

**162**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.

Have you provided training to your staff on the definition and appropriate use of revised estimates?

See today's lead article below.

## Regulatory Compliance News



**MOUNTAIN WEST**  
Credit Union Association

February 20, 2015

### Compliance News

#### Revised Estimates and Changed Circumstances

For purposes of determining good faith a credit union may use a revised estimate of a charge instead of the estimate of the charge originally disclosed in the loan estimate if the revision is due to any of the following:

- Changed circumstances affecting settlement charges;
- Changed circumstances affecting eligibility;
- Revisions requested by the consumer;
- Interest rate dependent charges;
- Expiration; or
- Delayed settlement date on a construction loan.

When a revised estimate is provided it must be provided to the consumer within three business days of receiving information sufficient to establish that one of the reasons for revision applies.

It is important to note the definition of changed circumstances under the new TILA-RESPA rule is slightly different from the current definition in Regulation X. Under Regulation X a changed circumstance includes:

- Acts of God, war, disaster, or other emergency;
- Information particular to the borrower or transaction that was relied on in providing the GFE and that changes, or is found to be inaccurate after the GFE has been provided. This may include information about the credit quality of the borrower, the amount of the loan, the estimated value of the property, or any other information that was used in providing the GFE;
- New information particular to the borrower or transaction that was not relied on in providing the GFE; or
- Other circumstances that are particular to the borrower or transaction, including boundary disputes, the need for flood insurance or environmental problems.

A Changed circumstance under the TILA-RESPA rule includes:

- An extraordinary event beyond the control of any interested party or other unexpected event specific to the consumer transaction. This may include a war, natural disaster or a creditor providing an estimate of costs for title work on the loan disclosure but the title company goes out of business during the

### Compliance Team

#### Mark Robey

##### Sr. VP of Regulatory Affairs

Phone: 800-477-1697, ext. 3327

Direct: 720-479-3327

#### Melia Heimback

##### Director of Compliance Operations

Phone: 800-477-1697, ext. 3325

Direct: 720-479-3325

#### Julie Kappenman

##### Director of Association Compliance Services

Phone: 800-477-1697, ext. 3324

Direct: 720-479-3324

#### Donna Gibbs

##### Compliance Coordinator

Phone: 800-477-1697, ext. 3281

Direct: 720-479-3281



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underwriting process; or

- Information specific to the consumer or transaction that the creditor relied upon when providing the loan estimate disclosures and that was inaccurate or changed after the disclosures were provided. This may include a creditor relying on the amount of annual income provided by the consumer but during the underwriting process discovers the amount of the income is actually less than what the consumer provided; or
- New information specific to the consumer or transaction that the creditor did not rely on when providing the original disclosures required under the loan estimate. This may include the creditor relying on the value of the property when providing the loan estimate disclosure but during the underwriting process a neighbor of the seller files a claim contesting the boundary of the property to be sold.

When preparing for the new TILA-RESPA rule it will be important for credit unions to provide training to their staff on the revised definition of changed circumstance and review their procedures related to changed circumstances to ensure revised estimates are used only when appropriate and the required timing requirements are met.

### FFIEC Revises Business Continuity Planning Booklet

The Federal Financial Institutions Examination Council (FFIEC), which includes NCUA, recently issued a revised [Business Continuity Planning Booklet](#) that is part of the FFIEC Information Technology Examination Handbook. The update adds a new appendix, Strengthening the Resilience of Outsourced Technology Services, which highlights that a financial institution's reliance on third-party service providers to perform or support critical operations does not relieve a financial institution of its responsibility to ensure that outsourced activities are conducted in a safe and sound manner. Credit unions are encouraged to review the appendix to ensure that their management of third-party service providers that perform or support critical operations is done so in a safe and sound manner.

*Source: FFIEC*

### NCUA Feb. 26 Twitter Chat to Focus on Savings Strategies

Credit unions and their members are encouraged to share strategies for developing positive savings behavior during the National Credit Union Administration's live Twitter chat on Thursday, Feb. 26, beginning at 11 a.m. Eastern.

Credit unions and consumers can follow [@MyCUgov](#) and contribute to the conversation using the #NCUACHat hashtag on Twitter. Participants can submit questions in advance to [socialmedia@ncua.gov](mailto:socialmedia@ncua.gov).

Kenneth Worthey, Financial Literacy and Outreach Analyst with NCUA's Office of Consumer Protection, will join staff of America and Military Saves to share the latest on national savings rates, provide tips on developing healthy savings habits and identify resources to help maximize those savings.

During Military Saves and America Saves Week, which runs Feb. 23–28, credit unions and consumers can visit NCUA's [mycreditunion.gov](http://mycreditunion.gov) and the agency's financial literacy site, [Pocket Cents](#), at any time to get more information about saving, borrowing and managing credit. NCUA's consumer Twitter feed, [@MyCUgov](#), also provides personal finance tips covering a wide range of topics all year long.

America Saves Week and Military Saves Week are national campaigns that unite government, nonprofit and corporate groups to encourage individuals and families to save and build personal wealth. America Saves Week is coordinated by [America Saves](#) and the [American Savings Education Council](#). [Military Saves](#) is part of the Defense Department's Financial Readiness Campaign and has partnered with the department since 2003. Managed by the [Consumer Federation of America](#), both programs encourage saving, reducing debt and building wealth. Credit unions can partner with local savings campaigns and consumer organizations to offer

a full suite of compliance risk assessments isn't what you are looking for, 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@mwcu.com](mailto:mheimbeck@mwcu.com) or (720) 479-3325 or 1 (800) 477-1697 ext. 3325



### Internal Controls and Fraud Prevention

A study of employee frauds showed they lasted a median of 18 months before detection, with a median loss of \$140,000. The study showed more than one-fifth of these caused losses of at least \$1 million. The longer a perpetrator works for an organization, the higher fraud losses tend to be.

**CUNA Mutual Group** claims records show that over a five-year period, employee dishonesty represented just 13% of fraud claims, but 45% of fraud losses.

Many credit unions believe their employees are all trustworthy and that they have strong enough internal controls to prevent internal theft from occurring. Yet, it still occurs.

Fraud does not discriminate. According to **CUNA Mutual Group**, there is no immunity to this exposure based on geography, asset size, employee tenure, or past experience.

Internal controls are plans, policies, and operational procedures that provide management with reasonable assurance that the credit union's operations and objectives will be achieved in a safe, sound, and prudent manner. A system of effective internal controls is a critical component of credit union management and the basic foundation for safe and sound credit union operation.

### CU Compliance Connection – Cloud Computing

[This presentation](#) on CUBE TV looks at Cloud Computing and credit unions. As the need to address record and information storage demands increases credit unions continually look for new cost effective methods of processing and storing information. Cloud computing is a technological advancement that can be advantageous to credit unions. This presentation provides information on the requirements for Cloud Computing and how it impacts your credit union.

### Advocacy Highlight

#### April 27 is RBC2 Comment Deadline

The comment deadline is April 27 for the revised risk-based capital plan proposed January 15<sup>th</sup> by the National Credit Union Administration.

motivational workshops and obtain posters, brochures and other resources. Credit unions can learn more about American Saves activities [here](#) and Military Saves activities [here](#).

Source: NCUA

### NCUA Director Fazio Testifies on Efforts to Ease Regulation, Makes Case for Vendor Authority

The National Credit Union Administration works hard to provide credit unions with regulatory relief, but Congress needs to grant authority over third-party vendors, the agency told the Senate Banking Committee today.

Larry Fazio, NCUA's Director of the Office of Examination and Insurance, testified at the Committee's hearing on regulatory relief for community banks and credit unions. Fazio's testimony is available online [here](#).

"NCUA is always mindful of the impact of regulations on credit unions," Fazio told the Committee. "We are proactive in our efforts to identify outdated, ineffective or excessively burdensome regulations. We continually review regulations and take appropriate steps to eliminate or ease burdens whenever possible without compromising safety and soundness."

Fazio highlighted the agency's ongoing Regulatory Modernization Initiative. Begun in 2011, it has resulted in [15 actions](#) to cut red tape and provide relief to thousands of credit unions.

Specifically, NCUA has eased eight regulations, providing regulatory relief to thousands of credit unions. NCUA has also streamlined three processes, facilitating more than a thousand new low-income credit union designations, increasing blanket waivers for member business loans and establishing an expedited process for examinations at smaller credit unions. NCUA has additionally issued four legal opinions allowing more flexibility in credit union operations.

In his remarks, Fazio noted that the Board will consider a proposed rule to include hundreds of additional credit unions under the definition of a small entity. Increasing the threshold from \$50 million to \$100 million would provide special consideration for regulatory relief for an additional 745 credit unions in future rulemakings.

"Should the Board adopt a \$100 million threshold, 77 percent of all credit unions would be covered in future considerations of regulatory relief," Fazio said.

Fazio told Committee members the agency performs an analysis of its rulemakings to ensure they are reasonable and cost-effective and that regulatory decisions are made after consideration of their consequences.

"Any loss to the Share Insurance Fund is ultimately borne by surviving credit unions, which may be required to pay increased premiums," Fazio said, citing the agency's interest-rate risk rule, liquidity rule and proposed rule on risk-based capital as examples of scaled regulation. "As the developments of the last decade have demonstrated, regulatory inaction can result in failures that impose greater cost to credit unions and society than the cost of action." Fazio additionally offered several ideas to ease credit union regulatory burdens through legislation, including providing NCUA with regulatory flexibility, modifying field of membership requirements, enhancing member business lending and allowing healthy and well-managed credit unions to issue supplemental capital that will count as net worth.

The most critical reform Congress could make would be to provide NCUA with examination and enforcement authority over third-party vendors, Fazio said. He urged lawmakers to give the agency parity with other federal and state financial regulators in this area. The agency's lack of authority, he said, actually creates an additional regulatory burden for credit unions.

"NCUA's inability to oversee third-party vendors means the agency must rely on

As expected, the proposal was printed in the [Federal Register](#), thereby kicking off the 90-day comment period set by the agency.

The Credit Union National Association has noted "significant improvements" in the agency's revised plan and is seeking credit union comment on how the new proposal will affect their operations, and what further improvements are necessary. CUNA soon will issue a Comment Call for credit union views.

See related story for more details: [RBC2 changes, improvements, outlook detailed in CUNA webinar](#).

For more information, check's CUNA's Risk-Based Capital [Action Center](#), Risk-Based Capital [blog](#) and future issues of *News Now*.



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

- CUNA Looking for Credit Unions to Participate in Cost of Regulation Study
- Reminder: Deadline to Apply for CFPB's Councils is Approaching
- CUNA Seeks Comment on NCUA's Stress Testing Proposal
- NCUA Hosts Webinar with CFPB
- CFPB Targets Deceptive Mortgage Marketing Advertisements

Be sure to visit CUNA's [Risk-Based Capital blog](#).



#### [Compliance Calendar](#)

#### March 3

- [Permissible Derivatives - Effective Date](#)

#### March 8

- [Daylight Savings Time Begins](#)

#### March 30

- [NACHA Operating Rules Changes](#)

#### April 24

- [5300 Call Report Due to NCUA](#)

#### April 30

- [Credit Card Quarterly Agreement Submission Due to CFPB \(10,000 or more open credit card accounts\)](#)

#### CUNA Comment Calls – Due Dates on Proposed Rules

#### March 1, 2015~NCUA

[Economic Growth and Regulatory Paperwork Reduction ACT \(EGRPRA\) Regulatory Review](#)

credit unions to report certain information on the vendors with which they do business," Fazio said. "NCUA may only examine vendors with their permission and cannot enforce any corrective actions."

The need for third-party vendor authority is best illustrated by the growth of cybersecurity threats, Fazio said.

"This is a major concern," Fazio said. "The complexity of online communications is growing, as is the number and sophistication of hackers, thieves and terrorists seeking to exploit vulnerabilities in the system. Credit unions are increasingly using third-party vendors to provide technological services, including security. Member data are being stored in these vendors' servers."

*Source: NCUA*

### **Protect IDs Regardless of Where Consumers Shop or Bank: CUNA, Trades Urge Lawmakers**

CUNA has joined with other financial trade associations urging Congress to advance data breach legislation that protects Americans from identity theft and financial account fraud.

In a [letter](#) sent to each member of Congress, the organizations outlined three principles that should be included in data breach legislation.

"Congress should pass strong legislation that establishes a national standard for data security and protection, consumer notification standards and ensures the party responsible for the data breach bears the cost," said Jim Nussle, president/CEO of CUNA. "This debate isn't about merchants and financial institutions fighting; it's about ensuring American consumers are confident that their data is secure at all times."

The letter also refuted claims made by retailers and merchants in previous letters to Congress that merchants currently bear many of the costs of data breaches. CUNA estimates that just the Home Depot and Target breaches cost credit unions more than \$90 million.

Surveys conducted by CUNA last year indicated that credit unions have not received reimbursement for either of those breaches, not to mention other breaches such as the ones at Staples and Neiman-Marcus.

"We encourage you to ignore the excuses, attempts to pass blame, and efforts to make this a fight between business sectors," the letter reads. "This debate should be about protecting sensitive financial information, ensuring consumers feel confident that their data is secure, whether it's where they shop or where they bank."

*Source: CUNA News Now*

### **CFPB Sues Mortgage Lender for False Reverse Mortgage Ads; Orders Others to End Deceptive Advertising**

The Consumer Financial Protection Bureau (CFPB) is taking action against three mortgage companies for misleading consumers with advertisements implying U.S. government approval of their products. The CFPB is suing reverse mortgage lender All Financial Services, seeking to halt its illegal activities. The CFPB is also ordering Flagship Financial Group and American Preferred Lending to end their false advertising.

"Each of these companies has misled consumers with false advertising," said CFPB Director Richard Cordray. "The U.S. government is very serious about stopping companies from falsely claiming federal authority, and we are particularly concerned about false or deceptive statements made in advertisements about reverse mortgages that target older Americans."

The 2011 Mortgage Acts and Practices Advertising Rule prohibits misleading claims in mortgage advertising, including implying a government affiliation. The CFPB

#### **March 8, 2015~NCUA**

[Risk Based Capital Proposal \(RBC2\)](#)

#### **March 9, 2015~CFPB**

[Safe Student Account Scorecard](#)

#### **March 9, 2015~CFPB**

[Amendments to 2013 Mortgage Rules Under RESPA/TILA](#)

#### **March 9, 2015~CFPB**

[Prepaid Accounts](#)

#### **March 16, 2015~CFPB**

[Proposal Regarding Rural and Underserved Areas](#)

#### **March 20, 2015~NCUA**

[Capital Planning and Stress Testing – Schedule Shift](#)

### **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](#)

### **CUNA Schools and Webinars**

#### **March 11**

Webinar: [Recognizing Financial Elder Abuse for the Frontline](#)

#### **April 1**

Webinar: [New Accounts for the Frontline – Compliance Issues to Watch For](#)

#### **April 12 - 17**

[Regulatory Compliance School – Las Vegas](#)

#### **May 13**

Webinar: [Cyber Crime - Detecting and Preventing a Corporate Account Takeover](#)

#### **June 1 - 18**

[CUNA Consumer Lending eSchool](#)

#### **June 1**

[Webinar: Basics of Consumer Lending – Part 1](#)

#### **June 4**

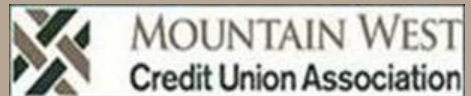
Webinar: [Home Equity Lending](#)

#### **June 8**

Webinar: [Basics of Consumer Lending – Part 2](#)

#### **June 11**

Webinar: [Consumer Lending Compliance 101](#)



### **[Training & Events Calendar](#)**

#### **February 24**

Webinar: [FFIEC Guidelines & Recent Developments in](#)

alleges that mailings by All Financial Services, American Preferred Lending, and Flagship Financial Group imitated U.S. government notices. While government programs insure or guarantee certain mortgages, the private lenders that make these loans are not government entities and are not affiliated with the U.S. government. Federal Housing Administration (FHA) loans are loans from private lenders that are regulated and insured by the FHA, a government agency. Veterans Affairs (VA) loans are similarly made by private lenders to eligible veterans, current service members, and surviving spouses; they are guaranteed by the Department of Veterans Affairs.

These actions stem from a joint "sweep", a review conducted by the CFPB and the FTC of about 800 randomly selected mortgage-related ads across the country, including ads for mortgage loans, refinancing, and reverse mortgages. The agencies looked at public-facing ads in newspapers, on the internet, and on mail solicitations; some came to the attention of the CFPB and the FTC from consumer complaints.

*Source: CFPB*

### **IRS Completes the "Dirty Dozen" of Tax Scams for 2015**

The Internal Revenue Service wrapped up the 2015 "Dirty Dozen" list of tax scams today with a warning to taxpayers about aggressive telephone scams continuing coast-to-coast during the early weeks of this year's filing season.

The aggressive, threatening phone calls from scam artists continue to be seen on a daily basis in states across the nation. The IRS urged taxpayers not give out money or personal financial information as a result of these phone calls or from emails claiming to be from the IRS.

Phone scams and email phishing schemes are among the "Dirty Dozen" tax scams the IRS highlighted, for the first time, on 12 straight business days from Jan. 22 to Feb. 6. The IRS has also set up a [special section on IRS.gov](#) highlighting these 12 schemes for taxpayers.

"We are doing everything we can to help taxpayers avoid scams as the tax season continues," said IRS Commissioner John Koskinen. "Whether it's a phone scam or scheme to steal a taxpayer's identity, there are simple steps to take to help stop these con artists. We urge taxpayers to visit [IRS.gov](#) for more information and to be wary of these dozen tax scams."

Illegal scams can lead to significant penalties and interest for taxpayers, as well as possible criminal prosecution. IRS Criminal Investigation works closely with the Department of Justice (DOJ) to shutdown scams and prosecute the criminals behind them.

*Source: IRS*

### [Cyber Security Risk Management](#)

#### **February 25**

Webinar: [Top 10 Compliance Mistakes in Advertising](#)

#### **March 12**

Webinar: [Enterprise Risk Management – The Roles of the Board and Supervisory Committee](#)

#### **March 18**

Webinar: [Flood Insurance Compliance Review & Update](#)

#### **March 25**

Webinar: [TILA/RESPA Integrated Disclosure Line-by-Line – Part 1: Loan Estimate](#)

#### **March 26 – 28**

Mountain West 2015 Annual Meeting & Convention - Phoenix: [www.mwcua.com/am](#)

#### **April 2**

Webinar: [Opening Trust Accounts: Compliance, Documentation, Signing Authority & Deposit Insurance Issues](#)

#### **April 22**

Webinar: [TILA/RESPA Integrated Disclosure Line-by-Line – Part 2: Closing Disclosure](#)

#### **April 28**

Webinar: [Red Flags, Privacy & Ethical Considerations: Know Your Compliance Responsibilities](#)

#### **April 30**

Webinar: [BSA Compliance Series: Updating Your Credit Unions's BSA/AML/OFAC Risk Assessment](#)

#### **May 14**

Webinar: [Home Equity, HELOC & Second Lien Risk Management, Including Maturing HELOC Guidance](#)

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

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