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Days until  
August 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.

**Do your policies and procedures and training describe what is necessary for a consumer to indicate an intent to proceed?**

*Regulatory Compliance News*



**MOUNTAIN WEST**  
Credit Union Association

June 12, 2015

## Compliance News

### Improving the Process for Consumer Complaints

NCUA has developed a Supervisory Letter that describes recent changes to streamline and improve NCUA's consumer complaint handling process.

[View the Letter to Credit Unions here](#)

### NCUA Int'l Money Transfer Webinar Set for June 17

International money transfers and the compliance issues that go along with them will be the subject of a June 17 webinar from the National Credit Union Administration, the agency announced.

"Remittances and Other Money Transfer Services" will feature a panel of experts moderated by Vanessa Lowe, an economic development specialist with the NCUA's Office of Small Credit Union Initiatives.

Topics will include:

- Which countries receive the most money transfers;
- How to choose the appropriate remittance partner;
- Bank Secrecy Act and other regulatory issues to consider; and
- Where remittances rank in priority for immigrant services.

The panel includes: David Grace, managing partner of Dave Grace and Associates; Carla Decker, president/CEO, District Government Employees FCU, Washington, D.C.; Daniel O'Malley, senior adviser, Viamericas; and Roger Nettie, senior consultant, risk management, CUNA Mutual Group.

The 90-minute webinar is scheduled to begin at 2 p.m. (ET) June 17.

[Registration](#) is now open. The webinar will be closed captioned and [archived](#) in the NCUA website approximately three weeks following the event.

*Source: CUNA News Now*

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## FinCEN on BSA, DoD on MLA Included in Spring Federal Agenda

The spring 2015 *Unified Agenda of Regulatory and Deregulatory Actions* issued this week contains a number of updates on items of interest to credit unions from federal agencies.

While the timelines laid out in the agenda can change, it does provide a sense of the timing the agencies are hoping to have certain rules finalized or updated.

The U.S. Treasury's Financial Crimes Enforcement Network's (FinCEN) customer due diligence rule, proposed in August 2014, should be [finalized](#) sometime in August. The rule outlines a number of key elements for due diligence that include identity verification and ongoing monitoring.

CUNA, in its comment letter filed last October, [expressed](#) several concerns that the proposal could bring costs that would outweigh intended benefits. CUNA urged FinCEN to provide at least 18 months for implementation and strengthen anti-money laundering rules for other financial institutions.

The agenda also mentions two notices of proposed rulemaking from FinCEN in the coming months:

- Amendments to regulations that implement the Bank Secrecy Act (BSA) regarding reports of foreign financial accounts, expected in August. The [changes](#) would clarify who is required to file reports on such accounts and what information is reportable; and
- Amendments to the BSA regulations regarding the definition of "monetary instruments," expected in September. The current definition includes currency and a variety of bearer negotiable instruments; the [proposal](#) would expand the definition to items such as foreign coins and currency, travelers' checks and more.

Two other items of note are included in the agenda:

- Department of Defense (DOD) Military Lending Act (MLA) [proposal](#), which would set limits on certain credit items offered to servicemembers. [CUNA](#) and the National Credit Union Administration have expressed [concerns](#) with the proposal in their comment letters. The rule could be finalized as early as this month; and
- Federal Reserve board [amendments](#) to availability of funds and collection of checks regulation. The proposal would condition a depository bank's right of expeditious return on the depository bank agreeing to accept returned checks electronically, from the paying bank, as well as alter funds availability provisions to reflect the fact that there are no longer any non-local checks. CUNA submitted a [comment letter](#) on this proposal, expressing concern that the proposed changes could increase risks and lead to reduced remote deposit capture.

The agenda in its entirety can be found [here](#).

*Source: CUNA News Now*

## Advocacy Highlight

### CUNA Seeks Input on NCUA's IOLTA Proposal

CUNA has posted a [Regulatory Comment Call](#) regarding NCUA's proposed IOLTA rule. The proposal would amend NCUA's share insurance regulation to implement a statutory amendment to the Federal Credit Union Act, which was made under the Credit Union Share Insurance Fund Parity Act. The statutory amendment requires NCUA to extend share insurance to Interest on Lawyers' Trust Accounts (IOLTA) and other similar escrow accounts. The proposed rule would not extend insurance to prepaid card or payroll card accounts. CUNA is seeking feedback on why share insurance should be extended to these accounts. NCUA is accepting comments until July 13.

*Source: CUNA*

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### Other Real Estate Owned (OREO)

OREO refers to other real estate owned (OREO). OREO consists of foreclosed property where ownership has passed to the credit union. A credit union often acquires OREO through loan foreclosure. Generally, the credit union intends to sell the real estate to partially or totally satisfy the loan obligation.

The NCUA and many state regulators have prepared guidance on dealing with, and accounting for, OREO.

### What actions should federal credit unions take to ensure compliance with OREO accounting and auditing requirements?

According to the NCUA Examiner's Guide, federal credit unions should account for and value foreclosed assets acquired by the credit union as OREO as follows:

- Presume OREO is "held-for-sale". The credit union should obtain appraisals or broker price opinions and onsite inspections as warranted to support the value of the property in question. (Note: generally, federal credit unions cannot hold OREO for the production of income. Therefore, this discussion of the accounting rules for OREO is limited to OREO-held-for-sale).
- Record OREO at foreclosure at fair value less estimated cost to sell. After foreclosure, the credit union should account for OREO held-for-sale at the lower of fair value minus estimated costs to sell, or at cost. Credit unions should periodically evaluate the property for impairment and write down its carrying value if warranted. Often foreclosures need substantial refurbishments, such as new paint and carpeting, to make them marketable. Credit unions should factor estimated refurbishment costs into the carrying value.
- Report as a liability the principal amount of any debt to which the OREO is subject, and not deduct it from the carrying amount of the asset (i.e., tax lien, mechanic's lien).

For Federal Credit Unions under \$10 million in assets, Section 300 of the NCUA Accounting Manual provides additional guidance and illustrations of accounting for OREO.

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

## [CFPB Responds to Concerns about Implementing TILA-RESPA](#)

CUNA has engaged in robust advocacy efforts on behalf of our members regarding the new TILA-RESPA mortgage disclosure and timing rules that go into effect on August 1, 2015. In particular, CUNA urged the CFPB in meetings and in [writing](#) to provide a "hold-harmless" period for compliance and liability on the new rules until January 2016, for credit unions that make good faith efforts to comply. CUNA and other trade associations sent a letter to the CFPB on this matter in March 2015. CUNA also urged Members of Congress to encourage the CFPB to provide this "hold-harmless" period. It supported legislation, H.R. 2113, which would allow industry stakeholders to make good faith efforts with compliance with the new rules until the end of the year without fear of enforcement actions or lawsuits.

On June 3, the CFPB responded to these concerns by stating it will be "sensitive to the progress" made by industry that have made good faith efforts to comply with the rules on time. The CFPB did not expressly provide a grace period or hold-harmless period for compliance and liability until the end of the year. As such, CUNA will continue to advocate to the CFPB that more unambiguous relief is necessary, and we will also continue to push legislation for this change.

Source: [CUNA](#)

## [FCC to Consider TCPA Petitions](#)

Last week, the Federal Communications Commission (FCC) gave some indications about its response to petitions filed last year seeking clarifications on the Telephone Consumer Protection Act (TCPA). FCC Chairman Tom Wheeler circulated his [talking points](#) to the other commissioners for a vote on a declaratory ruling at the agency's June 18 open meeting.

CUNA filed [comments](#) supporting the American Bankers Association's petition to permit financial institutions, including credit unions, to send non--telemarketing messages to customers by the most efficient means available at no charge to those customers. Specifically, the petition requested relief that would permit communications concerning: (1) transactions and events that suggest a risk of fraud or identity theft; (2) possible breaches of the security of customers' personal information; (3) steps consumers can take to prevent or remedy harm caused by data security breaches; and (4) actions needed to arrange for receipt of pending money transfers. CUNA also urged the FCC to utilize its statutory authority to exempt such pro-consumer communications from the TCPA's restrictions on automated calls to mobile devices and to permit financial institutions, including credit unions, to send non--telemarketing messages to customers by the most efficient means available at no charge. The talking points indicate that the FCC will: Allow very limited and specific exceptions for urgent circumstances – Free calls or texts to, for example, alert consumers to possible fraud on their accounts or remind them of important medication refills. The proposal is very clear on which messages would be permitted (i.e., no marketing or debt collection). In addition, consumers would have the ability to opt out of all calls and texts, including those expressly permitted. (Applies to wireless.) However, existing rules would remain in place for: Limits on informational calls and texts to cell phones – Under the TCPA, autodialed and prerecorded calls and texts to wireless phones require prior consent, whether they are telemarketing or informational calls. This includes calls related to debt collection. The Chairman's proposal clarifies and reiterates these strong consumer protections. Informational calls to landline home phones are not restricted under the law. The full content of the declaratory ruling will not be clear until the June 18 vote.

Source: [CUNA](#)

## [Fed Seeks Comments on Adopting NACHA Same-day Rule](#)

The Federal Reserve board has issued a request for comment regarding proposed changes to its current same-day automated clearinghouse (ACH) payments rules.

## [CU Compliance Connection – Mortgage Amendments](#)

View this presentation to learn about the 2015 Mortgage amendments, including an overview of monetary thresholds in the CFPB rules associated with consumer pricing indexes, as well as some effective rules that may impact your mortgage lending policies and procedures. Click [here](#) for the video.



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](#)

### **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

### **September 7**

↑ Labor Day – Federal Holiday

### **September 18**

↑ [NACHA's Return Rate Levels & Reinstated Transactions Rule](#)

## [CUNA Comment Calls – Due Dates on Proposed Rules](#)

### **June 9, 2015~CFPB – Deadline Extended**

[Credit Card Market Review](#)

### **June 24, 2015~CFPB**

[Student Loan Servicing REI](#)

### **June 26, 2015~Federal Reserve Board**

[Comment on Same-Day ACH](#)

### **July 8, 2015~NCUA**

[NCUA's Proposed Share Insurance/IOLTA Rule](#)

The Federal Reserve Banks propose to incorporate NACHA-The Electronic Payments Association's recently [adopted](#) same-day ACH operating rules into Operating Circular 4, which governs Reserve Banks' ACH service.

The Fed currently operates a same-day ACH service, titled FedACH SameDay Service, which institutions can opt in or opt out of on a monthly basis.

NACHA's rule would enable originating depository financial institutions (ODFIs) that desire same-day ACH processing the option to send same-day transactions to accounts at any receiving depository financial institutions (RDFIs).

NACHA's rule would require all RDFIs to participate and would assess an interbank fee to ODFIs of 5.2 cents per transaction. CUNA supports this fee, since it will help credit unions and other small RDFIs offset the costs incurred by processing same-day ACH transactions.

In its comment letter to NACHA sent in February, the Fed expressed concerns about the interbank fee, and contrary to CUNA's assertion, believes the fee should be as low as possible.

CUNA maintains that the higher the fee paid by ODFIs, the better chance smaller RDFIs have at recovering some costs involved with the process.

Comments are due to the Fed by July 2.

Source: CUNA



#### [Training & Events Calendar](#)

#### June 18

Webinar: [Stress Testing Your Loan Portfolio: Regulations, Risks & Impact on Value](#)

#### June 24

Webinar: [Credit Union Basics for New Employees Part 2: Regulatory Issues, Exams, Audits](#)

#### July 7

Webinar: [Compliance Regulations for the Frontline](#)

#### July 8

Webinar: [Managing E-SIGN, E-Statements & E-Disclosures](#)

#### July 15

Webinar: [Understanding the Board's Role in Cyber Security Risk](#)

#### July 22

Webinar: [Developing Your UDAAP Program: Policy, Procedures, Risk Assessment & Audit](#)

#### July 29

Webinar: [Does Your Originator Agreement Meet NACHA Rule Requirements?](#)

#### July 30

Webinar: [Regulatory Oversight of Third-Party Vendors: Due Diligence, Management & Contracts](#)

#### August 5

Webinar: [Fair Lending Comparative File Review](#)

#### August 19

Webinar: [Website & Social Media Compliance](#)

#### July 13, 2015~DOL

[Dept of Labor Proposal to Define Fiduciary](#)

#### 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](#)

### CUNA Schools and Webinars

#### June 17

Webinar: [Advanced Exceptions with International ACH Transactions \(IAT\) – OFAC Compliance Webinar](#)

#### June 25

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

#### July 21

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

#### July 22

[CUNA Marketing Compliance eSchool](#)

#### August 11 - 13

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

#### August 25 – December 31

[CUNA Regulatory Compliance Update eSchool](#)

Be sure to visit CUNA's [Comp Blog](#) for TILA/RESPA Mortgage Disclosure Checklists and other available resources listed below:

- LOAN ESTIMATE CHECKLIST
- CLOSING DISCLOSURE CHECKLIST
- ESCROW CLOSING CHECKLIST
- CUNA's CompNOTE: The Loan Estimate & The Home Buying Information Booklet.
- CUNA's CompNOTE: The Closing Disclosure
- CUNA's CompNOTE: The Escrow Closing Notice
- CUNA's 10 minute Loan Estimate podcast covering when the disclosure is required
- CUNA's 10 minute pre-Loan Estimate activities podcast
- CUNA's 20 minute podcast on how to determine a good faith estimate for the integrated Loan Estimate
- CUNA's 20 minute podcast: The Loan Estimate – The Content of the Disclosure
- CUNA's 20 minute podcast on when a credit union may issue a revised integrated Loan Estimate

### MWCUA Regulatory & BSA School

Be sure to mark your calendars and take advantage of training opportunities taking place this Fall. And, if you are tight on funds, professional development scholarships

## Archived Webinar Offerings:

Webinar: [The TILA/RESPA Integrated Disclosure Line-by-Line Part 1: Loan Estimate](#)

Webinar: [The TILA/RESPA Integrated Disclosure Line-by-Line Part 2: Closing Disclosure](#)

are available through Mountain West Credit Union Foundation. Click [here](#) to view the Scholarship Application.

### **Regulatory Compliance & BSA School**

[September 9-10: Denver, CO](#)

[October 20-21: Phoenix, AZ](#)

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

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