

Regulatory Compliance News



MOUNTAIN WEST
Credit Union Association

May 20, 2016

Compliance News

NCUA Reviewing Annual Exam Process

A [review of the NCUA examination process](#) has been initiated by Chairman Metsger. It will include the frequency of examinations. Metsger outlined the plan in a speech to the Idaho Credit Union League. He stated, "To begin this process, ... we must first remove the requirement that every federal credit union and all federally insured, state-chartered credit unions with more than \$250 million in assets, be examined each calendar year. This prescriptive requirement creates a logjam of exams at the end of each year, which is neither effective nor efficient." Metsger indicated the goal is to implement the change within the next two months. Removing the calendar year requirement will not alter the general objective of examining credit unions every 12 months, he said, but it is a necessary first step towards establishing an extended examination cycle for well-managed, financially sound credit unions.

22 Credit Unions Agree to Late-Filing Penalties for Fourth Quarter of 2015

Twenty-two federally insured credit unions subject to civil monetary penalties for filing late Call Reports in the fourth quarter of 2015 have consented to penalties, the National Credit Union Administration announced today. Twenty-eight credit unions consented to penalties in the fourth quarter of 2014.

The late filers will pay a total of \$13,548 in penalties. Individual penalties range from \$157 to \$2,580. The median penalty was \$356. The Federal Credit Union Act requires NCUA to send any funds received through civil monetary penalties to the U.S. Treasury.

"In fewer than four years, the number of late filers has been reduced from 1,744 to 30, and overall compliance is now at more than 99.6 percent," NCUA Board Chairman Rick Metsger said. "Our new policies have successfully facilitated compliance, with no additional burden on the vast majority of credit unions that file on time and with relatively small penalties for those who file late.

"NCUA will continue working diligently to help credit unions get their Call Reports in on time, and we'll keep at it until we have full compliance," Metsger said. "I hope any credit union that is running into problems meeting the deadline will take advantage of the assistance the agency offers."

The assessment of penalties primarily rests on three factors: the credit union's asset size, its recent Call Report filing history and the length of the filing delay. Of the 22 credit unions agreeing to pay penalties for the fourth

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quarter of 2015:

- Fifteen had assets of less than \$10 million;
- Five had assets between \$10 million and \$50 million; and
- Two had assets between \$50 million and \$250 million.

No credit unions with assets greater than \$250 million were subject to civil money penalties for filing late Call Reports in the fourth quarter. Seven of the late-filing credit unions had been late in a previous quarter.

A total of 30 credit unions filed Call Reports late for the fourth quarter of 2015. NCUA consulted regional offices and, when appropriate, state supervisory authorities to review each case. This review determined mitigating circumstances in eight cases that led to credit unions not being penalized. NCUA informed the remaining 22 credit unions of the penalties they faced and advised them they could reduce their penalties by signing a consent agreement. NCUA also said it would initiate administrative hearings against credit unions that did not consent.

NCUA sends reminder messages about Call Report filing deadlines that include information on how to receive technical support to handle filing problems. The agency also has created an automated reminder email system that contacts credit unions that have not filed their Call Reports and confirms successful filing.

NCUA's Office of Small Credit Union Initiatives has dedicated an Economic Development Specialist to assist small credit unions in filing Call Reports on time. Credit unions that would like assistance should send an email to: OSCUIConsulting@ncua.gov.

NCUA also has produced a [video](#) describing how to file Call Reports.

Source: NCUA

Bureau Adds TILA-Annotated TRID Disclosures

The CFPB has added to its offering of blank model disclosure forms for compliance with the TILA-RESPA Integrated Disclosure (TRID) rule a [Loan Estimate](#) and a [Closing Disclosure](#), each annotated with citations to the disclosure provisions in the Truth in Lending Act that are referenced in the TRID final rule. The additions can be found on the [implementation webpage](#) for the rule.

Source: CFPB

FTC FCRA Compliance Guidance for Background Screening

The Federal Trade Commission has created and posted on its website [new guidance](#) giving employment background screening companies information on how to comply with the Fair Credit Reporting Act (FCRA). The guidance helps companies understand when their work defines them as a consumer reporting agency under the FCRA. Consumer reporting agencies must meet a number of obligations outlined in the FCRA, including investigating consumer disputes and correcting inaccurate information. The guidance also outlines the requirements that employment background screening companies face under FCRA, including their requirements in dealing with their clients and how they interact with consumers.

Source: FTC.gov

Advocacy Highlight

Agencies Propose Limits on Incentive-Based Compensation

A [joint press release](#) from six federal agencies (FDIC, FHFA, FRB, NCUA, OCC, and SEC) invites public comment on a [proposed rule](#) that would

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InfoSight Highlight

Member Business Lending

Business Loan Policy Requirement. NCUA requires that to engage in business loans, the credit union must have specific business loan policies that are adopted by the board of directors and reviewed annually.

Collateral and Security Requirements. Unless there is a waiver or covered by certain exceptions, member business loans must be secured by collateral and the maximum loan to value cannot exceed 80% unless the excess is covered by private mortgage insurance (PMI) or an equivalent type of insurance, or insured, guaranteed, or subject to advance commitment to purchase by a government agency, but in no case can it exceed 95%. The one exception is that new amendments to the MBL rules exempt SBA guaranteed loans from MBL collateral requirements. The 80% loan to value ratio requirement does not apply to member business loans for purchasing certain consumer-type vehicles that are used for commercial purposes such as a car, van, pick-up truck, or sports utility vehicle (SUV) that are not part of a fleet of vehicles.

As of May 13, 2016, the credit union may require a full and unconditional personal liability and guarantee from the principal(s) of the borrower. If the credit union determines a personal guarantee is not needed, the credit union will need to document the loan file with the mitigating factors that sufficiently offset the relevant risk for not requiring the guarantee.

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

prohibit incentive-based compensation arrangements that encourage inappropriate risks at covered financial institutions. The deadline for comments on the proposal, which was submitted for publication in the *Federal Register*, is July 22, 2016. The proposed rules would apply to covered financial institutions with total assets of \$1 billion or more. The requirements are tailored based on assets, and covered institutions would be divided into three categories:

- Level 1: institutions with assets of \$250 billion and above;
- Level 2: institutions with assets of \$50 billion to \$250 billion; and
- Level 3: institutions with assets of \$1 billion to \$50 billion.

Source: Federal Reserve

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 to 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.

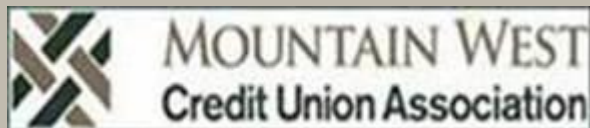
CUNA has previously expressed concerns about carving out special treatment for government debt collectors, and plans to urge the FCC to extend this same exemption to financial institutions. CUNA will be preparing a Comment Call on this proposal, and seeking feedback from credit unions.

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

ICYMI: What’s Happening in Other States

In the States... Cornerstone Credit Union League Seeking Changes to [Oklahoma Open Carry Bill](#)... Legislation to Combat [Patent Infringement](#) Enacted in Minnesota... [Burdensome Affidavit Requirement](#) Near Removal in Louisiana. And in Michigan, updates to the [Michigan Credit Union Act](#), the first since 2003, may be heading for a vote of the senate this week.

Source:CUNA



[Training & Events Calendar](#)

May 24

[Webinar: Understanding & Managing the CFPB Complaint Process](#)

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

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](#)

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](#)

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 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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