

Regulatory Compliance News



MOUNTAIN WEST
Credit Union Association

July 29, 2016

Compliance News

FinCEN Issues FAQs to Assist Financial Institutions in Understanding Scope of CDD Requirements

The Financial Crimes Enforcement Network (FinCEN) recently issued Frequently Asked Questions (FAQs) to assist covered financial institutions in understanding the scope of the Customer Due Diligence (CDD) Requirements for Financial Institutions," published on May 11, 2016 and available [here](#). These FAQs provide interpretive guidance with respect to the CDD rule.

Source: FinCEN

HMDA Filing Info for 2017 and 2018 Posted

The Consumer Financial Protection Bureau has [posted a notice](#) that the FFIEC and HUD have published resources for financial institutions required to file HMDA data:

- [Filing Instructions Guide for data collected in 2017](#)
- [Filing Instructions Guide for data collected in or after 2018](#)
- [Technology Preview](#) with resources for institutions preparing their systems to file HMDA data with the CFPB
- [Frequently Asked Questions about the changes in filing procedures](#)

Source: CFPB

NMLS Expands Functionality to Include MSBs

Money service businesses (MSBs) are losing access to traditional financial services. This isn't news. We discuss it at every CUNA BSA school. Oftentimes, credit unions (and banks) refuse to open these accounts due to increased regulatory scrutiny by examiners, perceived high-risk and the additional compliance costs and burdens associated with maintaining these accounts.

Over the past few years, FinCEN has expressed concern with what they call "de-risking" of the MSB industry. The agency defines "de-risking" as when "a financial institution seeks to avoid perceived regulatory risk by terminating, restricting, or denying services to broad classes of clients, without case-by-case analysis of risk or consideration of mitigation options". FinCEN has stated numerous times that it does not support the "de-risking" of any industry without a sufficient risk assessment and determination of whether the financial institution has the ability to manage the risk.

To assist with the MSB risk assessment, the Nationwide Multistate Licensing System (NMLS) (a licensing system initially developed to keep track of bad actors in the mortgage licensing area) expanded its functionality in 2012 to include MSBs. Currently 34 state agencies are using

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Association Compliance Forums

Click on one of the below links to subscribe

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[BSA Compliance Officer Forum](#)

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NMLS for MSB licensure, and more agencies are expected to follow as they adjust their laws and regulations.

Additionally, there is a state effort underway to develop a unified MSB Call Report. The Conference of State Bank Supervisors (CSBS) reports that this will provide the state and Federal regulators with standardized information about MSB activities that will allow them to better assess risk and identify trends.

If your credit union services MSB accounts or is considering opening these accounts – this is all good news and will hopefully reduce some of the compliance risks and costs of servicing these accounts.

For more information, see "[The State of State Money Services Businesses Regulation & Supervision](#)" white paper developed by CSBS and the Money Transmitter Regulators Association (MTRA).

Source: CUNA Compliance Blog

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](#)

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 17

Webinar: [Internal Controls & Due Diligence: The Supervisory Committee's Role](#)

August 18

Webinar: [Consumer Loan Documentation](#)

August 23

Webinar: [Complying with Final Military Lending Act Rule Changes Effective](#)

Lending, and Operations.

If a full suite of compliance services is not what you are looking for, we now offer self-assessment tools, individual loan reviews, and a basic annual compliance package that includes ACH, BSA, SAFE Act, and Website compliance.

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

Expedited Funds Availability: Regulation CC

The Availability of Funds and Collection of Checks (Regulation CC or Reg. CC) requires state and federally-chartered credit unions and other financial institutions to provide members with disclosures stating when their funds will be available for withdrawal. The Federal Reserve Board issued Regulation CC to implement the Expedited Funds Availability Act which is made up of four subparts:

- *Subpart A* contains general information and defines the various terms and deposit items.
- *Subpart B* contains rules regarding availability schedules for the withdrawal of funds deposited, along with various disclosure policies.
- *Subpart C* contains rules to expedite the collection and return of checks.
- *Subpart D* provides rules to address substitute checks.
- *Subpart A: General Deposit Rules*

The day the deposit is made is the starting point for determining when funds must be available for withdrawal. The day funds are deposited will vary depending on the circumstances of the deposit:

- Funds received at a staffed teller station are considered deposited when received by the teller.
- Funds mailed to the depository credit union are considered deposited on the banking day they are received.
- Funds received at a night depository are considered deposited on the banking day the deposit is removed, and the contents of the deposit are accessible for processing.
- Funds received at an ATM are considered deposited when the funds are placed in the ATM.
- Funds received at an off-premises ATM that is not serviced frequently (not more than two times each week) are considered deposited on the day they are removed from the ATM. The credit union must post

October 3, 2016

August 24

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](#)

September 19

Webinar: [HMDA Roadmap Part 1: Impact, Important Changes & Implementation Considerations for Lenders](#)

November 15

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

November 15-16 – Phoenix

IRA School: [Essentials & Advanced](#)

December 14

Webinar: [Essential Compliance Training for the Board & Senior Management](#)

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.

[Cybersecurity](#) – Intrusion threats and vulnerabilities



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

a notice at the ATM informing depositors that funds deposited may not be considered received on the day of deposit.

A deposit received on a day that the depository credit union is closed, or after the credit union's cut-off hour, may be considered made on the next banking day. A credit union may establish a cut-off hour for receipts of deposits in any branch office, ATM, contractual branch, or off-premises facilities. Also a credit union may establish different cut-off hours for different types of deposits or for deposits received at different locations, so long as the minimum cut-off hours are followed.

Subpart B: Availability Schedules

Regulation CC states when deposits of various types must be made available to members. All references to the number of business days indicate the maximum time limits for making funds available. Credit unions may provide earlier availability times and may extend the times set by Regulation CC on a case-by-case basis.

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](#).

**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](#)

December 1, 2016~DOL

[New Overtime Rules](#)

January 1, 2017~CFPB

[HMDA – Regulation C](#)

January 1, 2017~NCUA

[Member Business Loan Rule](#)

- [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](#)

April 10, 2017~DOL

[Fiduciary](#)

September 15, 2017~NACHA

[Same-day ACH \(NACHA\) – Phase 2](#)

CUNA Comment Calls – Due Dates on Proposed Rules

July 15, 2016~NCUA

[2016 Regulatory Review](#)

July 25, 2016~NCUA

[Community Development Revolving Loan Fund](#)

August 3, 2016~CFPB

[Amendment to the Annual Privacy Notice Requirement Under Gramm-Leach-Bliley](#)

August 12, 2016~CFPB

[Arbitration Proposal](#)

September 19, 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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