

Regulatory Compliance News



MOUNTAIN WEST
Credit Union Association

April 22, 2016

Compliance News

OFAC Adds Hizballah Sanctions Regulation

The Office of Foreign Assets Control has [announced](#) its publication of Hizballah-related sanctions regulations, effective as of publication on April 15, 2016. OFAC also included in its announcement a number of SDN List entries (individuals and entities) that it is updating to indicate they are subject to secondary sanctions under the new regulations.

Source: OFAC

Reporting Elder Financial Abuse Does Not Violate Privacy Rules

According to the National Elder Abuse Center (NEAC), there are an estimated 5 million victims of elder abuse annually. While only about 1 in 8 cases reported relate to finances, it's believed that only 1 in 44 instances of elder financial fraud are even reported. The aggregate amount stolen from elderly victims due to these crimes is about \$2.9 billion annually. These crimes can have devastating results for elderly members, at times pushing them into poverty and homelessness. Even more alarming, it has been reported that approximately 30%-40% of those victims of financial abuse are also being physically abused. Many states now require credit unions to report suspected financial abuse and this report may be your elderly member's only chance of having someone look into their situation.

How to spot elder financial abuse

Some of the things that can be done to protect your members from financial abuse include being alert to changes in your elderly members' behaviors, such as:

- Someone accompanying your member to the credit union and speaking on their behalf;
- Your member appears fearful, nervous, reluctant to make eye contact;
- Your member appears confused.

Also, credit union personnel should be alert to suspicious changes in your elderly members' financial transactions, such as:

- Large or frequent cash withdrawals from ATMs;
- Suspicious signatures on checks or other documents;
- Execution of new POA or adding new signatories or beneficiaries;
- Sudden increase in debt - large unusual credit card charges, second mortgages;
- Closing CDs regardless of penalties;
- Transfers to accounts accessible by others;
- Checks written as "loans" or "gifts".

How to stop elder financial abuse

A healthy dose of suspicion is one of the best things you can provide your members through education, statement stuffers, and reaching out to them

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Association Compliance Forums

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[BSA Compliance Officer Forum](#)

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at appropriate events or locations. Some of the warnings that may help them avoid financial predators include:

- Never give out account numbers or PINs to anyone over the phone;
- Never pay a fee or taxes to collect sweepstakes or lottery “winnings”;
- Never rush into a financial decision, ask for details in writing and get a second opinion;
- Check references and credentials before hiring anyone;
- Always say “let me check with my credit union” whenever a financial transaction is involved.

If credit unions could build strong relationships with their elderly members so that members feel comfortable always saying “let me check with my credit union” – most predators, even family members, will simply move on.

Privacy considerations

Although many state laws now require financial institutions to report suspected elder financial abuse, some credit unions have expressed reluctance due to concerns that they could be violating the Graham-Leach-Bliley (GLB) Act’s privacy requirements. As you likely know, GLB prohibits credit unions from sharing non-public personal information with non-affiliated third parties unless you have provided your members with notice that describes the disclosure of their information and have provided your members with a reasonable opportunity to opt out of such sharing, and your members have not opted out. There are, however, exceptions to the privacy rule. Generally, disclosure of this type of information is permitted to local, state and federal agencies for the purpose of reporting elder financial abuse. And if the exceptions in the rule are not enough to ease your mind, nine federal regulatory agencies, including NCUA, issued [interagency guidance in 2013](#) specifically clarifying that the GLB Act does not prohibit you from reporting elder financial abuse to the proper authorities.

Check state resources

Most states have local Adult Protective Service agencies. Check their websites for more information and to review your state law requirements. You can locate your local agencies using this [NEAC resource](#).

Source: CUNA

Advocacy Highlight

CUNA and Ohio League Reiterate Concerns to CFPB about Small Dollar Loan Rulemaking

CUNA and league staff, as well as several credit unions from Ohio, met with CFPB staff to reiterate concerns about including credit union consumer-friendly small-dollar loan products in the soon expected payday loan rulemaking. In attendance were Ohio Credit Union League President Paul Mercer, Ohio League Vice President for Government Affairs Patrick Harris, CUNA Deputy Chief Advocacy Officer & Senior Counsel Regulatory & Executive Branch Relations Elizabeth Eurgubian, and CUNA Senior Director of Advocacy and Counsel Leah Dempsey.

During the meeting, representatives from the Ohio credit union staff outlined the importance of small-dollar loans to the livelihoods of their members, and explained why it is essential that the CFPB’s payday rule does not limit the ability of credit unions to participate in this market. They explained that these short term loans are often used to pay utility bills, and purchase food, diapers and other emergency essentials.

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InfoSight Highlight

Internal Controls and Fraud Prevention

A study of employee acts of fraud 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.

The FCU Act, [12 USC 1761b](#) states that the board shall have the general direction and control of the affairs of the credit union, including the proper and profitable conduct of credit union operations, the safety of credit union assets, and the accuracy and adequacy of financial statements.

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

Credit unions also described some of the [unintended consequences](#) of the Military Lending Act, and how it has limited the ability to offer small-dollar loans. They urged the CFPB to keep this in mind and not create a similar, one-size fits all rule for credit unions' products.

CUNA Sends Letter to Senate in Support of Bill to Limit Operation Choke Point

Several senators recently introduced legislation to place certain limits on the Federal government's Operation Choke Point. S. 2790, the Financial Institution Customer Protection Act of 2016 is a companion bill to H.R. 766 introduced by Representative Blaine Luetkemeyer (R-MO), which passed the House in February. CUNA sent the Senators a [letter in support](#) of their legislation.

The legislation would limit Federal banking regulators' ability to discourage or restrict depository institutions from entering into or maintaining a financial services relationship with specific customers unless certain criteria are met. The legislation would also limit regulators' ability to pressure financial institutions to terminate customer accounts, requiring regulators to have a material reason for termination that is not based solely on the reputational risk posed by the customer before pressuring the financial institution to close the account.

Credit unions are committed to maintaining the ability to serve their members while strictly following all laws and governing regulations. CUNA believes that S. 2790 is a reasonable approach to preventing fraud and maintaining financial integrity, without overreaching.

CUNA Sends Letter in Support of Bill To Establish Advisory Committees within Treasury

On April 18, 2016, CUNA [sent a letter in support](#) of H.R. 4950, the "Small Institution Advisory Committees Act," which would establish advisory committees within the Treasury Department. The bill was introduced by Representatives Mike Quigley (D-Ill.) and Robert Pittenger (R-NC).

The bill would create a Credit Union Advisory Committee and a Community Bank Advisory Committee within the Treasury Department. CUNA believes this could help ensure that policymakers within the federal government understand the credit union difference, as well as the impact of regulatory decisions on credit unions.

Source: CUNA



Training & Events Calendar

April 25

Webinar: [Examining Complex TRID Issues, Part 1: Application Through Loan Estimate & Revised Loan Estimate](#)

April 26

Webinar: [Regulator Expectations for Risk Assessment: Policies, Procedures & Steps in Obtaining Board Approval](#)



Compliance Calendar

April 22

- 5300 Call Report Due to NCUA

May 2

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

May 30

- Memorial Day – Federal Holiday

June 30

- PCI-SSL/TLS Can No Longer Be Used as a Security Control

July 31

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

October 31

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

CUNA Advocacy Update

The Regulatory Advocacy Report is now combined with CUNA's Legislative Update into a comprehensive CUNA Advocacy Update. The new [Advocacy Update](#) is published at the beginning of every week, and 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.

Prior CUNA Regulatory Advocacy Reports have been archived and are available [here](#).

Effective Dates New and Revised Rules

July 1, 2016~DoEd

[Program Integrity and Improvement](#)

September 23, 2016~NACHA

[Same-day ACH \(NACHA\) – Phase 1](#)

October 3, 2016~DoD

[Limitations on Terms of Consumer Credit Extended to Service Members & Dependents](#)

January 1, 2017~CFPB

[HMDA – Regulation C](#)

January 1, 2017~NCUA

[Member Business Loan Rule](#)

September 15, 2017~NACHA

[Same-day ACH \(NACHA\) – Phase 2](#)

April 28

Webinar: [ACH Rules Update](#)

May 3

[BSA Seminar - Denver](#)

May 16

Webinar: [Examining Complex TRID Issues, Part 2: Closing Disclosure, Tolerances & the Good Faith Analysis](#)

June 8

[Financial Strategies Seminar - Denver](#)

CUNA Comment Calls – Due Dates on Proposed Rules**March 24, 2016~NCUA**

[NCUA Strategic Plan 2017- 2021](#)

March 26, 2016~NCUA

[Overhead Transfer Rate Methodology](#)

March 26, 2016~NCUA

[Operating Fee Schedule](#)

April 29, 2016~Financial Literacy & Education Commission

[National Strategy for Financial Literacy Update](#)

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

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