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With one of the most sweeping regulatory changes for credit unions in decades just over one week 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.

Days until
October 3, 2015

With the effective date just over a week away, ensure all appropriate loan staff are up to date on when the new forms are required, and where and how to access them.

Regulatory Compliance News



September 25, 2015

Compliance News

Consumer Financial Protection Bureau Finalizes Rule to Facilitate Access to Credit in Rural and Underserved Areas

The Consumer Financial Protection Bureau (CFPB) finalized several changes to its mortgage rules to facilitate responsible lending by small creditors, particularly in rural and underserved areas. The new rule, which was proposed in January, will increase the number of financial institutions able to offer certain types of mortgages in rural and underserved areas, and gives small creditors time to adjust their business practices to comply with the rules.

“The financial crisis was not caused by community banks and credit unions, and our mortgage rules reflect the fact that small institutions play a vital role in many communities,” said CFPB Director Richard Cordray. “These changes will help consumers in rural or underserved areas access the mortgage credit they need, while still maintaining these important new consumer protections.”

In January 2013 and May 2013, the CFPB issued several mortgage rules, most of which took effect in January 2014. Among these rules, the Ability-to-Repay rule protects consumers from irresponsible mortgage lending by requiring that lenders generally make a reasonable and good-faith determination that prospective borrowers have the ability to repay their loans. Under the Ability-to-Repay rule, a category of loans called Qualified Mortgages prohibit certain risky loan features for consumers and are presumed to comply with ability-to-repay requirements.

There are a variety of provisions in the rules that affect small creditors, as well as small creditors that operate predominantly in rural or underserved areas. For instance, a provision in the Ability-to-Repay rule extends Qualified Mortgage status to loans that small creditors hold in their own portfolios, even if consumers’ debt-to-income ratio exceeds 43 percent. Small creditors that operate predominantly in rural or underserved areas can originate Qualified Mortgages with balloon payments even though balloon payments are otherwise not allowed with Qualified Mortgages. Similarly, under the Bureau’s

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](#)

Coordinator Association Services/Compliance

Phone: 800-477-1697, ext. 3281

Direct: 720-479-3281

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Spend more time with members and less time worrying

Home Ownership and Equity Protection Act rule, such small creditors can originate high-cost mortgages with balloon payments. Also, under the Bureau's Escrows rule, eligible small creditors that operate predominantly in rural or underserved areas are not required to establish escrow accounts for higher-priced mortgages.

Since issuing the mortgage rules, the CFPB has continued to monitor the mortgage market and seek public feedback. The changes finalized today reflect the Bureau's ongoing study of the market and extensive outreach to stakeholders including consumer advocates and industry groups.

Today's final rule will:

- **Expand the definition of "small creditor":** The loan origination limit for small-creditor status will be raised from 500 first-lien mortgage loans to 2,000 and will exclude loans held in portfolio by the creditor and its affiliates.
- **Include mortgage affiliates in calculation of small-creditor status:** The final rule does not change the current asset limit for small-creditor status, which is set at less than \$2 billion (adjusted annually) in total assets as of the end of the preceding calendar year. However, under the new rule the assets of the creditor's mortgage-originating affiliates are included in calculating whether a creditor is under the limit.
- **Expand the definition of "rural" areas:** In addition to counties that are considered to be "rural" under the CFPB's current mortgage rules, today's final rule expands the definition of "rural" to include census blocks that are not in an urban area as defined by the Census Bureau. The rule adds two new safe harbors for determining whether a property location meets the definition of rural. A creditor will be able to rely on an automated address look-up tool available on the Census Bureau's website or on a new automated tool that will be provided on the Bureau's website. The rule maintains the current safe harbor for creditors who choose to rely on the county lists available on the Bureau's website.
- **Provide grace periods for small creditor and rural or underserved creditor status:** Creditors that exceed the origination limit or asset-size limit in the preceding calendar year will be allowed to operate, in certain circumstances, as a small creditor with respect to mortgage transactions with applications received prior to April 1 of the current calendar year. Today's final rule creates a similar grace period for creditors that no longer operated predominantly in rural or underserved areas during the preceding calendar year.
- **Create a one-year qualifying period for rural or underserved creditor status:** The final rule adjusts the time period used in determining whether a creditor is operating predominately in rural or underserved areas, from any of the three preceding calendar years to the preceding calendar year.
- **Provide additional implementation time for small creditors:** Eligible small creditors are currently able to make balloon-payment Qualified Mortgages and balloon-payment high-cost mortgages regardless of where they operate, under a temporary exemption scheduled to expire on January 10, 2016. Today's final rule extends that period to include balloon-payment mortgage transactions with applications received before April 1, 2016, giving creditors more time to understand how any changes will affect their status, and to adjust their business practices.

The final rule is being adopted as proposed, with several technical changes and clarifications. The final rule, including its changes and clarifications, will take effect January 1, 2016.

A copy of the final rule is available at:

http://files.consumerfinance.gov/f/201509_cfpb_amendments-relating-to-small-creditors-and-rural-or-underserved-areas-under-the-truth-in-lending-act-regulation-z.pdf

about compliance! Add compliance experts to your team and know your compliance risks with one easy-to-read dashboard from AffirmX. This cloud-based, near real-time solution combines call-report data, onsite visits, and document review to help you efficiently manage compliance in the areas of Operations, Lending, BSA, Deposit and Advertising.

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



InfoSight Highlight

Advertising Overdraft Programs

Advertising Disclosures for Overdraft Services

Any advertisement promoting the payment of overdrafts must disclose in a clear and conspicuous manner:

- The fee or fees for the payment of each overdraft;
- The categories of transactions for which a fee for paying an overdraft may be imposed;
- The time period by which the member must repay or cover any overdraft; and
- The circumstances under which the credit union will not pay an overdraft.

Communications About the Payment of Overdrafts Not Subject to Additional Advertising Disclosures

The following communications do not trigger the above disclosures:

- An advertisement promoting a service where the credit union's payment of overdrafts will be agreed upon in writing and is subject to 12 CFR 1026 (Regulation Z).
- A communication by a credit union about the payment of overdrafts in response to a member-initiated inquiry about share accounts or overdrafts. Providing information about the payment of overdrafts in response to a balance inquiry made through an automated system, such as a telephone response machine, ATM, or a credit union's Internet site, is not a response to a member-initiated inquiry for purposes of this paragraph;
- An advertisement made through broadcast or electronic media, such as television or radio;
- An advertisement made on outdoor media, such as billboards;
- An ATM receipt;
- An in-person discussion with a member;
- Disclosures required by Federal or other applicable law;
- Information included on a periodic statement or a notice informing a member about a specific overdrawn item or the amount the account is overdrawn;

[Corporate Credit Union Rule Amended](#)

The NCUA has published a [final rule](#) to amend its regulation at 12 CFR Part 704 to exclude Central Liquidity Facility-related bridge loans (CLF-related bridge loans) from the aggregate unsecured lending cap to one borrower applicable to corporate credit unions. The rule will be effective on October 23, 2015, which is 30 days after its publication in the Federal Register.

[NCUA Adjusts CMPs](#)

The National Credit Union Administration has published a [final rule](#) amending its regulations at 12 CFR Parts 740, 741, 747 and 796, to adjust the maximum amount of each civil monetary penalty (CMP) within its jurisdiction to account for inflation, as required under the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996. The amendments are effective upon publication, on September 23, 2015.

[Online Training for Credit Union Board Members](#)

A new seven-part video series is available from the NCUA to provide credit union board members' valuable information to help them be more successful. The first installment, "[What Every Board of Directors Should Know](#)," covers topics including:

- Developing a sound governance program,
- Traits of effective and ineffective chairmen, and
- Evaluating and supporting the manager.

The video series also features case studies to help board members analyze the kinds of leadership issues they can face in their credit unions. The video series, available online [here](#), also features case studies to help board members analyze the kinds of leadership issues they can face in their credit unions. Users can take an [online test](#) to measure what they have learned, and they can earn a certificate of completion if they have a satisfactory score. Other videos in the series will be available by the end of the year.

Source: NCUA

[FTC Consumer Privacy Conference Announced](#)

The Federal Trade Commission has [announced](#) it will host PrivacyCon, a conference examining cutting-edge research and trends in protecting consumer privacy and security, in Washington, DC on January 14, 2016. The event is the first of its kind and will bring together leading stakeholders, including whitehat researchers, academics, industry representatives, federal policymakers, consumer advocates and others. A [PrivacyCon website](#) has been established and more information will be posted at a later date.

Source: FTC

[Hackers Hit Hawaii First Federal Credit Union – Importance of Cyberliability Insurance](#)

Social Security and bank account numbers are some of the information hackers may have taken in a breach at Hawaii First Federal Credit Union in Kamuela, according to [a letter the credit union sent](#) to current and former employees and members.

The hack may have taken place via unauthorized access to an employee's email account, the letter said.

The credit union discovered the unauthorized access on June 1, according to the letter, which President/CEO Laura Aguirre said went out on Aug. 31. It immediately terminated access to the email account, reset all passwords and started an investigation to learn what information was taken.

The letter also said Hawaii First FCU hasn't received any reports that employee or [member information has been used](#) in any manner that would compromise identities or credit. It is also providing a year of free credit protection services

- A term in a share account agreement discussing the credit union's right to pay overdrafts;
- A notice provided to a member, such as at an ATM, that completing a requested transaction may trigger a fee for overdrawing an account, or a general notice that items overdrawing an account may trigger a fee;
- Informational or educational materials concerning the payment of overdrafts if the materials do not specifically describe the credit union's overdraft service; or
- An opt-out or opt-in notice regarding the credit union's payment of overdrafts or provision of discretionary overdraft services.

[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 archive.



[Compliance Calendar](#)

October 1

- [Flood Insurance Rule Effective Date – Part 1](#)

October 1

- [Credit/Debit Card Liability Shift](#)

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

through Experian.

"If there is a silver lining to this situation, we were able to test our incident response plan and found it worked well and aided us in acting quickly and in an organized manner," Aguirre told *CU Times*. "As a smaller credit union with limited resources, this was very valuable. The other critical factor was that we had [a cybersecurity insurance policy in place](#). Upon our notification, their response team immediately provided resolution resources."

She added, "No matter your asset size, a cybersecurity insurance policy is a must in today's world and the [ever-changing types of online fraud](#)."

The credit union, which has \$35 million in assets and 7,500 members, is reviewing its information security practices and procedures, as well as taking additional security precautions, the letter said.

October 1 Just a Stop Along the Way to EMV Compliance

Across the payments industry, there has been much discussion about the approaching October 1 deadline for EMV compliance. Set by MasterCard, Visa, Discover and American Express, this is the date when the least EMV-compliant entity – either the merchant or card issuer – will assume liability for counterfeit card fraud during U.S. card-present transactions.

While this liability shift will ultimately alter the way counterfeit card fraud is addressed, the question remains: What changes can we expect to see out in the marketplace on October 1, and what do these changes mean for credit unions?

Expect Business As Usual

"For the most part, October 1 will come and go with very little impact on the way credit unions do business," said Michelle Thornton, director of product development for CO-OP Financial Services. "Even though the vast majority of merchants are not ready for EMV, credit card issuers are, and many of the nation's largest merchants will be in compliance as well. Where EMV becomes a near-term issue for credit unions is with smaller merchants that see migrating to the technology as either unrealistic or cost prohibitive within this time frame."

In fact, a recent PaymentSource.com article cited projections by Javelin Strategy & Research that up to 75% of all merchants, primarily small businesses, will not implement EMV technology by the deadline. While statistically speaking that is a big number, Thornton advised credit unions to keep the data in perspective.

"If you look at your overall transaction volume and then examine where fraud is occurring, you will find that roughly half of your fraud today occurs in card-on-file or online payments as opposed to in-store," she said. "Given that most brand-name merchants are expected to migrate to the technology by the end of this year, we are talking about a relatively small number of transactions over which credit unions could potentially shift some liability to a merchant."

Source: CU Times

Advocacy Highlight

CUNA Reverses Position on RBC Stop & Study Bill

CUNA reversed its position on H.R. 2769, the Risk-Based Capital Study Act, in a letter Tuesday to the House Financial Services Committee. The trade association had previously said while it supports the bill's sponsors, [it does not support the bill](#) because the chances of its success are remote.

The legislation would [direct the NCUA to re-evaluate its proposed RBC rule](#), justify its merits and explain the agency's authority to impose the capital

♦ Christmas Day – Federal Holiday

December 31

♦ Foreign Account Tax Compliance Act Effective Date

CUNA Comment Calls – Due Dates on Proposed Rules

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](#)

October 19, 2015~CFPB
[Request to Develop Survey on POS/ATM Overdraft Disclosure](#)

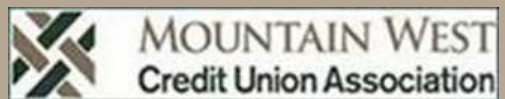
September 30, 2015~NACHA
[NACHA Third-Party Sender Registration Request for Comment](#)

December 31, 2015~IRS
["Foreign Account Tax Compliance Act" \(FATCA\) Rule](#)

CUNA Schools and Webinars

November 19
Webinar: [Identify Interest Rate and Market Risk](#)

December 17
Webinar: [Managing Credit Risk](#)



[Training & Events Calendar](#)

Regulatory Compliance & BSA School - Phoenix

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 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](#)

requirement on credit unions.

“We’ve heard from our members on the very significant concerns they have regarding NCUA’s revised proposal to update risk-based capital standards for credit unions,” CUNA Chief Advocacy Officer Ryan Donovan said in a release. “As we move closer to a final proposal, we have growing concerns that (the) NCUA is not making as many significant changes as we had hoped. We strongly believe that (the) NCUA’s proposal must be consistent with the law and seek to minimize additional regulatory burden on credit unions.”

[Download CUNA's letter here.](#)

Additionally, the California and Nevada Credit Union Leagues, working with Rep. Juan Vargas (D-Calif.), put new pressure on the NCUA regarding its risk-based capital proposal.

Vargas' Sept. 18 letter, co-signed by 11 representatives from the California and Nevada congressional delegations, applauded the NCUA’s desire to ensure credit unions are operating in a safe and sound environment, but questioned the capital standards in the proposed rule.

The letter took aim at how Congress defined adequate capital ratios and how the proposed rule undercut congressional intent.

[Download a copy of Vargas' letter here.](#)

The NCUA board is expected to finalize its RBC rule later this year.

“I’m happy to support a rule that allows credit unions to operate in a more secure environment,” Vargas said. “It is crucial that we continue to adopt a common-sense approach for risk-based capital that allows credit unions to continue servicing the millions of credit union account holders.”

Vargas is in his second term in Congress and is a member of the House Financial Services Committee.

“Regardless of revisions, credit unions are concerned about the long-term unintended consequences of this rule,” CCUL Vice President of Federal Government Affairs Jeremy Empol said. “The unintended consequence of other large regulatory rules has been plaguing the industry and we applaud Rep. Vargas for his effort to expose those with the NCUA. This is genuine Congressional action and leadership. We thank Rep. Vargas and the co-signers of this letter.”

FFIEC Cybersecurity Assessment Tool

The Federal Financial Institutions Examination Council (FFIEC), which includes the CFPB, FDIC, Federal Reserve Board, NCUA, and OCC, recently released a [Cybersecurity Assessment Tool](#) (Assessment) intended to assist financial institutions of all sizes in assessing their inherent cybersecurity risks and their risk management capabilities.

The Assessment allows a financial institution to identify its inherent cyber risk profile based on the institution’s technologies and connection types, delivery channels, online/mobile products and technology services it offers, organizational characteristics, and threats it is likely to face. The institution can then use the Assessment’s maturity matrix to evaluate its level of cybersecurity preparedness; the matrix’s maturity levels will help identify opportunities for improving the institution’s cybersecurity, based on its inherent risk profile.

In accordance with the Paperwork Reduction Act (PRA), the FFIEC is currently [seeking comments](#) on the reporting burden associated with the Assessment. The FFIEC estimates it will take financial institutions an average of 80 hours annually to complete the Assessment. Use of the Assessment by financial institutions is voluntary.

October 8

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

October 13

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 26

Webinar: [Clarifying the Confusion: TRID & FAQs](#)

October 27

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

November 12

Webinar: [Regulatory Requirements for the Board & Senior Management](#)

November 24

Webinar: [Top 10 Mistakes in Deposit Compliance Exams](#)

December 9

Webinar: [BSA Special Risks: Policy, Law Enforcement & Regulator Issues](#)

New Date: Compliance Networking Council – rescheduled for October 15

The scheduled October 8th Compliance Networking Council **has been changed** to Thursday, October 15, 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.

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

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