



2018-19 Compliance Update

LeagueInfoSight

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Before we start.....

Where can you get access to all of the tools/resources that will be referenced?



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Compliance Topics

- Accounts
- ACH/Electronic Payments
- Advertising
- Bank Secrecy Act
- Bankruptcy and Collections
- Board Responsibilities
- Employment
- Field of Membership
- Investment
- Loans and Leasing
- Record Retention
- Security
- Tax Issues

Discussion Board

Checklists

ComplySight

CU PolicyPro

Resources



State Law Content for all 50 states

Log Out

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Recently Visited Pages

ents (Michigan)
Michigan)
)
an)
craft Liens

- Health Savings Accounts
- Accounts
- Repossession and Sale of Collateral (Michigan)
- Bankruptcy and Collections
- Trusts (Michigan)
- ComplySight
- CU PolicyPro

Recently Updated

March 2019 - Accounts

A new topic has been added - **Prepaid Accounts**. Effective on April 1, 2019, Regulation E and Regulation Z were both expanded to provide coverage and certain consumer protections to prepaid accounts, which include payroll card accounts, government benefit accounts, and certain other types of prepaid products. This new topic covers the expanded rules.

February 2019 - Accounts

Additional information and a new link were added to the **Representative Payees** topic regarding changes that become effective next month. The Social Security Administration will be conducting background checks on new and existing representative payees. Individuals with certain felonies under State and Federal law will not be permitted to serve as a representative payee. Although we don't yet have clarity on how this change may impact credit unions, we believe awareness is important and InfoSight has been updated accordingly. We've contacted the Social Security Administration for more operational information.

February 2019 - Loans and Leasing

With the CFPB publishing a final rule effective on January 16, 2018 (with compliance required as of August 19, 2019),

Compliance Calendar

May, 2019

- May 27th, 2019: Memorial Day - Federal Holiday

June, 2019

- June 21st, 2019: **Return for Questionable Transaction (Effective Date)**

July, 2019

- July 1st, 2019: **Loans in Areas Having Special Flood Hazards (Effective Date)**
- July 4th, 2019: Independence Day - Federal Holiday

August, 2019

- August 19th, 2019: **Payday Lending, Vehicle Title, and Certain High-Cost**

Compliance Training

- CUNA's free Webinars
- CUNA training, education and professional development
- NCUA's Learning Management Service
- CU Solutions Group and AudioEye - ADA Compliance Recorded Webinar
- MCUL Education Events
- Lending & Marketing Conference
April 10-11 | Park Place Hotel and Conference Center, Traverse City
- MCUL/CUSG Annual Convention & Exposition
June 5-8 | Detroit Marriott at the Renaissance Center

Available
from your
League's
website!

Policy Management System

Master Updated Date: 6/26/19

Print

Copy to CU Policies Manual

Model Policy 2610: ACH Operations

Model Policy Revised Date: 6/26/2019

General Policy Statement:

The following policy covers [[CUname]]'s (Credit Union) receipt and initiation of Automated Clearing House (ACH) transactions.

Guidelines:

- PERMITTED ACH TRANSACTIONS.** The Credit Union will act as a receiving depository financial institution (RDFI) for the purpose of receiving ACH credit or debit entries initiated by third parties to members' accounts at the Credit Union. At the discretion of management, the Credit Union may serve as an originating depository financial institution (ODFI) for the purpose of originating ACH debit or credit entries to members' accounts at other financial institutions.

Without approval by the CEO, the Credit Union will not initiate (or agree with a member to initiate) ACH debit or credit entries on behalf of a member to accounts of other parties.

- COMPLIANCE.** The Credit Union will conduct its ACH activities in compliance with all applicable rules of the National Automated Clearing House Association (NACHA), any applicable regional clearing house association rules, Regulation E, and other applicable federal and state law. The Credit Union will designate an employee responsible for compliance with applicable laws, regulations, and clearing house rules.

- RISK ASSESSMENT.** The Credit Union will conduct a risk assessment of its ACH activities, implement risk management programs based on the results of such assessments, and comply with regulatory requirements with respect to the assessment and risk management program. The assessment will stress the importance of the following:

- The nature of risks associated with ACH activity;
- Performing appropriate member due diligence (See **Policy 2110, BSA**);
- Establishing controls for Originators, third parties and direct-access to ACH Operator relationships; and
- Having adequate management, information and reporting systems to monitor and mitigate risk (See **Policy 2620, Remote Deposit Capture**).

- CREDIT UNION AS ORIGINATING DEPOSITORY INSTITUTION (ODFI) – RISK MANAGEMENT PRACTICES.**

- Risk Management Practices.** The Credit Union will perform a more comprehensive set of risk management practices in addition to the current rules on exposure limits. Specifically, the Credit Union will do the following:

Senders sufficient to form a belief that the party has the capacity to perform its obligation in conformance with the NACHA Rules; and the risks it presents; and

- Monitor the Originator's or Third-Party Sender's origination and return activity, relative to its exposure limit, across multiple settlement dates;
- Enforce the exposure limit; and
- Enforce restrictions on the types of ACH transactions that may be originated.

Over 240 Model Policies

Compliance Management System

Welcome: Glory

LOGOFF

Level 2 CT = 8.00

Home

Factor Grading

Action Item/Manual Action Item List

Create Manual Action Item

Create Examiner/Audit Finding

Examiner/Audit Finding List

Regulatory Alert List

Area/Item Information

Client Export Data

Reports

File Manager

Search

Technical Support

Compliance Support

Training and Support

Change Password

Overall Compliance Grade

4.38



Regulatory Alert Acceptance



Accept

Compliance Reviews Assigned to Me

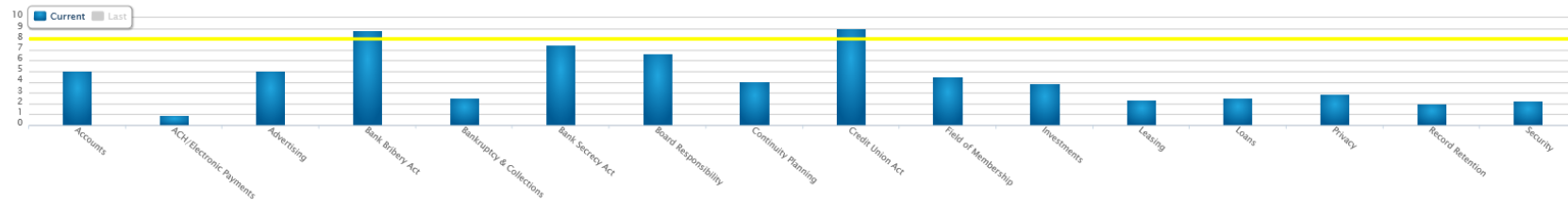
Area	Item	Expected Completion
ACH/Electronic Payments	Unlawful Internet Gambling	02/20/20
Bank Bribery Act	(All)	08/31/17
Bank Secrecy Act	Compliance Program	08/31/15
Board Responsibility	Director Duties	12/31/16
Board Responsibility	Directors Responsibilities	05/27/17
Board Responsibility	Serving on the Board of Directors	12/28/15
Continuity Planning	Board Responsibility	04/15/16
Continuity Planning	Business Impact Analysis	03/15/17
Continuity Planning	Disaster Contingency	03/15/16
Credit Union Act	Central Liquidity Fund	02/28/17
Credit Union Act	Federal Credit Union Act	09/18/16
Credit Union Act	ML Credit Union Act	03/01/17
Field of Membership	Expelling Members	07/29/17

AAI/MAI/EAfs Assigned to Me

Due Date	Subject
10/19/17	Accounts - Electronic Fund Transfers (EFT) Regulation E - Initial Disclosures

Area Grades

Threshold



Complaint Management System

Welcome: Glory

LOGOFF

Level CMA

Complaint Home

Create Complaint

Complaint List

Reports

File Manager

Manage Sub Categories

Manage Members/Non-members

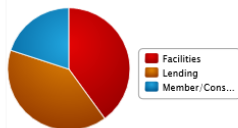
Manage Branch Locations

Technical Support

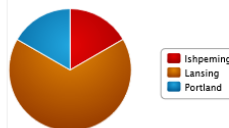
Training and Support

Change Password

Categories for Open Complaints



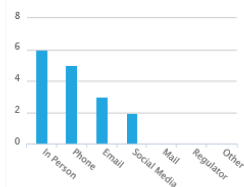
Branch Hot Spots



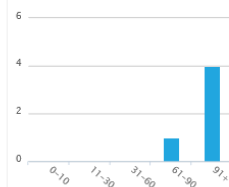
My Complaint Assignments

ID	Response Due Date	Complaint Subject	Status
107	02/04/19	Safety of members coming to the CU	Ready for Review
108	10/25/18	Issue with Jose LeDu	Overdue
103	02/28/18	Incorrectly changed late fee	Ready for Review

Complaints by Origin



Open Complaints (Days Open)



Agenda

- Annual Updates
- Regulatory Amendments
 - CFPB
 - NACHA
 - FinCEN
 - NCUA
 - FRB
- Impact of S. 2155
- Bringing it all together
- Litigation and Reputation Risk
- To Do List



Annual Updates



CFPB – Credit Cards

Effective January 1, 2019

- Safe Harbor Penalty Fees



Permissible fee thresholds under Regulation Z:

- **\$28** for the first late payment fee; and
- **\$39** for each subsequent violation within the following six months.

Dollar increase from 2018.

CFPB – Qualified Mortgage (QM) Points and Fees

Effective January 1, 2019

- For a loan to be a QM, the points and fees cannot exceed:

Loan Amount	Points and Fees Limit
\$107,747 or more	3%
\$64,648 - \$107,746	\$3,232
\$21,549 - \$64,647	5%
\$13,468 - \$21,548	\$1,077
Less than \$13,468	8%

CFPB – High Cost Mortgage Points and Fees

Effective January 1, 2019

- A transaction is high-cost if its points and fees exceed:
 - 5% of the total loan amount for a loan greater than or equal to **\$21,549**.
 - 8% of the total loan amount or **\$1,077** (whichever is less) for a loan amount less than **\$21,549**
- What is included in points and fees calculation?
 - Closed-end – same as for QM/ATR rule.
 - Open-end – same as closed-end, but also include participation fees, fees you may charge for draws (assuming at least 1 draw).

CFPB – Higher-Priced Mortgage Loan (HPML) Escrow

Effective January 1, 2019

- Higher-Priced Mortgage Loan (HPML) – **Escrow Exemption:**
 - Asset Size threshold: Adjusted to **\$2.167 billion** from \$2.112 billion.
- The credit union also has to meet these criteria to qualify for the exemption:
 - Originate more than half of their loans to members in rural or underserved counties;
 - Cannot originate more than 500 first-lien covered transactions during the preceding calendar year (with affiliates).
 - The credit union cannot maintain escrow accounts for loans serviced (few exceptions).

CFPB – Higher-Priced Mortgage Loan (HPML) Appraisal

Effective January 1, 2019

- Higher-Priced Mortgage Loan (HPML) – **Appraisal Exemption**
- Certain HPMLs are not covered under the rule, including loans that are less than **\$26,700** (indexed for inflation each year).
- Requirements include:
 - Disclose within 3 days after receiving an application that the applicant is entitled to a free copy of any appraisal the credit union orders and can also hire their own appraiser at their own expense, for their own use.
 - Written appraisal on the property performed by a certified or licensed appraiser.
 - Interior inspection of the property included in the written report.
 - The appraisal must be provided to the applicants no later than 3 business days before consummation.

FRB – Reserve Requirements

Effective January 17, 2019

- The credit union is required to maintain reserves based on the mix of deposits at the credit union.

Up to \$16.3 million in net transactions (the reserve requirement exemption amount)	Exempt from reserve requirements
Between \$16.3 million and \$124.2 million	3% reserve requirement
Over \$124.2 million (the low reserve tranche)	\$3.237 million plus 10% of the amount over \$124.2 million .

IRS – Health Savings Accounts

Effective January 1, 2019

- Annual change in contribution limits to health savings accounts (HSAs) for individuals and families.
- Contributions must be no more than:
 - \$3,500 for an individual plan; and
 - \$7,000 for a family plan.
- Members over the age of 55 can make an additional “catch-up” contribution of \$1,000.

Consumer Financial Protection Bureau (CFPB)



CFPB - HMDA

Effective January 1, 2018 (Reporting March 1, 2019)

Key Changes

- **Scope of covered financial institutions.**
- Transactional reporting transitioned to a **dwelling-secured standard** (slight twist for commercial loans).
- Significant amount of **new data points** are required to be captured and reported.
- The **collection and reporting of** certain applicant information related to **ethnicity, race and sex** (disaggregated).
- **Electronic submission** of annual HMDA data is required (certain large-volume institutions must report quarterly).
- **Modified lobby disclosure notices** and public disclosure for HMDA data.

CFPB - HMDA

Effective January 1, 2018 to determine HMDA reporting for 2018.

- **“Financial Institution”** means a depository financial institution where:
 - The credit union, on the preceding December 31st, had assets in excess of **the threshold established and published annually (\$46 million for 2019)**, had a home or branch office in a metropolitan statistical area (MSA), originated at least one home purchase loan (excluding temporary refinancing such as a construction loan) **or refinancing of a home purchase loan**, secured by a first lien on a one-to-four-family dwelling in the preceding calendar year;
 - The credit union is federally insured or regulated; AND
 - ***In each of the two preceding years, originated at least 25 closed-end mortgage loans that are not otherwise excluded (1003.3(c)) OR originated at least 500 open-end lines of credit (secured by a lien on a dwelling) that are not otherwise excluded (1003..3(c)).***

CFPB - HMDA

- Data Points

- Summary of Reportable HMDA Data

- There are **48 total data points** to collect.
- In addition to **amendments of existing data points**, credit unions must collect the **new** (25) data points:
 - Property address, age, credit score, loan costs or total points and fees, origination charges, lender credits, interest rate, prepayment penalty, DTI ratio, combined LTV ratio, loan term, introductory rate, non-amortizing features, property value, manufactured home secured property type, manufactured home land use, interest, total units, multifamily affordable units, application channel, MLO NMLSR identifier, automated underwriting system, reverse mortgage, open-end line of credit, and business or commercial purpose.

S. 2155 Changes Required Data Points for Reporting

CFPB - HMDA

- CFPB published [“Partial Exemptions from the Requirements of the Home Mortgage Disclosure Act under the Economic Growth, Regulatory Relief and Consumer Protection Act”](#) on **August 31, 2018.**

Table 1: Effect of the Act's Partial Exemptions on HMDA Data Points

Covered by the Act's Partial Exemptions	Unchanged by the Act
<ul style="list-style-type: none"> • Universal Loan Identifier (ULI) (1003.4(a)(1)(i))⁴⁶ • Property Address (1003.4(a)(9)(i)) • Rate Spread (1003.4(a)(12)) • Credit Score (1003.4(a)(15)) • Reasons for Denial (1003.4(a)(16)) • Total Loan Costs or Total Points and Fees (1003.4(a)(17)) • Origination Charges (1003.4(a)(18)) • Discount Points (1003.4(a)(19)) • Lender Credits (1003.4(a)(20)) • Interest Rate (1003.4(a)(21)) • Prepayment Penalty Term (1003.4(a)(22)) • Debt-to-Income Ratio (1003.4(a)(23)) • Combined Loan-to-Value Ratio (1003.4(a)(24)) • Loan Term (1003.4(a)(25)) • Introductory Rate Period (1003.4(a)(26)) • Non-Amortizing Features (1003.4(a)(27)) • Property Value (1003.4(a)(28)) • Manufactured Home Secured Property Type (1003.4(a)(29)) • Manufactured Home Land Property Interest (1003.4(a)(30)) • Multifamily Affordable Units (1003.4(a)(32)) • Application Channel (1003.4(a)(33)) • Mortgage Loan Originator Identifier (1003.4(a)(34)) • Automated Underwriting System (1003.4(a)(35)) • Reverse Mortgage Flag (1003.4(a)(36)) • Open-End Line of Credit Flag (1003.4(a)(37)) • Business or Commercial Purpose Flag (1003.4(a)(38)) 	<ul style="list-style-type: none"> • Application Date (1003.4(a)(1)(ii)) • Loan Type (1003.4(a)(2)) • Loan Purpose (1003.4(a)(3)) • Preapproval (1003.4(a)(4)) • Construction Method (1003.4(a)(5)) • Occupancy Type (1003.4(a)(6)) • Loan Amount (1003.4(a)(7)) • Action Taken (1003.4(a)(8)(i)) • Action Taken Date (1003.4(a)(8)(ii)) • State (1003.4(a)(9)(ii)(A)) • County (1003.4(a)(9)(ii)(B)) • Census Tract (1003.4(a)(9)(ii)(C)) • Ethnicity (1003.4(a)(10)(i)) • Race (1003.4(a)(10)(i)) • Sex (1003.4(a)(10)(i)) • Age (1003.4(a)(10)(ii)) • Income (1003.4(a)(10)(iii)) • Type of Purchaser (1003.4(a)(11)) • HOEPA Status (1003.4(a)(13)) • Lien Status (1003.4(a)(14)) • Number of Units (1003.4(a)(31)) • Legal Entity Identifier (1003.5(a)(3))

CFPB - HMDA

What does this mean? *Keep in mind this is a **two-part** test.*

- For credit unions that **originate more than 25 closed-end loans**, but **less than 500** in each of the two preceding calendar years, they are eligible for a **partial exemption** and will only need to report on the **22 data points** labeled “**Unchanged by the Act**” in the table on the previous slide.
- For credit unions that originate **less than 500 open-end loans** in each of the two preceding calendar years, they are **not required to report any data because they do not meet the loan volume threshold.**
- For credit unions that originate **more than 500 open-end loans** in each of the two preceding calendar years, they are required to report **all of the data points** associated with those “covered” open-end loans.
- For credit unions that originate **more than 500 closed-end loans** in each of the two preceding calendar years, they are required to report **all of the data points** associated with those “covered” closed-end loans.

CFPB - HMDA

What data do I report?

- Partial exemption applies to data collected or reported under HMDA **on or after May 24, 2018**.
- CFPB “relieves insured credit unions that are eligible for a partial exemption under the Act of the obligation to report certain data in 2019 that may have been collected before May 24, 2018.”
- However, the CFPB allows for the optional reporting of data points in order to limit the burden of trying to strip out the “non-required” data points they may have collected prior to May 24th.

CFPB - HMDA

- Critical for credit unions to understand what loans are covered under the new rule so they can collect the appropriate data points.
- **Data transferred from the application or loan file to LAR within 30 calendar days after the end of the quarter in which final action was taken.**
- Information will be reported on the credit union's LAR (Loan Application Register) – due March 1, 2019.
- **Why?**
 - Revised examination procedures
 - HMDA LAR errors (NCUA “concern”)
 - Fair Lending Exams (HMDA outliers, field examiner recommendation)

CFPB - HMDA

- **Be on the lookout!**
- **May 2, 2019** – Advanced Notice of Proposed Rulemaking (ANPR) was issued. Comment period extended to October 15, 2019.
 - Seeking comment on data points and reporting business or commercial purpose loans made to a non-natural person and secured by a multifamily dwelling.
- **May 2, 2019** – Notice of Proposed Rulemaking was issued. Comments were due on or before June 12, 2019.
 - Increase the reporting threshold for reporting closed-end loan data – to either 50 or 100 (now at 25), beginning January 1, 2020.
 - Extend open-end loan threshold of 500 to January 1, 2022 (threshold is currently set to revert to 100 on January 1, 2020) and then set the limit to 200 after January 1, 2022.

CFPB – HMDA Resources

Model Policy 9200: Home Mortgage Disclosure Act - Regulation C

Model Policy Revised Date: 12/20/2017

Introduction:

The Home Mortgage Disclosure Act (HMDA), implemented by Regulation C sets out requirements for the Credit Union to collect, record, report and disclose information about mortgage lending activity. Data collected serves the housing needs of the community, to assist public officials in distributing investments to areas where it is needed and to assist in identifying potential discriminatory lending patterns and enforcing antidiscrimination laws.

Highlights:

1. **COVERAGE.** This regulation only applies if the following criteria are met:
 - A. The Credit Union's assets total more than \$44 million as of December 31, 2017;
 - B. The Credit Union has a home or branch office in a Metropolitan Statistical Area (MSA);
 - C. The Credit Union has, in the preceding calendar year, originated at least one home purchase loan (closed-end mortgage loan or an open-end line of credit that is for the purpose, in whole or in part, of purchasing a dwelling) or refinancing of a home purchase loan, secured by a first lien on a one-to-four family unit dwelling and meets one of the following conditions:
 - i. The Credit Union is federally insured or regulated;
 - ii. The home purchase loan is insured, guaranteed or supplemented by a federal agency; or
 - iii. The home purchase loan is intended for sale to the Federal National Mortgage Association (FNMA) or the Federal Home Loan Mortgage Corporation.
 - D. The Credit Union meets at least one of the following criteria:
 - i. In each of the two preceding calendar years, originated at least 25 closed-end mortgage loans (including refinancings of home purchase loans); or
 - ii. In each of the two preceding calendar years, originated at least 500 open-end lines of credit that are not otherwise excluded.
2. **EXEMPTION GUIDELINES.** If the Credit Union becomes exempt from HMDA reporting requirements (one of the above criteria is no longer met), the Credit Union must notify the public of the exemption. If the Credit Union is no longer meeting the above criteria, data collection would begin the following year.
3. **DEFINITIONS**



Compliance Outlook HMDA Overview

Compliance Connection
399 views • 4 months ago

Home Mortgage Disclosure Act

Last Reviewed: May, 2018

The Home Mortgage Disclosure Act (HMDA) was enacted by Congress in 1975 and is implemented by the Bureau of Consumer Financial Protection's (BCFP) Regulation C. This regulation provides the public loan data that can be used to do the following:

- Determine whether financial institutions are serving the housing needs of their communities;
- Assist public officials in distributing public-sector investments so as to attract private investment to areas where it is needed; and
- Identify possible discriminatory lending patterns.

This regulation applies to certain financial institutions, including banks, savings associations, credit unions, and other mortgage lending institutions.

Summary

Checklist

FAQs

Laws & Regulations

Additional Resources

Print Additional Resources

Home Mortgage Disclosure Act: Additional Resources

- CUNA E-Guide: Home Mortgage Disclosure Act (HMDA) Regulation C
- BCFP Quick Reference Guide
- Federal Reserve Board FAQs
- FFIEC: HMDA website
- NCUA Legal Opinion Letter 07-0812
- NCUA Regulatory Alert 11-RA-01: HMDA Reporting
- NCUA Regulatory Alert 11-RA-02: HMDA Reporting
- CFPB - Overview Reference Chart for Data Collected in 2019

ComplySight

Alert

Home Mortgage Disclosure Act (HMDA) Regulation C

Significant amendments to the Home Mortgage Disclosure Act (HMDA) become effective on January 1, 2010. Not only did the coverage of HMDA change, but credit unions will also need to change their lobby disclosure and the disclosure provided to members of the public (who request it).

In order to comply with these substantial changes, ComplySight is being updated. Existing content is being revised and two new Factors are being added including: "Definitions

Publish/Release Date: 12/20/2017

Effective Date: 1/1/2018

Updated Requirements

Area	Item	Factor
Loans		

CFPB – Regulation B (updated URLA)

Required for loans sold to Fannie Mae/Freddie Mac on or after February 1, 2020

Credit Unions could start using after July 1, 2019

Uniform Residential Loan Application (URLA)

- In addition to being redesigned in order to be more consumer-friendly, the URLA was updated to capture the government monitoring information to comply with the HMDA changes.
- Loans being sold to Fannie Mae will have to use the new URLA after February 1, 2020.
- Model form can be found within Regulation B – Appendix B – Form 5.

CFPB – Regulation B (updated URLA)

Demographic Information of Borrower

The purpose of collecting this information is to help ensure that all applicants are treated fairly and that the housing needs of communities and neighborhoods are being fulfilled. For residential mortgage lending, Federal law requires that we ask applicants for their demographic information (ethnicity, sex, and race) in order to monitor our compliance with equal credit opportunity, fair housing, and home mortgage disclosure laws. You are not required to provide this information, but are encouraged to do so. You may select one or more designations for "Ethnicity" and one or more designations for "Race." **The law provides that we may not discriminate** on the basis of this information, or on whether you choose to provide it. However, if you choose not to provide the information and you have made this application in person, Federal regulations require us to note your ethnicity, sex, and race on the basis of visual observation or surname. The law also provides that we may not discriminate on the basis of age or marital status information you provide in this application. If you do not wish to provide some or all of this information, please check below.

Ethnicity: Check one or more

- ☐ Hispanic or Latino
☐ Mexican ☐ Puerto Rican ☐ Cuban
☐ Other Hispanic or Latino – *Print origin:* _____

For example: Argentinean, Colombian, Dominican, Nicaraguan, Salvadoran, Spaniard, and so on.

- ☐ Not Hispanic or Latino
☐ I do not wish to provide this information

Sex

- ☐ Female
☐ Male
☐ I do not wish to provide this information

Race: Check one or more

- ☐ American Indian or Alaska Native – *Print name of enrolled or principal tribe:* _____
☐ Asian
☐ Asian Indian ☐ Chinese ☐ Filipino
☐ Japanese ☐ Korean ☐ Vietnamese
☐ Other Asian – *Print race:* _____
For example: Hmong, Laotian, Thai, Pakistani, Cambodian, and so on.
☐ Black or African American
☐ Native Hawaiian or Other Pacific Islander
☐ Native Hawaiian ☐ Guamanian or Chamorro ☐ Samoan
☐ Other Pacific Islander – *Print race:* _____

For example: Fijian, Tongan, and so on.

- ☐ White
☐ I do not wish to provide this information

To Be Completed by Financial Institution (for application taken in person):

- Was the ethnicity of the Borrower collected on the basis of visual observation or surname? ☐ NO ☐ YES
 Was the sex of the Borrower collected on the basis of visual observation or surname? ☐ NO ☐ YES
 Was the race of the Borrower collected on the basis of visual observation or surname? ☐ NO ☐ YES

The Demographic Information was provided through:

- ☐ Face-to-Face Interview (includes Electronic Media w/ Video Component) ☐ Telephone Interview ☐ Fax or Mail ☐ Email or Internet

CFPB – Mortgage Servicing

Effective October 19, 2017

Effective March 19, 2018

- The Mortgage Servicing rules, which impact both Truth in Lending (TILA) and the Real Estate Settlement Procedures Act (RESPA) were amended, with two sets of effective dates.
- **October 2017** – Early intervention requirements, modified notice requirements for borrowers in bankruptcy, loss mitigation procedures, servicing policies/procedures and forced-place insurance notices.
- **March 2018** – Identification/treatment of successors in interest under mortgage servicing rules and significant periodic statement changes for borrowers in bankruptcy.

CFPB – Mortgage Servicing

Effective March 19, 2018

- **Servicing Policies, Procedures and Requirements (1024.38)**
- This section requires servicers to have policies and procedures designed to ensure that when the credit union receives notice of the death of a borrower or of any transfer of property securing a mortgage loan, they **promptly** facilitate communication with any **potential** or **confirmed** successors in interest regarding the property.
 - When the notice of a potential successor in interest is received, promptly determine what is needed to confirm identity and ownership interest; and
 - When those documents needed are received, promptly make a determination and notify the person of the confirmed status or what additional documents are needed.

CFPB – Mortgage Servicing

Effective March 19, 2018

- **Confirmed successors in interest are treated as borrowers or consumers for purposes of the following:**
 - Escrow Accounts (1024.17)
 - Mortgage Servicing (all of Subpart C of Regulation X); Disclosure including: General disclosure requirements, Mortgage servicing transfers, Timely escrow payments and treatment of escrow account balances, Error resolution, Requests for information, Force-placed insurance, General servicing policies, Procedures and requirements, ***Early intervention requirements for certain borrowers, *Continuity of contact, *Loss mitigation procedures;**
 - Requirements regarding post-consummation events (1026.20);
 - Prompt payment crediting and payoff statements (1026.36(c));
 - Mortgage transfer disclosures (1026.39); **and**
 - Periodic statement requirements (1026.41).

***Certain rules only apply to a confirmed successor in interest when the property is the confirmed successor in interest's principal residence. The determination of principal residence status will depend on the specific facts and circumstances regarding the property and applicable State law.**

CFPB – Mortgage Servicing

Effective March 19, 2018

Periodic Statements for Residential Mortgage Loans (1026.41)

- <https://www.consumerfinance.gov/policy-compliance/guidance/implementation-guidance/mortserv/>

Disclosures	Periodic Statement for Borrowers Not in Bankruptcy	Modifications for Chapter 7 or 11 Bankruptcy (or Discharge of Personal Liability)	Modifications for Chapter 12 or 13 Bankruptcy
Amount Due, as required under § 1026.41(d)(1)(iii)	Required	Modifications permitted. See below for more information. § 1026.41(f)(1)	Modifications permitted. See below for more information. § 1026.41(f)(3)(ii)
Explanation of Amount Due, as required under § 1026.41(d)(2)(iii)	Required	Required	Modifications permitted. See below for more information. § 1026.41(f)(3)(ii)
Late Payment Fee, as required under § 1026.41(d)(1)(ii)	Required	May be omitted § 1026.41(f)(1)	May be omitted § 1026.41(f)(1)
Transaction activity, as required under § 1026.41(d)(4).	Required	Required	Modifications permitted. See below for more information. § 1026.41(f)(3)(iv)
Length of Delinquency, as required under § 1024.41(d)(8)(i).	Required	May be omitted § 1026.41(f)(1)	May be omitted § 1026.41(f)(1)
Notification of Possible Risks if Delinquency is Not Cured, as required under § 1024.41(d)(8)(ii)	Required	May be omitted § 1026.41(f)(1)	May be omitted § 1026.41(f)(1)

CFPB – Mortgage Servicing

Effective March 19, 2018

Periodic Statements for Residential Mortgage Loans (1026.41)

- <https://www.consumerfinance.gov/policy-compliance/guidance/implementation-guidance/mortserv/>

Account History, as required under § 1024.41(d)(8)(iii)	Required	Required	May be omitted § 1026.41(f)(3)(i)
Loss Mitigation Program Information, if applicable, as required under § 1024.41(d)(8)(iv)	Required	Required	May be omitted § 1026.41(f)(3)(i)
First Notice or Filing for Any Foreclosure Process Information, if applicable, as required under § 1024.41(d)(8)(v)	Required	May be omitted § 1026.41(f)(1)	May be omitted § 1026.41(f)(1)
Total Payment Amount Needed to Bring the Account Current, as required under § 1024.41(d)(8)(vi)	Required	Required	May be omitted § 1026.41(f)(3)(i)
Homeownership Counselor Information, as required under § 1024.41(d)(8)(vii)	Required	Required	May be omitted § 1026.41(f)(3)(i)
Bankruptcy Notice Statements for Chapters 7, 11, 12, and 13 Borrowers, as required under § 1026.41(f)(2)	Not Included	Required § 1026.41(f)(2)	Required § 1026.41(f)(2)
Pre-petition Arrearage Disclosures, as required under § 1026.41(f)(3)(v)	Not Included	Not Included	Required, if applicable. See below for more information. § 1026.41(f)(3)(v)
Additional Disclosures for Chapters 12 and 13 Borrowers, as required under § 1026.41(f)(3)(vi)	Not Included	Not Included	Required, if applicable. § 1026.41(f)(3)(vi)

CFPB – Mortgage Servicing Resources

Summary

Mortgage Servicing: Summary

The Mortgage Servicing Rules published by the Bureau of Consumer Financial Protection Act. The Dodd-Frank Wall Street Reform and Consumer Protection Act (RESPA) of 1974, which is implemented by Regulation X, and the Truth in Lending Act (TILA), which is implemented by Regulation Z, with regard to the servicing of certain residential mortgage loans.

To what loans will the Mortgage Servicing Rule apply?

Generally the Mortgage Servicing Rules apply to closed end consumer credit transactions.

Are there exemptions to the Rule?

Small servicers are exempt from certain parts of the rule; regardless of size. Your credit union qualifies as a small servicer if it services 5,000 or fewer loans overall.

If the credit union services any mortgage loan it (or an affiliate) it services 5,000 or fewer loans overall.

Requirement for policies and procedures.

The credit union should establish policies and procedures:

1. Accessing and providing timely and accurate information;
2. Properly evaluating loss mitigation applications;
3. Facilitating oversight of, and compliance by, service providers;
4. Promptly facilitating transfer of information during servicing transfers;
5. Informing members of the written error resolution and information request procedures; and
6. Set standards for record retention and service file creation.
7. Promptly facilitating communication with potential and confirmed successors in interest and confirming a successor in interest's identity and ownership interest.

SERVICING REQUIREMENTS FOR ALL SERVICERS.

Successors in Interest. The credit union must maintain policies and procedures reasonably designed to ensure that they promptly facilitate communication with any potential or confirmed successor in interest for a property securing a mortgage loan when notice of death for a borrower or any transfer of the property is received. The credit union will then need to determine what documents are needed to confirm the person's identity and ownership interest in the property. Then upon receipt of that documentation, the credit union must promptly notify them that they have confirmed their status as successor in interest, determined that they are not a successor in interest or determined additional documentation is needed. Once the credit

Model Policy 7360: Mortgage Servicing Rules

Model Policy Revised Date: 03/28/2018

[Note: CU PolicyPro contains two "Mortgage Servicing Rules" Policies – Policy 7360, Mortgage Servicing Rules and Policy 7361, Small Servicer Mortgage Servicing Rules. The credit union should use only one of these policies, based on whether or not the credit union meets the Small Servicer Definition.]

General Policy Statement:

[[CUnion]] (Credit Union) will comply with the Mortgage Servicing Rule published by the Consumer Financial Protection Bureau (CFPB) and the provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act. The Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act) amended the Real Estate Settlement Procedures Act (RESPA) of 1974, which is implemented by Regulation X, and the Truth in Lending Act (TILA), which is implemented by Regulation Z, with regard to the servicing of certain residential mortgage loans.

The Mortgage Servicing Rule applies to Regulation X including: error resolution and information requests; force-placed insurance; general servicing policies, procedures, and requirements; early intervention with delinquent members; continuity of contact with delinquent members; and loss mitigation; and Regulation Z including: interest rate adjustment notices for ARMs; prompt crediting of mortgage payments and responses to requests for payoff amounts; and periodic statements for mortgage loans, which are covered in this policy.

1. DEFINITIONS

- A. Delinquency.** A period of time during which a borrower and a borrower's mortgage loan obligation are delinquent. A borrower and a borrower's loan obligation are delinquent beginning on the date a periodic payment sufficient to cover principal, interest and, if applicable, escrow becomes due and unpaid, until such time as no periodic payment is due and unpaid (Regulation X - 1024.31).
- B. Successor in Interest.** A person to whom an ownership interest in a property securing a mortgage loan subject to the Mortgage Servicing subpart (1024.31) or in a dwelling securing a closed-end consumer credit transaction (1026.2) is transferred from a borrower, provided that the transfer is:
 - i. A transfer by devise, descent, or operation of law on death of a joint tenant or tenant by the entirety;
 - ii. A transfer to a relative resulting from the death of a borrower;
 - iii. A transfer where the spouse or children of the borrower become an owner of the property;
 - iv. A transfer resulting from a decree of dissolution of marriage, legal separation agreement, or from an incidental property settlement agreement, by which the spouse of the borrower becomes an owner of the property; or
 - v. A transfer into an inter vivos trust in which the borrower is and remains a beneficiary and which does not relate to a transfer of rights of occupancy in the property.
- C. Confirmed Successor in Interest.** A successor in interest once a servicer has confirmed the successor in interest's identity and ownership interest in a property that secures a mortgage loan subject to this subpart.

2. COVERED TRANSACTIONS.

- A. Covered Transaction.** A Covered Transaction for this policy, under the Mortgage Servicing Rules includes closed end consumer credit trans



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policy and all of the provisions of the

CFPB – TRID 2.0

Compliance Mandatory on October 1, 2018

- **Cooperative units** securing a closed-end consumer credit transactions are subject to TRID (doesn't matter if real property or personal property under state law).
- **Loan Estimate (LE)** expiration date (usually 10 days) **can be extended** by the credit union.
- New tolerance requirement for the **total of payments** disclosed as part of the loan calculations on page 5 of the **Closing Disclosure (CD)**.
- **Construction-Permanent Loan** reporting clarification.
- **Escrow Closing Notice** requirement and clarification.
- Clarification on how to proceed if the credit **union fails to disclose a settlement service** on the written list of providers or fails to provide the list.

CFPB – Payday Lending

Effective on January 16, 2018

Compliance required by August 19, 2019

Compliance with mandatory underwriting provisions delayed until November 19, 2020.

- Governs the underwriting of **covered short-term and long-term balloon payment loans, including payday alternative loans.**
- Requires disclosures and limits for certain withdrawal attempts, implementation of ability-to-repay methodologies, and reporting requirements.
- **The CFPB rules provide an exemption to any credit union (not just a federal credit union) that complies with the NCUA Rules (Part 701.21) that govern payday alternative loan programs.**
- Also excludes “accommodation loans” if the credit union issues fewer than 2,500 and they represent no more than 10% of revenue.

CFPB – Payday Lending

- **In a nutshell...** Significant requirements to comply with the rules including:
 - Ability to repay tests
 - Payment withdrawal restrictions
 - Payment transfer disclosures
 - Registration of loans to the “registered information system”
 - Compliance program
 - Record retention

CFPB – Payday Lending

Area: Loans

Item: Payday Alternative Loan (PAL) Programs ?

Model Policy 7218: Payday Alternative Loans (PALs)

Factors

Alternative Payday Loan Criteria

Application Fee

Best Practices

Lending Policies

Record Retention

Exemption

This does not apply if the credit union

Model Policy Revised Date: 09/30/2014

General Policy Statement:

[[CUname]] (Credit Union) will provide payday alternative loans (PALs) to members as an alternative to potentially predatory payday lenders. In developing a successful PAL loan program, the Credit Union will consider how the program will help benefit a member's financial well-being while considering the higher degree of risk associated with this type of lending. This policy outlines this loan program.

Guidelines:

1. **INTEREST RATE.** The Credit Union may charge an interest rate of 1000 basis points above the maximum interest rate as established by the NCUA Board, provided the Credit Union is making a closed-end loan in accordance with the following conditions:
 - A. **Principal.** The principal of the loan is not less than \$200 or more than \$1000;
 - B. **Maturity.** The loan has a minimum maturity term of one month and a maximum maturity term of six months;
 - C. **Loan Limits.** The Credit Union does not make more than three PAL loans in any rolling six-month period to any one borrower and will make no more than one short-term, payday alternative loan at a time to a borrower;
 - D. **No Roll-Over.** The Credit Union does not roll-over any PAL loan. However, the prohibition against roll-overs does **not** apply to an extension of the loan term within the maximum loan term (above), provided the Credit Union does **not** charge any additional fees or extends any new credit.

Compliance Topics

Discussion Board

Checklists

ComplySight

CU PolicyPro

Resources



[Home](#) > [Compliance Topics](#) > [Loans and Leasing](#) > [Payday Alternative Loans](#)

 [View/Print All](#)

Payday Alternative Loans

Last Reviewed February, 2019

With the CFPB publishing a final rule effective on January 16, 2018 (with compliance required as of August 19, 2019), credit unions offering some type of alternative payday loan program need to make sure their program is compliant.

Within the final rule, there is an exemption from the requirement for "Alternative Loans" (1041.3(e)). The final rule goes on to say that financial institutions offering a loan program that meets the requirements outlined are exempt from the requirements within the rule. The requirements outlined in the exemption replicate the NCUA rules (701.21) governing payday alternative loans (PALs).

Therefore, both federally and state-chartered credit unions can benefit from this exemption (and not having to comply with the CFPB rules) by creating a PAL program that complies with the NCUA rules.

Summary



Laws & Regulations



Additional Resources



Model Policies



CFPB – Prepaid Debit Card Rule

Effective on April 1, 2019

Coverage

1. **Payroll card account** – account directly or indirectly established through an employer and to which electronic fund transfers (EFTs) of the consumer's wages, salary, or other employee compensation (commissions) are made on a recurring basis, whether the account is operated or managed by the employer, a third-party payroll processor, a depository institution or another person.
2. **Government benefit account** – account established by a government agency for distributing government benefits to a consumer electronically, such as through ATM or POS terminals, but does not include an account for distributing needs-tested benefits in a program established under state or local law or administered by a state or local agency.
3. **An account that is marked or labeled as “prepaid”** and that is redeemable upon presentation at multiple, unaffiliated merchants for goods or services or usable at ATMs.
4. **An account:**
 - That is **issued on a prepaid basis in a specified amount** or not issued on a prepaid basis but capable of being loaded with funds thereafter,
 - Whose primary function is to conduct transactions with multiple, unaffiliated merchants for goods or services, or at ATMs, or to conduct person-to-person transfers; and
 - That is not a checking account, share draft account or negotiable order of withdrawal account.

CFPB – Prepaid Debit Card Rule

For #3 and #4, the definition DOES NOT include:

- Account loaded with funds from an **HSA, flexible spending arrangement, medical savings account, health reimbursement arrangement, dependent care assistance program, or transit or parking reimbursement arrangement.**
- An account that is directly or indirectly established through a third party and loaded only with **qualified disaster relief payments.**
- **A gift certificate** – card, code or other device that is issued on a prepaid basis primarily for personal, family or household purposes to a consumer in a specified amount that may not be increased or reloaded in exchange for payment; and is redeemable upon presentation at a single merchant or an affiliated group of merchants for goods or services.
- **A gift card** - card, code or other device that is issued on a prepaid basis primarily for personal, family or household purposes to a consumer in a specified amount whether or not that amount may be increased or reloaded, in exchange for payment; and redeemable upon presentation at a single merchant or an affiliated group of merchants for goods or services.
 - The gift certificate and gift card definitions do not include any card, code or other device that is reloadable and not marketed or labeled as a gift card or gift certificate; or a loyalty, award or promotional gift card (just to name a few most relevant to credit unions).
- ***A general use prepaid card** – card, code or other device that is issued on a prepaid basis primarily for personal, family, or household purposes to a consumer in a specified amount, whether or not that amount may be increased or reloaded, in exchange for payment and redeemable upon presentation at multiple, unaffiliated merchants for goods or services or usable at ATMs.*

CFPB – Prepaid Debit Card Rule

Effective on April 1, 2019

Requirements

- A short form disclosure (static fees, information about insurance, overdraft features, and CFPB website information);
- Certain information disclosed outside, but in close proximity to the short form disclosure (credit union's name, name of the prepaid program, purchase price and/or activation fee)
- A long form disclosure (sets forth all the fees that may be imposed, as well as other information about the account).

Model disclosures are included in the Appendix of Regulation E.

CFPB – Prepaid Debit Card Rule

Effective on April 1, 2019

Requirements

- Periodic statements (there is also an alternative)
- Error resolution and limitations on liability
- Receipts at electronic terminals
- Preauthorized EFTs
- Issuance of an access device
- Submitting agreements to CFPB (de-minimis and product testing exceptions exist)
- Remittance transfers
- Record retention

CFPB – Prepaid Debit Card Rule

[Home](#) > [Compliance Topics](#) > [Accounts](#) > [Prepaid Accounts](#)[View/Print All](#)

Prepaid Accounts

Last Reviewed March, 2019

Effective on April 1, 2019, Regulation E and Regulation Z were both expanded to provide coverage and certain consumer protections to prepaid accounts, which include payroll card accounts, government benefit accounts, and certain other types of prepaid products. With these revisions, Regulation E was amended to create certain disclosures required, limited liability and error resolution provisions, and periodic statement requirements for prepaid accounts. There are also new requirements within the regulation that only apply to prepaid accounts.

If the prepaid account contains overdraft credit features and is offered by the credit union, its affiliate or business partner and can be accessed in the course of a transaction conducted with a prepaid card, generally, those features will now be covered under Regulation Z.

Summary



FAQs

Laws & Regulations

Additional Resources

[Back to Full Listing](#) | [Back to Accounts](#)**Area: Accounts****Item: Prepaid Accounts**[Equally distribute weights](#)

Factors	Grade	Weight	Complete	Action Items	Resolved	MAI
<input checked="" type="checkbox"/> Alternative to Periodic Statements	—	<input type="text" value="6%"/>		—		
<input checked="" type="checkbox"/> Change in Terms	—	<input type="text" value="6%"/>		—		
<input checked="" type="checkbox"/> Disclosures on access device	—	<input type="text" value="6%"/>		—		
<input checked="" type="checkbox"/> Electronic Delivery of Pre-Acquisition Disclosures	—	<input type="text" value="6%"/>		—		
<input checked="" type="checkbox"/> Error Resolution and limitations on liability	—	<input type="text" value="6%"/>		—		
<input checked="" type="checkbox"/> Initial Disclosures	—	<input type="text" value="6%"/>		—		

ALERT



A new Regulatory Alert has been released and needs your attention and review.

[Review Update](#)

National Automated Clearinghouse Association (NACHA)



NACHA – Third-Party Sender Registration

Required by March 1, 2018

- If the credit union ODFI hasn't done so already, they will **need to identify and register their Third Party Sender members or confirm that they do not have any** (should have been done by the March 1st deadline).
- The registry opened on September 29, 2017.
- The credit union should also have procedures in place to register any new Third-Party Sender and/or to update existing registration information if there is a change to an existing Third-Party Sender.

NACHA – Same Day ACH

Effective September 15, 2017

- Credits and debits are now required to be processed via Same Day ACH and made available by end of RDFI's processing day.

Effective March 16, 2018

- Credits and debits are now required to be processed via Same Day ACH and made available by 5:00pm local time for the RDFI.

NACHA – Same Day ACH

Functionality	Phase 1 Sept. 23, 2016	Phase 2 Sept. 15, 2017	Phase 3 March 16, 2018
Transaction Eligibility (\$25,000 limit; IAT not eligible)	Credits only	Credits and debits	Credits and debits
New Same Day ACH ODFI Processing Deadlines	10:30 AM ET and 2:45 PM ET	10:30 AM ET and 2:45 PM ET	10:30 AM ET and 2:45 PM ET
New Settlement Time(s)	1:00 PM ET and 5:00 PM ET	1:00 PM ET and 5:00 PM ET	1:00 PM ET and 5:00 PM ET
ACH Credit Funds Availability	End of RDFI's processing day	End of RDFI's processing day	5:00 PM RDFI local time

NACHA – Faster Funds Availability

Effective September 20, 2019

- Additional funds availability standards for ACH credits.
 - **Funds from Same Day ACH credits processed in the existing, first processing window will be available by 1:30pm in the RDFI's local time.**
 - Funds from Same Day ACH credits processed in the existing, second processing window will continue to be made available to 5:00pm local RDFI time.
 - Funds from non-Same Day ACH credits will be available by 9am RDFI's local time on Settlement Date, if the credits were available to the RDFI by 5pm local time on the previous day.
- **Increase in Same Day per-transaction dollar limit becomes effective on March 20, 2020 (from \$25,000 to \$100,000).**
- **New Same Day ACH processing window with expanded hours (an increase of 2 hours from 2:45pm to 4:45pm) goes in to effect on September 18, 2020.**

NACHA Resources



Same Day ACH

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This presentation gives an overview of the Authority. To download the files associated

17:39



Model Policy 2610: ACH Operations

Model Policy 2612: ACH Audit

Model Policy 2611: ACH Management

Model Policy Revised Date: 6/26/2019

General Policy Statement:

This policy covers management's responsibilities concerning the activities and procedures of [[CUnion]]'s (Credit Union) automated clearing house (ACH) operations. The Credit Union will comply with all NACHA Operating rules, OFAC sanctions, the Green Book, Federal and state laws and regulations, Uniform Commercial Code Article 4A, and other related requirements.

Guidelines:

1. **IMPLEMENTATION.** The Board of Directors will review and approve a report by the [[2611-1]] regarding the status of implementation of the Credit Union's ACH Management policy. All the Credit Union's ACH activities will comply with this policy. Without approval by the [[2611-2]], the Credit Union will not initiate (or agree with a member to initiate) ACH debit or credit entries on behalf of a member to accounts of other parties.

ACH/Electronic Payments

- > [ACH Risk Assessment](#)
- > [Annual Audit](#)
- > [ATM Americans with Disabilities Act](#)
- > [ATM Fee Disclosure](#)
- > [Authentication in an Internet Banking Environment](#)
- > [Electronic Funds Transfer Regulation E](#)
- > [Electronic Signatures \(E-sign\)](#)
- > [International Remittance Transfers](#)
- > [Originating Depository Financial Institution \(ODFI\)](#)
- > [Receiving Depository Financial Institutions \(RDFI\)](#)

Financial Crimes Enforcement Network (FinCEN)



FinCEN Customer Due Diligence Requirements

Compliance required by May 11, 2018

- Establish procedures that are reasonably designed to **identify and verify beneficial owners** of legal entity members.
 - **Certification Form** for legal entities to complete is included in the Appendix of the new regulation to *identify* beneficial owners.
 - *Verify* the identity of each beneficial owner according to **existing CIP/MIP**.
- General AML requirements to establish risk-based procedures for conducting ongoing customer/member due diligence (all members).

FinCEN Customer Due Diligence Requirements

Due Diligence Procedures for Legal Entities

- Applies to new “legal entity” accounts. Existing accounts can be updated during normal course of business.
- Credit unions must **identify** and **verify** all of the beneficial owners of the legal entity member.
 - Obtain a Certification Form (Appendix A); or
 - Obtain information required by the form via another method – provided the individual certifies accuracy.

FinCEN Customer Due Diligence Requirements

31 CFR § 1020.230 CERTIFICATION REGARDING BENEFICIAL OWNERS OF LEGAL ENTITY CUSTOMERS

I. GENERAL INSTRUCTIONS

This is an optional form provided for your convenience. The required information may be provided in other formats. When completed, this form is provided to the financial institution where the account is opened. DO NOT SEND TO FinCEN.

Where may I obtain a copy of the form?

A copy (pdf) may be downloaded from the FinCEN website at www.fincen.gov under the "Filing Information" tab. The form may be completed on a computer using the free [Adobe Reader](#) software.

What is this form?

To help the government fight financial crime, Federal regulation requires certain financial institutions to obtain, verify, and record information about the beneficial owners of legal entity customers. Legal entities can be abused to disguise involvement in terrorist financing, money laundering, tax evasion, corruption, fraud, and other financial crimes. Requiring the disclosure of key individuals who own or control a legal entity (i.e., the beneficial owners) helps law enforcement investigate and prosecute these crimes.

Who has to complete this form?

This form must be completed by any person opening a new account on behalf of a **legal entity** with any of the following U.S. financial institutions: (i) a bank or credit union; (ii) a broker or dealer in securities; (iii) a mutual fund; (iv) a futures commission merchant; and (v) an introducing broker in commodities.

For the purposes of this form, a **legal entity** includes a corporation, limited liability company, or other entity that is created by a filing of a public document with a Secretary of State or similar office, a general partnership, and any similar business entity formed in the United States or a foreign country. **Legal entity** does not include sole proprietorships, unincorporated associations, or natural persons opening accounts on their own behalf.

What information do I have to provide?

When you open a new account on behalf of a legal entity, the financial institution will ask for information about the legal entity's **beneficial owner(s)**, including their name, address, date of birth and social security number (or passport number or other similar information, in the case of Non-U.S. persons). The financial institution may also ask to see a copy of a driver's license or other identifying document for each beneficial owner listed on this form.

Beneficial owners are:

- (1) Each individual, if any, who owns, directly or indirectly, 25 percent or more of the equity interests of the legal entity customer (e.g., each natural person that owns 25 percent or more of the shares of a corporation; **and**
- (2) An individual with significant responsibility for managing the legal entity customer (e.g., a Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Managing Member, General Partner, President, Vice President, or Treasurer).

CERTIFICATION OF BENEFICIAL OWNER(S)

The information contained in this Certification is sought pursuant to Section 1020.230 of Title 31 of the United States Code of Federal Regulations (31 CFR 1020.230).

All persons opening an account on behalf of a legal entity must provide the following information:

1. Last Name and title of Natural Person Opening Account	2. First Name	3. Middle Initial
4. Name and type of Legal Entity for Which the Account is Being Opened		
4a. Legal Entity Address	4b. City	4c. State
4d. ZIP/Postal Code		

SECTION I

(To add additional individuals, see page 3)

Please provide the following information for an individual(s), if any, who, directly or indirectly, through any contract arrangement, understanding, relationship, or otherwise owns 25% or more of the equity interests of the legal entity listed above. Check here ☐ if no individual meets this definition and complete Section II.

5. Last Name	6. First Name	7. M.I.	8. Date of birth (MM/DD/YYYY)
9. Address	10. City	11. State	12. ZIP/Postal Code
13. Country	14. SSN (U.S. Persons)	15. For Non-U.S. persons (SSN, Passport Number or other similar identification number)	
15a. Country of issuance:			

Note: In lieu of a passport number, Non-U.S. Persons may also provide a Social Security Number, an alien identification card number, or number and country of issuance of any other government-issued document evidencing nationality or residence and bearing a photograph or similar safeguard.

SECTION II

Please provide the following information for an individual with significant responsibility for managing or directing the entity, including, an executive officer or senior manager (e.g., Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Managing Member, General Partner, President, Vice President, Treasurer); or any other individual who regularly performs similar functions.

16. Last Name	17. First Name	18. M.I.	19. Date of birth (MM/DD/YYYY)
20. Address	21. City	22. State	23. ZIP/Postal Code
24. Country	25. SSN (U.S. Persons)	26. For Non-U.S. persons (SSN, Passport Number or other similar identification number)	
26a. Country of issuance:			

FinCEN Customer Due Diligence Requirements

AML Program Requirements (minimum)

- System of internal controls to assure ongoing compliance;
- Independent testing for compliance;
- Designation of an individual(s) for coordinating and monitoring day-to-day compliance;
- Training for appropriate personnel; and
- **Appropriate risk based procedures for conducting ongoing member due diligence.**
 - Understanding the nature and purpose of member relationships for the purpose of developing a member risk profile; and
 - Conducting ongoing monitoring to identify and report suspicious transactions and maintain/update member information (risk based).

FinCEN Resources

Customer Due Diligence and Beneficial Ownership: Summary

Last Reviewed: April, 2018

Background

On May 11, 2016, FinCEN published a final rule regarding Customer Due Diligence (CDD) Requirements for Financial Institutions. This rule amends the Bank Secrecy Act regulations and formalizes several existing practices related to the monitoring of customer activity, and adds new requirements that covered financial institutions establish and maintain written procedures that are reasonably designed to identify and verify the beneficial owners of legal entity customers. Financial institutions must comply with this new rule by May 11, 2018.

Four core elements of CDD described in the final rule are required for all AML programs, those being the:

Identification and verification of customers;
Identification and verification of beneficial owners of legal entity customers, subject to certain exceptions;
Development of a customer risk profile through an understanding of the nature and purpose of the customer relationship, and
Ongoing monitoring for reporting suspicious activity, and on a risk basis, maintaining and updating customer information.

Several of these elements are part of the existing customer identification program (CIP) rules, with others implied through suspicious activity reporting (SAR) requirements. The beneficial ownership identification requirement is new and not part of any existing rule.

AML Programs

The new rule requires that covered financial institutions (including credit unions), include certain elements within Anti-Money Laundering (AML) programs, in order to conduct ongoing customer due diligence. These programs and procedures should include protocols that assist the credit union in:

Understanding the nature and purpose of customer relationships; and

Conducting ongoing monitoring to identify and report suspicious transactions and, on a risk basis, to maintain and update customer information.

Additional Resources

[FinCEN CDD Final Rule](#)

[FinCEN CDD FAQs](#)

[CUNA CDD Chart](#)

[CUNA: Customer Due Diligence Checklist](#)

[CUNA: 10 FAQs for the New CDD Rule](#)

[CDD – Appendix A – Fillable PDF and Word links](#)

[FinCEN CDD FAQs 4-3-2018](#)

[CDD and Beneficial Ownership: FAQs](#)



Compliance Outlook - FinCEN Customer Due Diligence

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Model Policy 2110: Bank Secrecy Act/Anti-Money Laundering Program

The Bank Secrecy Act (BSA) / Anti-Money Laundering (AML) Program will include internal policies, procedures, and controls designed to comply with the USA PATRIOT Act of 2001 (PATRIOT Act), the BSA, and all related laws and regulations in order to combat money laundering, terrorist financing, tax evasion and other financial crimes.

of processing “dirty” money through a series of transactions in order to “clean” the funds so that they appear to be proceeds from legal activities. It may not involve currency (cash) at any one time, but rather through a series of independent steps (that can occur at the same time):

Examples of money laundering activities include:

• Holding

• A package or insurance policy.

• Collected and deposited at another location.

• Used in a complex series of transactions. Examples:

• Large amounts.

• Multiple accounts in one or more financial institutions.

• Additional transactions. Example:

• A.

Examples of money laundering are often funded through legitimate sources, such as: (1) charitable donations; (2) business ownership; and/or (3) personal employment.

National Credit Union Administration (NCUA)



Created by the U.S. Congress in 1970, the National Credit Union Administration is an independent federal agency that insures deposits at federally insured credit unions, protects the members who own credit unions, and charters and regulates federal credit unions.

NCUA – Private Flood Insurance

Effective on July 1, 2019

- **Mandatory Acceptance** - Credit unions **must accept** private flood insurance in satisfaction of the rule if the policy meets the requirements for coverage.
- **Discretionary Acceptance** - Credit unions **may accept** a flood insurance policy issued by a private insurer not issued under the National Flood Insurance Program (NFIP) and does not meet the definition of private flood insurance, **if:**
 - **Coverage is provided in the amount required** (at least equal to the lesser of the outstanding principal balance of the designated loan or the maximum limit of coverage available for the particular type of property);
 - Issued by an **insurer that is licensed**, admitted or otherwise approved by the insurance regulator of the state in which the property is located;
 - Covers both the **mortgagor and the mortgagee as loss payees**, except in the case of a policy that is provided by a condo association, co-op, homeowners association, etc.; and
 - Provides **sufficient protection of the designated loan**, consistent with general safety and soundness principles and the credit union documents conclusions in writing.

NCUA – Private Flood Insurance

- Definitions added to NCUA Rules – 760, to define “private flood insurance” and “mutual aid society.”
- Aid for determining policy’s compliance by requiring the inclusion of ***“This policy meets the definition of private flood insurance contained in 42 U.S.C. 4012a(b)(7) and the corresponding regulation”*** that the credit union can rely on for mandatory acceptance.
- Option for the credit union to accept a plan issued by a mutual aid society (as defined in the regulation), if certain conditions are met (760.3).

Flood Insurance Resources

Model Policy 7330: Residential Real Estate Loans

Model Policy Revised Date: 04/15/2019

General Policy Statement:

[[CUName]] (Credit Union) will originate residential real estate loans in compliance with all applicable federal and state laws and regulations. Mortgage loans will be held in portfolio or sold on the secondary market as directed by the Asset/Liability Management Committee.

Guidelines:

1. **LOAN TYPES.** The Credit Union offers the following types of residential
2. **LOAN AUTHORIZATION.** Loan Authorization limits are set forth in the
3. **SECURITY.** The Credit Union will accept first and second trust deeds in f
4. **VALUE.**
 - A. **First Mortgages.** Value is determined by the lower of the sales price Appraisers or the American Institute of Appraisers (as a candidate m
 - B. **Second Mortgages.** Value is determined by [[7330-8]] % of the app
5. **APPRAISALS**
 - A. The Credit Union will follow the requirements of NCUA Part 722 (A amended by the Consumer Financial Protection Bureau (CFPB); as v
6. **LOAN LIMITS.**

Private Flood Insurance

Credit unions are **required** to accept private flood insurance that meets the requirements established with the flood rules (meeting the definition under 760.2). A credit union can determine that the policy meets the requirements under the rule, without further review of the policy if the following statement is included within the policy or as an endorsement to the policy:

"This policy meets the definition of private flood insurance contained in 42 U.S.C. 4012a(b)(7) and the corresponding regulation."

A credit union has the discretion to accept a private flood insurance policy that is not issued under the NFIP and that does NOT meet the definition under 760.2, if the policy:

- **Coverage is provided in the amount required** (at least equal to the lesser of the outstanding principal balance of the designated loan or the maximum limit of coverage available for the particular type of property);
- Is issued by an **insurer that is licensed**, admitted or otherwise approved by the insurance regulator of the state in which the property is located;
- Covers both the **mortgagor and the mortgagee as loss payees**, except in the case of a policy that is provided by a condo association, co-op, homeowners association, etc.; and
- Provides **sufficient protection of the designated loan**, consistent with general safety and soundness principles and the credit union documents conclusions in writing.

The credit union may also accept a plan issued by a mutual aid society as defined in 760.2, if the NCUA has determined that such plans qualify as flood insurance, the plan provides coverage in the amount required, the plan covers both the mortgagor and mortgagee as loss payees and the plan provides sufficient protection of the designated loan.

[Checklist](#)[FAQs](#)[Laws & Regulations](#)

NCUA – Appraisals

Effective immediately – (S. 2155) Exemption for real estate located in rural area:

- Transaction value less than \$400,000;
 - Credit union contacted at least three state-certified appraisers or state-licensed appraisers from their approved appraiser list; and
 - Documented no one was available within 5 business days beyond customary and reasonable fee and timeliness standards.
- Exemption not applicable for **high-cost mortgages** or unless the NCUA believes an appraisal is necessary for **safety and soundness concerns**.

NCUA – Appraisals

Effective October 22, 2019

- 722.3(b) – Requires an appraisal by a state-certified appraiser, not otherwise exempt where:
 - The transaction value is **\$1,000,000** (increase from \$250,000) or more; **OR**
 - The **transaction is complex**, involves a residential real estate transaction, **\$250,000 or more of the transaction value is not insured or guaranteed** by a US government agency or US government-sponsored agency and the transaction does not meet the criteria for a rural exemption.
- 722.3(c) – An appraisal must be performed by a state-certified or state-licensed appraiser if the transaction is not already exempt, not complex, involves residential real estate and **\$250,000 or more of the transaction value is not insured or guaranteed** by a US government agency or government-sponsored agency.

NCUA – Appraisals

Effective October 22, 2019

- 722.3(d) – Any real estate-related financial transaction must be supported by a **written estimate** of market value, unless:
 - An appraisal was obtained (state-certified or licensed appraiser);
 - The transaction qualifies for an exemption (**except for extensions of credit**)
 - The transaction is fully insured or guaranteed by a US government agency or US government-sponsored agency.
- 722.3(e) – **Written estimates** must be performed by a person:
 - Independent from loan production and collection processes;
 - With no direct, indirect or prospective interest, financial or otherwise in the property or the transaction; and
 - Qualified and experienced to perform such estimates of value for the type and amount of credit being considered.

NCUA – Fidelity Bond and Insurance Coverage for Federally Insured Credit Unions

Effective October 22, 2019

NCUA Part 713.2

- Board of directors must at least annually:
 - Review its fidelity and other insurance coverage to ensure it is adequate in relation to risk and requirements set by the NCUA, **AND**
 - **Review all applications** for purchase or renewal of its fidelity bond coverage.
- After review, the Board must **pass a resolution**:
 - **Approving the purchase or renewal** of fidelity bond coverage; **AND**
 - **Delegating one member of the board (not an employee) to sign the purchase or renewal agreement and all attachments.**
- No board members may be a signatory on consecutive purchases or renewal agreements for the same fidelity bond coverage policy.

NCUA – Fidelity Bond and Insurance Coverage for Federally Insured Credit Unions

Effective October 22, 2019

NCUA Part 713.3

- Changes also made to coverage for involuntary and voluntary liquidations.
- Permits the credit union to have a **fidelity bond that also covers its CUSO**, provided that the credit union owns more than 50% of the CUSO, the CUSO's purpose is to handle certain business transactions for the credit union and the CUSO is composed exclusively of the credit union's employees.

NCUA – Fidelity Bond and Insurance Coverage for Federally Insured Credit Unions

Effective October 22, 2019

NCUA Part 713.4

- Revised to clarify that the **NCUA must approve all forms before a credit union may use them.**
 - Any bond form that has been amended or changed since the time the NCUA approved the form, and
 - Any rider or endorsement, renewal or other document that limits coverage of approved bond forms.
- **Bond form approvals expires after 10 years, unless otherwise permitted by the NCUA.**
 - Any bond form approved before 2019 will expire on January 1, 2029 (unless otherwise determined by the NCUA).

Federal Reserve Board (FRB)



FRB – Funds Availability (Regulation CC)

Effective on July 1, 2018

- **Paying Credit Union's Responsibility for Returned Checks and Notices of Nonpayment**
 - **Two-day expeditious return.** If the paying bank determines not to pay a check, they **must return it expeditiously**. This is accomplished by the credit union returning the check so that it would normally be received by the depository institution not later than 2pm local time (of that depository institution) on the second business day following the banking day the check was presented to the credit union.
 - **Notice of nonpayment.** Required regardless of paper or electronic check. Increased threshold for notice from \$2,500 to \$5,000 and revised the requirement for notice to be received by 2pm local time of the depository institution as opposed to 4pm on the second business day following the banking day the check was presented to the paying credit union (similar to the return requirements).

FRB – Funds Availability (Regulation CC)

• Remote Deposit Capture (RDC) Indemnity

- If the credit union accepts a check for deposit via RDC, they indemnify the depository bank that accepts the original check for deposit losses that result from the check having already being paid. **HOWEVER....**
- A depository institution **may not make an indemnity claim** if the original check it accepted for deposit had a restrictive indorsement inconsistent with the means of deposit.
- For example, if the RDC credit union requires members to include ***“for mobile deposit only at ABC Credit Union”*** on their deposits and a depository bank accepted a paper check with that restrictive indorsement – they **cannot make an indemnity claim against the credit union.**
- The credit union, by agreement, may also allocate liability for loss incurred from subsequent deposit of the original check back to the member that deposited the check via RDC.

FRB – Funds Availability (Regulation CC)

Effective January 1, 2019

- **Liability** – when any dispute between “banks” arise under federal or state law as to whether a substitute or electronic check contains an alteration or derived from an original check that was issued with an unauthorized signature of the drawer – **rebuttable presumption that the substitute check or electronic check contains an alteration.**
 - When an original check is not available for inspection, these amendments include a presumption that a substitute or electronic check was altered in certain cases of doubt.
 - Only applies to disputes between “banks” and only when one bank has transferred an electronic or substitute check to the other bank.
 - If the original check is made available for examination by all “banks” involved in the dispute, the presumption does not apply.

FRB/CFPB – Funds Availability (Regulation CC)

Effective on July 1, 2020

- All monetary limits within Regulation CC are now tied to the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W).
- Threshold changes will be made every 5 years. Credit unions can expect the next change to become effective on July 1, 2025.
- Change-in-terms notice is required no later than **30 days** after implementation (which expedites the availability of funds for the member).

FRB/CFPB – Funds Availability (Regulation CC)

Regulation Reference	What the thresholds are now.	What the thresholds will be on and after July 1, 2020.
Next day availability (229.10)	\$200	\$225
Large Deposit (229.13(b)), New Account (229.13(a)) and Repeated Overdraft (229.13(d)) limits	Aggregate amounts over \$5,000	Aggregate amounts over \$5,525
Special rules for cash withdrawals (229.12(d))	\$400	\$450
Civil Liability (229.21(a))	\$1,000 and \$500,000	\$1,100 and \$552,500

Funds Availability Resources



Compliance Factor Description

Area Name : Accounts	Item Name : Expedited Funds Availability (Regulation CC)
Factors List :	
Factors Name	Factors Description
New Account Availability Disclosure	<ol style="list-style-type: none"> Potential members are provided with a specific availability policy disclosure prior to opening an account and the credit union uses the model disclosure (or something similar) from Appendix C of the regulation. The credit union's availability disclosure contains the following (as applicable): <ol style="list-style-type: none"> Summary of the credit union's availability policy; Description of any categories of deposits or checks used by the credit union and how to determine the category to which a particular deposit or check will be available for withdrawal (including a description of the credit union's policy on deposits not considered received); A description of any of the exceptions that may be invoked by the credit union following a deposit that funds generally will be available for withdrawal within the time period if an exception is used; A description of any case-by-case policy of delaying availability that may be invoked following a deposit that funds generally will be available for withdrawal later than the time periods stated in the credit union's policy; A description of how the member can differentiate between a particular deposit and the credit union's policy on deposits at nonproprietary ATMs.
Requesting an Account Availability Disclosure	The credit union provides a copy of its specific availability policy disclosure to any member requesting a copy [229.18(d)]
Notice of Case-by-Case Holds	<ol style="list-style-type: none"> If the credit union has a policy of making deposited funds available for withdrawal, they may extend the time when funds are available up to the time the credit union includes in its disclosure: <p>Model Policy 2401: Collection of Checks Procedure</p>

Note: The content of Model Policy 2401, Collection of Checks, was previously included as part of Model Policy 2400, Funds Availability, but has been split out into its own policy. The new content in Policy 2401 became effective on July 1, 2018. This policy is not mandated by regulation, so credit unions can either use the content to develop appropriate procedures or adapt this policy if they previously relied on the content of Model Policy 2400.

Model Policy Revised Date: 3/28/2018

General Policy Statement:

Regulation CC (12 CFR Part 229) implements the Expedited Funds Availability Act and the Check Clearing for the 21st Century Act (the Check 21 Act). The regulation is divided into subparts and appendices with compliance of Subpart C relating to the rules to expedite the collection and return of checks and electronic checks and the rules relating to automatic checks. [[CName]] (Credit Union) will comply with its

DEFINITIONS

1. Bank.

A. For purposes of subpart C (Collection of Checks) and A (General Overview), the term also includes any person engaged in the business of banking, as well as the Federal Reserve Bank of the United States or any of its branches.

- FEDIC insured (or eligible to be insured) bank;
- Member Savings Bank;
- Savings Bank;
- NCUA insured (or eligible to be insured) credit union;
- Member defined in section 2 of the Federal Home Loan Bank Act;
- Savings association that is an insured depository bank (or eligible); or
- Agency or branch of a foreign bank.

B. For purposes of subpart D (Substitute Checks), bank also includes the Treasury of the United States or the United States Postal Service to the extent that the Treasury or Postal Service is acting as a bank.

2. **Indemnifying Bank.** A bank that provides an indemnity under 229.34 with respect to return deposit capture or an electronically-created item, or a bank that provides indemnity to a member of the credit union for a lost or stolen check.

3. **Copy.** Any paper reproduction of an original check, including a paper printout of an electronic image of the check, a photocopy of the original check or a substitute check, or any electronic reproduction of a check.

4. **Insufficient Copy.** Copy of an original check that accurately represents all of the information on the front and back of the original check so that the original check is not necessary for the check to be cashed or deposited.

5. **Electronic Check (Electronic Return Check).** An electronic image of, and electronic information derived from, a paper check or paper return check, that is sent to a receiving bank pursuant to an American National Standard Specification for Electronic Exchange of Check Images Data - Domestic, NPS 105-117 (ANSI X9-105-117), unless the FDIC by rule or order determines that a different standard is required.

6. **Electronically-created item.** An electronic image that has all the attributes of an electronic check or electronic return check but was created electronically and not derived from a paper check.

7. **Magnetic ink character recognition line and MICR line.** The numbers, which may include the routing number, account number, check number, check amount, and other information that are printed on the back of a check.

Regulation CC – Funds Availability Chart

When the deposited item is...	And the deposit is...	Then the hold is...
• Cash	• Deposit made in person to an employee	• Next business day
	• Otherwise	• 2 nd Business Day
• On-Us Items		• Next Business Day
• Local Checks	• Amounts up to \$5,000	• First \$200 available Next Business Day

Expedited Funds Availability: Regulation CC

Last Reviewed: January, 2019

The Availability of Funds and Collection of Checks (Regulation CC or Reg. CC) requires state and federally-chartered credit unions and other financial institutions to provide members with disclosures stating when their funds will be available for withdrawal. The Federal Reserve Board issued Regulation CC to implement the Expedited Funds Availability Act

Summary

Final Rule - July 1, 2018

Federal Reserve Check Processing

Checklist

FAQs

Laws & Regulations

Model Policy 2400: Funds Availability

Model Policy Revised Date: 03/28/2018

General Policy Statement:

Regulation CC (12 CFR Part 229) sets minimum standards for when deposited funds must be made available to members. [[CName]] (Credit Union) offers same day or next day availability for most funds deposited with the Credit Union and provides funds availability disclosures required by the Regulation.

Guidelines:

1. DEFINITIONS

A. **Account.** A transaction account. An account generally includes those from which the accountholder is permitted to make transfers or withdrawals by negotiable instruments, payment order of withdrawal, telephone transfer, electronic payment, or other form of transfer. Account does NOT include a savings account.

B. **Availability.** For determining the availability of a deposit, every day is a business day, except Saturdays, Sundays and federal holidays. If a federal holiday falls on a Sunday, the next day is not a business day. If a member makes a deposit before [[2400-2]] on a business day that the Credit Union is open, the Credit Union will consider that day to be the day of deposit. However, if a member makes a deposit after [[2400-3]] or on a day the Credit Union is not open, the Credit Union will consider the deposit to have been made on the next business day that the Credit Union is open.

- Federal Reserve Check Processing
- Funds Availability Chart
- Federal Reserve Banks: Operating Circular No. 3
- NCUA Legal Opinion Letter 05-0115

Resources

Impact of S. 2155



S. 2155 Impact

Effective NOW (May 24, 2018), but how to comply?

- While we know S. 2155 has been signed into law and is now effective, we are still lacking the interpretation into regulation to provide us guidance on the exact impact.
- **HMDA (section 104)** –received clarification on the amended data points on August 31, 2018. Regulation will be updated to reflect those changes at some point in the future. Inconsistencies are still causing confusion.
- **Qualified Mortgages (section 101)** – safe harbor for loans originated and maintained in portfolio (some exceptions). Don't have to comply with Appendix Q, but need to consider and document the borrower's debt and income. Other QM provisions apply (points and fees under thresholds, no prepayment penalty, negative amortization or interest only features, etc.). Waiting for clarification within Regulation Z from CFPB.
- **Appraisals (section 103)** – exemption if the loan is less than \$400K and retained in portfolio, if the federally-related mortgage is in a rural area and the credit union has contacted 3 appraisers who couldn't complete the appraisal in a "reasonable amount of time." **NCUA approved final rule on July 18, 2019.**
- **Member Business Loans – MBLs (section 105)** – excluded from the MBL definition in NCUA rules (723) a loan that is fully secured by a lien on a 1- to 4- family dwelling. Loans are no longer counted towards the MBL cap (still an MBL for 5300, maturity limits, etc.). NCUA rules already amended – **effective June 5, 2018.**

S. 2155 Impact

Effective NOW, but how to comply?


- **Escrow Accounts (section 108)** – exemption for first lien, principal dwelling secured mortgage if the credit union is under \$10bn, originates 1,000 or fewer loans, made a loan in a rural or underserved area **and the credit union doesn't maintain an escrow account**. Waiting for implementing regulations.
- **SAFE Act (section 106)** – allows MLOs a grace period (120 days) if they are changing jobs and going to work in another state and waiting for their license approval in that new state. Also, a grace period to complete new licensing requirements when an MLO moves from a credit union to a non-depositary institutions. (**Effective November 24, 2019**).
- **TRID (section 109)** – removes the 3-day waiting period when the credit union extends a second offer with a lower APR (delivering the required disclosure). However, at this time it is only applicable to high-cost mortgages. Waiting for implementing regulations.
- **Online Banking (section 213)** – Allows copies of driver's licenses or personal identification card for opening an account through online service. Still some chatter about the need to permanently destroy those records. Looking for the NCUA or FinCEN to provide further guidance. *Can you make a case that you are maintaining that information for BSA purposes in accordance with record retention requirements?*

S. 2155 Impact

Effective NOW, but how to comply?

- **FCRA (section 309)** – require Credit Reporting Agencies (CRAs) to include fraud alerts for at least 1 year when notified by a consumer that they may become a victim of identity theft (**September 21, 2018** compliance date).
 - **CFPB just amended FCRA** - new notice of rights are included whenever a consumer is required to receive a summary of rights.
- **Financial Exploitation (section 303)** – immunity for reporting suspected exploitation of senior citizens from civil and administrative liability if there is appropriate training, reporting made in good faith, record retention requirements.
- **Protecting Tenants at Foreclosure (section 304)**– those credit unions becoming a successor in interest for foreclosed properties have restrictions on removing renters from the home if there is a valid lease (90 days or for the term of the lease, whichever is greater).
- **VA Loans (section 309)** – VA guaranteed loans that are refinanced must meet certain requirements or may not be eligible for the guaranty.
- **SCRA (section 313)**– makes the foreclosure protections for servicemembers permanent. Protection is for a year after active duty military service.
- **Student loans (section 601)**– credit union can't accelerate the debt against a student borrower solely because of the death or bankruptcy of a co-signer. The credit union must release the cosigner from an obligation when notified of the death of the student obligor. Allows student borrower to designate someone to act on their behalf in event of their death.

S. 2155 Resources



July, 2018

Dear CU PolicyPro Client,

It's that time of year again! In an effort to make sure League InfoSight products are effective and meeting your needs, we are conducting our annual survey!

Please take a few minutes to answer this [2018 League InfoSight User Survey](#) so League InfoSight is better able to assist you by prioritizing product development and determining what additional products and services would be most impactful based on your needs!

Thank you!

In this edition:

- Monthly OPS Notes Release: S.2155 Economic Growth Regulatory Relief, and Consumer Protection Act
- Content FAQ
- Technical FAQ
- Questions?

Monthly OPS Notes Release: S.2155 Economic Growth Regulatory Relief, and Consumer Protection Act

With the Economic Growth, Regulatory Relief, and Consumer Protection Act ("Act") being signed into law on May 24th, we have been getting quite a few questions regarding our associated policy revisions. Here is a brief update on the status and our intentions to update policies to comply with the law.....and implementing regulation!

Policy 7420 – Member Business Loans / Commercial Lending

As you may have noticed in our June update, Policy 7420 was already updated because the NCUA amended their regulation in response to the change in law, almost immediately after the law became effective. As noted in our overview, the policy was updated to exclude from the definition of a member business loan (and subject to the aggregate MBL lending cap) an extension of credit fully secured by a lien on a 1- to 4-family dwelling (regardless of borrower's occupancy status).

Policy 9200 – Home Mortgage Disclosure Act – Regulation C

The CFPB recently issued a memo that clearly indicates that partial exemptions will be available for credit unions that originated fewer than 500 closed-end mortgage loans and 500 open-end lines of credit in each of the two preceding calendar years. What that will mean for credit unions, is that if they still meet the definition of a financial institution under the regulation (which has not changed), but originated fewer than the amounts previously listed (500 open-end and closed-end loans in the two preceding calendar years), they may be exempt from reporting certain data points. The tricky part with the HMDA changes is that the CFPB has yet to update Regulation C, which is the implementing regulation of HMDA. Therefore, we don't have firm guidance for credit unions that may fall under this exemption about the data points that will be required for them to report on in their next HMDA LAR.



2019



Part One: S.2155 Economic Growth, Regulatory Relief, and Compliance Connection
44 views • 5 months ago



Part Two: S. 2155 Economic Growth, Regulatory Relief, and Compliance Connection
32 views • 6 days ago



Bringing it all together!

Bringing it all together!

- The Consumer Compliance Rating System **emphasizes the importance of compliance management systems** – which should be how the credit union **manages consumer compliance risk, supports compliance and prevents consumer harm.**
- **All credit unions should maintain an effective compliance management system (CMS).** The sophistication and formality will increase commensurate with size, complexity and risk profile.

Bringing it all together!

How is a Compliance Management System effective?

- According to the CFPB an **effective** Compliance Management System (CMS) has four interdependent control components:
 - *Board and management oversight;*
 - *Compliance program;*
 - *Response to consumer complaints;* and
 - Compliance audit
- When all four control components **are strong and well-coordinated**, a credit union should be **successful at managing its compliance responsibilities and risks.**

Litigation

Compliance Risk

Compliance risk is the current and prospective risk to earnings or net worth arising from violations of, or nonconformance with, laws, rules, regulations, prescribed practices, internal policies and procedures, or ethical standards. Compliance risk may also arise in situations where ambiguous or untested laws or rules govern certain credit union products or activities of the members. Compliance risk exposes the credit union to fines, civil money penalties, payment of damages, and the voiding of contracts. Compliance risk can lead to a diminished reputation, limited opportunities, reduced potential to expand the field of membership, and lack of contract enforceability.

Compliance risk goes beyond a failure to comply with consumer protection laws. It encompasses all laws as well as compliance with exam reports, prudent ethical standards, contractual obligations, and exposure to litigation. Compliance risk can blend into operational risk, transaction risk, and even legal risk, increasing the difficulty of identifying this risk.

See [Compliance Risk Indicators](#).

Compliance risk goes beyond a failure to comply with consumer protection laws. It encompasses all laws as well as compliance with exam reports, prudent ethical standards, contractual obligations, and exposure to litigation.

ADA Lawsuits Against CUs More Than Double in a Month

Navy Federal Credit Union and others are added to the list of credit unions

By **Tina Orem** | November 05, 2017 at 11:41 AM | Originally published on **Cutimes.Com**

How easy is it to join a class action lawsuit?

**GET HELP - IT'S FREE
JOIN A FREE BANK & CREDIT UNION
OVERDRAFT FEE CLASS ACTION
LAWSUIT INVESTIGATION**

If your bank and credit union has engaged in deceptive overdraft fee practices, you may have a legal claim. Fill out the form on this page now to find out if you qualify!

An attorney will contact you if you qualify to discuss the details of your potential case.

PLEASE NOTE: If you want to participate in this investigation, it is imperative that you reply to the law firm if they call or email you. Failing to do so may result in you not getting signed up as a client or getting you dropped as a client.

In order to properly investigate overdraft fee claims, you may be required to disclose bank statements to overdraft fee attorneys. Please note that any such information will be kept private and confidential.

Reputation Risk

The primary risks associated with litigation and other legal matters are compliance and reputation. Litigation, however, can result from strategic, credit, compliance, and operational factors that should be managed to reduce its likelihood.



Office of the
Comptroller of the Currency

Washington, DC 20219

DealBook / Business & Policy

The New York Times

Bank of America Fined for Violations of Military Relief Law

By MICHAEL CORKERY MAY 29, 2015

AMERICA

Wells Fargo Fined \$185 Million Over Creation Of Fake Accounts For Bonuses

September 8, 2016 · 1:02 PM ET

BILL CHAPPELL



To Do List (Credit Unions and Examiners):

- **Get to know your League/Association and the support services they provide!** Collaboratively, we all win!
- **Take advantage of League/Association resources!**
 - [InfoSight](#)
 - [CU PolicyPro](#)
 - [Compliance Connection Videos](#)
 - **Access compliance helplines and product support services**
- **Credit Unions:** Take action to establish an effective compliance management system and process for tracking complaints. **Need help?** Reach out to your League/Association and sign-up for a [free trial](#) of **ComplySight!**
- **Examiners:** Utilize the compliance resources offered by the League/Association. Recommend that credit unions reach out to their League/Association for support (if you aren't already)!



Questions?



2018-19 Compliance Update

LeagueInfoSight

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