

Regulatory Compliance News



MOUNTAIN WEST
Credit Union Association

April 8, 2016

Compliance News

CFPB Issues Guidance on Resuming Submission of Credit Card Agreements

In April 2015, the Consumer Financial Protection Bureau suspended for one year (see Regulation Z § 1026.58(g)) the § 1026.58(c) requirement for submissions of credit card agreements to the Bureau for posting on the Bureau's website. The next submission is due by May 2, 2016. The CFPB has now issued [guidance for credit card issuers](#) with simplified instructions for making the required submissions.

Bureau Posts Updated Compliance Guides

The Consumer Financial Protection Bureau has posted updates to three of its Small Entity Compliance Guides and three charts for implementation of Dodd-Frank Act Title XIV mortgage lending rules, to reflect the Bureau's recent amendments to expand eligibility for the special provisions allowing certain small creditors to issue balloon-payment qualified mortgages and balloon-payment high-cost mortgages, and exempting them from the escrow requirement for higher-priced mortgage loans. The updates, all of which can be found on the [Bureau's Title XIV Implementation Page](#), include:

- Compliance Guide for ATR/QM
- Compliance Guide for HOEPA
- Compliance Guide for the HPML Escrow Rule
- Transaction Coverage and Exemption Chart
- Small Creditor QM Flowchart
- ATR/QM Comparison Chart

Source: CUNA/CFPB

The CFPB will present a 60-minute webinar using the Federal Reserve's Outlook Live portal on Tuesday, April 12, at 2 p.m. EDT. The presentation will answer some frequently asked questions on the TRID rule. The webinar will address specific questions that various stakeholders have raised to the Consumer Financial Protection Bureau related to the interpretation and implementation of the rule's requirements. In particular, this session will cover questions that have been raised since the rule took effect on October 3, 2015. [Online registration](#) for the event is now available.

Source: CFPB

Advocacy Highlight

CUNA Files Comment Letter to NCUA on 2017-2021 Strategic Plan

Back in February, the NCUA Board issued a request for comment on its 2017-2021 Strategic Plan. Although NCUA also produces an annual performance plan that contains more details on how NCUA intends to meet its goals, this plan is not open for comment. On April 4, 2016, CUNA

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filed a comment letter on the Strategic Plan, which included several suggestions. The Strategic Plan sets three basic strategic goals for the agency:

- Ensure a Safe and Sound Credit Union System
- Promote Consumer Protection and Financial Literacy
- Cultivate an Inclusive, Collaborative Workplace at NCUA that Maximizes Productivity and Enhances Impact

Their letter suggested that improving the exam process should be a prominent part of NCUA's strategic plan. Exam improvements are obviously a relevant part of NCUA's work, since the agency is currently working on overhauling its Call Report and AIREs software, and holding discussions on the possibility of implementing extended exam cycles for smaller credit unions.

CUNA also suggested that NCUA should look to decrease burdens from the supervisory process through these software and exam updates, and by implementing more remote supervision. These are all major initiatives that CUNA believes should be addressed in the strategic plan, along with metrics to ensure that goals are met.

DOL's Final Fiduciary Rule Expected This Week

The Credit Union National Association (CUNA) is informing credit unions that the U.S. Department of Labor (DOL) is expected to finalize its fiduciary rule, per a number of reports.

The rule would add brokers and advisers to the definition of "fiduciary" of an employee benefit plan. CUNA has concerns that this could potentially negatively affect credit unions that offer investment services through arrangements with third-party brokers if credit unions are swept into overly burdensome compliance rules.

CUNA expects there will be legal challenges to the rule once it is released. CUNA will also provide additional information to credit unions once the final rule is released on how it could impact their operations.

CUNA has sent two separate comment letters to the DOL spelling out its concerns with the proposal, the [first](#) during the initial comment period, the [second](#) after the comment period was re-opened following a four-day public hearing in which speakers raised many of the concerns CUNA has.

In addition, a Senate Committee on Homeland Security and Government Affairs [released](#) a report last week saying the rule threatens to harm low- and middle-class retirement savers by increasing the cost of financial advice.

A subsequent [hearing](#) with Labor Secretary Thomas Perez saw several legislators raise concerns shared by CUNA.

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.

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InfoSight Highlight

Truth in Lending (Regulation Z) – Disclosures

Failure to provide the proper disclosures and notices could be costly for the credit union. The Act contains a criminal liability provision for willful violations of the Act. Any person who willfully violates the act could be fined up to \$5,000, imprisoned for up to one year, or both. Some examples include: willfully giving false or inaccurate information or failing to provide required information; willfully using a table in a manner that consistently understates the annual percentage rate; or willfully failing to comply with provisions of the act.

The Act authorizes a member to commence legal action against the credit union for a failure to comply with the rules, such as failure to provide required disclosures, and failure to follow prescribed procedures when handling billing error claims. The credit union's liability could include the amount of actual damages sustained by the member, an additional amount equal to twice the amount of any finance charge (\$100 minimum/\$1,000 maximum), court costs, and attorney fees.

What actions should credit unions take to ensure compliance with Truth in Lending?

Each credit union should maintain policies and procedures to ensure compliance with the Act and regulation. Credit unions should ensure proper use of the documentation systems they use for consumer lending. Credit unions should keep in mind that disclosure requirements for open-end and closed-end loans are different.

The credit union should also retain evidence of compliance with Regulation Z for at least two years after the date the disclosures are required to be given or action is required to be taken.

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

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



Training & Events Calendar

April 12

Webinar: [Completing the SAR Line-by-Line](#)

April 13

Webinar: [Your Depositor Has Died: Actions to Take, Mistakes to Avoid](#)

April 19

Webinar: [Effective Management of Credit Report Disputes](#)

April 20

Webinar: [Troubled Debt Restructuring: Determination & Accounting](#)

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](#)

April 28

Webinar: [ACH Rules Update](#)

May 3

[BSA Seminar - Denver](#)

June 8

[Financial Strategies Seminar - Denver](#)

CUNA Schools and Webinars

April 12

[Same Day ACH – What Does It Mean to Your Financial Institution Webinar](#)

April 14

[ACH for Frontline Staff Webinar](#)

April 20

[MIP and Account Opening Webinar](#)



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](#)

August 1

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

October 31

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

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](#)

CUNA Comment Calls – Due Dates on Proposed Rules

March 18, 2016~FinCEN

[Changes to BSA Currency Transaction Report](#)

March 24, 2016~NCUA

[NCUA Strategic Plan 2017- 2021](#)

March 26, 2016~NCUA

[Overhead Transfer Rate Methodology](#)

March 26, 2016~NCUA
Operating Fee Schedule

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

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