

Regulatory Compliance News



MOUNTAIN WEST
Credit Union Association

March 23, 2018

Compliance News

In This Issue:

- **No Account For You Unless You're a Member!**
- **CFPB FAQs on Servicing Issues Related to Bankruptcy**
- **Military Lending Act Search Site Updated**
- **Five Myths About the New CDD Regulation**
- **NCUA to Request Comments on Proposed Bylaws Changes**

No Account For You Unless You're a Member!

Some credit unions require that a joint account owner be a member of the credit union in their own right. While this is an acceptable policy, those credit unions may be missing opportunities to meet all the needs of their members. All federally and state-chartered credit unions are permitted (but not required) to establish member accounts that are owned jointly with non-members. The Federal Credit Union Act (12 U.S.C. § 1759), the Arizona Credit Union Act (A.R.S. § 6-556) and the Colorado Credit Union Act (C.R.S. § 11-30-103) all permit non-members to be joint owners of members' accounts. While a non-member cannot obtain services reserved only for members (e.g., loans in their own name) or vote, allowing them to be a joint owner on a member's account may help the credit union avoid losing opportunities to banks.

The CFPB FAQs on Servicing Issues Related to Bankruptcy

The CFPB has released a number of FAQs addressing some common questions received related to mortgage servicing. These FAQs concern the servicing rules amendments to become effective April 19, 2018, relating to bankruptcy and periodic statements or coupon books, successors in interest and consumers who are already in bankruptcy on April 19. [Click here to view the FAQs.](#)

Source: CFPB

Military Lending Act Search Site Updated

The [Department of Defense's MLA site](#) has a notice that its search capabilities for servicemembers and dependents now include the ability to search single and multiple records using an ITIN, and now uses the latest version of reCAPTCHA 2.0 to help prevent automated searches that can cripple the site.

Source: Department of Defense

Five Myths About the New CDD Regulation

1. **The new CDD rule going into effect May 11, 2018 triggers the need for a new lobby sign.**

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 Heimbuck

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 mwcu.com to register



False. The new CDD rule does not include any new notice requirements. Many credit unions have been contacted by vendors notifying them that an updated U.S. Patriot's Act notice is available for purchase. The only member notice that is required by the U.S. Patriot Act regulations is the Customer (Member) Identification Program (CIP) notice that you have been complying with for several years:

Excerpt from the [FFIEC BSA Examination Manual](#):

Adequate Customer (Member) Notice

The CIP must include procedures for providing customers with adequate notice that the credit union is requesting information to verify their identities. The notice must generally describe the credit union's identification requirements and be provided in a manner that is reasonably designed to allow a member to view it or otherwise receive the notice before the account is opened. Examples include posting the notice in the lobby, on a Web site, or within loan application documents. Sample language is provided in the regulation:

IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT — To help the government fight the funding of terrorism and money laundering activities, federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account. What this means for you: When you open an account, we will ask for your name, address, date of birth, and other information that will allow us to identify you. We may also ask to see your driver's license or other identifying documents.

2. Credit unions must now collect identifying information about account beneficiaries.

False. Not surprisingly, there has been some confusion between the term "beneficial owner" and "beneficiaries".

Beneficial owners own at least 25% equity interest in, and/or have significant responsibility to control, a legal entity that opens an account at the credit union.

Beneficiaries are designated by an account holder to receive the balance of the funds in the account after the account holder's death.

The new rule does not require credit unions to obtain additional information about account beneficiaries.

3. The Girl Scouts of America, Inc is exempt from the new CDD beneficial ownership requirements.

False. There has been a lot of confusion surrounding FinCEN's "scout troop" example in the final rule:

"FinCEN also notes that as a general matter, small local community organizations, such as Scout Troops and youth sports leagues, are unincorporated associations rather than legal entities and therefore not subject to the beneficial ownership requirement." (*Federal Register*/ Vol.81, No. 91 / Wednesday, May 11, 2016 / page 29416)

If a scout troop opening an account at your credit union meets the definition of "legal entity," then the beneficial ownership requirements will apply:



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, as well as helps you create and manage your Cybersecurity Risk Assessment. If a full suite of compliance services is not what you are looking for, try the Four Report Package and receive special pricing through the MWCUA Annual Meeting, April 25th.

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



Board Responsibilities

Has your Board of Directors taken the Board of Directors Responsibility Quiz? How about the Financial Literacy IQ Test? Did you know that each member of your Board needs to have a working familiarity with basic finance and accounting practices and attend annual training on various topics? What about looking ahead to the future and filling board vacancies? All of this and more is contained in the Board Responsibilities channel on InfoSight.

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

“Legal entity customer. For the purposes of this section: (1) Legal entity customer means a corporation, limited liability company, or other entity that is created by the filing of a public document with a Secretary of State or similar office, a general partnership, and any similar entity formed under the laws of a foreign jurisdiction that opens an account.” (31 CFR 1010.230(e)(1))

Since the Girl Scouts of America, Inc is an incorporated organization, beneficial ownership information will be required.

4. The new CDD rule requires credit unions to obtain beneficial ownership information from a legal entity account every time a new account is opened.

True. The new CDD rule does require beneficial ownership information be obtained each time a new account (i.e., loan, checking, CD) is opened. During the rulemaking process, several groups expressed concern with this requirement and requested that the beneficial ownership information only be collected when the initial account is opened. This is how FinCEN responded:

“FinCEN has concluded that, while it is not requiring periodic updating of the beneficial ownership information of all legal entity customers at specified intervals, the opening of a new account is a relatively convenient and otherwise appropriate occasion to obtain current information regarding a customer’s beneficial owners. Accordingly, FinCEN has added to the final rule as § 1010.230(g) a definition for “new account”.”

“New account. For the purposes of this section, new account means each account opened at a covered financial institution by a legal entity customer on or after the applicability date.” (31 CFR 1010.230(g))

When assessing your risk to determine how you will implement the new CDD requirements, keep in mind that it is FinCEN’s goal to obtain reasonably updated beneficial ownership information for every legal entity account in every financial institution across the country. Until we receive more guidance from FinCEN, at the very least whenever a new account is opened by a legal entity within a reasonably short time from when you obtained the beneficial ownership information, to reduce compliance burden you might consider asking the member if any changes have occurred and if the response is “no”, document and date that response. If your member indicates that changes have occurred to the beneficial owners of the legal entity, a new Beneficial Owner Certification must be processed.

In the meantime, CUNA will continue to work with FinCEN to issue reasonable guidelines and clarification for this new rule.

5. Credit unions will be required to verify that the individual named on the Beneficial Owners Certification form are actually “beneficial owners”.

False. Although FinCEN stopped short of allowing the use of the model Beneficial Owner Certification Form to provide a safe harbor for financial institutions choosing to use the form, the agency did clarify in the rule:

“A covered financial institution may rely on the information supplied by the legal entity customer regarding the identity of its beneficial owner or

NCUA to Request Comments on Proposed Bylaws Changes

The NCUA Board held its third open meeting of 2018 at the agency’s headquarters on Thursday, and unanimously approved two items:

- An advance notice of proposed rulemaking seeking stakeholder comments on ways to streamline, clarify, and improve the standard federal credit union bylaws.
- A proposal to adopt suspension and debarment procedures to establish an administrative process protecting the federal government’s interest in only doing business with presently responsible contractors.

Comments are being sought on possible changes to standard credit union bylaws; [click here to find additional information](#).

Source: CUNA

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

owners, provided that it has no knowledge of facts that would reasonably call into question the reliability of such information.” (31 CFR 1010.230(b)(2))

For more information: [Financial Crimes Enforcement Network: Customer Due Diligence Requirements for Financial Institutions; Final Rule](#)

Source: CUNA Compliance Blog



Training & Events Calendar

2018 Webinars

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

• [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](#)

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 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](#)

Webinar: [Residential Construction Lending: Compliance, Disbursements & More](#)

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](#)

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 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.

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.