forms should seek the advice of their counsel to discuss.

The new forms and their requirements can be found on the [US Courts](#) website.

InfoSight ([AZ](#), [CO](#), [WY](#))



Compliance Calendar

December 25

- Christmas Day – Federal Holiday

December 31

- Foreign Account Tax Compliance Act Effective Date

December 25

- Christmas Day – Federal Holiday

December 31

equation is awarded new units of that virtual currency. The SEC alleges that the owner of the companies, Homero Joshua Garza, perpetrated the fraud through his Connecticut-based companies GAW Miners and ZenMiner by purporting to offer shares of a digital Bitcoin mining operation. In reality, GAW Miners and ZenMiner did not own enough computing power for the mining it promised to conduct, so most investors paid for a share of computing power that never existed. Returns paid to some investors came from proceeds generated from sales to other investors.

Source: SEC

Advocacy Highlight

Barriers Removed: Regulatory Relief Rides Transportation Bill into Law

Everyone involved in credit union advocacy should be proud of the work that has been done over the last several years on the regulatory relief provisions that were enacted into law on Friday. Each of them – privacy notification modernization, federal home loan bank eligibility for privately insured credit unions, and CFPB rural designation – means something different to credit unions and took a different type of effort to become law.

The privacy notice provision should have positive impacts on just about every credit union in the country because it removes the federal requirement to send annual privacy notices, unless your credit union has changed its privacy policy. Since the requirement was imposed nearly 15 years ago, credit unions have sent more than 1 billion of these notices to members! This modernization will reduce costs – and who isn't going to love getting less "junk" mail. We've worked on this bill for the last four or five years in coordination with the banking trade groups, and it is a good example of what we can accomplish on regulatory relief when we are all pulling in the same direction.

Likewise, the change to the CFPB's rural designation process will benefit small banks just as it benefits credit unions. This provision will give folks living or doing business in an area that has not been designated as a rural area by the CFPB, a chance to apply for that area to be so designated. We think that this will help expedite the process of designating rural areas, which will provide certain regulatory accommodations.

Finally, the provision making privately insured credit unions eligible to join the federal home loan bank system holds a special place for some of us. This legislation has come close to becoming law so many times, only to get left out of a package or blocked by members of Congress who are skeptical of either the government sponsored entities or privately insured credit unions. Now privately insured credit unions are eligible to join their FHLB.

League Advocacy Paves the Way for Target Settlement

Steps taken by the Minnesota Credit Union Network (MnCUN) eight years ago set the stage for the proposed \$39 million settlement between Target and credit unions and other financial institutions for the retailer's massive data breach in 2013.

These legislative efforts by MnCUN and its Minnesota credit unions overcame significant odds considering very few in the financial industry or the business community were in support of such legislation.

The impetus for the 2007 state legislation came from the "frustration we

- Foreign Account Tax Compliance Act Effective Date

January 1

- Flood Insurance Rule Effective Date – Part 2

January 1

- New Year's Day – Federal Holiday

January 12

- Microsoft Discontinues Support of Older Versions of Internet Explorer

January 18

- Martin Luther King, Jr. Birthday – Federal Holiday

January 22

- 5300 Call Report Due to NCUA

February 15

- President's Day – Federal Holiday

March 13

- Daylight Savings Time Begins

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

November 19, 2015~NCUA

Investment & Deposit Activities – Bank Notes

December 11, 2015~CFPB

Request for OMB To Review Information Collected Under HMDA (Reg C)



Training & Events Calendar

December 14

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

December 15

Webinar: Robbery Prevention, Apprehension & Recovery

January 6

Webinar: New Unauthorized ACH Rules: Impact on Return Rates & Fee Thresholds

were hearing from our credit unions for having to pay the costs of data breaches," MnCUN President/CEO Mark Cummins told *News Now*. "More importantly, we wanted to help protect the personal financial information of our credit union members."

The Minnesota Plastic Card Security Act, the first of its kind, prohibits businesses from retaining sensitive card stripe data after authorization of the transaction. It also requires a retailer to reimburse the costs incurred by any financial institution that issued payment cards affected by the breach of the retailer's system. The legislation did not add regulations; rather it codified Payment Card Industry Data Security Standards (PCI DSS)--the standards to which merchants are held.

The biggest benefit of the settlement is not so much the monetary aspect, Cummins said. Rather, it is a precedent of a monetary penalty that will force retailers to adopt the highest level of security and to reimburse financial institutions for the costs incurred as a result of a breach.

Target, which is based in Minneapolis, admitted the holiday season data breach affected roughly 40 million debit and credit card numbers and compromised the personal information of as many as 70 million customers. CUNA research found that credit unions incurred nearly \$31 million in hard costs--not including any resulting fraud.

In 2010, the state leagues in Nevada and Washington led similar efforts in which aspects of the Minnesota laws were adopted by incorporating PCI DSS for merchant responsibility as part of data security.

January 7

Webinar: [Essential Compliance Requirements for Lenders](#)

January 12

Webinar: [Maximizing Cyber Security Soundness & Minimizing Incidents](#)

January 19

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

January 27

Webinar: [Demystifying Rules for TRID Tolerances](#)

January 28

Webinar: [Completing the CTR Line-by-Line](#)

CUNA Schools and Webinars

December 17

Webinar: [Managing Credit Risk](#)



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.

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

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