

120

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.

Do you have procedures to assure that the consumer receives all disclosures timely?

Regulatory Compliance News



MOUNTAIN WEST
Credit Union Association

April 3, 2015

Compliance News

FFIEC Releases Joint Statements on Risk Mitigation

The Federal Financial Institutions Examination Council (FFIEC) has issued two joint statements to alert financial institutions to specific risk mitigation techniques related to destructive malware and cyber attacks that compromise credentials.

- The joint statement on [Cyber Attacks Compromising Credentials](#) discusses the growing trend of cyber attacks designed to obtain online credentials for theft, fraud, or business disruption and recommends risk mitigation techniques. Credit Unions should address this threat by reviewing their risk management practices and controls related to information technology networks and authentication, authorization, fraud detection, and response management systems and processes.
- The joint statement on [Destructive Malware](#) discusses the increasing threat of cyber attacks involving destructive malware. Financial institutions and technology service providers should enhance their information security programs to ensure they are able to identify, mitigate, and respond to this type of attack. In addition, business continuity planning and testing activities should incorporate response and recovery capabilities and test resilience against cyber attacks involving destructive malware.

Credit Unions should design multiple layers of security controls to establish several lines of defense and ensure that their risk management processes also address the risk posed by compromised credentials, consistent with the risk management guidance contained in the [FFIEC IT Examination Handbook](#), specifically the "Information Security," "Outsourcing Technology Services," and the "Retail Payment Systems" [booklets](#).

Source: FFIEC

New CFPB Toolkit Helps Consumers Shop for Mortgage

A new mortgage-shopping toolkit that includes forms that will be required starting Aug. 1 has been released by the Consumer Financial Protection Bureau (CFPB). Creditors must provide the toolkit to mortgage applicants as a part of the application process, and the CFPB encourages other industry participants, including real estate professionals, to provide it to potential homebuyers.

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The new toolkit is designed to replace an existing one that creditors are currently required to provide to mortgage applicants.

The bureau's new Truth-in-Lending Act-Real Estate Settlement Procedures Act (TILA-RESPA) [integrated disclosure rule](#) includes new Loan Estimate and Closing Disclosure forms that lenders must provide starting Aug. 1.

According to the CFPB, the [new toolkit](#) provides a step-by-step guide to help consumers understand the nature and costs of real estate settlement services, define what affordable means to them and find their best mortgage.

It consists of interactive worksheets, checklists, conversation starters for discussions between consumers and lenders and research tips to help consumers seek out and find important information.

The toolkit can be printed and filled out, but also includes fillable text fields and interactive check boxes in the electronic version. A Spanish language version will also be made available later in 2015.

The CFPB says the release of the toolkit now is intended to give the mortgage industry time to order and receive or print the new toolkit and integrate electronic versions into their mortgage origination systems.

Source: CUNA News Now

IRS to Offer April 8 Webinar on UBIT

The IRS has announced an April 8 webinar on unrelated business income tax (UBIT) and tax-exempt organizations.

The webinar, offered by the IRS's Tax Exemption & Government Entities Division, will provide information on:

- UBIT;
- Three parts test;
- Common types of activities;
- Exceptions and exclusions;
- Principal form used to report; and,
- IRS resources.

Presenters for the 2 p.m. (ET) session will be [Steve Farson](#), tax law specialist, IRS Office of Exempt Organizations, and [Al Page](#), tax law specialist, IRS Office of Exempt Organizations.

Those interested in participating can sign up [here](#).

Also related to UBIT, the IRS issued a "new" memo to replace its 2014 memo on the same subject, but the new memo makes no changes in its listing of what products and services offered by state-chartered credit unions trigger UBIT.

Source: CUNA News Now

CUNA Backs CU RBC2 Comment Efforts with New Resource

With 22 working days left until the comment deadline for the risk-based capital proposal--often referred to as RBC2, CUNA is providing new resources in its effort to encourage credit unions to weigh in. The deadline to submit comments to NCUA is April 27.

The National Credit Union Administration abandoned its original RBC plan, issued in January 2014, after it received 2,056 comments from credit unions, lawmakers and others that listed concerns regarding how the plan would impact credit unions and consumers.

The agency issued its second RBC proposal this January, and CUNA has said it is a substantially improved regime--but still a solution in search of a problem.

"With reductions in many of the risk weights found in the original plan, and a

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.

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Bank Secrecy Act

In the InfoSight Bank Secrecy Act channel, the "Additional Resources" section on Suspicious Activity Reports includes a Checklist, which asks:

Does the credit union report to its Board of Directors at least monthly when a Suspicious Activity Report [SAR] has been filed?

What information is to be communicated to the board about SARs and in what format?

According to [NCUA Regulatory Alert No. 06-RA-07](#), "Credit unions have the necessary flexibility to tailor the format to their particular needs and circumstances. Credit unions may use the formats included in the FFIEC Bank Secrecy Act/Anti-Money Laundering Examination Manual."

The [FFIEC Bank Secrecy Act/Anti-Money Laundering Examination Manual](#) states:

Notifying Board of Directors of SAR Filings *Banks [and Credit Unions] are required by the SAR regulations of their federal banking agency to notify the board of directors or an appropriate board committee that SARs have been filed. However, the regulations do not mandate a particular notification format and banks should have flexibility in structuring their format. Therefore, banks may, but are not required to, provide actual copies of SARs to the board of directors or a board committee. Alternatively, banks may opt to provide summaries, tables of SARs filed for specific violation types, or other forms of notification. Regardless of the notification format used by the bank, management should provide sufficient information on its SAR filings to the board of directors or an appropriate committee in order to fulfill its fiduciary duties, while being mindful of the confidential nature of the SAR.*

Additionally, the Manual also states:

Prohibition of SAR Disclosure *No bank, and no director, officer, employee, or agent of a bank that reports a suspicious transaction may notify any person involved in the transaction that the*

reduction to 10% for the well-capitalized requirement, the second proposal is an improvement," says Bill Hampel, CUNA chief policy officer.

However, he emphasizes there are still significant problems with the proposal, particularly as it relates to an additional "capital adequacy" requirement, and the future treatment of interest-rate risk so it is imperative that credit unions stay engaged in this rulemaking process to have as much impact on proposal improvements as possible.

As part of its [new resources](#), CUNA has developed a "comment letter guide" with information regarding the need for and value of commenting on the plan and how to comment.

"There remain a number of areas that should still be improved, and they are described in the guide," Hampel says.

"We are asking credit unions to individually tell their stories to NCUA, so the agency understands that their rule will have real impact on real credit unions and their very real members," CUNA's chief policy officer adds.

Source: CUNA News Now

Advocacy Highlight

CUNA Requests Comments on NCUA's Fixed Assets Proposal

The NCUA Board issued a new fixed assets proposal for a 30-day comment period at their March open meeting. This proposed rule includes improvements that were not part of the [2014 fixed assets proposal](#), which was not adopted. The new [proposed rule](#) would:

- Eliminate the 5% aggregate limit on investments in fixed assets that is currently in place for federal credit unions with \$1,000,000 or more in assets. CUNA had advocated for this change in a previous [comment letter](#) on the 2014 proposal. Instead of applying the current aggregate limit, the Board proposes to oversee ownership of fixed assets through the supervisory process and guidance.
- Remove the waiver provisions regarding the aggregate limit.
- Establish a single six-year time period for partial occupancy of such premises and discontinue the 30-month requirement for partial occupancy waiver requests.
- Although the rule does not apply to state credit unions, state credit unions should check with their state regulator since state credit unions that have parity provisions may be able to receive comparable treatment. State credit unions as well as federal credit unions should comment on the proposal.

One of the focuses of CUNA's 2014 comment letter to NCUA was the elimination of the 5% ownership limitation on fixed assets and thus the necessity for waivers. The 2015 proposed rule would eliminate the 5% cap entirely without requiring a fixed asset management (FAM) program that was part of the 2014 proposed rule.

Positive Report on Condition of Corporate Stabilization Fund

During last week's NCUA Board meeting, agency staff reported on the condition of the Temporary Corporate Credit Union Stabilization Fund. For 2014, year to date, the Fund's total income was \$60.3 million, which is down from \$761.6 million for 2013 due primarily to a lack of special assessments in 2014. However, outstanding borrowings from Treasury decreased to \$2.6 billion as of December 31, 2014, from \$2.9 billion outstanding at the end of 2013. Commenting on the positive trend of the Fund, Chairman Matz asked staff about the possibility of a refund to credit unions. Consistent with previous comments, staff indicated that any such refund would not come until 2021 when the Fund will sunset.

CUNA Posts RBC2 "Capital Action Center"

CUNA has provided a resource called the [Risk-Based Capital Action](#) Center for additional resources on the proposed changes that captures all relative information concerning RBC2, including an RBC Calculator to determine how the proposed rule will affect your credit union's risk-based capital ratio.

transaction has been reported. A SAR and any information that would reveal the existence of a SAR, are confidential, except as is necessary to fulfill BSA obligations and responsibilities. For example, the existence or even the non-existence of a SAR must be kept confidential, as well as the information contained in the SAR to the extent that the information would reveal the existence of a SAR. Furthermore, FinCEN and the federal banking agencies take the position that a bank's internal controls for the filing of SARs should minimize the risks of disclosure.

So – the answer to the question is: information contained in a SAR should be provided to the Board of Directors (or appropriate committee) in a manner – and with sufficient information – so that the Board may fulfill its fiduciary duties, while keeping in mind the confidential nature of the SAR.

What are some creative ways to do this?

- Create a table showing the date, dollar amount and category (e.g., structuring, fraudulent wire, etc.);
- Provide a list of the dollar amount, number, category and last name
- A memo indicating the number of SARs and the categories;
- Have the Board Chair review the SAR and report to the Board as a whole.

CU Compliance Connection - Escrow Disclosures

As a part of the integrated mortgage requirements from the CFPB, an Escrow Closing Disclosure must also be provided to members prior to their escrow account being closed. For a review of the disclosures and provision requirements please view this presentation. Click [here](#) for the video



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

- CUNA Posts RBC2 Comment Letter Guide
- CUNA Generally Supports CFPB's Rural and Underserved Proposed Rule
- CFPB Holds Field Hearing on Payday Lending
- CUNA Weighs-in on CFPB's Safe Student Banking Initiative

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



[Compliance Calendar](#)

March 30

Comment letters are due to NCUA by April 27, and can be submitted through regulations.gov, PowerComment, or emailed directly to NCUA.

Source: CUNA



[Training & Events Calendar](#)

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 23 – Denver

[Interest Rate Risk and Investment Strategies](#)

April 23

Webinar: [Current Trends in Cyber Crime & Payments Fraud](#)

April 27

Webinar: [Important SAR Procedure Updates from the Revised BSA/AML Exam Manual](#)

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/OEAC Risk Assessment](#)

May 14

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

CUNA Schools and Webinars

April 12 - 17

[Regulatory Compliance School – Las Vegas](#)

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](#)

[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 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](#)

April 24, 2015~NCUA

[Fixed Assets](#)

May 1, 2015~NCUA

[Small Entity Definition](#)

May 6, 2015~CFPB

[Credit Card Market Review](#)

July 13, 2015~NCUA

[2015 Annual NCUA Regulatory Review List](#)

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.

Sign up to receive Regulatory Compliance News by sending an email to [Donna Gibbs](#).

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