



February 7, 2014

Compliance News

[CUs Must Not Fall Under CFPB Debt Collection Regs, CUNA Urges](#)

[The Credit Union National Association is encouraging credit unions and state leagues to provide their comments on a 162-question debt collection advance notice of proposed rulemaking \(ANPR\) released by the Consumer Financial Protection Bureau.](#)

[Credit unions that collect their own debts have never been subject to the Fair Debt Collection Protection Act \(FDCPA\), but credit unions that collect debts for others--and credit union service organizations that offer debt collection services--are subject to the FDCPA. The Dodd-Frank Act authorized the CFPB to create rules prohibiting "unfair, deceptive, or abusive" acts or practices \(UDAAPs\). To implement regulations, the CFPB is proposing to rely not only on its FDCPA and UDAAP authority, but also on its more general Dodd-Frank rulemaking authority.](#)

["The CFPB does not currently have authorization to regulate credit unions in the debt collection area, but CUNA is concerned that the CFPB's far-reaching authority could eventually sweep credit unions under the purview of future rules and regulations," CUNA Deputy General Counsel Mary Dunn said.](#)

[The CFPB ANPR:](#)

- [• Provides an overview of debt collection, consumer protection problems in debt collection, and government authority and activities to address these problems;](#)
- [• Requests information on transfer of and access to information upon sale of debts;](#)
- [• Seeks information regarding validation notices, disputes, and investigations;](#)
- [• Requests information about certain collector communications;](#)
- [• Asks for information about unfair, deceptive, and abusive acts and practices;](#)
- [• Addresses issues relating to collection of debts beyond the statute of limitations;](#)
- [• Requests information about debt collection litigation;](#)
- [• Raises questions about exemptions under federal law for state debt collection systems under the FDCPA; and](#)
- [• Solicits information concerning recordkeeping, monitoring, and compliance.](#)

[CUNA has requested that credit unions and leagues send their comments by **Feb. 14.**](#)

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[Highlight](#)

[Loans and Leasing](#)

[The Consumer Financial Protection Bureau \(CFPB\) recently issued a bulletin advising mortgage companies about their legal obligations that protect consumers during loan transfers between mortgage servicers—and stated that the guidance reminds mortgage servicers that they are subject to federal laws.](#)

[Among the laws mentioned by the](#)

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[The CUNA request for comment, and much more, is discussed in this week's CUNA Regulatory Advocacy Report.](#)

Source: CUNA

NCUA Sets Feb. 19 Field of Membership Webinar

Looking to expand your federal credit union's charter, or change charters? The National Credit Union Administration will discuss field of membership strategies for federal credit unions during a Feb. 19 webinar.

The webinar, which is set to begin at 2 p.m. (ET), will inform participants on:

- When charter expansions make sense strategically;
- The advantages of each type of federal charter;
- Policy requirements for various expansion options; and
- Where to find additional information.

The webinar will be hosted by NCUA Office of Small Credit Union Initiatives Economic Development Specialist Dominic Carullo and NCUA Office of Consumer Protection Consumer Access Analysts Ruth Siragusa and Jason Schultz.

Participants may submit questions in advance at WebinarQuestions@ncua.gov.

The subject line of the email should read, "Field of Membership Webinar."

Participants with technical questions about accessing the webinar may email audience.support@on24.com. To register, click [NCUA webinar](#)

Source: CUNA

Company Ordered To Stop Using 'credit union' in Loan Ads

A marketing company in California agreed to a 2012 cease-and-desist order by the Michigan Department of Insurance and Financial Services (DIFS) to stop misusing the term "credit union" to market loan products.

D and D Marketing Corp., Encino, Calif., had been using the terms "Michigan" and "credit union"--as well as names of legitimate credit unions--in marketing "unlicensed payday loans and unauthorized credit union loans to Michigan residents," according to the order.

One website asserted that it actually was affiliated with a Michigan credit union, while others used a combination of "Michigan," "credit union" "quick loans" and "cash advance" in the website address.

It is a violation of the Michigan Credit Union Act to use the term "credit union" to promote business operations by an organization that is not a licensed credit union (Michigan Monitor Feb. 4).

D and D Marketing had asserted that the websites and promotions had been operated by former and/or unaffiliated third-party marketing partners or "publishers."

In consenting to the cease-and-desist order, D and D Marketing agreed to "undertake strict marketing and advertising compliance practices" to ensure the legitimacy of third-party providers and all advertising and marketing will be done in accordance with Michigan law.

Source: MCUL

CFPB are these two acts that are discussed as separate topics on the Loans and Leasing channel of InfoSight:

- ♦ [Real Estate Settlement Procedures Act](#), a consumer protection statute that was passed in order to help consumers become better shoppers for settlement services and eliminate kickbacks and referral fees that unnecessarily increase the costs of certain settlement services
-
- ♦ [Fair Credit Reporting Act](#), which regulates "consumer reporting agencies," including credit bureaus; restricts the use of consumer reports to their legitimate purposes; prohibits the dissemination of outdated credit information; and requires disclosure to consumers and employees when adverse action is taken as the result of credit reports or other consumer information.

Each topic provides:

- ♦ A summary of the act;
- ♦ Explanations of how the act affects credit unions; and
- ♦ Descriptions of the actions that your credit union should take to ensure compliance with the act

CU Compliance Connection Video: 2014 NCUA Exam Focus

Each year the National Credit Union Administration provides guidance on their examination focus for the year. [In 2014 credit unions should prepare for increased scrutiny on interest rate risk, cyber security, and money service businesses.](#)



Compliance Solutions powered by NeighborBench offers a cloud-based, near real-time solution that identifies risk AND provides you access to experts.

Senate Approved Farm Bill Contains CU Changes

The Federal Agriculture Reform and Risk Management Act of 2013 (H.R. 2642), which repeals term limits in the U.S. Department of Agriculture Farm Service Agency (FSA) Guaranteed Loan Programs and crop insurance, was passed by the U.S. Senate on Tuesday, February 4 by a 68 to 32 vote.

President Barack Obama is expected to sign the bill into law on Friday, February 7th.

The Farm Bill changes above will impact some credit union practices, the Credit Union National Association has noted. (See Feb. 4 News Now story: CUNA watches USDA loan developments in Farm Bill.)

Credit unions participate in U.S. Department of Agriculture guaranteed farm loans, and the Farm Bill contains language that would repeal borrower term limits in the program. Under the program, some types of loans are repaid within 7 years, and the terms of others cannot exceed 40 years.

Without the repeal, thousands of farmers and ranchers would be forced out of the program, potentially making it more difficult for them to secure credit in the future.

The bill also creates a new crop insurance program that guarantees that the revenue of participating farmers and ranchers will not fall below 86% from the previous year. This type of insurance is not affordable or easily available on the open market, so the government insurance is important to credit unions, as it protects the underlying assets that collateralize some loans made to agricultural businesses.

Source: CUNA

New NCUA Booklet Gives Member Share Insurance Details

Insurance coverage for the many types of member accounts offered at credit unions is outlined in the latest edition of the National Credit Union Administration's Your Insured Funds booklet.

"It's important that credit union members understand what their federal insurance coverage is for the various types of accounts offered at our nation's credit unions," NCUA Consumer Protection Director Gail Laster said. "Using the information in this updated booklet, consumers will be able to make better decisions about their money and learn more about how their checking, share, trust and retirement accounts are insured," she added.

The agency in a release reminded that the National Credit Union Share Insurance Fund insures member accounts up to \$250,000. "No member of a federally insured credit union has ever lost a penny of shares insured by NCUA," the NCUA said.

Printed and pdf versions of the booklet are available. The NCUA in the booklet said credit union members can contact their federally insured credit unions or the agency's Office of Consumer Protection for further share insurance coverage details about situations not addressed in the booklet - [NCUA Booklet](#).

Source: CUNA

CUNA CompBlog Clears Up Small Issuer QM Questions

For more information, contact Melia Heimbuck at: 720-479-3325 or mheimbuck@mwcu.com



[Materials Available On-Line](#)

[InCompliance Implementation materials can be found on our website \[www.mwcu.com\]\(http://www.mwcu.com\).](#)

[The materials are located under the Compliance tab and "resources" link.](#)



Because the laws and regulations are constantly changing, CU Policy Pro provides you with policy updates at least semi-annually and with a toll-free product support help line to call when you have questions.

CU Policy Pro contains more than 200 detailed model policies to help your credit union manage today's ongoing compliance and operational challenges. Together with our compliance InfoSight, your credit union has at its disposal a comprehensive suite of policies and regulatory compliance guidance written especially for credit unions by legal and financial experts.

[If you have not signed up for this great resource, please click \[HERE\]\(#\) and register for access to CU PolicyPro.](#)

[2014 Compliance Calendar February 17](#)

♦ [Washington's Birthday/President's Day – Fed Holiday](#)

[February 28](#)

♦ [IRS Forms Due to IRS/SSA](#)

[March 1](#)

♦ [2013 HMDA Reports Due](#)

New Consumer Financial Protection Bureau mortgage rules define "small creditor" in several ways, and how the definition impacts your credit union's practices depends on which provision you are working with, the Credit Union National Association's CompBlog notes.

"There is a definition for small creditor in the CFPB's qualified mortgage rule, and a variation of that definition for balloon payments. The CFPB has also referred to the escrow account exemption as a small creditor exemption. And at times the small servicer definition gets mixed up in the confusion," CUNA Senior Compliance Counsel Mike McLain notes in a CompBlog post.

In his post, McLain attempts to clear up some of the confusion surrounding these definitions.

The QM rule, and portions of the QM rule addressing balloon payments, defines small creditor this way:

- During the preceding calendar year, the credit union and its affiliates together originated 500 or fewer first-lien, closed-end mortgage loans; and
- As of the end of the preceding calendar year, the credit union had total assets of less than \$2.028 billion. This threshold will adjust automatically every year by the CFPB.

Creditors must generally hold loans in their portfolios for three years to maintain their QM status.

These rules will be tweaked after Jan. 10, 2016, and those changes are outlined in the blog.

For more definitions, including definitions related to small creditor escrow accounts and small servicer mortgage servicing, Click [CompBlog QM Post](#)

Source: CUNA CompBlog

Advocacy Highlight

CFPB's Information Request on Debt Collection Is Published for Comments

[CUNA is seeking credit union and league input on a CFPB advance notice of proposed rulemaking \(ANPR\) on a wide range of debt collection issues. The ANPR, which contains 162 questions, is organized into the following nine parts:](#)

- ♦ [Provides an overview of debt collection, consumer protection problems in debt collection, and government authority and activities to address these problems.](#)
- ♦ [Requests information on transfer of and access to information upon sale of debts.](#)
- ♦ [Seeks information regarding validation notices, disputes, and investigations.](#)
- ♦ [Requests information about certain collector communications.](#)
- ♦ [Asks for information about unfair, deceptive, and abusive acts and practices.](#)
- ♦ [Addresses issues relating to collection of debts beyond the statute of limitations.](#)
- ♦ [Requests information about debt collection litigation.](#)
- ♦ [Raises questions about exemptions under federal law for state debt collection systems under the Fair Debt Collection Practices Act \(FDCPA\).](#)
- ♦ [Solicits information concerning recordkeeping, monitoring, and compliance.](#)

[Under the Dodd-Frank Act, the CFPB became the first federal agency with authority to issue substantive rules under the FDCPA. Credit unions that collect their own debts have never been subject to the FDCPA; credit unions that collect](#)

March 9

- ♦ [Daylight Savings Time Begins](#)

March 21

- ♦ [NACHA Operating Rule Changes](#)

March 31

- ♦ [NCUA Liquidity & Contingency Fund Plans Effective Date](#)

April 25

- ♦ [5300 Call Report Due to NCUA](#)

April 30

- ♦ [Credit Card Quarterly Agreement Submission Due to CFPB](#)

CUNA 2014 Trainings

February 10

[Money Mission Demo - Online Financial Literacy Game webinar](#)

February 11

[The Financial Statement Game - Getting a Bit More Sophisticated webinar](#)

[Auto Loan Pricing and the Impact of Credit Cycles webinar](#)

February 13

[Threats, Trends and Best Practices in Fighting CyberCrime webinar](#)

February 18

[Rates, Risk and Return webinar](#)
[ACH Policies and Procedures - 2 Part webinar series](#)

February 25

[The Financial Statement Game - Gaining a Deeper Understanding webinar](#)

April 6 - 11

[CUNA Regulatory Compliance School Introduction, Hollywood, CA](#)

debts for others, and CUSOs that offer debt collection services, are subject to the FDCPA. The Dodd-Frank Act also authorized the CFPB to prescribe rules prohibiting “unfair, deceptive, or abusive” acts or practices (UDAAPs). To enact regulations, the CFPB is proposing to rely on not only its FDCPA and UDAAP authority, but also on its more general Dodd-Frank rulemaking authority.

- [CUNA’s Regulatory Call to Action](#) seeks your input on a number of issues, including from parts 2, 3, 4, 5, and 9 listed above. Please send them your comments by February 14.

Source: CUNA

Regulatory Advocacy Report

The [CUNA Regulatory Advocacy Report](#) contains information from Bill Cheney about regulatory issues that affect credit unions. You can view the current report and past reports from the archive.



[Training & Events Calendar](#)

Fair Lending Basics for Volunteers Breakout Session at AMC

The world of Fair Lending has seen fines and the Department of Justice referrals skyrocket recently. While only a small number of credit unions have faced Fair Lending examinations, the number is increasing and expected to continue, likely resulting in additional enforcement actions. Make sure your board and committee members are up-to-speed by having them attend the 2014 Annual Meeting & Convention educational breakout session: Fair Lending Basics for Volunteers where attendees will walk out with a certificate of attendance that can be provided to regulators as proof of on-going education. Visit www.mwcu.com/am for more details.

Telephone Trainings

- [View List of February Telephone Training Sessions](#)

[View List of March Telephone Training Sessions](#)

Bank Secrecy Act School

The Bank Secrecy Act School will be taking place in two locations this Spring. Select the location that is nearest you to register and learn more about the program.

[Bank Secrecy Act School: Phoenix, AZ: March 6, 2014](#)

[Bank Secrecy Act School: Denver, CO: May 29, 2014](#)

Consumer Lending Basics for Non-Lenders

Join us this Spring for Consumer Lending Basics for Non-Lenders. This program introduces MSRs and entry-level consumer lenders to the fundamentals of consumer lending, and will take place in Phoenix, AZ and Denver, CO. For more information or to register, click on the link to choose the program nearest you.

April 6 - 11

[CUNA Regulatory Compliance School Update](#), Hollywood, CA

September 14 - 19

[CUNA Regulatory Compliance School Introduction](#), Chicago, IL

September 14 - 19

[CUNA Regulatory Compliance School Update](#), Chicago, IL

October 26 - 29

[CUNA Bank Secrecy Act Conference](#), Las Vegas, NV

CUNA 2014 Effective Dates New and Revised Rules

January 10, 2014~CFPB

[Homeownership Counseling List for High-Cost Mortgages](#)

- [Reg Z Ability-to-Repay & QM Standards re Escrows](#)

- [Amendments to the 2013 Mortgage Rules under Regulations B, X and Z](#)

- [Mortgage Servicing Amendment to Reg X \(RESPA\)](#)

- [Mortgage Loan Originator Compensation Rule](#)

- [High-Cost Mortgage Rules under HOEPA](#)

- [Ability-to-Repay and Qualified Mortgages](#)

- [Mortgage Servicing Amendment to Reg Z \(TILA\)](#)

January 18, 2014~CFPB

[Exemptions from Appraisal Requirements for Certain Higher-Priced Mortgage Loans](#)

- [Interagency Rule on Appraisals for Higher-Priced Mortgage Loans](#)

- [Copy of Appraisals and Other Written Valuations under Reg B](#)

[Arizona: Consumer Lending Basics for Non-Lenders: March 20, 2014](#)

[Colorado: Consumer Lending Basics for Non-Lenders: May 22, 2014](#)



Upcoming Networking Councils

Compliance: February 19, 2014

Lending: March 5, 2014

To register or obtain additional information, please contact Shay Jacobs: sjacobs@mwcua.com

February 12

[Webinar: Imaged Documents: What to Keep, What to Destroy, What Holds Up in Court](#)

February 13

[Webinar: REAL ESTATE LENDING SERIES: Construction to Permanent Lending Under the New CFPB Mortgage Rules](#)

February 20

[Webinar: Expanding Your Required IT Risk Assessment Program](#)

February 25

[Webinar: The ALLL in Troubled Debt & Foreclosed Asset Restructuring](#)

February 27

[Webinar: Essential HR Recordkeeping from Hiring to Firing](#)

March 3

[Webinar: Creating a Social Media Policy & Strategy That Everyone Can "Like"](#)

March 6

March 31, 2014~NCUA

[NCUA Emergency Liquidity Rule](#)

December 31, 2015~IRS

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

2014 CUNA Comment Calls Due Dates on Proposed Rules ASAP ~ NCUA

[Risk Based Capital](#)

February 24, 2014 ~ FRB

[Emergency Lending Authority](#)

March 24, 2014~FRB

[2013 Regulation CC Proposal \(Check Collection and Return Rules\)](#)

Mountain West CU Association Bankruptcy & Collections School

The Bankruptcy and Collections School, taking place on April 16-17 in Denver, CO, is designed to expand your knowledge of legal issues with collections and bankruptcy to keep your credit unions collection practices sound. Register for one day or both days.

Day One: April 16 - Developing and Maintaining an Effective Collections Department

Day Two: April 17 - Bankruptcy: Beyond the Basics!

To register and view the course description, agenda, and speaker bio, [click here](#).

Webinar: Loan Origination in the Current Regulatory Environment: Improving
[Compliance, Costs & Turnaround Times](#)

Please respond to mrobey@mwcu.com with any questions or concerns regarding content of this newsletter.

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