

TILA-RESPA Integrated Disclosure Rule

With one of the most sweeping regulatory changes for credit unions in decades less than one month away, MWCUA is dedicated to helping you prepare. Each week we will present a topic, question, or idea taking you one step closer to successful implementation

22

Days until
October 3, 2015

When you receive a complaint from a member, how do you plan to research and document that the estimate used was based on the best information reasonably available at the time, your procedures were followed and good faith was exercised?

Regulatory Compliance News



MOUNTAIN WEST
Credit Union Association

September 11, 2015

Compliance News

EMV Liability Shift: One Month Away

What does the EMV liability shift mean to your credit union? Regardless of whether you're implementing EMV or have chosen to skip it altogether, the EMV liability shift on October 1st will have a dramatic effect on the way you and your members do business.

Opinions differ on what EMV and the upcoming liability shift on October 1st, 2015 will mean to the payment industry. However, one thing is certain: card fraud is getting worse each year and particularly in the U.S.

In fact, card fraud in the U.S. reached new heights in 2014, increasing 11.6% year-over-year, to \$0.1275 for every \$100 in transactions compared to \$0.0373 in other parts of the world, according to a recently published Nilson study. Is EMV the answer? That's the \$3.89 billion question - the amount financial institutions lost to counterfeit cards in 2014.

EMV is designed to mitigate losses related from card-present fraud and specifically counterfeit cards. Compared to its less secure counterpart, magnetic stripe, EMV generates a dynamic, one-time authentication making it significantly more difficult to duplicate and counterfeit on a mass scale.

While EMV looks to help the counterfeiting side of the equation, it does not directly solve making cardholder data more secure from data breaches or terminals that are not EMV-enabled. If magnetic cards were counterfeited from the data obtained from EMV enabled cards, they could only be used at terminals that are not EMV-enabled giving the credit union chargeback rights.

In theory, this approach should allow the credit union to be made whole. In practice however, costs associated with chargebacks and EMV-card reissuance may off-set the benefits until the ecosystem is more or fully EMV-enabled. Keep in mind, ATMs and gas stations won't face a liability shift until 2016 and 2017, depending on the card network. As a result, early adopters might face some

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[BSA Compliance Officer Forum](#)

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additional costs, but without that sacrifice the system will likely not improve as quickly.

Given the card-present environment will benefit from some added EMV security, fraudsters will likely shift operations to focus on card-not-present transactions.

EMV was not designed to enhance the card-not-present channel, primarily because card-not-present protection through CVV2 / CVC2 codes on the back of the payment cards already exists. Beyond that, financial institutions continue to have chargeback rights in scenarios where proper security protocols are not followed by retailers for online transactions.

Unfortunately, the U.S. card industry is complex and fraudsters are far too creative to truly predict with any degree of certainty what effect EMV will have on the payment ecosystem.

No matter what decision your credit union makes to address EMV and the upcoming liability shift, make sure you're open and prepared to adapt quickly.

Risk Mitigation Tips:

- Decide if and when moving to EMV makes sense. Perform extensive due diligence and weigh the total cost of EMV against the projected reduction in fraud.
- Make sure controls are optimized for card-not-present transactions. Ensure Address Verification Services and CVV2/CVC2 is supported and turned-on. Additionally, pursuing services that leverage tokenization and modern authentication techniques may prove effective.
- Remember your chargeback rights. Don't forget if you're EMV-enabled and have fraud occur on a non-EMV enabled payment terminal, you have the ability to charge that transaction back. Ensure familiarity with the appropriate way to identify EMV enabled merchants as well as the appropriate chargeback codes with each card network.
- Educate your members on best practices. Members act as the first line of defense. Having them know how to properly use EMV cards and that transacting at non-EMV enabled terminals poses a higher risk may act as a deterrent. Also, protecting their PIN information at ATMs or point-of-sale terminals and being aware of phishing scams to get at CVV2/CVC2 information can also help.

Source: CUNA Mutual

[Seller of Debt Relief Services to Pay \\$885,677](#)

The [Federal Trade Commission has announced a federal court order](#) and a settlement with Wealth Educators, a mortgage relief services company, and its owner, Veronica Sesma, who have agreed to settle [allegations](#) that they illegally charged homeowners an up-front fee for help they promised but never provided. The order imposes a \$885,677 judgment that represents the total amount of fees taken by the scheme. It will be partially suspended upon surrender of funds in the frozen corporate bank accounts. The full judgment will become due immediately if the defendants are found to have misrepresented their financial condition.

Source: FTC

Advocacy Highlight

CU Comment on OTR, Operating Fee to Be Sought in Jan. 2016

Credit unions will have the opportunity next year to comment on the methodologies used by the National Credit Union Administration for calculating its overhead transfer rate (OTR) and operating fee. NCUA Chair Debbie Matz said she will call for a board vote in January 2016 to publish both methodologies as public notices in the Federal Register.

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InfoSight Highlight

Advertising for Savings Promotions Raffle

A savings promotion raffle is a raffle conducted where the sole consideration required for a chance of winning a designated prize is the deposit of a specified amount of money in a savings account or other savings program offered by the credit union.

What other law(s) apply to savings promotion raffles?

For promotions sent to members through the mail, the Deceptive Mail Prevention and Enforcement Act prohibits the following:

- Claims that a member is a winner unless he/she has actually won a prize.
- Requirements that a member buy something to enter the contest or to receive future sweepstakes mailings.
- The mailing of fake checks that don't clearly state that they are non-negotiable and have no cash value.
- Seals, names or terms that imply an affiliation with or endorsement by the federal government.

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

CU Compliance Connection – Promoting a Culture of Compliance

In this video for Compliance Connection, Compliance Consultant Amy Wargo details how to set up a culture of compliance at your credit union. View the CUBE TV video [here](#).



The [CUNA Regulatory Advocacy Report](#) 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. You can view the current report and past reports from the

"The additional transparency from the NCUA is welcomed. We hope this ultimately leads to a process that ensures fairness to state and federal credit unions for the allocation of legitimate, substantiated 'insurance-related costs,'" said Elizabeth Eurgubian, CUNA's deputy chief advocacy officer. "Ideally, we would like to see the NCUA issue a proposed OTR with request for comment, but this is a good first step."

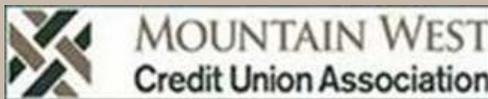
The OTR is designed to cover the NCUA's costs of examining and supervising risk to the share insurance fund, and the operating fee covers the portion of operational costs for non-insurance related aspects of operating the agency.

"Publishing these notices in January 2016 would provide ample time for interested parties to share their views before the NCUA Board considers a 2017 budget at an open meeting in November 2016," Matz said. "We also plan to publish a Federal Register notice in January 2016 with a multi-year draft NCUA Strategic Plan, which will drive the agency's budget process over several years."

CUNA has expressed concerns, most recently during the NCUA's last budget comment period, that the OTR is at an all-time high. CUNA also pushed the agency in November to provide more information regarding the supporting data for OTR decision.

The NCUA [recently added](#) information to its budget resource center regarding the OTR and operating fee.

Source: NCUA



[Training & Events Calendar](#)

Regulatory Compliance & BSA School

Be sure to mark your calendars for the Regulatory Compliance & BSA School. And, if you are tight on funds, professional development scholarships are available through Mountain West Credit Union Foundation. Click [here](#) to view the Scholarship Application.

[October 20-21: Phoenix, AZ](#)

September 15

Webinar: [Loan Underwriting Basics: Interviewing, Credit Reports, Debt Ratios & Regulation B](#)

September 21 – Archived Only

Webinar: [Expanded Financial Protections Under the New Military Lending Act, Including SCRA Update](#)

September 23

Webinar: [Regulator Guidance & Issues in ATM Security](#)

September 29

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

September 30

Webinar: [Mortgage Advertising: Keeping Your Promotions Compliant](#)

October 1

Webinar: [Regulatory & Legal Risks of Overdraft Protection: Recent Issues & Best Practices](#)

October 8

Webinar: [Reg E Requirements for Debit Card Error Resolution: Processing, Disclosure and Investigations](#)

October 13

archive.



[Compliance Calendar](#)

September 18

• [NACHA's Return Rate Levels & Reinstated Transactions Rule](#)

October 3

• [CFPB: Know Before You Owe Disclosure - Effective Date](#)

October 3

• [CFPB: Integrated Mortgage Disclosures - Effective Date](#)

October 12

• [Columbus Day – Federal Holiday](#)

October 23

• [5300 Call Report Due to NCUA](#)

November 1

• [Daylight Savings Time Ends](#)

November 11

• [Veterans Day - Federal Holiday](#)

November 26

• [Thanksgiving Day – Federal Holiday](#)

December 25

• [Christmas Day – Federal Holiday](#)

December 31

• [Foreign Account Tax Compliance Act Effective Date](#)

CUNA Comment Calls – Due Dates on Proposed Rules

August 24, 2015~NCUA

[Member Business Lending Rule](#)

August 27, 2015~DOL

[Department of Labor Proposal to Update Rules Concerning Overtime Pay](#)

September 8, 2015~NCUA

[NCUA's Economic Growth and Regulatory Paperwork Reduction Act \(EGRPRA\) Regulatory Review; No. 3](#)

Effective Dates

New and Revised Rules

October 1, 2015~DOD([Compliance Mandatory 10/3/2016](#))
[Military Lending Act Rule](#)

October 3, 2015~CFPB

[TILA-RESPA Integrated Disclosure Rule](#)

December 31, 2015~IRS

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

CUNA Schools and Webinars

Webinar: [The New Flood Rules, Including the Mandatory Escrow Rule Effective January 1, 2016](#)

October 15

Webinar: [BSA Compliance: Identifying, Monitoring and Reporting Suspicious Activity](#)

October 27

Webinar: [Adverse Action Consumer & Mortgage Loan Best Practices](#)

October 29

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

October 8

Compliance Networking Council –Registration is Open

Plan to attend the next Compliance Networking Council on Thursday, October 8, 2015. The Compliance Council brings together compliance professionals to discuss the challenges inherent in keeping credit unions compliant with the regulations that govern them. The council provides opportunities to meet with your counterparts from other credit unions, discuss upcoming regulatory changes, as well as strategies to minimize their impact. This council will take place in Denver, CO, Phoenix, AZ and Rock Springs, WY. For more information or to register, please e-mail: training@mwcua.com.

September 14

Webinar: [Changes to the Military Lending Act](#)

November 19

Webinar: [Identify Interest Rate and Market Risk](#)

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

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