



### Compliance News

#### eBay Breach Leads to More Data Security Legislation

Sen. Robert Menendez (D-N.J.) and Rep. Albio Sires (D-N.J.) have introduced new data security legislation in the wake of eBay's announcement Wednesday that users' personal information may have been compromised. The Menendez-Sires Commercial Privacy Bill of Rights aims to increase consumer protections and, in the event of a data breach, hold corporations accountable.

Since the Target data security breach last holiday season, breaches at Michaels, Neiman Marcus have also followed, with eBay being the most recent high-profile example. (See related story: Compromised non-payment card data on the rise: Trustwave.)

In a response to a letter from Menendez following the Target breach, Federal Trade Commission (FTC) Chair Edith Ramirez urged Congress to enact data security legislation that gives the FTC civil penalty authority and recommended that Congress establish a general federal breach notification requirement.

"When we shop, every consumer assumes that companies will protect their data by any means necessary. Yet in the last year, we have read far too many stories about hackers getting past corporations' security systems," Menendez said.

The legislation would only apply to entities covered by the FTC that collect, use, transfer, or store certain information concerning more than 5,000 people during a 12-month period. While the bill will be enforced by the attorney general, state attorneys general and the FTC, private suits based on the law would be prohibited.

The Credit Union National Association has asked Congress to address data security relative to merchants who are not held to the same standards of security as credit unions and other financial institutions.

The proposed bill would do the following:

- Place limits on both the type of information an entity may collect and for how long it may retain that information.
- Require the FTC to issue regulations requiring companies to get consumers' opt-in consent for the transfer of their covered information to third parties for behavioral advertising or marketing; access and correct any personally identifiable information the entity has stored; and compel those entities to inform their customers of and allow them to exercise their rights.
- Require entities to contractually protect consumer information when transferring it to a third party.
- Create a uniform data security notification standard to replace the current notification system and ensure timely notice of a data breach to consumers.
- Provide additional protections for children through inclusion of the Do Not Track Kids Act.
- Require an independent non-governmental organization to help companies implement the bill and tasking the Department of Commerce with organizing outside entities towards the creation of safe harbor provisions.

*Source: CUNA News Now*

#### Merger Guidance Offered in New NCUA Brochure

The National Credit Union Administration's Office of Small Credit Union Initiatives (OSCU) released a new brochure to be used as a resource for credit unions considering a merger. Titled "Truth in Mergers: A Guide for Merging Credit Unions," it provides a framework for credit union managers to

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**Monday, June 9<sup>th</sup>, 2014**

**Town Hall Meeting**

*with Rick Metsger, NCUA Board Member  
starting at 1:30 p.m.*

Denver Community Credit Union -  
Community Room  
1041 Acoma Street Denver, CO



#### Foreign Sanctions Evaders List (FSEs)

OFAC has released its list of those persons identified as Foreign Sanctions Evaders, implementing [Executive Order 13608](#). The list targets individuals and entities that OFAC has determined to have violated, attempted to violate, conspired to violate, or caused a violation of U.S. sanctions on Syria or Iran. It also lists foreign persons who have facilitated deceptive transactions for or on behalf of persons subject to U.S. sanctions. Transactions by U.S. persons or within the United States involving FSEs are prohibited.

This list is not part of the Specially Designated Nationals (SDNs) or Palestinian Legislative

begin discussions about the future of their institution.

"Every strategic plan should include contingencies, including when a merger is worth considering," said OSCUI Director William Myers. "The critical first step is recognizing the early signs that a credit union's long-term viability may be at risk. A credit union still in sound financial condition has more options when it comes to merger partners and is in a better position to negotiate a contract than a credit union in a deteriorated financial condition."

Between 2003 and 2012 there were 2,462 mergers--an average of one every 1.5 days--according to the NCUA. NCUA also found that many credit unions wait until they are in a precarious financial position before exploring a merger as an option.

Many of these credit unions exhibit the following negative characteristics:

- Declining membership: 47% of merging credit unions had negative member growth for three consecutive years prior to failure.
- Prompt Corrective Action (PCA): 26% of merging credit unions were in PCA sometime during the three to four years prior to failure. Existing OSCUI research shows that only 33% of small credit unions recover from PCA within four years.
- Negative earnings: 54% of merging credit unions had negative return on average assets for three consecutive years prior to failure.
- Declining net worth: 53% of merging credit unions had declining net worth ratios for three consecutive years prior to failure.
- Weak CAMEL ratings: 47% of merging credit unions had a composite CAMEL rating of 4, or three consecutive years with a composite rating of 3, prior to failure. None were rated a CAMEL 5.

The brochure draws lessons from a review of more than 430 mergers that took place over an 18-month period. It is designed to help credit unions that might be considering a merger recognize when it might be in its best interest.

Once a credit union is in financial trouble, a merger becomes more difficult because there will be fewer potential partners, giving the troubled credit union less leverage in any negotiations. If a merger deadline is imposed by the NCUA, options can become increasingly limited.

The brochure identifies scenarios that can be harbingers that a credit union's viability is at risk. If a credit union recognizes any of these scenarios, it may want to explore merger options, the NCUA advises.

Characteristics include:

- The credit union's membership is shrinking because it cannot provide desired services, or services on competitive terms, and the credit union's financial condition will not permit improvement.
- The credit union is not serving a unique niche via services, convenience or price, among others.
- The credit union's financial condition is deteriorating, as evidenced by: a CAMEL 4 or lower, or long-term CAMEL 3, consistently negative earnings, consistently declining net worth, PCA, administrative action or repeat Document of Resolution items.
- The credit union does not have a realistic plan to address any of the problems listed above.
- Key credit union officials or employees are nearing the end of their careers and no viable options for replacement exist

It also contains information on how to find a partner, negotiate a merger contract that serves members as well as employees and finalize the transaction.

*Source: CUNA News Now*

### Risky Nonbank Practices Subject of New CFPB Report

A new report, issued by the Consumer Financial Protection Bureau, highlights what the bureau labeled as illegal actions that were uncovered by the bureau's new supervision of the payday, debt collection and consumer reporting markets.

"For the first time at the federal level, nonbank financial institutions are subject to supervisory oversight that holds them accountable for how they treat consumers," said CFPB Director Richard Cordray, unveiling the report.

"The CFPB's oversight of banks and nonbanks alike is exposing risky practices and getting results for consumers. We are pleased that our supervision program has been able to return more than \$70 million to consumers in recent months," Cordray added. The CFPB gained supervisory authority over the nonbank entities under the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.

The new report generally covers supervisory activities between November 2013 and February 2014. In the three nonbank markets highlighted, examiners found that many companies had "systemic

Council (PLC) list, although names may appear on both. Credit unions should check persons and transactions against this list, as well as the SDN and PLC list for possible matches. **If a match is found, contact OFAC at 1-800-540-6322.**

Transactions involving a listed party must be rejected. Accounts held for listed persons must be restricted, and may not be operated without authorization from OFAC.

### CU Compliance Connection: One Per Year IRA Rollover

Recent court action has changed how members will have to manage their individual retirement accounts and limits rollovers to one per year. [Click here](#) for the video.



Our compliance partners at NeighborBench have changed their name to [AffirmX](#).

Enhancements have been made to this cloud-based, near real-time solution that identifies risk AND provides you access to experts. This innovative tool combines call-report data, onsite visits, and document review in the areas of Operations, Lending, BSA, Deposit and Advertising. Imagine staying current with your consumer regulatory compliance risks in one easy-to-read dashboard depiction that saves you time and money. If a full suite of compliance risk assessments isn't the answer for you, we now offer a basic annual compliance package, including BSA, ACH, SAFE Act, and Website compliance for one low price.

For more information about our compliance services, please contact Melia Heimbeck at: [mheimbeck@mwcu.com](mailto:mheimbeck@mwcu.com) or (720) 479-3325 or 1 (800) 477-1697 ext. 3325

### 2014 Compliance Calendar

#### July 4

• [Independence Day – Federal Holiday](#)

#### July 31

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

#### September 1

• [Labor Day - Federal Holiday](#)

#### September 19

• [NACHA Operating Rules Changes](#)

#### October 13

• [Columbus Day – Federal Holiday](#)

#### October 31

flaws" in their compliance management systems, such as consistently failing to have a system in place to track and resolve consumer complaints.

In the payday lending area, the CFPB report found:

- Lenders deceiving consumers to collect debt;
- Lenders illegally harassing borrowers and visiting consumers at work; and
- Lenders hiring third-party collectors that illegally deceive and harass consumers.

In the debt collection market, the CFPB reported:

- Debt collectors intentionally and illegally misleading consumers about litigation;
- Debt collectors making excessive, illegal calls to consumers; and
- Debt collectors failing to investigate consumer credit report disputes.

The bureau said it also discovered problems at consumer reporting agencies--including companies that are popularly called credit bureaus or credit reporting companies. The CFPB said its examiners found certain agencies did not handle consumer credit report dispute documents correctly and that some agencies were encouraging consumers to file disputes online or by telephone, but then refused to accept such disputes from some consumers.

Where CFPB examiners find problems, the bureau said in a release, they alert the company to their concerns and outline necessary remedial measures. When appropriate, the CFPB opens investigations for potential enforcement actions.

Click [here](#) for the CFPB Supervisory Highlights Report.

*Source: CUNA News Now*

### NCUA Begins to Assess Penalties for Late Filers

The National Credit Union Administration has begun the process of assessing civil money penalties to 104 credit unions that filed 2014 first-quarter call reports late. The number of late filers is down 80% from the previous quarter.

"The goal is full compliance," NCUA Chair Debbie Matz said. "More credit unions filed their Call Reports in a timely fashion, but 104 late filers is still far too many. It was particularly troubling that most of the credit unions that filed late for the first quarter had not done so the previous quarter, so they came in late even after NCUA brought this issue to their attention and announced plans for assessing penalties."

Of the 104 credit unions that filed call reports late for the first quarter of 2014, 85 had been on time the previous quarter, and 93 of them were credit unions with assets of less than \$50 million. For the last quarter of 2013, 561 credit unions failed to file on time. Credit unions that filed late in that quarter received a warning letter from the agency.

Credit unions that filed first-quarter call reports late will receive letters from the agency describing the penalties the agency is planning to assess. NCUA is reviewing each late filing to determine the assessments and whether or not there are any mitigating factors.

Matz sent a Letter to Credit Unions (14-CU-03) in January, advising that the agency would, beginning with the first-quarter 2014 call reports, impose civil money penalties on credit unions that file late as a deterrent against late filing.

Penalties would be assessed per day according to ranges set out in the Federal Credit Union Act and based on a credit union's asset size and the violation. NCUA will also consider mitigating factors such as a credit union's filing history and other circumstances, such as a natural disaster, that prevented timely filing.

Click [here](#) for NCUA's letter to CUs.

*Source: CUNA News Now*

## Advocacy Highlights

### CUNA Seeks Comments on New International Remittance Transfers Survey Through June 2

Please take a few minutes to complete CUNA's new [survey](#) on international remittance transfers by June 2. We continue to advocate for improvements to the CFPB remittance rule for credit unions. Our concerns are that some credit unions have stopped or reduced remittance transfers, or are planning to do so; and that credit unions continue to experience compliance challenges. CUNA wants to hear from you regarding the impact of the remittance rule on your international payments services. Your responses will be very helpful as we continue to advocate to important policymakers in an effort to minimize the effects of the Dodd-Frank Act on international remittances.

CUNA continues to work for additional improvements to the rule, including urging an exemption

[Credit Card Qtrly Agreement Submission Due to CFPB](#)

### November 2

[Daylight Savings Time Ends](#)

### November 11

[Veterans' Day – Federal Holiday](#)

## CUNA 2014 Effective Dates

### New and Revised Rules

#### June 30, 2014~NCUA

[Credit Union Service Organization](#)

#### December 31, 2015~IRS

["Foreign Account Tax Compliance Act" \(FATCA\) Rule](#)

## 2014 CUNA Comment Calls

### Due Dates on Proposed Rules

#### May 30, 2014~CFPB

[Amendments to the 2013 Mortgage Rules Under the Truth in Lending Act \(Reg Z\)](#)

#### June 2, 2014~CFPB

[Amendments to Annual Privacy Notice/Disclosures](#)

#### June 2, 2014~HUD

[FHA: ARM Notification Requirements & Look-Back Period for FHA-Insured Single Family Mortgages](#)

#### June 9, 2014~NCUA

[Annual Regulatory Review List](#)

#### June 23, 2014~NCUA

[Associational Common Bond and Field of Membership Requirements](#)

## CUNA Webinars

### June 19

[NCUA Share Insurance](#)

### July 14

[3rd Party Vendors and Regulatory Compliance Demands](#)

### July 17

[Garnishments-Levies](#)

### July 22

[Consumer Lending Update and Fair Lending](#)

### July 29

[Mortgage Lending Update](#)

## CUNA Schools and Conferences

### August 10 - 14

[CUNA Lending Compliance School, Las Vegas](#)

### September 14 - 19

level well over the 100 transfers per year that the CFPB currently provides. In addition, we continue to encourage credit unions to provide comments to the CUNA [Regulatory Call to Action](#) regarding the latest proposed rule on remittances.



This week's [Regulatory Advocacy Report](#) will bring you up to speed on the following issues we are working for on your behalf:

- Credit Unions Weigh In on RBC Proposal
- CUNA Seeks Comments on New International Remittance Transfers Survey Through June 2
- CFPB To Open Board and Council Meetings To the Public
- VA Issues Interim Final Rule on QM
- CFPB Releases Spring 2014 Supervisory Highlights
- Late Filing of Call Reports Triggers Civil Money Penalties
- Massachusetts AG Urges FHFA Policy Changes
- NCUA Issues Notice and Request for Comment – Economic Growth and Regulatory Paperwork Reduction Act Review
- NCUA Releases a Guide To Mergers

[CUNA Regulatory Compliance School Introduction & Update](#), Chicago, IL

**October 26 - 29**

[CUNA Bank Secrecy Act Conference](#), Las Vegas, NV



[Training & Events Calendar](#)

**June 18**

[Webinar: Regulatory Compliance for the Frontline, Including BSA](#)

**June 24**

[Webinar: Reg E & Debit Card Error Resolution: Processing, Disclosure & Investigation](#)

**July 1**

[Webinar: COMPLIANCE OFFICER TRAINING: Will Your AML/BSA/OFAC Program Satisfy Examiner Scrutiny?](#)

**July 9**

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

**July 30**

[Webinar: Real Estate Lending Series: Avoiding HMDA Reporting Mistakes](#)

Please respond to [mrobey@mwcua.com](mailto:mrobey@mwcua.com) with any questions or concerns regarding content of this newsletter.

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