

Regulatory Compliance News



MOUNTAIN WEST
Credit Union Association

July 8, 2016

Compliance News

Pulling Credit Reports for Cross-Selling Purposes

Credit reports only can be obtained if the user has a “permissible purpose,” as defined in the Fair Credit Reporting Act, and a credit report cannot be obtained for a permissible purpose (in connection with a loan application) and then used for an impermissible one (cross-selling additional products and services).

Section 604(a) of the FCRA allows a credit bureau to release a consumer report to a credit union when authorized in writing by the consumer to whom the report relates, or when the credit bureau has reason to believe that the credit union intends to use the information:

- In connection with a credit transaction involving the consumer that involves the extension of credit to the consumer, or a review or collection of the consumer’s account;
- For employment purposes (requires applicant/employee’s written authorization);
- In connection with insurance underwriting involving the consumer; or
- When the credit union otherwise has a legitimate business need for the information in connection with a business transaction that is initiated by the consumer or to review an account to determine whether the consumer continues to meet the terms of the account.

In general, marketing is not a permissible purpose. The only exception is making pre-screened credit solicitations in accordance with [this section](#) of the FCRA.

Source: CUNA Compliance

CFPB Proposes to Update Reg P for FAST Act Changes

The CFPB has announced a proposal to implement recent Congressional legislation that allows financial institutions that meet certain requirements to be exempt from sending annual privacy notices to their customers. In December 2015, Congress amended the GLBA as part of the Fixing America’s Surface Transportation Act (FAST Act). This amendment provides financial institutions that meet certain conditions with an exemption to the requirement under the GLBA to deliver an annual privacy notice. A financial institution can use the annual notice exception if it limits its sharing of customer information so that the customer does not have the right to opt out and has not changed its privacy notice from the one previously delivered to its customer. The proposed amendment would implement this legislation. The proposal would also establish deadlines for institutions resuming annual privacy notices if their practices change and cease to qualify for the exemption.

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Association Compliance Forums

Click on one of the below links to subscribe

[Compliance Forum](#)

[BSA Compliance Officer Forum](#)

Please provide the subscriber’s name, credit union, title and email address. The subscriber will receive a welcome e-mail that details how to access the forum.



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Because the proposal would render obsolete the alternative delivery method in Regulation P section 1016.9(c)(2), the Bureau proposes to eliminate that alternative. Comments on the proposal will be accepted for 30 days following publication in the *Federal Register*.

CFPB Reports \$24.2M in Restitution to Consumers

The CFPB [announced](#) the release of a report that its supervisory actions in the first four months of the year uncovered illegal activities in auto finance and payments that led to approximately \$24.5 million in restitution to more than 257,000 consumers. The report also highlights issues CFPB examiners found through the agency's examination of businesses in auto loan origination, debt collection, mortgage origination, and small-dollar lending.

July Designated Military Consumer Protection Month

The Consumer Financial Protection Bureau Blog [announces](#) the designation of July as Military Consumer Protection Month. This annual event was first launched in 2013 as Military Consumer Protection Day by the Federal Trade Commission as a way to raise awareness about identity theft crimes impacting service members, but now it's become a national month-long campaign supported by more than [50 partners](#) including the NCUA. Servicemembers are reminded to review the CFPB's [servicemember resources](#) for more information.

Source: CFPB

Report on Effects of Capital Rules on Mortgage Servicing Assets

The Federal Reserve, FDIC, OCC and NCUA have jointly issued a [report to Congress](#) on the effect of capital rules on mortgage servicing assets. The report is required by Section 634 of the Consolidated Appropriations Act, 2016.

Source: FRB

Advocacy Highlight

CUNA Seeks Feedback on CFPB Small-dollar Rule by August 31

As CUNA [continues](#) its advocacy efforts on the CFPB's short-term, small-dollar lending rule, it seeks feedback from credit unions on how they will be affected by the proposed rule. Feedback is due to CUNA by Aug. 31, and comments are due to the CFPB by Sept. 14.

The [proposal](#) includes new rules for payday, title, and high-cost installment loans including increased underwriting standards. CUNA is concerned that the rule sweeps in a number of consumer-friendly credit union small-dollar and other covered loans, and adds unnecessary compliance burdens and costs to these loans. The proposed rule also adds additional burdens to certain products offered to provide members better options and choices like auto refinance loans.

CUNA has released its [early analysis](#) of the rule, highlighting a number of concerns about the proposed rule and its effects on access to credit.

CUNA sent a [letter](#) to NCUA Chair Rick Metsger asking him to work closely with the CFPB to ensure that the agency is fully aware of the proposed rule's impact on existing credit union products.

CUNA, with the Independent Community Bankers of America, also sent a [preliminary letter](#) to CFPB Director Richard Cordray urging him to focus on the impact the rule will have on depository institutions' small-dollar

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InfoSight Highlight

Recent Content Updates

New Topic! FFIEC Cybersecurity Assessment Tool

In June 2015, the Federal Financial Institutions Examination Council (FFIEC) launched their Cybersecurity Assessment Tool to help institutions identify their risks and assess their cybersecurity preparedness. This topic provides an overview of the components of the new tool, a link to the tool itself and some additional links to resources from the NCUA. This new topic is now available in the Security Channel.

Servicemembers (and Dependent) Consumer Lending: Summary

In order to provide credit unions with resources to comply with the changes to the Military Lending Act (compliance required on October 3, 2016) we have updated the Servicemembers (and Dependent) Consumer Lending page in InfoSight. The Additional Resources section has also been updated to include the resources published by CUNA on this topic.

Elder Financial Exploitation: Summary

The Elder Financial Exploitation topic, located in the Security Channel, was updated to include information about state laws and a link to The U.S Department of Health and Human Services' list of laws related to elder abuse.

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

CU Compliance Connection

This **new video** provides an overview of the key changes made to the Military Lending Act that credit unions are going to need to consider and implement prior to the compliance effective date of October 3, 2016. View the video [here](#).

Q2 2016 & Q1 2016 Review

In this **recently released** video (now on YouTube!),

lending programs.

In conjunction with its proposed rule, the CFPB issued a [request for information](#) about predatory lending practices, specifically about other potentially high-risk loan products and practices not covered by the proposal.

Comments on this request for information can be sent to CUNA by Sept. 30, and must be sent to the CFPB by Oct. 14.

Source: CUNA Advocacy

Latest Congressional Effort to Expand Field of Membership

There is upcoming legislation, introduced by Reps. Tim Ryan (D-OH), Ann Kirkpatrick (D-AZ) and Donald Norcross (D-NJ) that would expand credit union field of membership. It is further evidence of Congressional interest in consumers having greater access to credit unions.

This legislation would help credit unions serve the unbanked and underbanked by eliminating the requirement that credit unions must have a brick and mortar branch in a rural or underserved area in order to add that area to their field of membership. We support this idea since today's technology makes it possible to serve members without having a physical branch in a designated underserved area.

The bill would also allow credit union charters of all types to add rural and underserved areas to their FOM. While NCUA will be releasing their FOM rule this year, the proposed legislation would expand even more lending in underserved areas.

On the Hill:

The House was in session this week and was expected to consider a number of bills, including the Financial Services and General Government Appropriations bill. This legislation was expected to have been considered prior to the Independence Day recess. The Senate returned Wednesday to take up the Defense Appropriations Bill.

The House was also expected to consider H.R. 4538, the "SeniorSafe Act of 2016." The legislation introduced by Representatives Bruce Poliquin (R-ME) and Kyrsten Sinema (D-AZ), is an important step toward improving protection for seniors by providing legal immunity for properly trained financial services employees who disclose concerns about financial exploitation of senior citizens.

There were no hearings of consequence to credit unions this week; however, next week it is anticipated that the House Financial Services Committee will hold a legislative hearing on the Financial CHOICE Act (Chairman Hensarling's regulatory reform legislation). The Committee is also expected to mark-up pending legislation before the conventions recess. The House Energy and Commerce Committee will also be holding a hearing with all five Federal Communication Commission Commissioners on July 12.

Source: CUNA Advocacy



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](#).

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

Training & Events Calendar

Archived Webinar: Expanded Financial Protections Under the New Military Lending Act, Including SCRA Update

July 11

Webinar: Understanding the New Overtime Rules Effective Dec. 1, 2016: Critical Budgeting Issues & How to Determine the Appropriate Hourly Rate

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

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

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

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

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.

regulations and laws affecting their regulatory compliance responsibilities.

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

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

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