

Regulatory Compliance News



MOUNTAIN WEST
Credit Union Association

March 16, 2018

Compliance News

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Q&A: Do we have to provide a statement to our members for credit card accounts that don't carry a balance?

§ 1026.5(b)(2) of Regulation Z addresses this question and requires the creditor to mail or deliver a periodic statement for each billing cycle at the end of which an account has a debit or credit balance of more than \$ 1 or on which a finance charge has been imposed. A periodic statement need not be sent for an account if the creditor deems it uncollectible, if delinquency collection proceedings have been instituted, if the creditor has charged off the account in accordance with loan-loss provisions and will not charge any additional fees or interest on the account, or if furnishing the statement would violate Federal law.

CFPB Issues Final Rule to Help Mortgage Servicers Communicate with Certain Borrowers Facing Bankruptcy

The Consumer Financial Protection Bureau (CFPB) this week issued a final rule to help mortgage servicers communicate with certain borrowers facing bankruptcy. The final rule gives mortgage servicers more latitude in providing periodic statements to consumers entering or exiting bankruptcy, as required by the CFPB's 2016 mortgage servicing rule.

The Truth in Lending Act requires mortgage servicers to provide periodic statements to borrowers, and the CFPB has developed sample forms for servicers to use. The 2016 mortgage servicing rule requires that servicers send modified periodic statements or coupon books to certain consumers in bankruptcy starting April 19, 2018. The rule also addresses the timing for servicers to transition to providing or ceasing to provide modified periodic statements to consumers entering or exiting bankruptcy. After issuing the rule, however, the CFPB learned that certain technical aspects of the timing of this transition may create unintended challenges and be subject to

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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.

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different legal interpretations. In October 2017, the CFPB sought public comment on a proposed rule that would provide greater certainty to help servicers comply. This week, the CFPB is finalizing that proposed rule. Specifically, the final rule provides a clear single-statement exemption for servicers to make the transition, superseding the single-billing-cycle exemption included in the 2016 rule.

The effective date for the rule is April 19, 2018, the same date that the other sections of the 2016 rule relating to bankruptcy-specific periodic statements and coupon books become effective.

The final rule on the timing requirements for bankruptcy periodic statements is available at: https://files.consumerfinance.gov/f/documents/cfpb_mortgage-servicing_final-rule_2018-amendments.pdf

Source: CFPB

Reporting HMDA Race/Ethnicity Data When the Borrower is a Business

Now that business lenders are required to report HMDA data for business loans that are secured by a dwelling ([read more about this in a previous CompBlog post](#)), many such lenders may be faced with the situation where the borrower is a business entity, such as a corporation or LLC. Here at CUNA Compliance we have received several questions from member credit unions about how to report the ethnicity and race government monitoring information required under HMDA when the borrower is in fact a business rather than an individual.

In this situation, you would report "NA" (for "Not Applicable") on both data points since the borrower is a business entity and therefore cannot have a race or ethnicity. This is also true even if you know the race and ethnicity of the owner of the business or the guarantor of the loan; you do not report the race and ethnicity on these persons. The business is the borrower, thus you report Not Applicable.

Federal Reserve Board Issues Proposed Rule to Amend Regulation J

Earlier this week, the Federal Reserve Board issued a Proposed Rule requesting comment on amendments to simplify Regulation J (Collection of Checks and Other Items by Federal Reserve Banks and Funds Transfers through Fedwire) and to make it conform more closely with Regulation CC (Availability of Funds and Collection of Checks).

The proposed amendments are intended to align the rights and obligations of parties, including the Federal Reserve Banks, with the Board's 2017 amendments to Regulation CC, which reflected the evolution of the nation's check collection system from one that is largely paper-based to one that is virtually all electronic. The proposed amendments would clarify and simplify provisions of Regulation J, remove obsolete provisions, and improve consistency between Regulation J and Regulation CC. The proposed amendments would also clarify that electronically-created items (check-like items created in electronic form that never existed in paper form) are not "items" that the Reserve Banks are authorized to handle under Regulation J.

The Board has also proposed amending Regulation J to clarify that financial messaging standards for Fedwire funds transfers, such as the international common format standard ISO 20022, do not confer or connote legal status or responsibilities with respect to Fedwire funds transfers.

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 Heimbuck at: mheimbuck@mwcu.com or (720) 479-3325 or 1 (800) 477-1697 ext. 3325



Bank Secrecy Act

The Bank Secrecy Act (BSA), also known as The Financial Recordkeeping and Reporting of Currency and Foreign Transactions Act of 1970, was enacted to help in the investigations of money laundering, tax evasion and other criminal activity.

There are many laws and regulations that make up BSA. Among them are the Money Laundering Control Act of 1986; the Anti-Drug Abuse Act of 1986; the Currency and Foreign Transactions Reporting Act; and the Financial Recordkeeping and the Department of Treasury's Reporting of Currency and Foreign Transactions rules. The most recent law impacting BSA is Title III of the USA Patriot Act, passed in 2001.

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

Compliance Videos

Compliance Outlook for Q1 and Q2 2018

In this NEW video, Glory LeDu provides the [overview of what's ahead in the compliance world for 2018](#). This covers annual threshold updates, HMDA changes, Payday Alternative Loans, Military Lending Act, ACH Same-day ACH processing and more!

Just a reminder that Compliance videos since 2016 can be found on YouTube at [the Compliance Connection channel](#), where they are generally updated quarterly.

Advocacy Highlight

Last week, CUNA continued to advocate for common sense regulation... The Senate began consideration of comprehensive regulatory relief legislation... CUNA wrote

Subpart A of Regulation J governs the collection of checks and other items by the Reserve Banks. This subpart includes the warranties and indemnities that are given to the Reserve Banks by parties that send items to the Reserve Banks for collection and return, as well as the warranties and indemnities for which the Reserve Banks are responsible in connection with the items they handle. Subpart A also describes the methods by which the Reserve Banks may recover for losses associated with their collection of items. Subpart A authorizes the Reserve Banks to issue operating circulars governing the details of the collection of checks and other items and provides that the operating circulars have binding effect on all parties interested in an item handled by a Reserve Bank. The Reserve Banks' Operating Circular No. 3, "Collection of Cash Items and Returned Checks" (OC 3), is the operating circular that is the most relevant to Reserve Banks' check collection activities. Subpart B of Regulation J provides rules to govern funds transfers through the Reserve Banks' Fedwire Funds Service. This service is also governed by the Reserve Banks' Operating Circular No. 6, "Funds Transfers through the Fedwire Funds Service" (OC 6).

Comments on the proposed amendments are requested within 60 days of publication in the Federal Register, which is expected shortly.

Is Your Credit Union Ready for the Remote Deposit Capture Indemnity Provision of the Reg CC Final Rule?

The 2017 Regulation CC final rule becomes effective on July 1 this year.

The final rule creates a new Remote Deposit Capture Indemnity in Section 229.34(f) to address the allocation of liability when a depository institution, such as a credit union accepts deposit of a check through "remote deposit capture." In other words, when the depositor/ member sends the credit union electronic information about a check, such as a photographic image, which the credit union uses to create an electronic check or substitute check for collection. The proposed indemnity would be provided by a credit union that accepted a check via remote deposit capture to a financial institution that accepted the original check for deposit, in the event the financial institution that accepted the original check incurred a loss because the check had already been paid.

The final rule added an exception to the indemnity, and associated commentary, which would prevent a bank from making an indemnity claim if it accepted the original check containing a restrictive indorsement inconsistent with the means of deposit, such as "for mobile deposit only". The Federal Reserve Board believed that providing this exception could reduce accidental double deposits and could provide incentives for financial institutions that receive remote deposit capture deposits to take steps to minimize intentionally fraudulent deposits.

Something to consider: If your credit union accepts checks via remote deposit capture, you may want to add language to your Remote Deposit Capture Agreement (if the language isn't already there) that requires your member to add a restrictive indorsement to the check such as "For Mobile Deposit Only," or similar indorsement. Such an indorsement may help reduce risk to your credit union.

Source: CUNA Compliance Blog

to multiple Congressional Committees in support of data breach legislation, the Senior Safe Act, and regulatory relief... CUNA joined the Ohio Credit Union League in support of Dover-Phila... [Read about this and more in this week's Advocacy Update!](#)

Source: CUNA Advocacy

Keeping up with CUNA Advocacy

To stay abreast of the issues on which CUNA has provided input to lawmakers and regulators, [here is a list of those topics](#).

CUNA Advocacy Update

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. To receive this update, click on "Get CUNA Updates" on the [CUNA Advocacy Page](#). Additional Advocacy efforts may also be found under [CUNA's Removing Barriers blog](#). With the recent updates to CUNA's website, Advocacy information has also changed. To view recent advocacy issues and see ways your credit union can become involved, visit the [Priorities](#) or [Actions](#) pages.

Effective Dates New and Revised Rules

March 16, 2018

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

April 19, 2018

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

May 11, 2018

- [Customer Due Diligence/CDD](#)

May 25, 2018

- [EU's General Data Protection Regulation](#)

July 1, 2018

- [Availability of Funds and Collection of Checks/Reg CC](#)

October 1, 2018

- [Amendments to the Integrated Disclosure Rule](#)

January 1, 2019

- [HMDA Thresholds/Reg C](#)

January 1, 2019

- [Risk-Based Capital](#)

April 1, 2019

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



MOUNTAIN WEST Credit Union Association

Training & Events Calendar

2018 Webinars

March 20

Webinar: Recent Call Report Changes & Top 10 Errors

March 21

Webinar: Compliance & Legal Risks in Mobile Banking: Rules & Security Requirements

March 22

Webinar: Completing the CTR Line-by-Line Effective May 28, 2018: Technical Changes, New Data Fields & Alternate Model Reporting

March 28

Webinar: Collections & The Servicemember: From the MLA to SCRA

April 3

Webinar: FFIEC Cyber Security Assessment Tool: Issues & Answers

April 4

Webinar: BSA Special Risks: Policy, Law Enforcement & Regulator Issues

April 5

Webinar: Dealing with Dormant Accounts, Unclaimed Property & Escheatment

April 9

Webinar: ADA Website Compliance: Requirements, Common Issues & Litigation

April 10

BSA Officer Training - Denver

April 12

Webinar: Impact of Reg CC Rule Changes on RDC & ACH

April 16

Webinar: Understanding the New SAR Filing Format Requirements: Batch Submissions, Text Fields & Cyber Event Categories & Subtypes

April 17

Webinar: How to Complete & File UCC-1 Financing Statements

April 18

Webinar: Compliance Rules All Staff Must Know: Red Flags for Identity Theft, Bribery, Privacy & Ethical Considerations

April 19

Webinar: Top 25 Things to Know About Reg CC Changes Before July 1, 2018

April 24

Webinar: Residential Construction Lending: Compliance, Disbursements & More

August 19, 2019

- Payday Lending, Vehicle Title, and Certain High-Cost Installment Loans

January 1, 2020

- HMDA Threshold/Reg C

December 15, 2020

- Current Expected Credit Losses

January 1, 2022

- Amendments to Equal Credit Opportunity Act (Reg B) Ethnicity and Race Information Collection

**For detailed information on rules and effective dates, click [here](#)*

CUNA Comment Calls – Due Dates on Proposed Rules

March 5, 2018~Federal Reserve

Consumer Leasing (Regulation M)

March 27, 2018~CFPB

Bureau Civil Investigative Demands and Associated Processes

March 28, 2018~NCUA

OMB Request: CDRLF – Loan and Grant Programs

March 30, 2018~FHFA

Credit Score Requirements

April 2, 2018~NCUA

Modernizing Data Collection for Supervision of Credit Unions

April 2, 2018~NCUA

Involuntary Liquidation of Federal Credit Unions and Claims Procedures

April 6, 2018~CFPB

Bureau Rules of Practice for Adjudication Proceedings

April 13, 2018~CFPB

Bureau Enforcement Processes

April 30, 2018~CFPB

Consumer and College Credit Card Agreements

May 21, 2018~CFPB

RFI re Bureau's Supervision Program

May 29, 2018~CFPB

RFI re Bureau's External Engagements

June 7, 2018~CFPB

RFI re Bureau Rulemaking Processes

April 26

Webinar: [Denied Loan Requirements: Consumer, Commercial & Real Estate](#)

May 1

Webinar: [Handling Powers-of-Attorney & Living Trust Documents for Deposit Accounts & Loans](#)

May 8

Webinar: [Analyzing TRID Tolerance Cures: Clarifying the Confusion](#)

May 9

Webinar: [All You Need to Know About E-Sign, E-Statements & E-Disclosures](#)

May 10

Webinar: [Opening Business Accounts: Entities, Documentation Authority & Regulatory Requirements](#)

May 17

Webinar: [Top Escrow Compliance Exam Issues, FAQs & Field Audits](#)

**For 2018 webinar questions, please contact MWCUA@cuwebtraining.com.*

BSA Officer Training – Denver

[BSA Officer Training will be held on April 10](#) in Denver, CO. Led by compliance expert Mary-Lou Heighes, credit union BSA professionals are invited to attend a full-day seminar that will provide new and experienced BSA officers not only the newest information as it relates to the Bank Secrecy Act and OFAC requirements, but also the fundamentals of the duties of being a BSA Officer. **An added bonus!** Special Agents from the Denver office will speak to attendees regarding information on Conducting & Documenting a SARs Investigation. Don't miss this chance to find out what happens to your SARs information once you've reported it. The cost is \$229 per person and includes instruction, materials and lunch. Click below for more information and to register. Contact jweiser@mwcua.com with registration questions.

- April 10: [Denver, CO](#)



April 29, 2018

- 5300 Call Report Due to NCUA

May 28, 2018

- Memorial Day – Federal Holiday

July 4, 2018

- Independence Day – Federal Holiday

July 29, 2018

- 5300 Call Report Due to NCUA

September 3, 2018

- Labor Day – Federal Holiday

October 8, 2018

- Columbus Day – Federal Holiday

November 12, 2018

- Veterans Day (observed) – Federal Holiday

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

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