

Regulatory Compliance News



MOUNTAIN WEST
Credit Union Association

September 1, 2017

Compliance News

Issuance of Venezuela-Related Executive Order and Associated General Licenses

The President issued Executive Order (E.O.) on August 24, 2017, "[Imposing Additional Sanctions with Respect to the Situation in Venezuela](#)." The Department of the Treasury's Office of Foreign Assets Control (OFAC) published four Venezuela-related general licenses:

- General License 1, "[Authorizing Certain Activities Necessary to Wind Down Existing Contracts](#)";
- General License 2, "[Authorizing Certain Transactions Involving CITGO Holding Inc.](#)";
- General License 3, "[Authorizing Transactions Related to, Provision of Financing for, and Other Dealings in Certain Bonds](#)"; and
- General License 4, "[Authorizing New Debt Transactions Related to the Exportation or Reexportation of Agricultural Commodities, Medicine, Medical Devices, or Replacement Parts and Components](#)."

These general licenses authorize certain transactions that would otherwise be prohibited under the new E.O. OFAC is also publishing a number of related [Frequently Asked Questions](#).

Source: OFAC

American Express Paying \$96M in Consumer Redress

The CFPB [announced last week](#) it has taken action against two American Express banking subsidiaries for discriminating against consumers in Puerto Rico, the U.S. Virgin Islands, and other U.S. territories by providing them with credit and charge card terms that were inferior to those available in the 50 states and for discriminating against certain consumers with Spanish-language preferences. American Express has paid about \$95 million in redress to approximately 222,000 consumers during the reviews undertaken by the Bureau and American Express, and the Bureau is now ordering the company to pay at least another \$1 million to complete the compensation of harmed consumers.

American Express self-reported differences between its cards issued to consumers in Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa and Northern Mariana Islands, and its cards offered in the 50 U.S. states, as well as differences with respect to certain consumers with a Spanish language preference. The Bureau did not find that American Express intentionally discriminated against its customers, but rather found that the differences resulted from the company's card management structure, which involved different business units overseeing the U.S. cards and cards issued in Puerto Rico and the Virgin Islands.

No civil money penalties were imposed in the Bureau's order because

Your Credit Union's Regulatory Compliance Support Staff

Mark Robey

Sr. VP of Regulatory Affairs

Phone: 800-477-1697, ext. 3327

Direct: 720-479-3327

Melia Heimback

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

Coordinator Association Services/Compliance

Phone: 800-477-1697, ext. 3281

Direct: 720-479-3281

InCompliance Implementation Materials

The Association's InCompliance Materials are provided to help your credit union meet the challenges of implementing new and changing regulations. InCompliance publications provide you with a brief summary of the rule to quickly assess its impact, a detailed analysis for compliance staff charged with implementation, sample policies, implementation checklists and, as appropriate, sample forms. In addition, these materials are updated with Q&As (InResponse), and other materials such as charts and matrices as questions are raised and issues are identified.

Visit mwcua.com to register

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

American Express self-reported the violations, self-initiated remediation for harmed consumers, and fully cooperated with the Bureau's review and investigation.

- [Consent order](#) in the Matter of American Express Centurion Bank and American Express Bank, FSB.

Source: CFPB

FinCEN Publishes Advisory Regarding Risky Real Estate Transactions

On 8/22/17, FinCEN published [Advisory FIN-2017-A003](#) to provide financial institutions and the real estate industry with information on the money laundering risks associated with real estate transactions, including those involving luxury property purchased through shell companies, particularly when conducted without traditional financing. Such transactions are vulnerable to abuse by criminals seeking to launder illegal proceeds and mask their identities. The Advisory provides information on how to detect and report these transactions to FinCEN.

From information obtained during earlier impositions of similar Geographic Targeting Orders (GTOs), FinCEN learned that about 30 percent of reported transactions involved a beneficial owner or purchaser representative (for the purchasing entity) that was also the subject of a previous suspicious activity report. An [FAQ](#) on the GTOs was also released.

Source: FinCEN

Advocacy Highlight

Pennsylvania Creates Unit Like CFPB Within AG Office

Recently, Pennsylvania Attorney General Josh Shapiro announced the launch of a Consumer Financial Protection Unit designed to “better protect Pennsylvania consumers from financial scams.”

According to Shapiro’s office, the state’s Consumer Financial Protection Unit has the following duties:

- Investigate commercial and trade practices in the distribution, financing and furnishing of goods and services for the use of consumers;
- Conduct studies, investigations and research into matters affecting consumer interests and make such information available to the public;
- Advise the Legislature on matters affecting consumer interests, including the development of policies and the proposal of programs to protect consumers;
- Investigate fraud and deception in the sale, servicing and furnishing of goods and products, and strive to eliminate such illegal actions; and
- Promote consumer education and publicize matters relating to consumer fraud, deception and misrepresentation.

The Unit will be led by Nicholas Smyth, who was an early CFPB employee and served as assistant director of the Office of Attorney General’s Bureau of Consumer Protection (the precursor to the CFPB). Smyth also helped draft the Consumer Financial Protection Act of 2010 (Title X of the Dodd-Frank Act), which created the CFPB.

The Attorney General has made it clear to the Pennsylvania Credit Union Association (PCUA) that credit unions will not be the target of the new unit.

CUNA Responds to FCC’s Notice of Inquiry Regarding Robocalls

[CUNA submitted comments](#) to the Federal Communications

and email address. The subscriber will receive a welcome e-mail that details how to access the forum.



Put a CCRS at Your Fingertips!

Easily apply [Consumer Compliance Rating System](#) (CCRS) expectations with AffirmX. CCRS is a supervisory policy for evaluating a financial institution’s adherence to consumer compliance requirements. By adding AffirmX to your team of experts, a credit union can meet examiner expectations to proactively prevent, self-identify, and correct compliance issues. AffirmX is the leading cloud-based compliance solution that delivers a near-real time risk-based dashboard of your compliance operations. AffirmX provides document review for all areas of regulatory compliance, including ACH, Advertising, BSA, Deposits, Loans, and Operations, as well as helps you create and manage your Cybersecurity Risk Assessment.

For more information about our compliance services, please contact Melia Heimbeck at: mheimbeck@mwcu.com or (720) 479-3325 or 1 (800) 477-1697 ext. 3325



InfoSight Highlight

League InfoSight Survey

It’s strategic planning time of year and InfoSight is asking for your assistance by [completing a short survey](#) on League InfoSight products. All survey results are reviewed and incorporated into the planning process, so your participation is very important to help prioritize and determine future system enhancements and development.

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

Compliance Videos

Quarterly Update for Q2 and Q3 2017

This [video](#) reviews of a few important laws and regulations that will impact our credit unions in the 2nd and 3rd quarters of 2017. League InfoSight CEO Glory LeDu covers the **DOL – Fiduciary Rule** effective 6/9/17, Phase II of the **NACHA Same Day ACH**, the changes to the **DOD - Military Lending Act** related to credit cards, and an overview to the 1st set of changes made to **Mortgage Servicing**.

Mortgage Servicing Rule

This [video](#) provides more detailed information from Glory LeDu, CEO of League InfoSight, regarding the upcoming

Commission's (FCC) Second Notice of Inquiry on Advanced Methods to Target and Eliminate Unlawful Robocalls.

Compliance concerns under the Telephone Consumer Protection Act (TCPA) for calling reassigned numbers were exacerbated by the FCC's July 2015 Order. The Order makes clear that callers can make only one call under a safe harbor before they are considered to have actual or constructive knowledge that the number was reassigned. The one-call safe harbor does not account for the dozens of reasons it may not be possible to connect with the new holder of the number in one attempt.

The letter gives background on why it's important for credit unions and their member-owners to communicate. As anyone who has worked in a credit union would know, communication with members is vitally important to both the member and the credit union as a whole. The ambiguous requirements for calling assigned numbers has the possibility of chilling these important communications.

In its letter, CUNA points out that credit union communications are mostly informational and the target audience consists of credit union member-owners. Despite the limited, informational nature of their communications, credit unions nonetheless find themselves the target of TCPA litigation.

The letter outlines why a recurring concern is reassigned numbers. Like telephone consumers generally, credit union members frequently change their contact numbers that were provided to the credit union, and do not necessarily think to immediately inform the credit union of the change. The credit union may then call the number to provide information without any knowledge that the number has been reassigned, potentially exposing it and its member-owners to liability.

The letter details CUNA's position on reassigned numbers and goes into further detail on the points below:

- The Development of a Database is Laudable, But Cannot Substitute for Rectifying the Current Unreasonable Reassigned Numbers Rules;
- The Commission Should Establish a National FCC-Supervised Database that is Comprehensive, Readily Accessible, Timely and Affordable;
- The Commission Should Create a Workable Safe Harbor.

CUNA supports the Commission's initiative to create a reassigned number database and urges the Commission to establish a workable safe harbor for entities that use the database. In the meantime, CUNA urges the Commission to promptly revise the current reassigned numbers rules.

CFPB Temporarily Increases HMDA HELOC Reporting Threshold

On August 24, 2017, the CFPB issued a [final rule](#) that temporarily increases the threshold for collecting and reporting HELOC data under HMDA. Under the Regulation C rules that are scheduled to take effect in January 2018, credit unions and other financial institutions would have been required to report HELOCs if they made 100 such loans in each of the last two years. The final rule increases that threshold to 500 loans through 2018 and 2019. Over the next two years, the Bureau will reconsider whether to adjust the threshold amount and/or duration of the temporary increase.

CUNA appreciates the Bureau's effort to provide flexibility for credit

Mortgage Servicing Rules, effective 10/19/2017. Be sure to review this video to ensure you are in compliance with these upcoming changes.

Member Business Lending

[This video](#) provides the details you will need to know to comply with the NCUA's Member Business Lending rules.

CUNA Advocacy Report

The [CUNA 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. Additional Advocacy efforts may also be found under CUNA's [Removing Barriers](#) blog.



Compliance Calendar

September 4, 2017

- Labor Day Federal Holiday

September 15, 2017

- [Same-day ACH – Phase 2](#)

September 30, 2017~NCUA

- [New Call Report Form](#)

October 29, 2017

- 5300 Call Report Due to NCUA

January 1, 2018

- [HMDA/Reg C](#)

March 16, 2018

- [Same-day ACH - Phase 3 \(Final phase\)](#)

April 1, 2018

- [Prepaid Accounts under the EFT Act/Reg E and TILA/Reg Z](#)

April 19, 2018

- [Amendments to 2013 Mortgage Rules under RESPA/Reg X and TILA/Reg Z](#)

May 11, 2018

- [Customer Due Diligence/CDD](#)

Effective Dates

New and Revised Rules

September 15, 2017~NACHA

[Same-day ACH \(NACHA\) – Phase 2](#)

April 1, 2018 ~ CFPB

[Prepaid Accounts under the EFT Act/Reg E and](#)

unions making a relatively low number of HELOCs, and believes today's final rule is a step in the right direction. However, as detailed in their [comment letter](#) to the CFPB, CUNA believes a complete exemption from the HELOC reporting requirement would be more appropriate for credit unions. Particularly, given there has been no evidence of wrongful conduct and credit union HELOC data would ultimately be inconclusive because of their field of membership requirements.

Source: *CUNA Removing Barriers Blog*



Training & Events Calendar

September 6

Webinar: [Understanding & Processing IRA Rollovers & Transfers](#)

September 7

Webinar: [Responding to Official Demands for Member Funds: Subpoenas, Garnishments, Summonses & Levies](#)

September 12

Webinar: [Regulator Issues for the Credit Analyst](#)

September 13

Webinar: [Minor Accounts: Ownership, Documentation & Access](#)

September 19

Webinar: [Managing & Mitigating Data Breaches: Fraud, Forensics & Incident Response](#)

September 20

Webinar: [Supporting Documentation for the ALLL: Current Rules & Future Expectations Under CECL](#)

September 21

Webinar: [ACH Specialist Series: RDFI Returns: 2 Day v 609 Calendar Days – Understanding the Difference](#)

September 27

Webinar: [Step by Step SAR Completion: Dos & Don'ts](#)

September 28

Webinar: [Record Retention & Destruction Rules: Compliance & Best Practices](#)

October 16

Webinar: [Planning & Compliance Considerations for the New Fannie Mae & Freddie Mac Uniform Residential Loan Application](#)

October 26

Webinar: [Job-Specific BSA Training for Frontline: CTRs, SARs, CIP & More](#)

October 30

TILA/Reg Z

CUNA Comment Calls – Due Dates on Proposed Rules

July 26, 2017~CFPB

[Temporary HMDA Threshold Increase](#)

July 28, 2017~CFPB

[Proposed Amendments to Prepaid Accounts Rules Under Reg E and Reg Z](#)

August 7, 2017~NCUA

[NCUA's Notice of Proposed Rulemaking Regarding Appeals Process](#)

[NCUA's Notice of Proposed Rulemaking Regarding Supervisory Review Committee; Procedures for Appealing Material Supervisory Determination](#)

[NCUA's Notice of Proposed Rulemaking Regarding Bylaws; Bank Conversions and Mergers; and Voluntary Mergers of Federally Insured Credit Unions](#)

August 14, 2017~NCUA

[Corporate Credit Union Proposal](#)

August 28, 2017~NCUA

[National Credit Union Share Insurance Fund Equity Distributions](#)

August 31, 2017~CFPB

[CFPB's Request for Information Regarding the Small Business Lending Market](#)

NCUA Field-of-Membership Rule

Get more information about the NCUA's new field-of-membership rule by watching the [agency's webinar online](#) and review [questions and answers](#) from the event. The NCUA Board unanimously approved the new field-of-membership rule at its [October 2016 open meeting](#).

Compliance Lunch & Learn September 21 - Grand Junction, CO

Compliance professionals on the Western Slope can join their compliance peers in Grand Junction, CO on **September 21, 2017** for the next Compliance Lunch & Learn. This two-hour program includes a presentation, networking time, lunch and an open-forum discussion on Power of Attorney, Trusts & UDAAP. Mark Robey will provide an overview of opening, maintaining and closing accounts for trusts, and will discuss various power of attorney issues. Julie Kappenman will review recent regulatory activity. Mark and Julie will also lead a discussion about the Unfair Deceptive and Abusive Acts and Practices Act (UDAAP). Cost is \$35; **registration deadline is September 15**. To register, email Jodi Weiser

Webinar: [Preparing for the Impact of New Prepaid Card Rules Under Regulation E – Deadline April 1, 2018](#)

November 8

Webinar: [When a Depositor Dies: Next Steps & Best Practices](#)

November 9

Webinar: [Auditing for Reg E Compliance](#)

November 16

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

November 29

Webinar: [OFAC Sanctions Compliance: Update, Expectations & Best Practices](#)

December 6

Webinar: [Job-Specific BSA Compliance for Lenders](#)

Recorded Webinars:

Webinar: [CTR Technical Changes: New Data Fields, Amendments & Alternate Model Reporting](#)

Webinar: [New MLA Requirements for Credit Cards, Effective Oct 3, 2017](#)

at jweiser@mwcua.com.

**Regulatory Compliance School
October 25 & 26 – Phoenix
Now Open for Registration**

Credit union compliance professionals face a complex regulatory environment and challenging compliance issues. For those needing a refresher course or a solid understanding of the regulations and laws affecting their regulatory compliance responsibilities, plan to attend the Mountain West Regulatory Compliance School taught by compliance experts, Bruce Jolly and David Reed. This 2-day program will provide you with the latest information regarding operational compliance issues, and update you on current areas of concern expressed by regulators and examiners. Plan to attend this important program so you can stay up-to-date with the latest compliance regulations and ensure your credit union is operating within the current laws. **Registration deadline is October 11, 2017.** To register for the **Oct. 25-26 Regulatory Compliance School** in **Phoenix, AZ**, [click here](#).

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 [Donna Gibbs](#).

Archived Regulatory Compliance Newsletters can be accessed [here](#) or on our website www.mwcua.com – Compliance News.

If you're having trouble viewing content, please check your viewer's settings.