



Compliance News

Georgia Check Casher Gets Dinged for Repeated BSA Violations: FinCEN

The Financial Crimes Enforcement Network (FinCEN) said that a money services business (MSB) in Georgia committed "significant and willful violations" of the Bank Secrecy Act's (BSA) program and reporting requirements, prompting a \$45,000 civil money penalty against it.

In a release, FinCEN said Mian Inc., doing business as Tower Package Store, "significantly" committed numerous violations even after being put on notice by its examiner of deficiencies in meeting its reporting obligations.

Under the BSA, MSBs are required to implement an effective written anti-money laundering (AML) program, which FinCEN alleges Mian failed to do. Among Mian's infractions cited by FinCEN:

- From December 2010 through November 2011, Mian failed to file Currency Transaction Reports (CTRs) on approximately 40% of transactions that required filing. During this time, the CTRs that Mian actually filed were late and inaccurate.
- Mian's failure to comply with its CTR obligations persisted even after it was notified by IRS Small Business/Self Employed Division of its CTR deficiencies. From December 2011 through November 2013, Mian failed to file timely CTRs on 91% of transactions that required filing.

FinCEN said that Mian "has further failed to meet its deadlines to renew its registration as an MSB" and that Mian has admitted that it violated the BSA's program, reporting and registration requirements, and has consented to FinCEN's assessment of a civil money penalty of \$45,000.

Source: CUNA News Now

MasterCard Extends Zero Liability Policy

MasterCard recently announced enhancements to its security efforts and protections for U.S. cardholders against fraud and identity theft.

As a part of the enhanced consumer protections, MasterCard is extending the zero liability policy to include all MasterCard PIN-based and ATM transactions; in addition to coverage already provided on signature debit and credit transactions.

MasterCard credit, debit, prepaid and small business cards will be provided with Identity Theft Resolution assistance. This new program provides cardholders with help in canceling missing cards and alerting credit reporting agencies, as well as targeting searches to detect if stolen personal and confidential data appears online.

Credit Unions issuing MasterCard-branded cards will need to review new MasterCard requirements and may need to update cardholder agreements and notifications. The Identity Theft coverage extension begins in July 2014. The Zero Liability coverage extension takes effect in October 2014.

Source: Michigan CU League

CFPB Files Suit vs. Debt Collection 'Lawsuit Mill'

Frederick J. Hanna and Associates, along with its three principal partners, has been accused of operating a debt lawsuit mill using illegal tactics, resulting in a lawsuit against it filed by the Consumer Financial Protection Bureau Tuesday.

The CFPB alleges the Georgia-based firm used illegal tactics to intimidate consumers into paying debts they may not have owed, and that the firm churns out hundreds of thousands of lawsuits that frequently rely on deceptive court filings and faulty or unsubstantiated evidence.

"The Hanna firm relies on deception and faulty evidence to drag consumers to court and collect millions," said CFPB Director Richard Cordray. "We believe they are taking advantage of consumers'

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Customer Identification Program

Section 326 of the USA Patriot Act sets forth minimum standards for financial institutions, including credit unions, for the identification and verification of the identity of any customer/member opening an account (12 CFR §103.121).

The written customer/member identification program (CIP):

- Must be a part of the credit union's anti-money laundering program
- Must be approved by the board
- Should be tailored to the credit union's size, location, and type of business

Members must be provided notice that the credit union is verifying their identity and why. The CIP must, at a minimum, provide for:

- Obtainment of certain basic identifying data
- Verification of the identity of each customer to the extent reasonable and practicable
- Maintenance of records of the information used to verify the identity
- Determination of whether the customer/member appears on any lists of suspected terrorists provided by the federal government

lack of legal expertise to intimidate them into paying debts they may not even owe. Today we are taking action to put a stop to these illegal debt collection practices."

Between 2009 and 2013, the firm filed more than 350,000 debt collection lawsuits in Georgia. The CFPB alleges the defendants collected millions of dollars each year through these lawsuits, often from consumers who may not actually have owed the debts.

Violations alleged in the CFPB's complaint include:

- Filing collection suits signed by attorneys when the lawsuits are the result of automated processes and the work of non-attorney staff, without any meaningful involvement of attorneys. The resulting lawsuits misrepresent to consumers that they are "from attorneys." This process allows the firm to generate and file hundreds of thousands of lawsuits. One attorney at the firm, for example, signed more than 130,000 debt collection lawsuits over a two-year period; and
- Using sworn statements from clients attesting to details about consumer debts to support its lawsuits. The firm files these statements with the court even though in some cases the signers could not possibly know the details they are attesting to. In a substantial number of cases, when challenged, the firm dismissed lawsuits. Since 2009, the firm has dismissed more than 40,000 suits in Georgia alone.

The Hanna firm focuses exclusively on debt collection litigation, and its three principal partners, Hanna, Joseph Cooling, and Robert Winter, play an active role in the company's business strategies and practices.

The CFPB is seeking compensation for victims, a civil fine, and an injunction against the company and its partners.

Source: CUNA News Now

CFPB Clarifies How Same-Sex Court Ruling Affects Lending Rules

by [Rachel Witkowski](#)

WASHINGTON — New policy from the Consumer Financial Protection Bureau is shedding light on how a Supreme Court decision last year ensuring rights for same-sex married couples applies to financial services regulations.

Last month, CFPB Director Richard Cordray issued a memo stating that — as a result of the Supreme Court ruling — the agency would recognize a same-sex marriage as being legally valid "nationwide" as long as it was legally binding in the state where the couple was married. The legal opinion was meant to clarify the meaning of terms such as "marriage" and "spouse" in laws the CFPB implements.

The court decision struck down a part of the Defense of Marriage Act that required marriage, for the purposes of interpreting regulations, to be defined only as being between one man and one woman. While the case, *United States v. Windsor*, specifically related to spousal exemptions from federal estate taxes, its application is also relevant for consumer financial services laws under the CFPB's purview.

"In light of the Supreme Court decision and more states legalizing same-sex marriage, my guess is the CFPB has been fielding a lot of questions from the industry," said Richard Andreano, the practice leader of Ballard Spahr's mortgage banking group.

Cordray said the policy will be applied to the bureau's implementation of the Equal Credit Opportunity Act — which prohibits discrimination based on race, gender, religion and marital status — as well as other statutes. The CFPB's approach is consistent, he noted, with a recent legal opinion announced by the Department of Justice about how it will interpret laws affected by the decision.

"The bureau will regard a person who is married under the laws of any jurisdiction to be married nationwide for purposes of the federal statutes and regulations under the bureau's jurisdiction regardless of the place of residency," Cordray said in the policy, which was released as a memorandum to all staff on June 25. (The CFPB posted it last week on its agency blog.)

"Consistent with other federal agencies, the bureau will not regard a person to be married by virtue of being in a domestic partnership, civil union, or other relationship not denominated by law as a marriage," Cordray said.

In the Supreme Court case, a New York woman, who had been in a same-sex marriage, objected to her being denied an exemption from federal estate taxes for widowed spouses. She had been lawfully married in Ontario, Canada.

Observers said it made sense for the CFPB to clarify how the case affects financial services-related laws where the treatment for same-sex couples may be unclear.

CU Compliance Connection: Escrow Disclosures

As a part of the integrated mortgage requirements from the CFPB, an Escrow Closing Disclosure must also be provided to members prior to their escrow account being closed. For a 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 Heimbuck at: mheimbuck@mwcua.com or (720) 479-3325 or 1 (800) 477-1697 ext. 3325

Advocacy Highlights

CUNA Seeks Input on NCUA's Asset Securitization and Safe Harbor Proposals

NCUA recently issued a [proposed rule](#) that would allow credit unions to securitize loans. The securitization proposal amends NCUA's incidental powers rule to provide that federal credit unions have the authority to securitize their own loans. The proposal provides little description of the securitization process, but provides details on what NCUA expects from a credit union that chooses to securitize its own loans. Most actual securitization requirements will be dictated by federal securities regulations, state laws, and market expectations. NCUA also issued a [companion proposal](#) that would create a safe harbor for assets transferred by a credit union in connection with a securitization or a participation. Comments are due to NCUA by August 25; please send comments to [CUNA staff](#) by August 1.

Source: CUNA



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

- More RBC Issues Identified During Final Listening Session

For example, the ECOA prohibits creditors from seeking information about the spouse of a loan applicant, but allows for certain exceptions. Those include when the spouse will share liability for the loan repayment, or when the applicant is relying, at least in part, on income from a spouse to repay the loan.

The law also generally blocks creditors from asking about an applicant's marital status. But it exempts secured credit transactions and cases involving an applicant that lives in a "community property" state, where a married person may co-own assets with a spouse.

"Key goals of the marital status prohibition under ECOA were to provide qualified unmarried individuals the same access to credit as married individuals, and to allow qualified married individuals — particularly females — to obtain credit on their own," said Andreano. "But ECOA does not expressly address how the various prohibitions related to marital status apply to same-sex marriages."

In addition to the ECOA, Cordray's memo said the bureau would also apply the policy to its implementation of the Fair Debt Collection Practices Act, the Interstate Land Sales Full Disclosure Act, the Truth in Lending Act and the Real Estate Settlement Procedures Act.

"In order to fully implement [the Supreme Court] decision, we took steps to clarify how the decision affects the rules that we are responsible for," said Meredith Fuchs, the CFPB's general counsel, in the blog post that publicized the agency's policy. "This [memo] aligns our policy with other agencies across the federal government."

Still, some said the effect of the agency's policy will be limited.

Andy Dunn, a senior attorney at Wolters Kluwer Financial Services, said the memo "doesn't articulate a significant change for the industry."

"It is noteworthy, however, that the CFPB has chosen to make this kind of a gesture regarding a Supreme Court decision not directly tied to the agency, since there is little precedence for such a move," he said.

Some experts say the memo is important because lenders have been deferring to state laws on whether the applicant is "married," without understanding how their federal regulator views the issue.

"It is very unusual for an agency to announce a legal interpretation or policy through a memo from the director to the staff" as opposed to a notice that would be published in the Federal Register, said Leonard Chanin, a partner at Morrison & Foerster. "But it is important for the industry to know because, ultimately, it provides guidance on a topic the CFPB likely received questions on from the industry."

Source: CU Journal

New FinCEN SAR Stats Tackles Bitcoin Risk

The U.S. Treasury Department's Financial Crimes Enforcement Network (FinCEN) has released the inaugural *SAR Stats* technical bulletin, which examines data from Suspicious Activity Reports (SARs) filed by financial institutions. The bulletin is a successor publication to *The SAR Activity Review: By the Numbers*, which was issued once or twice a year starting in 2003.

The July issue features data from more than 1.3 million SARs filed from March to December 2013. This data is used for law enforcement investigations and regulatory compliance at the state and federal levels, as part of a larger set of data pertaining to the Bank Secrecy Act (BSA).

"In the first six months of 2014 alone, over 350 unique agencies representing a broad cross section of federal, state, and local law enforcement, regulators, self-regulated organizations and state attorney offices operating nationwide accessed Bank Secrecy Act data via FinCEN's portal," the report reads. "Thousands of agents, analysts and investigative personnel from each of these entities have conducted in excess of one million queries against the database during that period."

The SAR Narrative Spotlight this month examines bitcoin, a type of virtual currency. Because bitcoin isn't overseen by a central authority, its anonymous nature makes possible illegal activities harder to detect.

The bulletin notes that while bitcoin is a virtual currency, financial institutions of all types can play a role in the life cycle of the purchase, use and sale of bitcoin for standard currencies.

"This may include depository institutions that house the accounts of virtual currency users, administrators and exchangers; additionally, depending on the transaction, correspondent banks may also be involved," the report reads. "Each institution has a unique vantage point from which to observe these transactions and identify suspicious activity."

- [Listening Session Questions & Comments in Photos](#)
- [CUNA Seeks Input on NCUA's Asset Securitization and Safe Harbor Proposals](#)
- [U.S. Postal Service Offering Financial Services to Underserved Concept; CUNA Participates in Pew Conference](#)
- [Federal Reserve Bank of Atlanta Discusses EMV Chip-Based Payment Card Progress, Fraud Risks](#)
- [CFPB Set to Increase Budget and Staffing for 2015 Under Administration's Budget Request](#)

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



2014 Compliance Calendar

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](#)

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](#)

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

This puts financial institutions in position to observe everything from bitcoin dealers who may be acting as unregistered money service businesses to funds stolen from compromised accounts that are being converted into bitcoin.

"Altogether, SARs filed by the various filing entities may provide valuable information related to accounts, ownership, and other identifying information, and bitcoin addresses associated with suspicious activity," the report reads.

The Credit Union National Association will host a BSA conference Oct. 26-29 in Las Vegas. The annual conference will bring together BSA compliance officers, state and federal examiners, industry experts and regulators to discuss BSA compliance issues.

Throughout the four days of session, FinCEN, the National Credit Union Administration and the Office of Foreign Assets Control will provide the latest information relevant to credit unions.

Source: CUNA News Now

Cybersecurity Stakes are High, Says Treasury Secretary Lew

Since 2011, more than 250 distributed denial of service attacks have been perpetrated against American banks and credit unions, according to Treasury Secretary Jacob Lew, who spoke at the Delivering Alpha Conference in New York last week. The frequency of such attacks, as well as the personal and economic stakes in keeping information secure, lead many financial institutions to spend as much as \$250 million per year to strengthen cybersecurity measures.

"The consequences of cyber incidents are serious. When credit card data is stolen, it disturbs lives and damages consumer confidence. When trade secrets are robbed, it undercuts America's businesses and undermines U.S. competitiveness," Lew said. "Successful attacks on our financial system would compromise market confidence, jeopardize the integrity of data and pose a threat to financial stability."

Lew pointed to attacks on businesses such as Target, Neiman Marcus and Michael's, as well as a recent hack into the Associated Press Twitter account. Hackers falsely tweeted about an attack on the White House, causing the Dow Jones industrial average to fall by more than 100 points within three minutes.

"One back door is all a malicious actor needs to transmit large scale damage. Look at the Target incident. Criminals entered Target's systems by first infiltrating the network of one vendor, a refrigeration services company in Pittsburgh," he said. "Once inside, these intruders reached in-store computer networks, stole credit card information from millions of Americans, and sold that information on the black market."

The U.S. Treasury Department has created an information sharing and analysis unit, the Financial Sector Cyber Intelligence Group, designed to deliver actionable information financial institutions can use to protect themselves. The unit, made up of cyberexperts and security analysis, searches through law enforcement and intelligence reports to find relevant activity and issue information bulletins.

"If you are the leader of a business, you should know how strong your company's defenses are, you should know if there are response plans in place in case a significant security breach occurs, and you should be getting regular reports on cybersecurity threats and what your company is doing to respond to those threats," he said.

Credit Union Magazine featured an article on cybersecurity this month, written by Mike Flouton, vice president of product marketing for SilverSky, a CUNA Strategic Services alliance provider.

The article, titled "Five Cybersecurity Considerations for CUs," lays out several strategies for strengthening cybersecurity while getting the best value for money spent, including:

- Looking for products and tools that cover multiple bases, such as a secure e-mail hosting provider that ensures compliance of any communications coming into or out of the organization;
- Finding a security provider who monitors threats and analyzes security alerts at all times; and
- Collaborating with other business units to ensure best practices are being exercised and members are not being negatively affected by security procedures.

Source: CUNA News Now

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

2014 CUNA Comment Calls Due Dates on Proposed Rules

August 15, 2014~NCUA
[Economic Growth and Regulatory Paperwork Reduction Act](#)

August 18, 2014~NCUA
[Appraisals Proposed Rule](#)

CUNA Webinars

July 29
[Mortgage Lending Update](#)

August 10
[CUNA Lending Compliance School](#)

August 21
[MIP and Account Openings](#)



Training & Events Calendar

July 29
[Webinar: Steps to SAFE Act Registration, Renewal & Compliance for MLOs](#)

July 30
[Webinar: Real Estate Lending Series: Avoiding HMDA Reporting Mistakes](#)

August 5
[Webinar: ACH Specialist Series: Federal Government ACH Payments: Reclamations & Garnishments](#)

August 6
[Webinar: Wire Transfer Compliance](#)

September 9 – 11
[Regulatory Compliance School - Denver](#)

September 16 – 17
[Regulatory Compliance School - Casper](#)

November 4 – 6
[Regulatory Compliance School - Phoenix](#)

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

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