

155

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.

Has your credit union identified the types of loans that will be affected by the TILA-RESPA Integrated Disclosure Rule?

Regulatory Compliance News



MOUNTAIN WEST
Credit Union Association

February 27, 2015

Compliance News

The TILA-RESPA Integrated Disclosure Rule applies to most closed-end consumer credit transactions secured by real property. Credit extended to certain trusts for tax or estate planning purposes is **not exempt** from the Rule. However, some specific categories of loans are excluded from the Rule. Specifically, the Rule **does not apply to** HELOCs, reverse mortgages or mortgages secured by a mobile home or by a dwelling that is not attached to real property (*i.e.*, land). For a detailed description regarding covered transactions, refer to the Rule §1026.19(e) and (f). For a detailed description regarding exempt transactions, refer to Supplement 1 to Part 1026- Official Interpretations Section 1026.3—Exempt Transactions.

NCUA Launches Small Business Lending Resource Center

Credit unions have a new online destination for information about member business lending thanks to a webpage released by the National Credit Union Administration.

Available [here](#), the Small Business Lending Resource page provides detailed information about NCUA's member business lending rules and regulations, supervisory guidance, links to the Small Business Administration's loan programs and related articles from [The NCUA Report](#), NCUA's flagship publication.

"Credit unions do an excellent job of meeting the credit needs of their communities, including many small businesses," NCUA Board Chairman Debbie Matz said. "This new online portal provides valuable information on how credit unions can prudently lend to their small business members and tap into SBA's lending programs. I encourage all credit unions to explore this resource and to participate in our upcoming joint webinar with the SBA."

On Feb. 6, NCUA and the SBA signed a [Memorandum of Understanding](#) outlining a series of educational initiatives during the next three years that include webinars, examiner training on SBA programs, data resources and media outreach.

This new partnership kicks off with a [joint webinar](#), "Balancing Member Business

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Don't let compliance get in the way of serving your members! Get the most advanced cloud-based, near real-time compliance solution available to credit unions through AffirmX. With AffirmX you will know your compliance risks AND have access to experts that help you manage those risks. This innovative tool combines call-report data, onsite visits, and document review in the areas of

Loan Portfolios with SBA Guarantees,” on March 4, 2015, at 2 p.m. Eastern. Interested credit unions can register online [here](#).

Source: NCUA

CUNA Seeks Real Life Regulatory Burden Examples for Senate Banking Committee

CUNA launched a new tool last week to help credit unions collect real life examples of how growing regulatory burden results in reduced service for members and/or increased costs to credit unions—a request made last week by the Senate Banking Committee. At a recent Senate Banking Committee hearing, at which CUNA testified, Sen. Richard Shelby (R AL) asked credit unions and community banks to submit concrete examples of how regulations negatively affect service to consumers. Several other senators echoed the Senate Banking Committee chair's request for more information.

CUNA believes that the committee's interest in learning more about the regulatory environment signals a serious and welcomed attempt to roll back some of the tide of regulatory and compliance burden that credit unions have been subjected to over the past decade. It is vital that the Senate receives real examples of the negative consequences of unnecessary regulation, and CUNA requests that credit unions use the form to provide examples of how regulatory burden has caused the credit union to: not offer a new service, terminate an existing service, offer a service to fewer members, offer a service at a less attractive price, or generally offer a service in a less beneficial way to members because of a rule or regulation. CUNA will forward all examples to the Senate Banking Committee.

Although the form asks credit unions to identify themselves so CUNA can follow up if necessary, a credit union may choose to not be identified in the information provided to the Senate. Please send questions to RegRelief@cuna.coop.

CUNA Initiates 'Deep Dive' Into True Costs of CU Compliance

CUNA will soon launch a comprehensive study and fact-based analysis of the actual compliance costs credit unions face due to regulatory burden. Wally Murray, president/CEO, Greater Nevada CU, Carson City, Nev., announced the initiative in his testimony before the Senate Banking Committee in a hearing on regulatory relief.

The assessment is intended to be used as an informational resource for policymakers about the full cost of regulatory requirements. Having dollar figures for compliance costs will allow CUNA to advance regulatory relief in the legislative and regulatory arenas.

Sen. David Vitter (R LA) asked witnesses at the hearing for specifics when it came to compliance costs, and bank regulators said they could only provide anecdotal information.

Members of the Senate Banking Committee also asked about compliance costs in a regulatory relief hearing, at which CUNA testified.

CUNA has engaged Cornerstone Advisors, Inc. to review operational, strategic, financial and member impacts of regulations that have come in the post Dodd-Frank Act era.

Cornerstone's efforts will be conducted in two phases. The first will see it perform in-depth analyses of three credit unions of different sizes to see how regulations and regulatory compliance affect operations and costs.

The second phase involves Cornerstone using the information gleaned during the first phase to create a survey that all credit unions can complete, which will gather information about compliance and other regulatory costs facing credit unions today.

The overall process is expected to take from six to eight months.

Source: CUNA

Operations, Lending, BSA, Deposit and Advertising. Stay current on your consumer regulatory compliance risks with one easy-to-read dashboard that saves you time and money. If 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@mwcua.com or (720) 479-3325 or 1 (800) 477-1697 ext. 3325



BSA – Customer (Member) Due Diligence

The cornerstone of a strong BSA/AML compliance program is the adoption and implementation of comprehensive Customer Due Diligence (CDD) policies, procedures, and processes for all members, particularly those that present a high risk for money laundering and terrorist financing.

The objective of CDD should be to enable the credit union to predict with relative certainty the types of transactions in which a member is likely to engage. These processes assist the credit union in determining when transactions are potentially suspicious.

The concept of CDD begins with verifying the member's identity and assessing the risks associated with that member. Processes should also include enhanced CDD for high-risk members and ongoing due diligence of the member base.

Effective CDD policies, procedures, and processes provide the critical framework that enables the credit union to comply with regulatory requirements and to report suspicious activity.

An illustration of this concept is provided in [Appendix K \("Customer Risk Versus Due Diligence and Suspicious Activity Monitoring"\)](#).

CDD policies, procedures, and processes are critical to the credit union because they aid in:

- Detecting and reporting unusual or suspicious transactions that potentially expose the credit union to financial loss, increased expenses, or reputational risk.
- Avoiding criminal exposure from persons who use or attempt to use the credit union's products and services for illicit purposes.
- Adhering to safe and sound credit union practices.

In some cases, a credit union member might pose a higher risk because of the member's business activity, ownership structure, anticipated or actual

NCUA Issues Joint Agency Guidance Promoting Youth Savings Programs

The National Credit Union Administration, along with the other four federal financial regulators, issued guidance designed to encourage all financial institutions to offer youth savings programs.

The guidance contains answers to frequently asked questions regarding young consumers' accounts, as well as compliance information for opening such accounts. Research from the U.S. Treasury indicates that youth savings programs may be effective in helping improve long-term financial and educational outcomes, such as completing college.

Youth savings programs are often structured as in-school credit union programs offering student basic savings accounts. They may also include more complex, asset-building accounts and school district-wide programs. These programs are generally linked to personal financial management efforts, and include very low minimum balance requirements on accounts.

The guidance does not create any new regulatory policy or establish new industry expectations. In addition to the NCUA, the guidance also was sent out by the Office of the Comptroller of the Currency, the Federal Reserve Board, and the Federal Deposit Insurance Corp.

Source: NCUA

New FinCEN Website Meant to Assist FBAR Filers

Individuals and institutions that are required to file a Report of Foreign Bank Account (FBAR) have a new resource available on the U.S. Treasury's Financial Crimes Enforcement Network (FinCEN) [website](#).

FBAR forms are filed annually and are used to report a financial interest in, or signature or other authority over, bank accounts, securities, or other types of financial accounts in foreign countries. FBARs must be filed for accounts that hold over \$10,000 in funds at any time during the year.

According to FinCEN, an FBAR filer is considered an individual when he/she personally owns, or jointly owns with a spouse, a reportable foreign financial account that requires the filing of an FBAR for the reportable year.

Individuals may electronically file their FBAR through the BSA E-Filing System without registering for a BSA E-Filing account.

Attorneys and certified public accountants filing FBARs on behalf of clients must register to become an e-filer, and file as an institution rather than an individual. FinCEN's new website contains information on that as well.

FBARs must be filed by June 30, and no extensions are available.

Source: CUNA

NCUA Webinar Highlights Fair Lending Examination Procedures

A webinar hosted by National Credit Union Administration staff Friday gave credit unions a look at how the agency conducts fair lending examinations.

It is illegal for lenders to discriminate based on race, color, national origin, religion, sex, handicap or familial status, and the webinar provided a look at how the NCUA enforces related rules and regulations.

The NCUA supervises and examines federal credit unions with assets of \$10 billion or less for compliance with fair lending laws. The Consumer Financial Protection Bureau supervises and examines those with \$10 billion or more in assets for fair lending compliance.

Matt Biliouris, deputy director of the NCUA's Office of Consumer Protection, said the agency plans to conduct 25 fair lending exams and 50 offsite supervision contacts in 2015.

volume and types of transactions, including those transactions involving higher-risk jurisdictions. In these cases, the enhanced due diligence (EDD) should be used. These members warrant additional scrutiny, and credit unions should consider obtaining some of the following information:

- Purpose of the account
- Source of funds and wealth
- Individuals with ownership or control over the account, such as beneficial owners, signatories, or guarantors
- Occupation or type of business (of member or other individuals with ownership or control over the account)
- Financial statements
- Banking references
- Place where business is organized
- Proximity of the member's residence, place of employment, or place of business to the credit union
- Description of the member's primary trade area and whether international transactions are expected to be routine
- Description of the business operations, the anticipated volume of currency and total sales, and a list of major customers and suppliers
- Explanations for changes in account activity

CU Compliance Connection – One Per Year IRA Rollover

Recent court action has changed how members will have to manage their individual retirement accounts and limits rollovers to one per year. For information on how this will impact your members and credit union join this presentation. Click [here](#) for the video.

Advocacy Highlight

77 Percent of Credit Unions Could Get Special Regulatory Consideration

The NCUA Board approved a proposed rule ([Part 791](#)) and policy statement to update the definition of a "small entity" under the Regulatory Flexibility Act to include federally insured credit unions with assets of up to \$100 million.

"Small credit unions are essential to their communities, but many are struggling," NCUA Board Chairman Debbie Matz said. "Few economies of scale, tight interest margins, outdated technology and new competitors are among the market forces our Office of Small Credit Union Initiatives work to help them overcome. To further help small credit unions compete, the NCUA Board has already taken several steps to alleviate regulatory burdens, including scaling our rules for interest rate risk, liquidity and risk-based capital and revising our examination process.

"We can, however, do more," Matz said. "This proposal begins a process to provide more

"Our fair lending exams are an extensive review of a credit union's compliance with fair lending laws. We follow the interagency fair lending examination procedures, which may include extensive transaction testing," he said. "Under our offsite supervision contacts, we review a credit union's compliance management system elements, without any transactional testing."

According to the NCUA, it selects federal credit unions for a fair lending exam or off-site supervision contact if they demonstrate: Home Mortgage Disclosure Act data outliers, member complaints, prior regulatory violations, general compliance risks, whistleblower complaints or receive recommendations from field examiners.

Prohibited practices include:

- Requiring a spouse to co-sign on a loan when the borrower qualifies for the loan on their own creditworthiness;
- Requiring a co-signer to be a spouse for a loan where an additional party is necessary to support the credit requested;
- Evaluating credit score used for joint applicants differently based on whether or not the applicants are married; and
- Favoring persons who are not "elderly," meaning 62 or older, under the Equal Credit Opportunity Act.

According to the NCUA, having an effective compliance management system consisting of board and management oversight; policies and procedures; staff training; monitoring, testing and corrective action; compliance audits; and member complaint response procedures are the best way to ensure fair lending compliance.

The webinar will be posted to the NCUA's website in the next two weeks.

Source: CUNA



[Training & Events Calendar](#)

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 7 – Denver

April 9 – Phoenix

[Mortgage Loan Originator Training](#)

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](#)

regulatory relief for more credit unions so that they can focus on serving their members, not on complying with regulations designed for larger credit unions that pose greater risk to the Share Insurance Fund."

Under the proposal, 745 more credit unions would receive special consideration for reduced regulatory compliance requirements or exemptions in future NCUA rulemakings. The higher asset threshold commits the Board to specifically review the economic impact on small credit unions during future rulemakings. The Regulatory Flexibility Act generally requires federal agencies to determine and consider the effect of proposed and final rules on small entities.

Under the proposed definition for a "small entity," approximately 4,869 federally insured credit unions would receive special consideration for regulatory relief. In all, the proposal would cover 77 percent of federally insured credit unions with 11 percent of the system's assets.

In proposing the \$100 million asset ceiling, the NCUA Board analyzed a broad range of metrics, including: deposit; asset and membership growth rates; the ratio of operating costs to assets; merger and liquidation trends; and operating expenses. In addition to providing potential regulatory relief, the proposal would make more federally insured credit unions eligible for assistance from NCUA's Office of Small Credit Union Initiatives, at no cost.

Source: NCUA



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

- CUNA Seeks Comments on NCUA's Regulatory Review
- CUNA Seeks Real-Life Regulatory Burden Examples for Senate Banking Committee
- CUNA Still Accepting Input on CFPB's Prepaid Accounts Proposal
- NCUA Holds February Board Meeting
- CUNA Reiterates Concerns about Credit Losses Proposal in Letter to FASB

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



[Compliance Calendar](#)

March 3

- [Permissible Derivatives - Effective Date](#)

March 8

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](#)

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](#)

♦ 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)

May 25

♦ Memorial Day – Federal Holiday

CUNA Comment Calls – Due Dates on Proposed Rules

March 1, 2015~NCUA

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

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](#)

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

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