

Regulatory Compliance News



MOUNTAIN WEST
Credit Union Association

May 13, 2016

Compliance News

State Regulatory News

Next Steps After a Successful Legislative Session - Rulemaking

Guided by the Association's Government Relations Committee, the Government Affairs team drafted changes to Colorado's state credit union act to permit reasonable compensation of directors and to allow credit unions to appoint an audit committee in lieu of a supervisory committee. Senate Bill 16-125, effective August 10th, was signed into law by Colorado's governor and now heads to the rulemaking process with the Colorado Division of Financial Services. The legislative changes were drafted to provide credit unions choices in their governance structure based on their unique circumstances.

Patty Salazar, Commissioner of the Division of Financial Services, held an informal conference call to solicit credit union input prior to formally issuing proposed rules. The Association and those credit unions that expressed an interest during the conference call were provided with a rough draft of the proposed rules. We encourage each of you to provide the Commissioner with your feedback on the draft. Your input will help shape the formal proposed rule, and lead to a more efficient rulemaking process. We will let you know when proposed rules are "formally" introduced, and again, encourage you to provide comments on the proposal. Contact Mark Robey if you have any questions.

Legislation was also passed in Arizona and is awaiting the Governor's signature. When the bill is signed by the Governor, we plan to meet with the AZDFI to discuss how the agency will handle the legislative changes moving forward. Historically, the Arizona Department of Financial Institutions (AZDFI) does not make rules. In addition, Governor Ducey placed a moratorium on regulatory rulemaking in 2015. The moratorium prohibits all state agencies from conducting any new rulemaking, except when changes to rules create efficiencies; protect public health and safety; are necessary to avoid violating a court order or federal law; and fulfill budgetary obligations.

Compliance News

NCUA Overhauls Member Business Lending Rule

The NCUA Board overhauled the agency's member business lending (MBL) rule in February. The amendments to Part 723 provide federally insured credit unions with greater flexibility and autonomy in safely and soundly providing business loan services to their members.

The final rule replaces the current rule's prescriptive requirements and limitations – such as collateral and security requirements, equity

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requirements, and loan limits – with a broad principles-based regulatory approach.

Key changes in the final rule include:

- Giving credit union loan officers the ability, under certain circumstances, to not require a personal guarantee;
- Replacing explicit loan-to-value limits with the principle of appropriate collateral, and eliminating the need for a waiver;
- Lifting limits on construction and development loans;
- Exempting credit unions with assets under \$250 million and small commercial loan portfolios from certain requirements; and
- Affirming that nonmember loan participations don't count against the statutory member-business lending cap.

The changes to the MBL rule go into effect Jan. 1, 2017 (other than the personal guarantee provision, which goes into effect May 13, 2016).

The new rule establishes a minimum safety and soundness standard for MBLs. States may choose to impose higher standards, but not lower. The seven states with pre-approved MBL rules were “grandfathered” into the rule. Other states may submit a new rule for NCUA review.

The final rule doesn't expand credit unions' business loan authority or modify the statutory limit on member-business lending.

Source: Credit Union Magazine

FinCEN to Publish Final CDD Rules May 11

FinCEN has submitted "Customer Due Diligence Requirements for Financial Institutions" final rules for Federal Register publication on May 11, 2016, to "clarify and strengthen customer due diligence requirements for, banks and credit unions, brokers or dealers in securities, mutual funds, and futures commission merchants and introducing brokers in commodities. The rules contain explicit customer due diligence requirements and include the anticipated new requirement to identify and verify the identity of beneficial owners of legal entity customers, subject to certain exclusions and exemptions." Financial Institutions will have to use Customer Identification Program procedures to verify the identity of beneficial owners, although when documentation is used, the financial institutions can rely on copies. The rule allows financial institutions to rely on information provided by the customer. The rules will be effective 60 days after publication (July 11, 2016); covered financial institutions must comply with the rules by May 11, 2018, two years after publication.

To assist credit unions in compliance with these new rules, CUNA has created a “CDD Compliance Chart” which can be found [here](#).

Source: FinCEN and CUNA

NCUA Lists Online Financial Help Resources for Seniors

The National Credit Union Administration is reminding older Americans about the agency's online resources to help them manage money and protect themselves against fraud.

“Consumer protection and financial education are key parts of NCUA's mission and part of the credit union model, as well,” NCUA Board Chairman Rick Metsger said. “Giving credit union members, particularly older Americans, the educational tools and security information to help them

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InfoSight Highlight

BSA and Marijuana-Related Businesses

[The FinCEN guidance](#) clarifies how credit unions can provide financial services to marijuana-related businesses while maintaining their BSA obligations. In general, the decision to open, close, or refuse any particular account or relationship should be made while considering a number of factors including the businesses objectives, an evaluation of the risks associated with offering a particular product or service, and its capacity to manage those risks effectively. FinCEN points out that thorough customer due diligence is a critical aspect of making this assessment.

In providing service to marijuana-related businesses the credit union is required to conduct member due diligence that includes:

- Verifying with the appropriate state authorities whether the business is duly licensed and registered;
- Reviewing the license application (and related documentation) submitted by the business for obtaining a state license to operate its marijuana-related business;
- Requesting from state licensing and enforcement authorities available information about the business and related parties;
- Developing an understanding of the normal and expected activity for the business, including the types of products to be sold and the type of customers to be served (e.g., medical versus recreational customers);
- Ongoing monitoring of publicly available sources for adverse information about the business and related parties;
- Ongoing monitoring for suspicious activity, including for any of the red flags described in this guidance; **and**
- Refreshing information obtained as part of customer

manage and protect their money is increasingly important, and I hope credit unions and their members will take advantage of the resources we offer.”

May is Older Americans Month, and NCUA’s [Pocket Cents](#) financial literacy website includes an entire section on issues of particular interest to older Americans. The [MyCreditUnion.gov](#) website contains tips on handling personal finances and protecting against frauds and scams aimed at older adults. NCUA also has a video explaining how certain financial scams specifically target older Americans and how to avoid being victimized. The agency’s Consumer Assistance Center is available to answer questions or handle complaints.

In September 2014, NCUA signed a memorandum of understanding with AARP to work on a series of initiatives aimed at promoting education and outreach to help older Americans become more financially secure. Those efforts have included:

- Launching the agency’s online [Fraud Prevention Center](#), and incorporating AARP’s [Fraud Watch Network](#) as a resource;
- Co-hosting a Twitter chat on detecting and preventing financial abuse; and
- Co-hosting a webinar on avoiding frauds and scams.

Under the Federal Credit Union Act, promoting financial literacy is a core credit union mission. While credit unions serve the needs of their members and promote financial literacy within the communities they serve, NCUA works to reinforce credit union efforts, raise consumer awareness and increase access to credit union services. NCUA also participates in national financial literacy initiatives, including the Financial Literacy and Education Commission, an interagency group created by Congress to improve the nation’s financial literacy and education.

Source: NCUA

Advocacy Highlight

FCC Proposes TCPA Rule for Government Debt Collection Calls

The Federal Communications Commission (FCC) released its proposed rule for the collection of debts owed to the federal government.

CUNA [previously](#) wrote about details of a draft Notice of Proposed Rulemaking (NPRM) in letters responding to federal lawmakers who oppose the new exemption for government debt collectors.

The proposed rule was prompted by the Budget Act of 2015, (Budget Act) which amended the Telephone Consumer Protection Act, (TCPA) to create exemptions for calls made to cell phones when collecting a debt owed to, or guaranteed by, the federal government. This change means that if calls are made solely pursuant to the collection of a debt owed to or guaranteed by the United States, the caller is no longer required to have the prior express consent of the recipient.

In the [notice](#), the FCC seeks comments on the implementation of the Budget Act amendments, and questions, such as which calls are covered by the phrase “solely to collect,” how we should restrict the number and duration of such calls, and how to implement such restrictions.

due diligence on a periodic basis and commensurate with the risk.

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

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](#).



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 4

- Independence Day – Federal Holiday

July 22

- 5300 Call Report Due to NCUA

July 31

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

October 31

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

Effective Dates New and Revised Rules

May 13, 2016~NCUA

[Personal Guarantees - MBL](#)

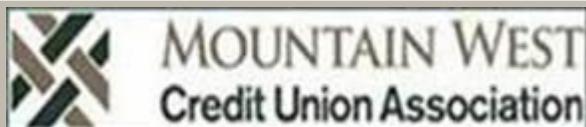
July 1, 2016~DoEd

[Program Integrity and Improvement](#)

CUNA has previously expressed concerns about carving out special treatment for government debt collectors, and plan to urge the FCC to extend this same exemption to financial institutions. CUNA will be preparing a Comment Call on this proposal, and seeking feedback from credit unions.

Comments are due on June 6, 2016, with a Reply Comments due June 21, 2016.

Source: CUNA



Training & Events Calendar

May 16

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

May 17

Webinar: Wire Transfer Compliance, Including International Remittances

May 24

Webinar: Understanding & Managing the CFPB Complaint Process

May 25

Webinar: Developing Quality & Efficiency in Your IT Audit

June 2

Webinar: Best Practices for Member Business Lending

June 8

Financial Strategies Seminar - Denver

June 9

Webinar: FFIEC Cyber Security Risk Assessments: Recent Findings & Recommended Actions

June 20

Webinar: Understanding FCRA Permissible Purposes in Obtaining Credit Reports

June 22

Webinar: Product Terms Part 1 – Modifying Existing Produce Terms & Fees, Including Timing, Content & Requirements for Change-in-Terms Notices

June 29

Webinar: Understanding FCRA Permissible Purposes in Obtaining Credit Reports

June 30

Webinar: Compliance Officer Training – Risk Assessments, Monitoring & Testing

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

CUNA Comment Calls – Due Dates on Proposed Rules

April 29, 2016~Financial Literacy & Education Commission

National Strategy for Financial Literacy Update

June 20, 2016~NCUA

NCUA Occupancy Rule

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

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