

Regulatory Compliance News



MOUNTAIN WEST
Credit Union Association

July 15, 2016

Compliance News

FCC Clarifies Gov't Calls Allowed Under TCPA

The Federal Communications Commission (FCC) recently released a [declaratory ruling](#) clarifying that the Telephone Consumer Protection Act (TCPA) does not apply to calls made by or on behalf of the federal government. This applies as long as the call is made in the conduct of official government businesses, except when a call by a contractor does not comply with the government's instructions.

The TCPA continues to apply to non-governmental activities, including political campaign events conducted by federal officeholders. The TCPA prohibits "any person within the United States, or any person outside the United States if the recipient is within the United States," from placing autodialed, prerecorded or artificial-voice calls to wireless telephone numbers, except with the prior express consent of the called party or in an emergency.

Prior express written consent is required for all telemarketing calls/text messages made to cell phones using an autodialer or prerecorded message. The Bipartisan Budget Act of 2015 created a TCPA exemption for calls placed solely to collect a debt owed to or guaranteed by the United States. The FCC [proposed](#) implementing regulations in May, with a final regulation expected in August.

Source: CUNA Compliance

OFAC Adds Cuba FAQs

The Office of Foreign Assets Control has recently updated its [Cuba-related FAQs](#) to add questions about the use of the U.S. dollar in certain transactions.

Source: OFAC

Wendy's Admits Breach Hit 1,025 Restaurants

Dublin, Ohio-based, fast food chain Wendy's confirmed that hackers [breached customer payment card data at 1,025 of its restaurants nationwide](#), a number considerably higher than originally believed. Wendy's said it worked with forensic experts, federal law enforcement and card industry contacts and found that specific card information (cardholder name, card number, expiration date, cardholder verification value and service code) was targeted by malware. The investigation found that [the malware first hit some franchisee systems as early as fall 2015](#).

"We are committed to protecting our customers and keeping them informed. We sincerely apologize to anyone who has been inconvenienced as a result of these highly sophisticated, criminal cyberattacks involving some Wendy's restaurants," Todd Penegor, Wendy's president/CEO said.

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Association Compliance Forums

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"We have conducted a rigorous investigation to understand what has occurred and apply those learnings to further strengthen our data security measures."

The company also released a list of locations affected by the breach, searchable by city and state but did not specify how many customers took a hit. Cybersecurity expert Brian Krebs first reported the breach in January. In mid-May, the company announced in its first quarter financial statement that the fraud only affected 5% of stores, fewer than 300 locations. However, a number of sources in the fraud and banking community told Krebs there was no way the Wendy's breach only affected 5% of stores, given the volume of fraud the financial institutions traced back to Wendy's customers.

In June, the Michigan Credit Union League, its members and CUNA advocated for stronger merchants and card network accountability after the Wendy's restaurants breach forced several credit unions to cover associated costs. CUNA also announced it was also joining a data breach lawsuit against the restaurant chain.

According to CUNA, industry sources estimated the fraudulent charges have been even larger than in other recent data breaches such as those at Target and Home Depot, which combined cost credit unions more than \$90 million.

Vicki McIntosh, president/CEO of the \$21.5 million, Richmond, Mich.-based [Belle River Community Credit Union](#), said her cooperative paid \$8,000 in fraudulent charges. In addition, the credit union paid \$1,000 in out-of-pocket costs to issue new cards because of the breach. McIntosh, Michigan credit union leaders and the Michigan Credit Union League CEO Dave Adams called on lawmakers to require retailers to be held to the same federal data breach standards credit unions are subject to, and to enforce the laws currently in place.

"The current system is broken, retailers big and small experience a breach and months go by without any notice to credit unions of which cards are compromised, which results in a spike in fraud losses, and once again local credit unions are left holding the bag," Adams said. "Again, we call on lawmakers and regulators to use their full authority to ensure both retailers and card network companies are doing their part to protect customer's information instead of leaving credit unions to continually shoulder the burden."

Ondrej Krehel, founder/CEO of the New York City-based LIFARS, a digital forensics and cybersecurity intelligence firm, noted, "Malware distribution is becoming a commodity, and organized crime rings are moving latterly from target to target. No one is immune, and many times the same crime group penetrates multiple networks of various enterprises."

The Wendy's chain includes about 6,500 franchise and company operated restaurants in the United States, 28 other countries and U.S. territories worldwide. Most of the U.S.-operated stores are franchises.

Source: CU Times

SSA to Reduce Cost of SSN Verification Service

The Social Security Administration has [posted a notice](#) in the *Federal Register* that for fiscal year 2017, which begins October 1, 2016, the transaction fee for SSA's Consent Based Social Security Number Verification (CBSV) service will be reduced from the current fee of \$1.40 to \$1.00 per

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InfoSight Highlight

Identity Theft – How Does it Affect the Credit Union?

A credit union will suffer reputation risk if its procedures do not adequately protect its members and their accounts. A credit union may also suffer a financial risk if it allows an unauthorized person to access or open an account. By making certain that the credit union staff is following current law, a credit union will have significantly protected member information and helped to prevent identity theft.

When identity theft occurs, a credit union should close the member's accounts and flag the new account to alert all staff to the previous identity theft.

If a credit union experiences an attempted or successful identity theft it must complete and file a Suspicious Activity Report (SAR). List the violation as identity theft or pretext calling on the SAR.

Federal law and NCUA Rules and Regulations require all federally insured credit unions to prevent the disclosure of member information to third parties except as provided for in the credit union's mandated privacy policy. Among other things, 12 CFR Part 1016 published by the CFPB replacing Part 716 of the NCUA's Rules and Regulations, which implements the Gramm-Leach-Bliley privacy law, requires the credit union to take steps to:

- Prevent the disclosure of member information to third parties, unless an exception allowing disclosure applies.
- Ensure that third party vendors protect the confidentiality of member information.
- Have policies and procedures in place to guard against unauthorized persons using a pretext or ruse in order to obtain member information.
- Provide sufficient staff training on member privacy requirements.

SSN verification. The one-time non-refundable enrollment fee of \$5,000 will remain unchanged. The CBSV service was first announced in a notice at [72 FR 45079](#) on August 10, 2007. A [User Guide for the CBSV service](#) is available on the [ssa.gov](#) website.

Source: *Federal Register*

Advocacy Highlight

CUNA Needs Your Feedback Regarding the CFPB Small Dollar Loan and Arbitration Proposals:

CUNA is currently seeking widespread feedback from credit unions about how the CFPB's [small dollar proposed rule](#) and [arbitration proposed rule](#) could impact credit union operations, and the ability to offer products and services. CUNA will continue to educate the Bureau about problems both of these rules could cause for credit unions and their members. Please check out the comment call and send comments, questions or concerns to [Leah Dempsey](#), [Elizabeth Eurgubian](#), [Andy Price](#) or [Ryan Donovan](#).

Source: *CUNA Advocacy*



Training & Events Calendar

Archived Webinar: [Expanded Financial Protections Under the New Military Lending Act, Including SCRA Update](#)

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

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

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](#).



Compliance Calendar

June 30

- [PCI-SSL/TLS Can No Longer Be Used as a Security Control](#)

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](#)

Effective Dates

New and Revised Rules

July 1, 2016~DoEd

[Program Integrity and Improvement](#)

Webinar: [Auditing for BSA Compliance](#)

August 25

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

August 30

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

November 15

Webinar: [Recognizing & Responding to Elder Fraud: What Every Staff Member Should Know](#)

Registration Now Open for 2016 Compliance Schools

Compliance expert, Gaye DeCesare, NCCO, CUCE, BSACS, will be the instructor for both locations, giving attendees a solid understanding of the regulations and laws affecting their regulatory compliance responsibilities.

- Denver, CO: [September 13-14](#)
- Phoenix, AZ: [October 12-13](#)

NCUA Webinars

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.

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](#)

December 1, 2016~DOL

[New Overtime Rules](#)

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](#)

CUNA Comment Calls – Due Dates on Proposed Rules

June 20, 2016~NCUA

[NCUA Occupancy Rule](#)

July 15, 2016~NCUA

[2016 Regulatory Review](#)

July 25, 2016~NCUA

[Community Development Revolving Loan Fund](#)

August 12, 2016~CFPB

[Arbitration Proposal](#)

August 31, 2016~CFPB

[CFPB Small Dollar Proposal](#)

September 30, 2016~CFPB

[RFI for Small Dollar Proposed Rule](#)

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

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