



February 21, 2014

Compliance News

Updated CUNA Projections Show High CU Cost of Target Breach

With updated projections on the cost of the Target stores data breach, the Credit Union National Association estimates that credit unions have thus far incurred costs of \$30.6 million, and reissued around 4.6 million credit and debit cards.

However, CUNA again emphasized that future fraud losses associated with the breach likely will greatly add to the total.

"Although Target is ultimately responsible for this data breach, credit unions must solely cover these costs of their card program administration," CUNA President/CEO Bill Cheney said. "It's time for retailers like Target to step up and accept their fair share of the costs associated with these types of data breaches."

The CUNA leader added, "Credit unions are owned by their members, and because of that cooperative structure, the costs of these types of breaches fall directly to credit union members.

"Congress should act to stop this cycle, and hold merchants accountable." Nearly all of the more-than 1,100 credit unions that responded to the survey offer debit and/or credit cards to their members, and 94% of respondents had been notified by their processor or network that some of their members' cards had been affected by the breach.

The Target breach has cost credit unions on average about \$5.68 per card affected by the security lapse. Other expenses have come from administrative costs.

Some credit unions have had to increase staffing and add overtime shifts as a result of the data breach. Smaller credit unions typically must pay more to replace cards, according to CUNA's Cheney.

"Unlike trillion-dollar banks, with their economies of scale, smaller credit unions face a more expensive proposition in replacing their cards--but still they must cover those costs alone," Cheney said.

Other Resources:

[Identity Theft—Who Has Your Number electronic member seminar kit](#)

[Prevent Identity Theft drive-up envelope](#)

[ID Theft: How to Prevent It and How to Get Over It statement stuffer \(customized\)](#)

Source: CUNA

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Highlight

Foreign Sanctions Evaders List (FSEs)

The Office of Foreign Assets Control (OFAC) has released its list of those persons identified as Foreign Sanctions Evaders, implementing [Executive Order 13608](#). The list targets individuals and entities that OFAC has determined to have violated, attempted to violate, conspired to violate, or caused a violation of U.S. sanctions on Syria or Iran. It also lists foreign persons who have facilitated deceptive transactions for or on behalf of

NCUA Recoveries Improve Outlook for Corporate Stabilization Fund

Credit unions are much less likely to be charged another assessment by the Temporary Corporate Credit Union Stabilization Fund, as a result of significant recoveries from legal settlements and strong asset management, the National Credit Union Administration announced today.

The net remaining Stabilization Fund projected assessment range now runs from negative \$1.9 billion to negative \$400 million, compared to the negative \$200 million to \$1.6 billion projection from the second quarter of 2013. As long as both ends of the range remain negative, there will likely be no need for future assessments.

The net proceeds from the \$1.4 billion JPMorgan Chase settlement in November 2013 and the continued improvement in the performance of the legacy assets underlying the NCUA Guaranteed Notes (NGN) program during the third quarter of 2013 caused the decline in the assessment range.

“Our legal team is diligently pursuing our claims against the Wall Street securities firms who sold faulty securities to five corporate credit unions, causing them to fail and triggering a crisis in the system,” NCUA Board Chairman Debbie Matz said. “That hard work is paying off, and we will continue our efforts to hold accountable those who helped precipitate the crisis.”

NCUA announced at the November 2013 Board meeting there would be no planned Stabilization Fund assessment in 2014. The Board also decided to post a special update on the Corporate System Resolution Costs webpages, apart from the normal semi-annual release schedule, in order to reflect the effects of the JPMorgan Chase settlement with the Department of Justice on existing Stabilization Fund projections. Following NCUA’s \$1 billion repayment to Treasury in December 2013, the agency must still repay \$2.9 billion in outstanding Treasury borrowings before any remaining Stabilization Fund distributions can be legally made to credit unions. As a result, any potential repayment to credit unions is not likely to occur prior to expiration of the Stabilization Fund in 2021.

The assessment range is generated using legacy asset cash flows projected by the international asset management firm BlackRock. While NCUA expects to receive these legacy asset cash flows over time, they have not been realized, so future Stabilization Fund ranges could also vary significantly from current projections.

NCUA has litigation pending against several other financial institutions, including [Barclays Capital](#), [Credit Suisse](#), [Goldman Sachs](#), [RBS Securities](#), [UBS Securities](#), and [Morgan Stanley](#), alleging the banks sold faulty mortgage-backed securities to five corporate credit unions—WesCorp, U.S. Central, Southwest, Constitution, and Members United—which subsequently failed. The agency also has sued [13 other banks](#), alleging violations of federal and state anti-trust laws by their manipulating interest rates in the London Interbank Offered Rate (LIBOR) system. By lowering the cumulative losses on the legacy assets, net recoveries reduce the assessments that credit unions pay through the Stabilization Fund. From 2009-2013, credit unions paid assessments totaling \$4.8 billion.

NCUA’s new projections and other information can be found at [Corporate System Resolution Costs Introduction](#), [Resolution Costs Detail](#), and [Borrowing Cost](#) on www.ncua.gov. To promote transparency, NCUA will continue providing periodic updates on the estimates about the losses associated with the Corporate System Resolution, the performance of the NGN Program, and the total anticipated

persons subject to U.S. sanctions. Transactions by U.S. persons or within the United States involving FSEs are prohibited.

This list is not part of the Specially Designated Nationals (SDNs) or Palestinian Legislative Council (PLC) list, although names may appear on both. Credit unions should check persons and transactions against this list, as well as the SDN and PLC list for possible matches. **If a match is found, contact OFAC at 1-800-540-6322.**

Transactions involving a listed party must be rejected. Accounts held for listed persons must be restricted, and may not be operated without authorization from OFAC.

CU Compliance Connection Video:

[2013 4th Quarter and 2014 1st Quarter Compliance Outlook](#)

This presentation reviews the compliance issues that your credit union has worked on in the fourth quarter of 2013, and the upcoming issues that we'll face in the first quarter of 2014.



[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.

Advocacy Highlight

CFPB Announces HMDA Proposals Under Consideration

Recently, the CFPB announced that it will convene a Small Business Regulatory Enforcement Fairness Act (SBREFA) panel in connection with its rulemaking efforts regarding the Home Mortgage Disclosure Act (HMDA). Under the Dodd-Frank Act, several new data elements will be required to be reported for HMDA

assessments that credit unions will pay during the life of the Stabilization Fund, all of which can vary over time. The next update is scheduled for April 2014.

Source: NCUA

Small CU Crushes BofA at Breach Notification, Says Reporter

Credit unions' commitment to member service was driven home by a phone call from a CEO to a member after the discovery of the Target data security breach.

The member happened to be a reporter for a financial trade publication and a customer of Bank of America. What he encountered was a personal and "ultimately more comforting" message than what he received from the bank.

In a first-person account Tuesday, *American Banker* reporter Andy Peters detailed what made the interaction with Atlanta-based BOND Community FCU so special. Ruth Artis, CEO of the \$40 million-asset credit union, called him directly. She informed him that his debit card had been compromised in the Target data breach, and a replacement card would arrive in a couple of weeks.

Compare that to the automated voice mail left behind by Bank of America's card services subsidiary, after which Peters tried to follow up with the customer service line. The agent would only share that the card had been affected by fraud at an "undisclosed retailer" and did not give a time frame of when the fraud occurred.

The large bank lost an opportunity to gain a consumer's confidence, according to Shirley Inscoe, a senior analyst at Aite Group.

Poor communication about fraud hurts a financial institution's business, she said, adding that consumers will put replacement cards in the back of their wallets or even stop using them completely.

And Artis' personal phone calls to the credit union's members?

"I can't imagine that anything else would rank above that," Inscoe told Peters. "That has to be the ultimate in customer service."

Source: CUNA

FinCEN Issues Guidance on Marijuana Accounts But CUNA Recommends Caution

The Financial Crimes Enforcement Network (FinCEN), issued [guidance](#) that clarifies new requirements for credit unions that offer services to marijuana-related businesses. The guidance has been included as a part of the Bank Secrecy Act, making it applicable to all credit unions and was designed to promote greater financial transparency in the marijuana industry and mitigate the dangers associated with conducting an all-cash business. The guidance also helps financial institutions file reports that contain information important to law enforcement. Law enforcement will now have greater insight into marijuana business activity generally, and will be able to focus on activity that presents high-priority concerns.

Even though the new federal guidelines allow credit unions and others to provide financial services to marijuana dispensaries, this newfound leniency does not come without compliance burdens, the Credit Union National Association stated in a recent *CompBlog* post.

Colorado and Washington recently approved the legal sale of the drug from state-regulated dispensaries. The U.S. Treasury, Financial Crimes Enforcement Network and U.S. Deputy Attorney General James Cole have all commented on the issues in

purposes. The new data elements required include information concerning:

- Total points and fees and rate spreads for all loans;
- Teaser rates, prepayment penalties, and non-amortizing loan features;
- Lender information, including a unique identifier for the loan officer and the loan;
- Property value and improved property location information; and
- Borrowers' age and credit scores.

In addition to these data elements required by law, the CFPB is considering additional data elements as part of the HMDA rulemaking process that are not required by the Dodd-Frank Act. These additional data points would include:

- Mandatory reporting of denial reasons;
- Debt-to-income ratios of the borrower;
- Qualified mortgage status of a loan;
- Combined loan-to-value ratios of the borrower;
- Automated underwriting system results;
- Total origination charges;
- Total discount points;
- Risk-adjusted, pre-discounted interest rate;
- Base interest rate of the loan;
- Whether the property is deed restricted for affordable housing; and
- Manufactured housing data.

The SBREFA panel will convene in early March, and CUNA is working

recent weeks, telling financial institutions that they may accept accounts from legal dispensaries.

However, CUNA said, "until Congress changes the federal law so that marijuana-related businesses are no longer illegal at the federal level, credit unions may be taking a great risk providing financial services to these businesses."

The compliance burdens could also be stifling for those that decide to take on dispensary accounts.

Financial institutions that work with these businesses should be aware of three new types of suspicious activity reports ("Marijuana Limited" SAR, "Marijuana Priority" SAR and "Marijuana Termination" SAR), as well as seven specific customer due diligence requirements, such as verifying with the state whether the business is duly licensed and registered.

Further, credit unions that work with dispensaries may need to determine whether or not marijuana from a given dispensary is:

- Being used by a minor;
- Being used by an individual who will get behind the wheel of a car; or
- Being transferred across state lines.

"Not only does this compliance burden appear insurmountable, but also overreaching," CUNA said. [CompBlog Post](#)

Sources: FinCen and CUNA



[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.mwcua.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.

with credit union participants that have been selected for the SBREFA panel to further analyze and voice credit unions' concerns regarding the proposals under consideration by the CFPB in this area. While a proposed rule has not yet been issued, CUNA will be working to inform the CFPB about the regulatory reporting burdens that these proposed data elements will have on credit unions subject to HMDA reporting requirements. For a fact sheet on the data elements the CFPB is considering, [click here](#).

You can also view [more detailed information](#) about the proposals under consideration by the CFPB on HMDA.

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.

2014 Compliance Calendar

February 28

- [IRS Forms Due to IRS/SSA](#)

March 1

- [2013 HMDA Reports Due](#)

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](#)

[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.

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

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

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 5

Networking Council

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

March 6

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



To register and view the course information, [click here](#).

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

April 30

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

CUNA 2014 Trainings

February 25

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

April 6 - 11

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

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

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 \(Check Collection and Return Rules\)](#)

Maintaining an Effective Collections
Department

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

[For more information on the 2014
Mountain West CU Association
Annual Meeting, click on the Unite
for Good graphic below.](#)



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