

## Compliance News

### BSA/AML Compliance Needs to Be Part of CU Culture: FinCEN

Recent anti-money laundering (AML) enforcement actions have led the U.S. Treasury's Financial Crimes Enforcement Network (FinCEN) this week to issue an [advisory](#) identifying common compliance shortcomings.

The advisory is meant to highlight principles that can strengthen a financial institution's Bank Secrecy Act (BSA) compliance program.

The advisory lays out the following guidance for financial institutions:

- Leadership, including board of directors, senior and executive management, owners and operators, should be engaged with the financial institution's BSA/AML compliance program. Leaders should receive training tailored to their roles and should remain informed of BSA/AML compliance practices within the institution;
- Compliance, including submission of appropriate and accurate reports, should not be compromised by revenue interests. BSA/AML compliance should function independently within a financial institution, in order to be prepared to take action to address and mitigate risks from the business side of the institution;
- BSA/AML compliance staff should have access to all relevant information. According to FinCEN, several recent enforcement actions noted that compliance staff was not given information, possibly due to the lack of an information-sharing mechanism. Fraud prevention and legal departments should be sharing information with compliance staff;
- Adequate human and technological resources should always be accessible. An individual should be designated as the person responsible for coordinating and monitoring day-to-day compliance, and appropriate support staff should be assigned to a BSA/AML compliance program based on an organization's risk profile;
- Compliance programs should be commensurate with an institution's risk level, and should always include a proper ongoing risk assessment, sound risk-based customer due diligence and appropriate detection and reporting of suspicious activity. This should also include independent program testing from an independent, qualified, unbiased and non-conflicting entity; and
- Staff at all levels should understand the purpose of BSA reports. FinCEN considers the information provided among the most important information available for law enforcement and other security entities. Information provided can help initiate investigations, expand existing investigations, promote international information exchange and identify significant relationships, trends and patterns.

*Source: CUNA News Now*

### Internal CFPB Report Finds Workplace Challenges

A Consumer Financial Protection (CFPB) internal report outlines employee concerns ranging from a perceived lack of diversity and a lack of clarity around processes, according to *Politico* (Aug. 12).

The CFPB's Office of Minority and Women Inclusion prepared the report, which is based on 48 listening sessions conducted by the bureau between April and June.

The report "frequently mentioned frustrations with insufficiency in infrastructure, lack of transparency and communication, and perceived unfairness in application of practices and procedures which permeated throughout the various areas of concern they mentioned," according to *Politico*.

## Compliance Team

### [Mark Robey](#)

#### Sr. VP of Regulatory Affairs

Phone: 800-477-1697, ext. 3327

Direct: 720-479-3327

### [Melia Heimbeck](#)

#### Director of Compliance Operations

Phone: 800-477-1697, ext. 3325

Direct: 720-479-3325

### [Julie Kappenman](#)

#### Director of Association Compliance Services

Phone: 800-477-1697, ext. 3324

Direct: 720-479-3324

### [Donna Gibbs](#)

#### Compliance Coordinator

Phone: 800-477-1697, ext. 3281

Direct: 720-479-3281



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 Heimbeck at: [mheimbeck@mwcu.com](mailto:mheimbeck@mwcu.com) or (720) 479-3325 or 1 (800) 477-1697 ext. 3325



## FFIEC Cloud Computing FAQs

In July 2012 the Federal Financial Institutions Examination Council (FFIEC) issued a statement on Outsourced Cloud Computing. The statement discusses key risk considerations associated with using third-party

According to an Aug. 12 [Reuters article](#), the report also found that staff believed their supervisors micro-managed projects, were unclear about priorities, lacked uniform standards for employee performance and had misunderstandings concerning the bureau's hiring, promotion and pay practices, which contributed to the impression those decisions were unfair.

The CFPB announced in May it would remove its performance system after lower scores and bonuses were given to older employees and minorities, an action that led to the series of listening sessions.

According to *Reuters*, the report said the bureau's rapid expansion and pressure to churn out rules "fostered a culture of aggressiveness and a pace that could not be sustained long-term."

The report recommends additional internal communications mechanisms, additional training and creation of a forum to assess workplace trends.

CFPB Director Richard Cordray said he "embraces the recommendations" made in the report, and would work to ensure they are implemented, according to *Politico*.

*Source: CUNA News Now*

### Credit Unions Lag as EMV Chip Deadline Slowly Approaches

As the October 2015 implementation deadline approaches, some leaders who helped credit unions launch EMV chip-equipped payment cards estimated that fewer than 50% of card-issuing cooperatives would have both EMV-equipped credit and debit cards ready in time.

Oct. 15 next year marks the point when the cards' brands have said liability for fraud losses will shift to the party that has not put [EMV](#) cards in place. This means that the party, either the issuer or merchant, that does not support EMV assumes liability for counterfeit card transactions, possibly costing or saving credit unions significant amounts of money.

"Credit unions are definitely gearing up and picking up the pace," said Barney Moore, manager of card consulting services for Card Services for Credit Unions (CSCU), the association of credit unions that use the services of payment processor FIS. "But it seems unlikely that they will have gotten it done by next October."

Moore cited concerns about the costs of issuing the [chip-enabled cards](#) among credit unions, as well as delays in ironing out technical details with EMV-equipped debit cards. Another hurdle includes bottlenecks among plastic card suppliers, he added.

"We are urging credit unions that might not be ready to pull the trigger to at least get the project started and get into a queue for a chance to get EMV cards," Moore advised.

He also said the costs of EMV-embedded cards were running double or more than double the costs of payment cards with only a magnetic stripe. The costs are higher for cards with contactless technology included on their chips.

Roughly 2% of CSCU's 2,600 member credit unions had either completed their switch over to EMV credit cards or were well along in the process, Moore said.

Some executives with other card processing CUSOs reported a larger percentage of their member credit unions have progressed toward issuing EMV-equipped credit cards. However, those organizations also work with fewer institutions.

CO-OP Financial Services, the Rancho Cucamonga, Calif.-based payments network CUSO, did not say what percentage of its 3,500 client credit unions use its debit processing services. However, Michelle Thornton, manager for core products, said the pace has been picking up since the technical challenges have been worked out.

While the path to issuing EMV-enabled credit cards has been straightforward, Thornton explained, issuing EMV-enabled debit cards has been complicated because the industry has had to program debit EMV chips to include the [Durbin amendment's](#) transaction routing requirements.

Developing programs to meet those requirements slowed progress on issuing EMV-enabled debit cards, Thornton said. However, adoption has begun to move more quickly now that there are common application identifiers in place for [Visa and MasterCard](#) that allow the cards to meet the Durbin regulation requirements.

Still, she estimated some credit unions will not roll out debit cards by October 2015,

vendors to implement cloud computing solutions. The guidance from the FFIEC cautions credit unions to undertake a thorough due diligence and risk assessment process for outsourced cloud computing arrangements. It is important for credit unions who are considering storing information on a cloud to understand the possible risks that are associated with this type of information technology.

To help your credit union remain in compliance, the FFIEC Cloud Computing FAQs topic on the Security channel of InfoSight provides answers to these questions:

- Why should we follow the guidance of the FFIEC?
- What is cloud computing?
- Why would a credit union want to consider cloud computing?
- What services are currently offered through a cloud and how am I exposed to them?
- Should my credit union be concerned with the safety of data stored on a cloud?
- Does the FFIEC guidance help credit unions understand what due diligence issues we may face with cloud computing providers?
- Is the cloud service provider responsible for changes in regulatory requirements?
- How would a credit union monitor cloud computing activity?
- What legal considerations should we review before enter into a contract for cloud computing services?
- Will the credit unions current policies and procedures be adequate if we want to join a cloud?
- How will cloud computing affect business continuity planning?

### CU Compliance Connection: Derivatives Authority

The National Credit Union Administration passed a final rule that permits Federal credit unions to engage in limited derivatives activities for the purpose of mitigating interest rate risk. This presentation reviews permissible derivatives and characteristics, limits on derivatives, operational requirements, counterparty and margining requirements, and the procedures a credit union must follow to apply for derivatives authority. Click [here](#) for the video.



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

- CUNA Initiates Credit Union Call Report Survey
- NCUA Sheds Light on Its Legal Analysis Re Its RBC Proposal
- HMDA, Fixed-Assets Proposal Now Loaded On PowerComment
- CUNA Participates in U.S. Treasury Bank Secrecy Act Meeting; Other BSA Updates
- CUNA Weighs In with CFPB on Student Lending and College Agreements
- Input Welcome on NCUA's Asset Securitization and Safe Harbor Proposals
- Payments Security Task Force Update: 575 Million EMV Chip Cards Issued by 2015
- NCUA Receives \$5.4 Million Recovery from BCT FCU Fraud

Be sure to visit our new [Risk-Based Capital blog](#) for the latest

preferring to move into this space more slowly and to see how the market develops.

Brandon Kuehl, senior product manager for payments processor The Members Group in Des Moines, Iowa, also declined to say how many credit unions process card payments with the CUSO, but said that 50% of its clients were already issuing EMV-enabled credit cards. The other 50% are on track to have them issued by next year's deadline, he said.

Kuehl attributed the relatively rapid adoption to a streamlined process First Data put into place that took many of the complications out of the decision making process on EMV. Card processor First Data developed the approach in conjunction with PSCU, which processes transactions on its platform. TMG also processes on the First Data platform.

Kuehl said TMG was surprised to see how many of its credit unions had opted to issue cards with both the EMV chips and contactless technology. Seventy-five percent of them that issued cards or were close to doing so had decided for the so-called dual interface.

Cards with both the EMV chips and contactless technology are significantly more expensive, sometimes as much as a dollar more, than cards with only the EMV chip, according to some experts. But these cards will also be well-positioned if contactless point of sale terminals become more common, Kuehl said.

Jon Sarvis, CEO of TMG Financial Services, TMG's agent issuing subsidiary, said most of the CUSO's 100,000-account portfolio will have EMV cards on the way if not actually in hand in time for October.

The CUSO is expected to roll out the EMV cards first to credit union members who travel or work overseas and then to credit unions located in geographic areas with the highest incidence of fraud, Sarvis said.

"Mostly, that means credit unions on the coasts will get the cards first, since their fraud incidence tends to be higher," Sarvis explained. "Credit unions in the Midwest will likely get them second."

Arthur Harper, director of card payment solutions at PSCU, was the one executive to report that all 500 of the CUSO's credit issuing credit unions would have EMV credit cards issued in time for the October 2015 deadline, though he acknowledged only 5% had already issued EMV-equipped cards.

Harper noted that a large amount of work remained to issue EMV debit cards due to the technical problems that programmers had to work out. He steadfastly predicted that PSCU credit unions would have their debit cards ready on time as well, but acknowledged there may be a traffic jam trying to get so many credit unions certified for EMV debit in the days leading up to the deadline.

"Despite the delay, I think getting debit cards to EMV is more important than credit," Harper said. "Debit cards are used much more often and therefore, have a much higher incidence of fraud."

None of the processing executives CU Times spoke to reported large numbers of credit unions transitioning to EMV-equipped cards en masse. Instead, almost all were moving toward a staged rollout that targets overseas travelling or working members first, then planned to issue the rest as part of the natural expiration and reissue process.

*Source: CU Times [August 20 issue](#)*

## Resources for Members in the Event of Death

So many of our members don't know where to turn for advice and guidance when a loved one dies, and many credit unions don't feel like they have a trusted source to refer them to. Below are links to websites that credit unions can refer members to when they have suffered a loss.

The first link is to the Colorado Bar Association. This website contains general, Colorado-specific legal guidance for survivors. It also has information on topics such as being a personal representative, a trustee, a guardian, a conservator, and others. The credit union can also order print versions of brochures for a small fee to make available to their members.

The second link is to the State Bar of Arizona. This website provides resources similar to the Colorado Bar Association and has print versions available as well. Unfortunately we were unable to locate similar Wyoming-specific resources for credit union members, but will

*from CUNA staff and guest bloggers*

## Advocacy Highlight

### Input Welcome on NCUA's Asset Securitization and Safe Harbor Proposals

Comment letters for NCUA's [asset securitization](#) and [safe harbor](#) proposals are due to the agency by August 25.

Because the two proposals are so closely related, CUNA will be sending a combined comment letter.

The asset securitization proposal would expand NCUA's incidental powers for federal credit unions to allow the private securitization of credit unions loans. This will likely only be attractive to a few credit unions that have sufficient resources to undergo the expense of hiring rating agencies, an investment bank, and counsel.

CUNA has identified the following issues but welcomes additional input:

- NCUA has the authority to make private asset securitization an incidental power for federal credit unions. CUNA encourages NCUA to give credit unions broad authority and limit the rule to requirements for the authorization to securitize, and not place rules on actual securitizations as this could limit credit unions' ability to securitize loans.
- The rule needs more flexibility for credit unions to securitize loans that a credit union has not originated.
- "Origination" should be narrowly defined so that it does not capture entities that are simply conduits for making a loan and have no economic interest in the loan.
- The proposed safe harbor is necessary to encourage investors to purchase credit union securitized loans.

### HMDA, Fixed-Assets Proposal Now Loaded On PowerComment

CUNA has released the first two comment calls with PowerComment, the new online regulatory advocacy resource. This week, CUNA included proposals on the National Credit Union Administration's (NCUA) FCU ownership of fixed assets proposal and the Consumer Financial Protection Bureau's (CFPB) regulation of Home Mortgage Disclosure Act Regulation C.

Comments on these proposals are due to NCUA and the CFPB October 10 and October 22, respectively. Comments are requested to CUNA by October 1 and October 8.

"CUNA also is soliciting comments on five other proposals currently listed on PowerComment. Credit unions have the ability to email regulators directly through PowerComment," Assistant General Counsel for Special Projects Robin Cook stated.

The site, which is exclusive to CUNA-affiliated credit unions, counts down the number of days left in the comment period, indicates which regulator proposed the regulation, the date the regulation's was published, and the progress of any letters a credit union has started in the system. PowerComment also includes a discussion board for each rule to give credit union staff the ability to talk about the rules with other credit unions. Users can access PowerComment with their cuna.org username and password. CUNA and the California and Nevada Credit Union Leagues partnered to develop the tool,

continue seek these out.

The third link is to 360 Degrees of Financial Literacy. This website provides non-state-specific information for survivors and provides other general information. 360 Degrees of Financial Literacy is a free program sponsored by certified public accountants throughout the nation. Its stated mission is to help Americans understand their personal finances through every stage of life.

[Colorado Bar Association](#)

[State Bar of Arizona](#)

[360 Degrees of Financial Literacy](#)



[Training & Events Calendar](#)

### September 3

Webinar: [Escrow Account Compliance](#)

### September 9 – 11

[Regulatory Compliance School - Denver](#)

### September 16 – 17

[Regulatory Compliance School - Casper](#)

### November 4 – 6

[Regulatory Compliance School - Phoenix](#)

## [CUNA Schools and Webinars](#)

### [Schools and Conferences](#)

#### September 14 – 19

[CUNA Regulatory Compliance School, Chicago, IL](#)

#### October 26 – 29

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

### [Webinars](#)

#### October 7

[ACH Fundamentals](#)

#### October 17

[ACH Basics](#)

which helps users efficiently generate and submit letters to regulatory agencies, including the NCUA and CFPB.

*Source: [CUNA News Now](#)*



## [2014 Compliance Calendar](#)

### September 1

• [Labor Day - Federal Holiday](#)

### September 19

• [NACHA Operating Rules Changes](#)

### October 13

• [Columbus Day – Federal Holiday](#)

### October 24

• [5300 Call Report Due to NCUA](#)

### October 31

• [Credit Card Qtrly Agreement Submission Due to CFPB \(10,000 or more open credit card accounts\)](#)

### November 2

• [Daylight Savings Time Ends](#)

### November 11

• [Veterans' Day – Federal Holiday](#)

## 2014 Effective Dates New and Revised Rules

### December 31, 2015~IRS

["Foreign Account Tax Compliance Act" \(FATCA\) Rule](#)

## 2014 CUNA Comment Calls - Due Dates on Proposed Rules

### August 22, 2014~CFPB

[Disclosure of Consumer Complaint Narrative Data](#)

### September 22, 2014~FinCEN

[Customer Due Diligence](#)

### October 1, 2014~NCUA

[Fixed Assets](#)

### October 8, 2014~CFPB

[Proposed Regulation on HMDA \(Reg C\)](#)

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

Sign up to receive Regulatory Compliance News by sending an email to [Deb Larrabee](#)