



Compliance News

NCUA to Hold Free Mobile App Webinar

The National Credit Union Administration announced Monday that it will be holding a free webinar on mobile applications.

The virtual event, titled "Mobile Applications--The Next Step," is set to take place on July 9 at 2 p.m. (ET). Speakers include:

- Rob Gaynor, founder and chief product officer of Malauzai, a mobile banking software company geared toward community banks and credit unions;
- Todd Riggleman, CEO of Al-Gar FCU, Cumberland, Md., with \$36 million in assets;
- Tansley Sterns, chief impact officer of the Filene Institute;
- Laurie Bryan, consultant, Fiserv, a financial services software company; and
- Lisa Minor, an NCUA Office of National Examinations and Supervision payments systems specialist.

The panel will be hosted by Dominic Carullo, economic development specialist at the NCUA Office of Small Credit Union initiatives.

In a press release, the NCUA said that participants "will hear from credit unions that have successfully developed and implemented their own mobile strategies."

Mobile applications was one of the hot topics at this year's Credit Union National Association Payments Roundtable in May in Las Vegas.

For instance, Jason Oxman, CEO of Electronics Transactions Association, told roundtable participants that about 70% of consumer spending is being done electronically and there are one billion plastic cards in circulation in the United States today.

"Clearly, consumers love electronic payments. They also love mobile phones. There are 325 million mobile phone subscriptions in the U.S. and about 65% of those mobile phones are smartphones," Oxman said. "If consumers love electronic payments, and if consumers love mobile phones, the logical conclusion is that there's high potential for acceptance of mobile payments (*News Now* May 7)."

Source: CUNA News Now

FHA on Lookout for 'Deceptive' Marketing for Reverse Mortgages

The Federal Housing Administration has published a guidance warning lenders that deceptive reverse mortgage marketing could lead to fines or administrative action.

The guidance, released last week, reminds financial institutions that they're forbidden from leading consumers to believe that a reverse mortgage "contains any features or limitations that are inconsistent with FHA's requirements."

The federal mortgage insurer told lenders that: it must explain that the FHA backs both fixed- and adjustable-rate mortgages; borrowers may change the method of adjustable-rate payment at any time; fixed-rate loans must be disbursed in a single sum; adjustable-rate mortgages allow for five payment options and future draws, and that the age of the youngest borrower (or non-borrowing spouse) determines the amount of funds available (*American Banker* June 19).

Borrowers must also clearly publish a disclaimer that "informs the public the information was not compiled by the Department of Housing and Urban Development or FHA."

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Membership Eligibility

Every federal credit union's charter (section 5) describes its field of membership (FOM). FOM is defined as the persons, including organizations and other legal entities; a credit union is permitted to accept for membership. Generally, credit unions can only offer services to persons within the FOM who have actually become members of the credit union.

NCUA's FOM rules also specify several additional means/concepts that expand a federal credit union's FOM potential. These include:

- Serving other persons eligible for credit union membership, including serving immediate family and household members, serving corporate/legal entities, and more
- Policy of once a member, always a member
- Serving nonmembers

CU Compliance Connection: CFPB Integrated Mortgage Disclosures

The CFPB has finally released the Integrated Mortgage Disclosure requirements that have been in the works for over two years. For a

Reverse mortgages are referred to in the guidance as Home Equity Conversion Mortgages (HECM).

American Banker reported that the guidance was specifically issued to protect senior citizens, a prime market for reverse mortgages.

Source: CUNA News Now

New IRR Resource Page, Video Unveiled by NCUA

The National Credit Union Administration on Friday produced a new web page with information about interest rate risks.

The website includes videos, visual information about trends that impact interest rate risk, and links to NCUA rules, guidances, sample letters to credit unions and recommended best practices.

The interest rate risk video that was most recently produced by the NCUA is also available on the regulators' YouTube channel.

NCUA Chair Debbie Matz said in a press release that credit unions are "faced with extraordinary interest rate risk challenges" due to shifts in the make-up of portfolios. She encouraged them to utilize the new resources.

"In the event of a rapid change in interest rates, the result at some credit unions would be stressed earnings and the possibility of large declines in economic value," she added. "While we are aware that many credit unions are well positioned to manage this risk, there are others that have potentially excessive exposure to interest rate risk that could result in losses to the entire system."

NCUA Chief Economist John Worth described the way credit unions are using investments as a "critical emerging risk."

"Over the past five years, credit union's long-term investments jumped as a share of assets," he said. "In a rising rate environment, long-term investments have the potential combined with other fixed-rate assets to anchor interest income at low levels even as interest costs move higher."

Source: CUNA News Now

NCUA Proposes to Allow FCUs to Securitize Own Loans

The National Credit Union board took steps at its monthly meeting Thursday to allow a natural person credit union to securitize loans it has originated, as well as a companion proposed rule that would allow for safe harbor during securitization.

Securitization can be used as an activity incidental to the business for which a federal credit union is chartered, if the transaction meets certain requirements. The proposed rule would also apply to federally insured, state-chartered credit unions (FISCU) that are permitted by state law to securitize their assets.

The proposed rule would establish seven minimum safety and soundness requirements for a federal credit union engaging in securitizing assets: compliance with all federal and state laws and regulations; independent risk management; an annual audit; sufficient board knowledge regarding the activities; relevant management expertise; a Board-approved securitization policy; and internal controls.

Dale Klein, senior capital markets specialist with the Office of Examination and Insurance, said securitization could provide credit unions that originate certain loans three benefits: an additional source of liquidity, possible reduction of interest rate risk associated with originated fixed rate loans, and a chance for certain credit unions to better optimize capital management.

The Credit Union National Association has said it believes the proposed rule could be helpful for credit unions that originate loans and wish to securitize their assets but as issued, may only be useful to very large credit unions.

"I estimate a credit union would have to originate at least \$100 million worth of securitizable loans each quarter. Only credit unions with vast origination capacities would be able to do that," Klein said.

A credit union that securitizes assets would have to create an issuing entity to hold the assets collateralizing the asset-backed security. The proposed rule would limit the amount of residual interests and retained interests that a federal credit union may carry to 25% of the its net worth.

NCUA Board Member Rick Metsger said while there are a few credit unions who are capable of securitizing loans, he thinks "it's a good tool to have in the toolbox" for institutions that are able.

After a final rule is adopted, NCUA staff stated that guidance will be provided to assist credit unions who may choose to securitize their loans.

review of the disclosures requirements please attend this CU Compliance Connection presentation. 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@mwcua.com or (720) 479-3325 or 1 (800) 477-1697 ext. 3325

Advocacy Highlights

Regulation P Pending Amendment

The Consumer Financial Protection Bureau (CFPB) is proposing to amend Regulation P to provide an alternative delivery method for the annual privacy notice, which credit unions would be able to use under certain circumstances.

Credit unions that do not engage in certain types of information-sharing activities would be allowed to stop mailing an annual privacy notice if they post the annual notice on their website and meet the following conditions:

- The credit union does not share the consumer's nonpublic personal information with non-affiliated third parties in a manner that triggers GLBA opt-out rights;
- The credit union does not include an opt-out notice under the Fair Credit Reporting Act's (FCRA) Affiliate Sharing Rule on its annual privacy notice;
- The credit union's annual privacy notice is not the only notice provided to satisfy the requirements of the FCRA Affiliate Marketing Rule;
- The information included in the annual privacy notice has not changed since the member received the previous notice; and
- The credit union uses the model privacy notice disclosure form contained in Regulation P.

A credit union would still be required to use the currently required mailing method for delivery of the privacy notice if the credit

The proposed securitization rule is related to another proposed rule discussed by the board, a proposed safe harbor rule that governs the authority of the Board, when acting as conservator or liquidating agent for any federally insured credit union, to disaffirm or repudiate transfers of financial assets in connection with a securitization or participation.

NCUA Board Chair Debbie Matz called the proposed rule "essential to creating a viable market for credit union securitizations," and that it would protect investors in the event of a credit union being conserved or liquidated. The proposed rule would provide greater certainty to promote investor confidence and a level playing field for credit unions to sponsor securitizations.

CUNA will be issuing a regulatory call to action shortly to solicit input and feedback from credit unions. The NCUA is seeking comments on both proposed rule for 60 days following their publication in the Federal Register.

Source: CUNA News Now

CFPB Orders Bank to Pay \$225M in Relief for Credit Card Practices

The Consumer Financial Protection Bureau has ordered GE Capital Retail Bank, now known as Synchrony Bank, to provide approximately \$225 million in relief to consumers affected by what it labeled "illegal and discriminatory" credit card practices. The order represents the federal government's largest credit card discrimination settlement in history.

GE Capital must refund \$56 million to approximately 638,000 consumers who were subjected to deceptive marketing practices. It must also provide an additional \$169 million to approximately 108,000 borrowers excluded from debt relief offers because of their national origin, part of a joint enforcement action by the CFPB and U.S. Department of Justice.

GE Capital promoted five different debt cancellation add-on products, which examiners from the CFPB identified as misrepresenting to consumers by:

- Leading consumers to believe they would not have to pay for these products as long as they paid off the balance on their billing statement. In fact, consumers could only avoid the fee in very specific circumstances.
- Failing to disclose consumers' ineligibility. In calls with telemarketers, many consumers mentioned that they were retired or disabled, however, the telemarketers neglected to tell the consumers that they would not be eligible for key debt cancellation benefits, and the consumers bought the products without this information.
- Failing to disclose that consumers were making a purchase. In many cases, telemarketers made it seem like the consumers were receiving a benefit, updating their accounts, handling other administrative tasks. In these conversations, it was not obvious to consumers that they were buying something and would be charged a fee.
- Marketing products as a limited time offer. Many customer service representatives falsely told consumers that these debt cancellation products were a "limited time offer" while nothing about the availability of these products was limited.

The action related to the discriminatory credit card practices resulted from GE Capital's self-reporting of the issue, which led to a joint investigation between the CFPB and the Department of Justice. GE Capital offered two promotions allowing credit card customers with delinquent accounts to settle balances by paying a specific portion of their debt.

The CFPB said these offers were not extended to any customer who indicated they preferred to communicate in Spanish or had a mailing address in Puerto Rico, even if the customer met the promotion's qualifications. This meant that Hispanic populations were unfairly denied the opportunity to benefit from these promotions.

Such discrimination is in direct violation of the Equal Credit Opportunity Act, which prohibits creditors from discriminating in any aspect of a credit transaction on the basis of characteristics such as race and national origin.

The \$225 million enforcement action stems from a CFPB examination conducted between December 2012 and February 2013. The Bureau has ongoing supervisory authority over GE Capital and will continue to conduct examinations of GE Capital to ensure its compliance with federal consumer financial law.

Source: CUNA News Now

New Rule Will Reduce Burdens on Voluntary Liquidations of FCUs

Federal credit unions seeking to voluntarily liquidate will face less of an administrative burden after the National Credit Union Administration board passed a final rule Thursday. The rule, first proposed in February, is the first revision of voluntarily liquidation procedures since 1993.

"We are not encouraging more credit unions to liquidate, we want to be clear about that," said NCUA Board Chair Debbie Matz. "Voluntary liquidation is a path credit unions may choose, an option

union has changed its privacy practices or engages in information-sharing activities for which members have a right to opt out.

To use the proposed alternative delivery method, credit unions would have to insert a clear and conspicuous statement at least once per year on a notice or disclosure the credit union issues under any other provision of law announcing that: the annual privacy notice is available on the credit union's website; it will be mailed to customers who request it by calling a toll-free telephone number; and it has not changed.

Credit unions would also be required to continuously post the annual privacy notice in a clear and conspicuous manner on a page of its website, without requiring a login or similar steps to access the notice.

To assist members with limited or no access to the internet, credit unions would have to mail annual privacy notices promptly to members who request them by phone.

Comments are due to the CFPB on July 14, 2014. All comments may be filed directly with www.regulations.gov, identified by docket number CFPB-2014-0010. Comments may also be mailed or hand delivered to Monica Jackson, Office of the Executive Secretary, Consumer Financial Protection Bureau, 1700 G. Street, NW, Washington, D.C. 20552. **Please submit comments to CUNA by July 3, 2014.**

For more information about this proposed rule, contact CUNA Deputy General Counsel [Mary Dunn](#) or Associate General Counsel [Lance Noggle](#), or for more information on the proposal, click [here](#).



This week's [Regulatory Advocacy Report](#) will bring you up to speed on the following issues:

- NCUA Board Member Metsger Considers CUNA's Concerns on RBC Proposal
- Supreme Court Instructs Tenth Circuit to Re-Examine Time Limit in NCUA Mortgage-Backed Securities Case
- NCUA Board Meeting: Proposed Rules on Asset Securitization, Appraisals
- Associational Common Bond Proposed Rule
- Two NCUA Listening Session Are Full
- Federal Reserve Banks' Payment System Improvement, Faster Payments Update
- CUNA to Meet With CFPB on TILA/RESPA "Special Information Booklet"
- Bloomberg Report Examines Impact of Regulations on Credit Unions and Community Banks
- CFPB Announces Near \$1 Billion In Proposed Order and Penalties for Mortgage Servicing Wrongs

that is open in certain circumstances. In those circumstances, we want to make the process as orderly as possible ... For any credit union that chooses to liquidate, this rule will reduce administrative burden while making sure every member receives their insured funds."

The final rule clarifies the existing calculation of pro rata distributions to members, which will be calculated from either the date the credit union board votes for liquidation, or from the date of the last share draft, whichever is later.

It also requires that preliminary pro rata distributions to members be limited to the applicable National Credit Union Share Insurance Fund insured amount.

The rule contains several additions designed to allow voluntarily liquidating federal credit unions use technology in the process by permitting those institutions to publish required creditor notices in either electronic media or newspapers of general circulation.

Federal credit unions are also enabled to issue share payouts to members through electronic payments.

In addition, the rule increases the asset-size threshold for requiring multiple creditor notices to \$50 million from \$5 million.

The final rule will be effective 30 days after it is published in the Federal Register.

Source: CUNA News Now



[Training & Events Calendar](#)

Available Now

[Complimentary Webinar - Strengthening Your OFAC Compliance Program](#)

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](#)

CUNA Webinars

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](#)

August 10

[CUNA Lending Compliance School](#)

August 21

[MIP and Account Openings](#)

CUNA Schools and Conferences

August 10 - 14

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

September 14 - 19

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

October 26 - 29

Be sure to visit our new [Risk-Based Capital blog](#) for the latest from CUNA staff and guest bloggers.

2014 Compliance Calendar

July 1

♦ [Federal Collateral Margins Requirements Change](#)

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

♦ [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

July 3, 2014~CFPB

[Annual Privacy Notice Requirements Under GLBA](#)

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

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