

Regulatory Compliance News



MOUNTAIN WEST
Credit Union Association

June 24, 2016

Compliance News

Agencies' Statement on New Accounting Standard

A [joint press release](#) from the Federal Reserve, FDIC, OCC and NCUA has announced the issuance of a [joint statement](#) regarding the new accounting standard, Accounting Standards Update No. 2016-13, Financial Instruments – Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments, issued by the Financial Accounting Standards Board. The joint statement also provides initial supervisory views regarding the standard's implementation. The new accounting standard applies to all banks, savings associations, credit unions, and financial institution holding companies, regardless of asset size. The standard allows for various expected credit loss estimation methods and is scalable. The standard will become effective in 2020 for financial institutions required to file financial statements with the U.S. Securities and Exchange Commission or the appropriate federal banking agency under the federal securities laws. The new accounting standard will take effect in 2021 for all other financial institutions. Early adoption is permitted, but no earlier than in 2019.

NCUA Adjusts CMP Levels

The National Credit Union Administration has published at [81 FR 40152](#) of today's Federal Register an interim final rule amending its regulations at 12 CFR 747 to adjust the maximum amount of each civil monetary penalty (CMP) within its jurisdiction to account for inflation. This action, including the amount of the adjustments, is required under the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996 and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. The rule is effective July 21, 2016, with comments due by July 21, 2016.

NCUA Proposes Updates to Loan Fund

The National Credit Union Administration's Board has published a proposed rule [\[81 FR 40197\]](#) to make several technical amendments to NCUA's rule at 12 CFR 705 governing the Community Development Revolving Loan Fund (CDRLF). The proposed amendments would make the rule more succinct and update it to improve its transparency, organization, and ease of use by credit unions. Comments on the proposal are due by August 22, 2016.

Source: NCUA

Amended 1099-C Forms

Q: We filed a 1099-C form with the IRS when we hadn't received payment on a debt for 36 months. The member has now made a payment on this debt. Do we need to file an amended 1099-C?

A: No. Once you have filed a Cancellation of Debt Form 1099-C, the IRS

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Association Compliance Forums

Click on one of the below links to subscribe

[Compliance Forum](#)

[BSA Compliance Officer Forum](#)

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does not require any additional, amended or corrected 1099-C forms to be filed in connection with that debt. The IRS has stated that the filing of corrected 1099-C forms would neither improve tax compliance nor reduce debtors' confusion.

Since you brought up the "36-month non-payment" rule, I would like to take the opportunity to remind you that the IRS currently has a proposal pending that would eliminate this rule.

As you know, credit unions are required to file Form 1099-C when an "identifiable event" indicates that a debt of \$600 or more during a calendar year will not be repaid. The IRS rule lists nine "identifiable events", for example, a discharge in bankruptcy, foreclosure, expiration of the statute of limitations for collecting the debt, agreement between credit union and debtor, the 36-month period of non-payment, and more.

Notably, the 36-month period of non-payment rule does include a rebuttable presumption. The creditor may rebut the presumption that the debt will never be repaid if the creditor has engaged in "significant bona fide collection activity" at any time within the 12-month period ending at the close of the calendar year following the expiration of the 36-month non-payment period.

This rule has resulted in a lot of confusion for both debtors and creditors. Debtors often mistakenly believe that receipt of this form means their debt has been cancelled, and creditors are often uncertain of whether they may continue collection activities on these debts once the Form 1099-C has been filed. Other times, the amount reported on the Form 1099-C may not be the same as the amount that the debtor is required to report as income.

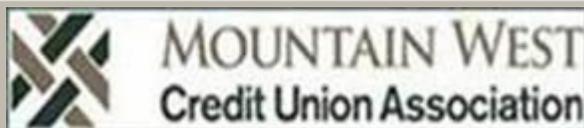
For these reasons, the IRS has proposed to remove the 36-month non-payment rule ([Federal Register, October 15, 2014](#)). The [IRS' Spring 2016 agenda](#) lists this proposal to become final in December.

Source: CUNA Compliance Blog

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 29

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

June 30

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

Lending, and Operations.

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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

Security Program for Credit Unions: Physical Security

Credit unions are subject to threats to the physical security of their employees, members, and member assets and information. Part 748 of NCUA Regulations require each federally-insured credit union to establish a written security program that:

- Protects each credit union office from robberies, burglaries, larcenies, and embezzlement;
- Ensures the security and confidentiality of member records, protect against the anticipated threats or hazards to the security or integrity of such records, and protect against unauthorized access to or use of such records that could result in substantial harm or serious inconvenience to a member;
- Responds to incidents of unauthorized access to or use of member information that could result in substantial harm or serious inconvenience to a member;
- Assists in the identification of persons who commit or attempt such actions and crimes, and
- Prevents destruction of vital records.

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

CU Compliance Connection – Compliance Outlook for Q2 2016 & Q1 2016 Review

In this **recently released** video (now on YouTube!), Glory LeDu, Manager of League System Relations, discusses the Compliance outlook for the 2nd Quarter of 2016 and reviews the 1st Quarter of 2016. View the CUBE TV video [here](#).

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

Advocacy Highlight

Senate FSGG Amendment Supports Marijuana Banking

Testing

July 7

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

July 12

Webinar: [Board Oversight & Responsibility for ACH Risk](#)

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 20

Webinar: [Analyzing & Managing Escrow Accounts for Overages, Deficiencies & Delinquencies](#)

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 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:

Last week, Democratic Senators Jeff Merkely (D-OR) and Patty Murray (D-WA) introduced an amendment to prohibit federal bank regulators from penalizing credit unions and banks for providing financial services to marijuana businesses that operate in the 25 states that have legalized marijuana use.

"The federal government should not be forcing Oregon's legal marijuana businesses to carry gym bags full of cash to pay their taxes, employees and bills," Merkley said. "We need to enable our banks to serve these legal businesses without fearing devastating reprisals from the federal government."

Murray added that "this amendment is really about providing clarity, stability and security for our banks, credit unions and small-business owners who want to be able to operate in full daylight."

The amendment to the [Financial Services and General Government \(FSGG\) appropriations bill](#) passed the Senate Appropriations Committee by a 16-14 vote last week, with Democrats largely supporting the amendment and most Republicans opposing it. While this amendment is not very substantial to credit unions, banks, and marijuana businesses, it is an indication that the industry is gaining more support among lawmakers.

Source: CUNA Advocacy

NCUA Encourages Comments on Exam, Supervision Changes by Aug. 1

Credit union stakeholders interested in the National Credit Union Administration's efforts to modify supervision and examination procedures should submit comments by Aug. 1.

"NCUA is on a fast track to update its examination and supervision procedures, and we want the input from as many people as possible," NCUA Board Chairman Rick Metsger said. "I have instructed the Exam Flexibility Initiative, the internal working group studying the agency's supervision and examination process, to deliver its recommendations to the NCUA Board in September. In order for the working group to both meet its deadline and give due consideration to all suggestions, we're asking stakeholders to get us their thoughts as soon as possible."

View the entire press release [here](#).

Source: NCUA

NCUA Board Meets to Discuss Adding 'S' to CAMEL

At a recent NCUA Board meeting, the Board received a briefing on developments concerning the NCUA's ongoing efforts to revise supervision with respect to Interest Rate Risk and discussed the possibility of adding an "S" to the CAMEL rating system. No action

- 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.

Archived NCUA Webinar – Regulatory Compliance Training

[Hot Topics in Compliance](#) (click to register)

- An overview of the Bank Secrecy Act, with discussion of requirements and common violations;
- Monitoring of money laundering;
- Suspicious Activity Reports;
- Equal Credit Opportunity Act adverse action notice requirements; and
- Office of Consumer Protection contact information.

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

was taken at this meeting to change any policy or procedure, nor was there a vote on whether or not to add the "S" to CAMEL.

Staff noted that most of the other FFIEC regulatory agencies have added an "S" to account for sensitivity to interest rates and have separated the rating for Liquidity as well as 16 state supervisory authorities. NCUA has made several revisions to its interest rate supervisory approach recently and is in the process of training examiners on interest rate risk. They are in the process of including the approaches in the examiners guide and anticipate issuing a Letter to Credit Unions, possibly in August once they are finalized for use by credit unions.

Chairman Metsger noted that changes in this area will be a multi-year process and will play a role in the exam process restructuring that is occurring simultaneously. The pros and cons of adding a separate "S" were discussed. The agency believes that the addition of an "S" should not increase the regulatory burden on credit unions significantly, but instead allow more transparency by providing for separate reporting of the "L" and "S" components.

However, it should be noted that it appears that some of the techniques used by the NCUA may in fact end up supplanting some existing policies and guidelines already existing in CU policies. This will need to be reconciled as the NCUA moves forward with the rule.

The Benefits for Credit Unions:

- Shifting the focus towards IRR outliers;
- Uniform, measurable, consistent and transparent IRR measure;
- Increase clarity of supervisory expectations;
- Greater examiner consistency;
- Risk-focused discussions (majoring in majors); and
- Reduced examination burden for most CUs

The potential Criticisms are as follows:

- "One size fits all";
- Uniform treatment of NMS values;
- Shock-test thresholds may supplant internal policy limits;
- Supervisory test may reduce scope and rigor of risk management programs;
- Shock test model will require adjustment over time; and
- Bank supervisors have not adopted a standardized supervisory metric.

Source: CUNA Advocacy

September 15, 2017~NACHA

Same-day ACH (NACHA) – Phase 2

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



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

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

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

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