

## Regulatory Compliance News



**MOUNTAIN WEST**  
Credit Union Association

April 29, 2016

### Compliance News

#### Bureau Reopens Comment Period On Servicing Proposal

The Consumer Financial Protection Bureau has published in the 4/26/16 Federal Register a notice that it is reopening the comment period for a specific aspect of the proposed rule published by the Bureau in the Federal Register on December 15, 2014. The 2014 proposal included amendments to certain mortgage servicing provisions in Regulation X and Regulation Z. Among other things, the proposed rule: addressed requiring servicers to provide modified periodic statements under Regulation Z to consumers who have filed for bankruptcy, subject to certain exceptions; included related proposed sample periodic statement forms; and indicated that the Bureau intended to conduct consumer testing of the proposed sample forms and would publish and seek comment on a report summarizing the methods and results of such testing prior to finalizing any sample forms. The original comment period to the proposed rule closed on March 16, 2015. The Bureau now [reopens the comment period until May 26, 2016](#), to seek comment specifically on the report summarizing consumer testing of sample periodic statement forms for consumers in bankruptcy.

#### Lawsuit Mill Shut Down and Pays \$2.5 Million In CMPs

The CFPB has announced the issuance of consent orders to the debt collection law firm Pressler & Pressler, LLP, two of its principal partners, and New Century Financial Services, Inc., a debt buyer, to stop churning out unfair and deceptive debt collection lawsuits based on flimsy or nonexistent evidence, and to pay a total of \$2.5 million in civil money penalties.

*Source: CFPB*

#### Same-Day ACH May Change Credit Unions

The [advent of same-day ACH this fall](#) will likely mean credit unions and other financial institutions will encounter more fraud, more strain on their budgets and more operational challenges, according to a new survey by the New York City-based software firm NICE Actimize.

A whopping 93% of financial institutions said they think same-day ACH will increase fraud threats, but more than half (54%) said they don't have the appropriate fraud tools to handle same-day ACH transactions, according to the survey of some 60 financial institutions this spring. Despite their lack of fraud tools, 48% of respondents said they plan to originate same-day ACH credits and 43% said they'll originate same-day ACH debits. Another 35% were unsure, and 16% said they'll do neither.

"We know from other markets, such as the U.K., that the launch of faster payments is aligned with an uptick in fraud attacks and losses," NICE Actimize Vice President/General Manager of Fraud & Cybercrime

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Management Solutions Erez Zohar said. "This means that U.S. financial institutions need to be prepared with fraud strategies on day one." Same-day payroll and account-to-account transfers could become hot spots for fraud; fraudsters could also use social engineering to target companies that initiate same-day payroll, Zohar added.

On May 19, 2015, the Electronic Payments Association [gave the green light on same-day ACH](#), which will increase the movement of funds between financial institutions from once a day to three times per day. The new rules, which are largely based on rules proposed in late 2014, take effect in three phases beginning Sep. 23, 2016. Among other things, they require all receiving depository financial institutions to accept same-day transactions and require originating depository financial institutions to pay a \$0.052 fee per transaction.

For more on this topic, click [here](#).

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## Advocacy Highlight

The National Credit Union Administration Board held its fourth open meeting of 2016 at the agency's headquarters on 4/21/16 and approved two items:

- A proposed rule to provide regulatory relief to federal credit unions by eliminating the full occupancy requirement in the current occupancy rule.
- A proposed joint agency rule under the Dodd-Frank Wall Street Reform and Consumer Protection Act to regulate in federally insured credit unions with assets of \$1 billion or greater incentive-based compensation plans that encourage inappropriate risk-taking.

To comment on each of these proposed rules and to read more about them, visit the [NCUA site](#).

Also included in the Board meeting was an update on the NCUA Share Insurance Fund, which can be found on the same page.

All open NCUA Board meetings are tweeted live. Follow [@TheNCUA](#) on Twitter. Board Action Memorandums are available online at [www.ncua.gov](#) under About NCUA/NCUA Board Actions/Draft Board Actions. NCUA rule changes are posted online at [www.ncua.gov](#) under Regulatory, Publications, and Reports/NCUA Regulations/Recent Final Rules.

*Source: NCUA*

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## 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](#).

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For more information about our compliance services, please contact Melia Heimbeck at: [mheimbeck@mwcua.com](mailto:mheimbeck@mwcua.com) or (720) 479-3325 or 1 (800) 477-1697 ext. 3325



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## InfoSight Highlight

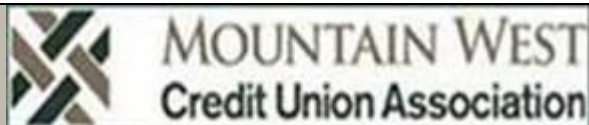
### Equal Credit Opportunity Act (ECOA)

The Consumer Financial Protection Bureau's Regulation B (Reg B) implements the provisions of the Equal Credit Opportunity Act (ECOA) which was enacted by Congress in 1974 to prevent discrimination on the basis of sex or marital status in any aspect of a credit transaction. Subsequent amendments extended the Act's prohibition of discrimination in credit transactions on the basis of race, color, religion, national origin, age (provided the applicant has the capacity to contract), receipt of part or all of one's income from a public assistance program, and good faith exercise of rights under the Consumer Protection Act of 1968.

### Key points of the act

The Act prohibits discrimination in taking and analysis of credit applications and provides specific guidelines in the taking of credit applications:

- Applications should avoid inquiries about race, color, religion, sex and national origin (except for loans to purchase or refinance the applicant's principal dwelling, including mobile homes and condos, the lender is required to take the application in writing and request the following information: race or national origin, sex, marital status, and age.)
- Credit unions are prohibited from making any statements that would discourage applicants from applying for a loan.
- Credit unions are not allowed to inquire about the gender of the applicant. Applications should be neutral as to the gender of the applicant.
- Credit unions are allowed to inquire about marital status only by the terms married, unmarried, and separated. Applications for individual, unsecured credit should inquire about marital status only where the applicant resides in a community property state.
- Questions concerning dependent related financial



### Training & Events Calendar

#### **May 11 – 12**

Collections & Bankruptcy School - Denver

#### **May 16**

Webinar: Examining Complex TRID Issues, Part 2: Closing Disclosure, Tolerances & the Good Faith Analysis

#### **May 24**

Webinar: Understanding & Managing the CFPB Complaint Process

#### **June 8**

Financial Strategies Seminar - Denver

### **Effective Dates New and Revised Rules**

#### **May 13, 2016~NCUA**

Personal Guarantees - MBL

#### **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

#### **April 10, 2017~DOL**

Fiduciary

#### **September 15, 2017~NACHA**

Same-day ACH (NACHA) – Phase 2

obligations should be neutral as to the applicant's sex, marital status, or other prohibited basis.

- Questions on spouses must be limited to whether the spouse will use the account or be liable on it; whether spousal income or support payments will be relied on for repayment; or if the applicant resides in a community property state or is relying on property in a community property state to repay the loan.

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



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

#### **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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