

Regulatory Compliance News



MOUNTAIN WEST
Credit Union Association

June 10, 2016

Compliance News

Be Prepared - ADA and Your Website

Recent activity in many credit unions highlights the need to ensure compliance with the Americans with Disabilities Act (ADA) relating to your website. In 2010 the Department of Justice (DOJ) published an Advance Notice of Proposed Rulemaking (ANPR), found [here](#).

These DOJ rules implement Title III of the ADA which address obligations of public accommodations to make goods, services, facilities, privileges, accommodations, or advantages they offer via the Internet accessible to individuals with disabilities. The ADA requires that public accommodations provide individuals with disabilities with full and equal enjoyment of their goods, services, facilities, privileges, advantages, and accommodations. Many people with disabilities use "assistive technology" to enable them to use computers and access the Internet. New and innovative assistive technologies are being introduced every day. Websites that do not accommodate assistive technology create unnecessary barriers for people with disabilities and expose the webhost to litigation.

Individuals who are blind or have low vision may use screen readers-- devices that speak the text that would normally appear on a monitor. People who have difficulty using a computer mouse can use voice recognition software to control their computers with verbal commands. People with other types of disabilities may use still other kinds of assistive technology. Web designers may not realize how simple features built into a website will assist someone who cannot see a computer monitor or use a mouse. In addition, in many cases, websites do not provide captioning for videos or live events streamed over the Web, leaving persons who are deaf or hard of hearing unable to access the information.

Lawsuits related to ADA Title III website accessibility are on the rise. According to Seyfarth Shaw LLP, Title III website accessibility lawsuits increased 63% in 2014 and another 8% in 2015. To date, several of our MWCUA credit unions have reported website compliance questions specifically related to ADA compliance.

For assistance with ADA compliance of your website contact Melia Heimbeck at mheimbeck@mwcu.com.

How to Prepare for Customer Due Diligence Rule

With a May 2018 compliance date for the Treasury's new customer due diligence (CDD) rule, credit unions may be tempted to set it aside and focus on current compliance issues. But credit unions should use this time well, according to CUNA compliance staff, because it's never too early to determine what [changes need to be made](#) to policies, procedures and

Your Credit Union's Regulatory Compliance Support Staff

Mark Robey

Sr. VP of Regulatory Affairs

Phone: 800-477-1697, ext. 3327

Direct: 720-479-3327

Melia Heimbeck

Director of Compliance Operations

Phone: 800-477-1697, ext. 3325

Direct: 720-479-3325

Julie Kappenman

Director of Association Compliance Services

Phone: 800-477-1697, ext. 3324

Direct: 720-479-3324

Donna Gibbs

Coordinator Association Services/Compliance

Phone: 800-477-1697, ext. 3281

Direct: 720-479-3281

Association Compliance Forums

Click on one of the below links to subscribe

[Compliance Forum](#)

[BSA Compliance Officer Forum](#)

Please provide the subscriber's name, credit union, title and email address. The subscriber will receive a welcome e-mail that details how to access the forum.



Reduce compliance worries!

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software systems.

The Treasury's Financial Crimes Enforcement Network (FinCEN) finalized this change to the Anti-Money Laundering/Bank Secrecy Act (AML/BSA) rules last month, which would clarify and strengthen CDD obligations of financial institutions, including credit unions.

When it comes to AML/BSA procedures, credit unions should look at updating:

- Internal controls;
- Independent testing procedures; and
- Risk-assessment procedures.

According to CUNA's compliance staff, credit unions should also begin to consider how they will:

- Ensure their third-party processor is aware of the new information and monitoring requirements and will have the credit union's system updated no later than May 11, 2018;
- Determine how the credit union will identify the beneficial owners of any legal entity accounts and talk to their processors to see whether the certification form provided in the regulation can be incorporated into an electronic records system;
- Update account opening procedures to include the identification of the beneficial owners of business accounts and any other "legal entity" accounts;
- Update Member Identification Program (MIP) procedures to include the methods that will be used to verify beneficial owners of legal entity accounts; and
- Ensure that all appropriate personnel are trained on the new policies and procedures developed to meet the compliance requirements of this new rule.

Source: CUNA

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](#).



[Training & Events Calendar](#)

June 14

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

June 20

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

Lending, and Operations.

If a full suite of compliance services is not what you are looking for, we now offer self-assessment tools, individual loan reviews, and a basic annual compliance package that includes ACH, BSA, SAFE Act, and Website compliance.

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



InfoSight Highlight

Whistle Blower Laws

In response to accounting and financial scandals, Congress signed corporate governance legislation, the Sarbanes-Oxley Act of 2002 ("the Act"). The vast majority of Sarbanes-Oxley governs companies that are publicly traded, therefore excluding credit unions from its coverage. The Act primarily deals with fraud in financial reporting, accounting, securities reforms, corporate governance, disclosures to stock holders, and whistleblower protection.

Although most of the act does not technically apply to credit unions, credit unions do need to be aware of Section 1107 of the Act, prohibiting criminal whistleblower retaliation. The prohibition applies to any individual or organization (not just publicly traded companies). Specifically, section 1107 makes it a crime to "knowingly, with the intention to retaliate, take any action harmful to any person, including interference with the lawful employment or livelihood of any person, for providing to a law enforcement officer any truthful information relating to the commission or possible commission of any Federal offense."

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

Advocacy Highlight

CFPB Proposes Rule to End Payday Debt Traps

The Consumer Financial Protection Bureau [announced](#) its anticipated [proposed rule](#) [PDF, 1334 pages] that would require lenders who offer covered loan products to determine whether borrowers can afford the full amount of each payment when it is due without having to reborrow within the next month and limit lenders' ability to roll such debt over. Covered loans would

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](#)

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](#)

July 26

Webinar: [Risks & Precautions for Endorsements & Other Negotiable Instruments](#)

July 28

Webinar: [Overdraft Outlook: Litigation Lessons, Avoiding Violations & Best Practices](#)

August 3

Webinar: [Product Terms Part 2: Establishing New Product & Service Controls](#)

August 9

Webinar: [Email Risks, Rules, Records & Regulations](#)

August 10

Webinar: [Legally Handling ATM & Debit Card Claims Under Reg E](#)

August 23

Webinar: [Complying with Final Military Lending Act Rule Changes Effective October 3, 2016](#)

August 24

Webinar: [Auditing for BSA Compliance](#)

August 25

Webinar: [Annual MLO Compliance Requirements & Auditing for SAFE Act](#)

NCUA Webinars

NCUA to Host Webinar on Changes to Military Lending Act

include payday loans, single-payment auto title loans and certain high-cost installment loans (those with an "all-in" APR over 36 percent to be repaid by creditor access to the consumer's deposit account or paycheck or secured by a vehicle title).

Under the proposal, loans of \$500 or less could be offered with a "principal reduction feature" designed to keep consumers from being trapped in debt. Lenders could also offer two longer-term loan options with more flexible underwriting by adhering to certain limits, such as loans generally meeting the parameters of the NCUA's "payday alternative loans" program or loans payable in equal installments with terms not over two years with an all-in cost of 36 percent or less, plus a reasonable origination fee.

Another provision of the proposal would require a notice in advance of a lender's attempt to collect a payment on a covered loan from the consumer's deposit account, and cut off a lender's authorization for such account access after two unsuccessful attempts, unless the lender obtains a new authorization. See resources below:

- [Fact sheet](#) on proposed rule
- Proposed [model disclosure forms](#)

The Bureau also announced an inquiry into other potentially high-risk loan products and practices that are not specifically covered by the proposed rule. A [Request for Information](#) was issued with a **comment deadline of September 14, 2016**. Also released was the text of [CFPB Director Cordray's prepared remarks](#) introducing the proposal and inquiry at the Field Hearing on Small-Dollar Lending, held on 6/2/16 by the Bureau in Kansas City, Missouri.

Source: CUNA

CFPB Small-Dollar Rule Impacts State Laws – CUNA Weighs In!

As CUNA continues to analyze the more than 1,300 page [CFPB payday lending proposed rule](#), it is clear that the rule will have an impact on existing state payday lending laws. Thirty-six states have specific statutes that allow for payday lending, and the other 14 states and the District of Columbia either ban payday loans or have fee or interest rate caps that payday lenders apparently find too low to sustain their business models. This proposed rule, if finalized, would create a uniform standard for all US payday lenders for the first time in US history.

Payday lending also differs in each of the states where it is permitted. Loan sizes vary depending on state law limits, individual lender credit models, and borrower demand. Many states also regulate payday loan limit fees, the number of rollovers, and extended

Regulations

The National Credit Union Administration will host a webinar, “Preparing to Comply with Regulatory Changes to the Military Lending Act,” on **Wednesday, June 29, starting at 2 p.m. Eastern.**

During this webinar, staff from NCUA’s Office of Consumer Protection will provide a high-level overview of the significant changes to the regulation implementing the Military Lending Act, most of which go into effect by Oct. 3, 2016. The law now covers most non-mortgage-related consumer credit extended to active duty service members and certain dependents.

The webinar will review topics like:

- Transactions the rule covers, including credit card accounts;
- Who is covered under the rule’s protections;
- How to determine who is a covered borrower; and
- How the new rule applies to NCUA’s rule on payday alternative loans.

Online registration for this 90-minute webinar is now open [here](#).

Participants will use this same link to log into the webinar. Registrants should allow pop-ups from this website. There is no charge for participating in this webinar.

Prior to the webinar, participants are encouraged to review two NCUA Regulatory Alerts issued in [March 2016](#) and [October 2015](#). These alerts explain the scope of the new rules, the safe harbors available to credit unions and other details to help bring credit unions into compliance before the rule’s effective date. They also provide information about the compliance resources available on NCUA’s and the CFPB’s websites.

Participants may submit questions in advance:

WebinarQuestions@ncua.gov

The subject line of the email should read, “MLA Regulatory Amendments.”

Participants with technical questions about accessing the webinar may email audience.support@on24.com. NCUA will closed caption and then archive the webinar online [here](#) approximately three weeks following the live event.

NCUA’s Office of Consumer Protection handles consumer protection compliance policy and rulemaking, chartering and field of membership, fair lending examinations, consumer complaint resolution, interagency coordination and outreach and the agency’s financial literacy programs.

Learn about Internal Controls, Red Flags and Accounting Standards Changes

Strong internal controls and accurate accounting are essential to safe and sound credit union operations, and the National Credit Union Administration (NCUA) will host a webinar to discuss important topics in these areas.

The webinar, “Internal Controls and Accounting Tips for Small Credit Unions, Part II,” is scheduled for Wednesday, June 22, at 2 p.m. Eastern. The webinar will run approximately 90 minutes and include a 30-minute question-and-answer session. There is no charge.

Dominic Carullo, an economic development specialist with NCUA’s Office of Small Credit Union Initiatives, will moderate a panel that includes NCUA Supervision Director Scott Neat, Region IV supervision analyst Carolyn Penaluna, and Region III examiner, Kerri Piekarski. Our panel will follow up

repayment plans.

The CFPB proposed rule notes that state-chartered credit unions and banks are permitted under existing Federal law to charge interest on loans at the highest rate allowed by the laws of the state in which the lender is located (lender’s home state), and may charge the interest rate of its home state on loans it makes to borrowers in other states, without complying with the limits of the states in which it makes the loans (borrower’s home state).

The CFPB acknowledges the existing state laws, and writes that the proposed rule would “coexist” with state payday lending laws and that any organizations subject to the proposed rule would be required to comply with both the rule and applicable state laws, except to the extent state laws are inconsistent with the rule. In the case of any inconsistency, the CFPB rule would preempt the state law or regulation. In response to state concerns that the CFPB’s use of its authority to define unfair, deceptive or abusive acts could affect or limit state provisions, the agency clarifies that the rule is not intended to limit state laws protecting consumers from unfair or deceptive acts or practices.

Despite CFPB assurances, consumer advocates in states that have already prohibited payday lending are concerned that the rule legitimizes payday lending and may lead to more legislative proposals to permit the practice in those states. Many advocates also note that because the CFPB is prohibited by law from setting a rate cap on short-term, small dollar loans, the rule does not do enough to make payday lending more affordable.

Source: CUNA



Compliance Calendar

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

on topics discussed during part one of this series, including:

- Expected changes to the allowance for loan losses;
- Best internal control practices for small credit unions;
- Understanding grant accounting; and
- The NCUA Call Report.

Online registration is available [here](#). Participants will also use this link to log into the webinar, and they should allow pop-ups from this website.

Participants may submit questions in advance at

WebinarQuestions@ncua.gov. The subject line of the email should read,

“Internal Controls and Accounting Part II.” Participants with technical questions about accessing the webinar may email

audience.support@on24.com

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

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**

Effective Dates New and Revised Rules

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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