

## Regulatory Compliance News



**MOUNTAIN WEST**  
Credit Union Association

August 19, 2016

### Compliance News

#### Compliance: TCPA Government Debt Call Rule Finalized by FCC

The Federal Communications Commission issued its final rule on the handling of automated federal debt collection calls under the Telephone Consumer Protection Act (TCPA) last week. The rule, which will become effective 60 days after its publication in the Federal Register, implements the Bipartisan Budget Act of 2015.

The act created an exemption from the TCPA prior express consent rules for calls and text messages “made solely to collect a debt owed to or guaranteed by the United States.”

New requirements include:

- Debt collection calls and/or texts will fall under the exemption for federal debts if the consumer is delinquent at the time the call is made, or at an imminent risk of delinquency as a result of the terms or operation of the loan program itself, and in the 30 days before such an event; and
- The exemption only applies to existing debts for which the United States is currently the owner or guarantor of the debt. Note that the FCC did not clarify which federal debts are included or excluded from coverage.

In addition, federal debt collection calls and texts:

- May only be made to the consumer or another person or entity legally responsible for paying the debt;
- Must only be about the debt in question, as any marketing content will transform the call into a non-exempt telemarketing call;
- May only be made to one of three categories of wireless telephone numbers:
  - The wireless number the debtor provided at the time the debt was incurred, such as on the loan application;
  - A wireless number subsequently provided by the debtor to the owner of the debt or the owner’s contractor; or
  - A wireless number the owner of the debt or its contractor has obtained from an independent source, provided that the number actually is the debtor’s telephone number.
- Are limited to 3 federal debt collection calls in a 30-day period. In addition, pre-recorded or artificial voice calls cannot exceed 60 seconds and text messages cannot exceed 160 characters;
- Can only be made between 8 a.m. and 9 p.m., of the called party’s time zone; and
- Can only be made by the federal government or its contractor.

Consumers also have the ability to stop federal debt collection calls at any point, and debtors may make this request to the caller. CUNA is analyzing

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### Association Compliance Forums

Click on one of the below links to subscribe

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the rule further, and will release a final analysis.

*Source: CUNA Compliance Community*

### NCUA Releases Digital Banking Guidebook

The NCUA has [released](#) a new guidebook to help credit unions better meet members' needs for digital banking services. [Going Digital: Strategies for Providing Digital Services](#) provides step-by-step instructions for creating a strategic plan for analyzing members' needs and tailoring digital products to meet those needs. It also details potential advantages and disadvantages to members and credit unions.

*Source: NCUA*

### CFPB Declines to Expand the 120 Day Foreclosure Rule Exceptions

Credit unions have struggled with the 120 day pre-foreclosure waiting period requirement, particularly when it comes to abandoned property. CUNA has requested relief from this requirement in cases where the borrower intentionally walks away from the property. We have argued that this situation leaves the mortgage collateral vulnerable to disrepair and even vandalism.

Disappointingly, although the CFPB recognizes that mortgage servicers could be disadvantaged by this requirement if the property deteriorates, it declined to add any new exceptions to the 120 day waiting period in the new rule.

By way of explanation, the Bureau reiterates its 2013 position that "additional exemptions would create uncertainty and could potentially be construed in a manner to permit evasion of the requirements." The Bureau continues to believe that borrowers may be harmed by the risks associated with a broader set of exemptions from this requirement.

On the brighter side, the lienholder exception to the rule (1024.41(f)(iii)) has been amended to include foreclosure action of not only subordinate lienholders, but superior lienholders as well.

Under the new mortgage servicing rule, you are not allowed to make the first notice or filing required for any foreclosure process unless:

- A borrower's mortgage loan obligation is more than 120 days delinquent;
- The foreclosure is based on a borrower's violation of a due-on-sale clause, or
- The servicer is joining the foreclosure action of a superior or subordinate lienholder.

For more information, review CFPB's [Amendments to the 2013 Mortgage Rules under the Real Estate Settlement Procedures Act \(Regulation X\) and the Truth in Lending Act \(Regulation Z\)](#).

*Source: CUNA*



[Training & Events Calendar](#)

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](mailto:mheimbeck@mwcua.com) or (720) 479-3325 or 1 (800) 477-1697 ext. 3325



### InfoSight Highlight

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

### Compliance Videos

#### Same Day ACH Preview

In this newly released video Amy Smith, VP and Executive Director of The Clearing House Payments Authority, provides background information on the current batch-and-forward ACH payment system and introduces the "Phased Approach" of the Same Day ACH program, which will begin in September of 2016. You will want to pay special attention to Amy's suggestion to review current ACH files you may be transmitting. View the video [here](#).

#### Military Lending Act

This 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](#).

### 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

**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](#)

**September 7**

Webinar: [Understanding the NCUA Regulation & the 7 Critical Risk Areas Directors Should Track](#)

**September 12**

Webinar: [New Customer Due Diligence Rules for Beneficial Ownership: Implementation Game Plan](#)

**September 13**

Webinar: [Navigating Compliance Issues for Promotions, Bonuses, Contests & Sweepstakes](#)

**September 19**

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

**September 20**

Webinar: [Director & Officer Liability: Rules, Risks & Trends](#)

**October 4, 2016**

Webinar: [Handling Dormant Accounts, Unclaimed Property & Escheatment](#)

**October 5**

Webinar: [Essential Compliance Regulations for Deposit Operations](#)

**October 6**

Webinar: [Avoiding the Top 10 Legal & Compliance Mistakes in the E-Statement Process](#)

**October 20, 2016**

Webinar: [Conducting the 2016 ACH Audit](#)

**November 3**

Webinar: [Cyber Series – Member Authentication & Validation](#)

**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](#)

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### 2016 Compliance Schools Registration

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](#) (*Deadline to register Sept. 2<sup>nd</sup>*)

## New and Revised Rules

**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](#)

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### CUNA Comment Calls – Due Dates on Proposed Rules

**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](#)

**October 31, 2016~CFPB**

[RFI for Small Dollar Proposed Rule](#)



### Compliance Calendar

**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**

- Phoenix, AZ: [October 12-13](#)

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## CUNA Webinars

**July 7, 2016 - July 7, 2017**

CFPB's Payday, Small Dollar and Vehicle Title Proposed Rule – Recorded

- Columbus Day – Federal Holiday

**October 24**

- 5300 Call Report Due to NCUA

**October 31**

- Credit Card Quarterly Submission Due to CFPB

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

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