

## Regulatory Compliance News



**MOUNTAIN WEST**  
Credit Union Association

May 27, 2016

### Compliance News

#### NCUA Extends Call Report Deadlines for 2Q, 3Q of 2016

Credit unions will have an additional three days to file second- and third-quarter call reports this year, the NCUA announced. Second quarter call reports will be due by 11:59 p.m. (ET) on July 25, instead of July 22,, while third-quarter call reports will be due at 11:59 p.m. (ET) Oct. 24, instead of Oct. 21.

“We’re giving credit unions a little more leeway for the next two quarters as we complete our study on a future deadline closer to the commercial bank deadline that preserves the key role NCUA’s examiners fill in the validation process,” said NCUA Chair Rick Metsger.

The NCUA first [discussed](#) these changes at last week’s board meeting, as part of a larger board briefing on modernizing the call report. This is part of the agency’s Enterprise Modernization Program, which seeks to leverage technology and other changes to allow the NCUA to collect data from credit unions offsite.

These changes could eventually lead to an extended examination cycle, which CUNA strongly advocates, with [efforts](#) led by its Examination and Supervision Subcommittee whose members include credit unions and state credit union leagues.

The agency’s review of the examination process will also include online surveys, focus groups, workshops and a published request for information in the near future.

Metsger also announced the formation of an examination working group that will bring a recommendation within 120 days about extending the examination cycle.

*Source: NCUA*

#### CFPB Proposed Arbitration Rule Published

The CFPB has published in the [Federal Register](#) its previously-announced proposal to establish a new part 1040 in Chapter X in title 12 of the Code of Federal Regulations, which would contain regulations governing two aspects of consumer finance dispute resolution. First, the proposed rule would prohibit covered providers of certain consumer financial products and services from using an agreement with a consumer that provides for arbitration of any future dispute between the parties to bar the consumer from filing or participating in a class action with respect to the covered consumer financial product or service. Second, the proposal would require a covered provider that is involved in an arbitration pursuant to a pre-dispute arbitration agreement to submit specified arbitral records to the Bureau. The Bureau proposes that the rulemaking would apply to certain

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### Association Compliance Forums

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consumer financial products and services. The Bureau is also proposing to adopt official interpretations to the proposed regulation. Comments on the proposal are due to CUNA by August 12, 2016.

*Source: CFPB*

### Interagency Guidance Regarding Deposit Reconciliation Practices

The OCC, FRB, CFPB, FDIC, and NCUA (collectively, the agencies) have issued "Interagency Guidance Regarding Deposit Reconciliation Practices." The [guidance](#) ensures that financial institutions are aware of supervisory expectations regarding deposit reconciliation practices for customer accounts. Financial institutions are expected to effectively manage their deposit reconciliation practices to comply with Regulation CC and other applicable laws or regulations and to prevent potential harm to their customers.

In addition to policies and procedures, effective compliance management systems for financial institutions include internal controls, training and an oversight and review process.

*Source: CUNA/NCUA*

## 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 prohibit incentive-based compensation arrangements that encourage inappropriate risks at covered financial institutions. The deadline for comments to CUNA on the proposal, which was submitted for publication in the Federal Register, is July 6, 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 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.

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

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## InfoSight Highlight

### Native Advertising

The Federal Trade Commission issued a [policy statement](#) explaining how established consumer protection principles apply to different advertising formats, including "native" ads that look like surrounding non-advertising content.

In the "Enforcement Policy Statement on Deceptively Formatted Advertisements," the Commission lays out the general principles the Commission considers in determining whether any particular ad format is deceptive and violates the FTC Act. The policy statement affirms the long-standing consumer protection principle that advertisements and promotional messages that promote the benefits and attributes of goods and services should be identifiable as advertising to consumers.

The policy statement explains that an ad's format is deceptive if it materially misleads consumers about the ad's commercial nature, including through any implied or express representation that it comes from a party other than the sponsoring advertiser. If the source of advertising content is clear, consumers can make informed decisions about whether to interact with the advertising and the weight to give the information conveyed in the ad.

The FTC also issued "[Native Advertising: A Guide for Business](#)," to help companies understand, and comply with, the policy statement in the context of native advertising. The business guidance gives examples of when disclosures are necessary to prevent deception and FTC staff guidance on how to make clear and prominent disclosures within the format of native ads.

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

## CUNA Advocacy Update

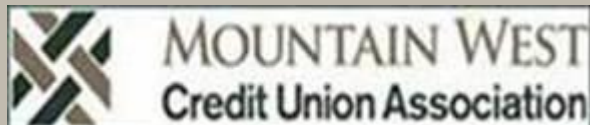
extend this same exemption to financial institutions. CUNA will be preparing a Comment Call on this proposal, and seeking feedback from credit unions.

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

### ICYMI: What's Happening in Other States

[Arizona](#) enacted a credit union act modernization bill that permits credit unions to compensate directors and conduct prize-linked savings programs, and in [Michigan](#), an extensive credit union act recodification is on the verge of passage. Rep. Brad Sherman also recently requested that the CFPB review [Property Tax Assessed Clean Energy \(PACE\)](#) programs as legislation is being considered in a number of states.

Source: CUNA



#### Training & Events Calendar

##### **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 14**

Webinar: [Comparing Regulation E Requirements with Visa & MasterCard Rules](#)

##### **June 20**

Webinar: [Understanding FCRA Permissible Purposes in Obtaining Credit Reports](#)

##### **June 21**

Webinar: [The Growing Scope of Vendor Management: Business Continuity, Cyber Security, Contract Negotiation & More](#)

##### **June 22**

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

##### **June 23**

Webinar: [Legal Aspects of HELOCs: Disclosures, Advertising, Termination, Credit Line Reduction & More](#)

##### **June 29**

Webinar: [Understanding FCRA Permissible Purposes in Obtaining Credit Reports](#)

##### **June 30**

Webinar: [Compliance Officer Training – Risk Assessments, Monitoring & Testing](#)

##### **July 7**

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

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**

##### **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 25**

- 5300 Call Report Due to NCUA

##### **July 31**

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

##### **September 5**

- Labor Day – Federal Holiday

##### **September 23**

- [Same-day ACH \(NACHA\) – Phase 1 of the Implementation Period for the Rule](#)

##### **October 3**

- [DOD Military Lending Act Regulation - Effective Date](#)

##### **October 3**

- [NACHA's Network Quality Rule](#)

##### **October 10**

- Columbus Day – Federal Holiday

##### **October 24**

- 5300 Call Report Due to NCUA

##### **October 31**

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

**July 18**

Webinar: [New FFIEC Guidance on Mobile Financial Services: Evolving Delivery Channels vs. Risk Management Expectations](#)

**July 19**

Webinar: [Advanced Collection Concepts, Compliance & Risks](#)

**July 21**

Webinar: [Countdown to Same-Day ACH September 23, 2016 Deadline](#)

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

**June 1, 2016~FCC**

[Exemptions for the TCPA for Government Debts](#)

**June 6, 2016~Joint Agency**

[Joint Agency Rule on Incentive-Based Compensation](#)

**June 20, 2016~NCUA**

[NCUA Occupancy Rule](#)

**July 15, 2016~NCUA**

[2016 Regulatory Review](#)

**August 12, 2016~CFPB**

[Arbitration Proposal](#)

**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](#)

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

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