

85Days Until
Aug 1, 2015

With one of the most sweeping regulatory changes for credit unions in decades less than three months away, MWCUA is dedicated to helping you prepare. Each week we will present a topic, question, or idea taking you one step closer to successful implementation.

Have you identified transactions where you will be required to continue using your existing disclosures under TILA and RESPA after the effective date of August 1?

IMPORTANT REMINDER:**Lending Compliance School:**

May 14-15, 2015: Phoenix, AZ

May 20-21, 2015: Denver, CO

Regulatory Compliance News
MOUNTAIN WEST
Credit Union Association

May 8, 2015

Compliance News**Fed Reminds Depositories Consumer Protection Regs May Apply to Commercial Transactions**

In its first quarter 2015 Consumer Compliance Outlook, the Federal Reserve reminds financial institutions that consumer protection statutes and regulations will apply to some commercial transactions, and encourages institutions to review their products and programs to ensure compliance. You can read the current issue [here](#).

Reg. CC, implementing the Expedited Funds Availability Act, for example, applies to "transaction accounts" regardless of whether the account is for personal or business use, or who owns the account. With some limited exceptions, Regulation B (Equal Credit Opportunity Act) applies to all consumer and commercial credit transactions. Other consumer protection regulations that may apply in a commercial transaction include the Flood Disaster Protection Act, the Servicemembers Civil Relief Act, Regulation Z (Truth in Lending Act), Regulation V (Fair Credit Reporting Act), and Regulation C (Home Mortgage Disclosure Act).

Fed, CFPB to Host New Integrated Disclosure Webinar

Credit union professionals can learn more about the Truth in Lending Act and the Real Estate Settlement Procedures Act during a free webinar scheduled for May 26 at 2pm Eastern. The webinar will be hosted by the Federal Reserve and presented by representatives from the CFPB. The session will focus on the TILA-RESPA Integrated Disclosure Rule, which consolidates the multiple existing mortgage disclosures required under TILA and RESPA into two integrated forms, and also implements new requirements for providing the disclosures to consumers. This is the fifth and final webinar in a series that focuses on the new rule, which takes effect Aug. 1, 2015. To learn more or register, visit the [Fed's Outlook Live web page](#). Previous webinars in the series are available on the [CFPB's website](#).

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Still Time to Register for Cybersecurity Webinar

NCUA is hosting a webinar May 20 at 2pm Eastern where credit unions can learn more about cyber threats and deterring cybercrime. Tim Segerson, Deputy Director of NCUA's Office of Examination and Insurance; Chris Gill, Risk Management Consultant with CUNA Mutual Group; and Jessica Cromer, Corporate Sales Associate for Financial Services, Citrix Sharefile, will discuss the FFIEC's work to develop a self-assessment guide for use by credit unions, among other topics. Click [here](#) to register.

Source: CUNA

Agencies Issue Final Rule on Minimum Requirements for Appraisal Management Companies

Six federal financial regulatory agencies issued a final rule that implements minimum requirements for state registration and supervision of appraisal management companies (AMCs). An AMC is an entity that provides appraisal management services to lenders or underwriters or other principals in the secondary mortgage markets. These appraisal management services include contracting with licensed and certified appraisers to perform appraisal assignments.

The final rule implements amendments to Title XI of the Financial Institution Reform, Recovery, and Enforcement Act of 1989 made by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.

Under the rule, states may elect to register and supervise AMCs. The AMC minimum requirements in the final rule apply to states that elect to register and supervise AMCs, as AMCs are defined in the rule. The final rule does not compel a state to establish an AMC registration and supervision program, and no penalty is imposed on a state that does not establish a regulatory structure for AMCs. However, in states that have not established a regulatory structure after 36 months from the effective date of this final rule, any non-federally regulated AMC is barred by section 1124 of Title XI from providing appraisal management services for federally related transactions. A state may adopt a regulatory structure for AMCs after this 36-month period, which would lift this restriction.

Under the final rule, participating states must apply certain minimum requirements in the registration and supervision of appraisal management companies. An AMC that is a subsidiary of an insured depository institution and is regulated by a federal financial institution regulatory agency (a federally regulated AMC) must meet the same minimum requirements as state-regulated AMCs except for the requirement to register with a state.

This final rule will become effective 60 days after publication in the *Federal Register*. The compliance date for federally regulated AMCs is no later than 12 months from the effective date of this rule. A participating state will specify the compliance deadline for state-regulated AMCs.

The final rule is being issued jointly by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Consumer Financial Protection Bureau, the Federal Housing Finance Agency, and the National Credit Union Administration.

Publication of the final rule in the Federal Register is expected soon. [Here](#) is the draft.

Source: NCUA

Overdraft Fee Lawsuits Target CUs - April 29, 2015

Plaintiff attorneys are aggressively pursuing class-action suits against credit unions with overdraft fee programs, initially targeting larger credit unions in California. These cases are alleging that fees are being improperly assessed on the available balance, the fee structure is not clearly communicated, and members are not being provided with accurate available balance information. The potential uninsurable damages in these cases are typically in the millions of dollars.

Details:

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Loan Participations

Pursuant to NCUA Part 701.22, federal credit unions (FCUs) may participate in making loans with eligible organizations (i.e., a credit union, CUSO, federally insured financial institutions or government agencies and their subdivisions) within the limitations of the board of directors' written loan participation policies, provided:

- No FCU may obtain an interest in a participation loan if the sum of that interest and any (other) indebtedness owing to the FCU by the borrower exceeds 10% of the FCU's unimpaired capital and surplus;
- A written master participation agreement must be properly executed, acted upon by the FCU's board of directors, or if the board has so delegated in its policy, the investment committee of senior management official(s) and retained in the FCU's office. The master agreement must include provisions for identifying, either through a document which is incorporated by reference into the master agreement, or directly in the master agreement, the participation loan(s) prior to the sale; and
- A FCU may sell to or purchase from any participant the servicing of any loan in which it owns a participation interest.

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



The [CUNA Regulatory Advocacy Report](#) 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. You can view the current report and past reports from the archive.



Compliance Calendar

April 24

▲ 5300 Call Report Due to NCUA

May 16

Some credit unions assess an overdraft fee based on the member's available balance, rather than on the actual balance. The available balance is lower than the actual balance due to funds being held for debit card authorizations and check holds. The suits allege that this situation causes confusion and may mislead members because assessing the fee on the available balance could lead to situations where overdraft fees are assessed even though the actual balance may not go negative.

Litigation has been targeting these types of credit union overdraft fee programs. In fact, lawsuits allege multiple claims including:

- The credit union improperly assessed overdraft fees based on the available balance rather than on the actual balance in the member's account when the transactions clear the account.
- In assessing these fees, the credit union breached the account agreement, which either misstates when the credit union charges overdraft fees or fails to disclose how fees are calculated.
- The credit union has misled members as to when fees will be charged by failing to clearly define available balance, or by failing to disclose the available balance to their members prior to the transactions.

If successful, the plaintiffs' alleged damages could be significant. If the court determines that the overdraft fees were unlawful and/or improper, the credit union could be required to return years of overdraft fees to its members. For some credit unions, these damages could easily exceed several million dollars.

Source: CUNA Mutual

NCUA Issues Board Action Bulletin

A [Board Action Bulletin](#) has been issued by the NCUA to announce actions approved at the April 30, 2015, meeting of its Board:

- A final rule providing regulatory relief by authorizing automatic approval of 12 types of associational groups for inclusion in federal credit unions' fields of membership.
- A proposed rule to implement a new law providing pass-through share insurance coverage for lawyers' trust accounts, realtor escrow accounts and prepaid funeral accounts.
- A final rule to extend corporate credit unions' secured borrowing terms and allow retained earnings acquired in mergers to count toward capital going forward.
- A proposed rule to expedite access to short-term cash by allowing corporate credit unions to provide bridge loans to credit unions awaiting funds from the Central Liquidity Facility.
- A request from the Connecticut Department of Banking to exempt Connecticut-chartered credit unions from NCUA's credit union service organization rule in favor of a substantially similar state rule.
- Additionally, The Board issued a 60-day comment period for a [proposed rule](#) that would amend Part 745 to incorporate provisions of the Credit Union Share Insurance Parity Act that requires NCUA to extend pass-through share insurance to IOLTAs and other similar trust accounts.

The proposal would require only the person administering the escrow account to be a member of the federally insured credit union in which such account is maintained for share insurance coverage to flow through to each client or principal, regardless of that person's membership status.

CUNA has strongly advocated to NCUA for the insurance coverage to extend to other accounts. The proposed rule would extend insurance coverage to realtor escrow accounts and prepaid funeral accounts.

NCUA seeks comments on other similar escrow accounts that could be considered for pass-through coverage. Unfortunately, the proposal would not extend insurance coverage for prepaid accounts beyond what is currently available.

The law became effective for lawyers' trust accounts when enacted in

• [IRS Form 990 Due](#)

May 25

• [Memorial Day – Federal Holiday](#)

July 3

• [Independence Day – Federal Holiday](#)

July 18

• [Higher-Priced Mortgage Loans: Modified exemptions for loans secured by manufactured homes](#)

July 23

• [Changes to Posting Rules for ACH Transactions \(Federal Reserve\) Effective date](#)

July 24

• [5300 Call Report Due to NCUA](#)

August 1

• [CFPB: Know Before You Owe Disclosure - Effective Date](#)

August 1

• [CFPB: Integrated Mortgage Disclosures - Effective Date](#)

CUNA Comment Calls – Due Dates on Proposed Rules

April 24, 2015~NCUA

[Fixed Assets](#)

May 1, 2015~NCUA

[Small Entity Definition](#)

May 1, 2015~Federal Reserve

[EGRPRA Review \(Excludes NCUA\)](#)

May 6, 2015~CFPB

[Credit Card Market Review](#)

May 7, 2015~CFPB

[Consumer Complaint Database](#)

July 13, 2015~NCUA

[2015 Annual NCUA Regulatory Review List](#)

Effective Dates New and Revised Rules

August 1, 2015~CFPB

[TILA-RESPA Integrated Disclosure Rule](#)

December 31, 2015~IRS

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



[Training & Events Calendar](#)

Lending Compliance School:

[May 14-15, 2015: Phoenix, AZ](#)

[May 20-21, 2015: Denver, CO](#)

May 6

Webinar: [Revised Escrow Rules Effective August 1, 2015](#)

December of last year.

Source: CUNA & NCUA

Nominations for NCUA Consulting Assistance Open

The NCUA has [announced](#) that credit unions that qualify for consulting assistance from its Office of Small Credit Union Initiatives have until May 31, 2015, to submit nominations. The [application](#) is available online. Credit unions may nominate themselves or be nominated by an NCUA examiner. The consulting services, available at no charge, are provided for a six-month period. Credit unions chosen to participate in the program will be announced in June. The next round of consulting begins July 1, 2015.

Source: NCUA

Advocacy Highlight

The NCUA Board (Board) proposes to amend its share insurance regulations to implement statutory amendments to the Federal Credit Union Act (FCU Act) resulting from the recent enactment of the Credit Union Share Insurance Fund Parity Act (Insurance Parity Act). The statutory amendments require NCUA to provide enhanced, pass-through share insurance for interest on lawyers trust accounts (IOLTA) and other similar escrow accounts. As its name implies, the Insurance Parity Act ensures that NCUA and the Federal Deposit Insurance Corporation (FDIC) insure IOLTAs and other similar escrow accounts in an equivalent manner.

To submit comments related to this proposal use one of the following methods:

- NCUA Web Site: <http://www.ncua.gov/Legal/Regs/Pages/PropRegs.aspx>. Follow the instructions for submitting comments.
- E-mail: Address to regcomments@ncua.gov. Include “[Your name] Comments on Proposed Rule – Part 745” in the e-mail subject line.
- Fax: (703) 518-6319. Use the subject line described above for e-mail.
- Mail: Address to Gerard Poliquin, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428.
- Hand Delivery/Courier: Same as mail address.

Source: CUNA

May 11

Webinar: [The FFIEC's New Appendix J on Outsourced Technology Services](#)

May 14

Webinar: [Home Equity, HELOC & Second Lien Risk Management, Including Maturing HELOC Guidance](#)

May 20

Webinar: [Advanced ACH Specialist Series: ACH Death Notification Entries \(DNEs\) & Reclamations: Your Credit Union's Liability](#)

May 21

Webinar: [Wire Transfer Compliance: Who is Liable?](#)

May 26

Webinar: [Testing Loan Audit Procedures for Integrated Disclosure Compliance Before the 8-1-15 Deadline](#)

May 28

Webinar: [The ALLL in Troubled Debt Restructuring: Identifying & Accounting for Impaired Loans](#)

June 10

Webinar: [Countdown to the Integrated Disclosure Deadline: August 1, 2015](#)

June 11

[Compliance Networking Council](#) – Casper, Denver, Phoenix

CUNA Schools and Webinars

June 1 - 18

[CUNA Consumer Lending eSchool](#)

June 1

Webinar: [Basics of Consumer Lending – Part 1](#)

June 4

Webinar: [Home Equity Lending](#)

June 8

Webinar: [Basics of Consumer Lending – Part 2](#)

June 11

Webinar: [Consumer Lending Compliance 101](#)

June 25

Webinar: [Use of Loan Guaranties Instead of Co-Signers](#)

July 21

Webinar: [What is New in Mortgage Lending Compliance](#)

August 11 - 13

Webinar: [Performing Your ACH Audit and ACH Risk Assessment Series](#)

August 25 – December 31

[CUNA Regulatory Compliance Update eSchool](#)

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

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