



## InfoSight Highlight

What Are the Required ATR Factors?

Among the information provided in the Ability to Repay (ATR) topic are the eight required factors for ATR, which are:

1. Current or reasonably expected income or assets that the member relies on to repay the loan (other than the value of the property that secures the loan);
2. Current employment status;
3. Monthly mortgage payment of the loan under consideration;
4. Monthly payment on other simultaneous loans secured by the same property;
5. Monthly payments for mortgage related obligations that could include (but is not limited to) property taxes, insurance, and homeowners association fees;
6. Debts, alimony, and/or child support obligations;
7. Monthly debt-to-income ratio and/or monthly residual income, calculated using the total of all of the mortgage and non-mortgage obligations as a ratio of gross monthly income; AND
8. The member's credit history

For additional information, click [here](#) for the topic.

## Compliance News

Field-of-Membership Webinar

Credit unions looking to expand membership and improve service to underserved communities may be interested in registering for NCUA's free 90-minute webinar, "[Successful Strategies for Field-of-Membership Expansion](#)," on **March 25, 2015, at 2:00 p.m. EST**.

Topics to be covered in the webinar include:

- Using data to maximize membership growth,
- A business plan template to assist with applying for field-of-membership expansion,
- Reviewing the Field-of-Membership Internet Application, and

GEORGIA CREDIT UNION

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InfoSight  
Compliance eNEWSLETTER  
March 9, 2015  
Vol. 9, Issue 10

Created in partnership with the



Credit Union National Association

## Compliance Video

### Compliance Connection Video

In this video, League InfoSight CEO Glory LeDu talks about the highlights from the 4th Quarter of 2018 and the 1st Quarter of 2019.

When S.2155, the Economic Growth, Regulatory Relief, and Consumer Protection Act, passed in 2018 there was a lot to understand! Glory LeDu, League InfoSight CEO, provides [Part 1 in this short video](#) to break it down for you.

Just a reminder that Compliance videos since 2016 can be found on YouTube at [the Compliance Connection](#)

- Newrizons Federal Credit Union’s experience before and after its field-of-membership expansion.

Vanessa Lowe, economic development specialist, NCUA's Office of Small Credit Union Initiatives; Ynette Gibbs, CEO, Newrizons FCU, Hoquiam, Wash.; and staff from NCUA's Office of Consumer Protection will lead the webinar.

According to the NCUA, a closed captioned version of the webinar will be posted [online](#) within three weeks of the event.

Are the “Free Accounts You Are Advertising Really “Free”?  
**Question: We are about to do an advertisement where we promote our share draft accounts as being free. What do we need to do to make sure that our ad is compliant?**

**Answer:** [CUNA’s Compliance Blog](#) reminds credit unions that NCUA’s Truth in Savings regulation prohibits advertisements from being “misleading or inaccurate or misrepresent a credit union’s account agreement; or refer to or describe an account as “free” or “no cost” or contain a similar term if any maintenance or activity fee may be imposed on the account.” (12 CFR 707.8(a)).

Maintenance and activity fees may include:

- Any fee imposed if a minimum balance requirement is not met, or if the member exceeds a specified number of transactions;
- Transaction and service fees that members reasonably expect to be imposed on an account on a regular basis;
- A flat fee, such as a monthly service fee.
- Fees imposed to deposit, withdraw or transfer funds, including per-check or per-transaction charges;

What are NOT maintenance fees?

- Fees that are not required to be included in your Truth in Savings disclosures;
- Check printing fees;

[channel](#), where they are generally updated quarterly.

### Compliance Calendar

- March 30  
NACHA Operating Rules Changes
- April 24  
5300 Call Report Due to NCUA
- April 30  
Credit Card Quarterly Agreement Submission Due to CFPB (10,000 or more open credit card accounts)
- May 25  
Memorial Day - Federal Holiday

[Click here for upcoming compliance dates.](#)

### Compliance Training

- March 10, 2015  
[8 Hour SAFE Comprehensive Mortgage Loan Originator Course #4528 \(NMLS #1405021\)](#)  
**8:30 – 5:00 p.m.**
- March 11, 2015  
[Recognizing Financial Elder Abuse for the Frontline -](#)

- Fees for obtaining copies of checks, whether or not the original checks have been truncated or returned to the member periodically;
- Balance inquiry fees;
- Fees assessed against a dormant account;
- Fees for using an ATM;
- Fees for electronic transfer services that are not required to obtain an account, such as preauthorized transfers or home electronic credit union services; and
- Stop payment fees and fees for share drafts or checks returned unpaid.

Remember, in 2014, the Consumer Financial Protection Bureau (CFPB) penalized a bank for advertising a “free checking” account without disclosing its minimum activity requirement in the ad. The minimum activity requirement was explained in the one page disclosure provided to each customer, but not in the advertisements. For example, the ads stated: “There’s no minimum balance requirement and no monthly service charge”, and “get a free checking account, no strings attached”.

The CFPB required the bank to repay customers \$2.045 million in maintenance fees and assessed a \$200,000 civil money penalty for violating the UDAAP and Regulation DD (Truth in Savings).

For more information, please see the [Advertising Deposit Account](#) topic and the [Advertising Deposit Accounts Checklist](#) in InfoSight.

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FHFA has New Rules for Selling Non-Performing Loans  
Enhanced requirements for Fannie Mae and Freddie Mac to sell non-performing loans (NPLs) have been announced by the Federal Housing Finance Agency (FHFA).

According to the FHFA, it approved NPL sales by Fannie and Freddie to reduce the number of severely delinquent loans held in their inventories and to transfer risk to the private sector.

"FHFA expects that with these enhanced requirements , NPL sales by Freddie Mac and Fannie Mae will result in more favorable outcomes

Webinar  
**2:00 - 3:30 p.m. EST**

March 23, 2015  
[The Director - A Guide to Effectively Working with the Supervisory Committee](#) - Webinar  
**2:00 - 3:00 p.m. EST**

March 25, 2015  
[Bankruptcy Best Practices for Credit Unions](#) - Webinar  
**12:00 – 1:00 p.m. EST**

March 25, 2015  
[Successful Strategies for Field-of-Membership Expansion](#) - NCUA Webinar  
**2:00 p.m. EST**

March 31 – April 9, 2015  
[Protecting Members Under Reg E](#) - Webinar Series  
**2:00 – 3:00 p.m. EST**

April 1, 2015  
[New Accounts for the Frontline: Compliance Issues to Watch For](#) - Webinar  
**2:00 - 3:00 p.m. EST**

April 7, 2015  
[Regulation E for ACH Error Resolution - Which 60 Day Rule Will You Follow](#) - Webinar  
**2:00 - 3:00 p.m. EST**

April 9, 2015  
[Sharpening Your Skip Tracing Skills](#) - Webinar  
**12:00 – 1:30 p.m. EST**

April 12-17, 2015  
[CUNA Regulatory Compliance](#)

for borrowers and local communities, while also reducing losses to the Enterprises and, therefore, to taxpayers," said FHFA Director Mel Watt. "Under the requirements announced today, servicers must consider borrowers for a range of alternatives to foreclosure."

According to the FHFA, the requirements are expected to encourage broad participation by potential investors and provide for future publication of aggregate data about borrower outcomes.

The enhanced requirements include:

- Bidders will be required to identify their servicing partners at the time of qualification and must demonstrate a record of successful resolution of loans through alternatives to foreclosure;
- The new servicer will be required to evaluate all pre-2009 borrowers (other than those whose foreclosure sale date is imminent or whose property is vacant) for the U.S. Department of the Treasury's Making Home Affordable Programs;
- Servicers must apply resolution tactics that include evaluating borrower eligibility for a loan modification, a short sale and a deed-in-lieu of foreclosure, which must be the last option;
- Servicers are encouraged to sell properties that have gone through foreclosure and entered real estate owned status to individuals who will occupy the property as their primary residence or to nonprofits; and
- NPL buyers and servicers, including subsequent servicers, are required to report loan resolution results and borrower outcomes to the enterprises for four years after the NPL sale.

Fannie and Freddie NPL sales are generally expected to include loans that are severely delinquent, such as loans that are more than a year past due.

A [fact sheet](#) about the enhanced requirements was also released.

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Foreclosure Process

**Question: Our credit union meets the definition of a small servicer under Reg X. I understand that we still need to comply with the**

School  
**Las Vegas, NV**

April 14, 2015  
Collections & Bankruptcy  
Update  
**Atlanta, Georgia**

April 23, 2015  
The Redaction Trap - NPI  
Disclosure Penalties to Avoid -  
Webinar  
**12:00 - 1:00 p.m. EST**

April 28, 2015  
IRA Contributions - Webinar  
**12:00 - 1:30 p.m. EST**

May 5, 2015  
Understanding and Processing  
Transfers and Rollovers -  
Webinar  
**12:00 - 1:30 p.m. EST**

May 6, 2015  
Trust Accounts - Webinar  
**12:00 - 1:00 p.m. EST**

May 12, 2015  
IRA Distributions - Webinar  
**12:00 - 1:30 p.m. EST**

May 13, 2015  
Cyber Crime - No Gun Needed,  
Detecting and Preventing a  
Corporate Account Takeover -  
Webinar  
**2:00 - 3:00 p.m. EST**

May 13, 2015  
Estate Accounts, POAs, Rep  
Payee and Guardian Accounts -  
Webinar  
**12:00 - 1:00 p.m. EST**

**requirement to not proceed with foreclosure unless the loan is at least 120 days delinquent. However, if the borrower(s) has not made an application for loss mitigation, must we still wait the 120 days?**

**Answer:** Yes. According to the regulation, a servicer must not make the first notice or filing required by law for any foreclosure process unless:

- A borrower's mortgage loan obligation is more than 120 days delinquent, referred to as the "pre-foreclosure review period";
- The foreclosure is based on the borrower's violation of a due-on-sale clause; or
- The mortgage servicer is joining the foreclosure action of a subordinate lienholder.

The intent of the regulation is to encourage borrowers to seek loss mitigation and give them sufficient time, at least 120 days, to consider their options.

For more information see CUNA's CompNOTE: [Mortgage Servicing: Loss Mitigation](#)

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Growing Attention to Checking Account Overdrafts

**Question: There has been talk in the past that the CFPB has a close eye on checking account overdrafts and that we should expect to see some rulemaking or guidance in the future. When might that be?**

**Answer:** You are correct. Checking account overdrafts have been on the CFPB's radar for some time.

In 2014, the CFPB released a "datapoint" study on checking account overdrafts. This study continues the CFPB's analysis of the overdraft space, which began with a [white paper](#) that was published in June of 2013. For this latest datapoint study, the CFPB obtained a representative sample of account-level and transaction-level checking account histories from each of several large banks over which it has supervisory authority. This data capture did not include credit unions, thrifts, or banks with total assets under \$10 billion.

May 19, 2015  
[Required Minimum Distributions \(RMDs\) - Webinar](#)  
**12:00 – 1:30 p.m. EST**

May 20, 2015  
[Deceased Member Accounts - Webinar](#)  
**12:00 – 1:00 p.m. EST**

May 26, 2015  
[IRA Reporting - Webinar](#)  
**12:00 – 1:30 p.m. EST**

May 28, 2015  
[Indirect Lending - The CFPBs View on Auto Dealership Relationships - Webinar](#)  
**12:00 – 1:00 p.m. EST**

BSA Training Opportunities through GCUA  
[Click here for details](#)

The study contains a lot of data on checking account activity, and may be of interest to credit unions solely for that reason. From this data pool, the CFPB researchers found that 30% of accounts had incurred overdrafts, with some of the following characteristics:

- While debit card swipes were by far the most likely transaction types to cause an overdraft, they also had by far the lowest valued transactions that caused an overdraft (the majority of debit card overdraft fees were incurred on transactions of \$24 or less)
- Overdraft incurrences were highest among millennial account holders (young people with less banking experience), and lowest among seniors. (85% percent of the 62 and over age group had no overdrafts).
- 18% of opted-in accounts overdraft more than ten times per year, compared to 6% for non-opted-in accounts. Not surprisingly, accounts that opted in for overdraft protection incurred more overdrafts and higher overall fees. This is because the Regulation E opt-in requirement only covers ATM and non-recurring debit card transactions, so even non-opted-in accounts can incur overdraft fees on, for example, checks or ACH transactions.

However, the report also found that most negative balance episodes are very short. In 29% of cases, the account holder returned the account balance positive the calendar day after the account went negative. Only a small number of episodes lasted much longer: 2.8% of episodes lasted 45 days or more and not surprisingly, some of these resulted in an account closure and negative balance charge-off.

New reports from consumers groups are also functioning to ramp up pressure on checking account overdrafts. A study from the Woodstock Institute, which sent out 39 “mystery shoppers” to major financial institutions across the country, found that bank employees often poorly explained or misinformed customers about the overdraft options available. Many bank employees neglected to mention or make clear that enrolling in either overdraft or account linking services is entirely voluntary. And a study from Pew Research found that 52% of consumers who overdrew their accounts did not recall opting into overdraft coverage.

As a result of this increased public scrutiny, large banks such as Bank of America and Wells Fargo have moved away from high-to-low processing. Most big banks have now moved to a practice in which they deduct the payments in the order in which they are received. However, many smaller institutions continue high-to-low withdrawals



to maximize overdraft revenue, which has drawn criticism from consumer groups who are now urging the CFPB to formally crack down on this practice in a rulemaking.

So, how long until we see possible guidance or the publication of an advanced notice of proposed rulemaking (ANPR)? The Unified Agenda for federal agency actions listed February 2015 for a “pre-rule activity.” Could that mean it will be in the near future? We will keep you posted of anything that comes up in the *InfoSight eNewsletter*...

**NOTE:** While it does not apply to credit unions, your credit union may want to check out the recently revised Office of the Comptroller of the Currency’s Deposit-Related Credit booklet of the *Comptroller's Handbook*. The OCC issued Bulletin 2015-17 announcing the revision, which addresses check credit products and services, **overdraft protection services**, deposit advance products, and risk management of third-party relationships involving these products and services.

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#### FRB Changes Internet Explorer Support

Federal Reserve Financial Services has announced it will provide support for Microsoft Internet Explorer 11 for use with its FedLine Web® and FedLine Advantage® access solutions. Support for Internet Explorer 8 will be discontinued effective **April 15, 2015**. Versions 9 and 10 will continue to be supported.

### Comment Calls

#### CFPB Proposal Regarding ‘Rural’ and ‘Underserved’ Areas

The CFPB is proposing changes regarding small creditors and rural and underserved areas under Truth-in-Lending, Regulation Z, requirements relating to escrow requirements for higher priced mortgage loans under the agency’s Escrows Final Rule, and Ability to Repay Final Rule. Some requirements under the Home Ownership and Equity Protection Act would also be affected.

Please send any comments or concerns you have regarding this new proposal to Selina Gambrell at [selinag@gcua.org](mailto:selinag@gcua.org) by **March 16th**.

**RBC2 Reminder:** GCUA is seeking credit union comments on how the new proposal will affect their operations, and what further improvements are necessary. Please have comments to Selina Gambrell by **March 30th** at [selinag@gcua.org](mailto:selinag@gcua.org).

To stay up-to-date on the latest information on NCUA's Risk Based Capital 2 proposal, please see [CUNA's RBC2 Blog](#).

The [CUNA Regulatory Advocacy Report](#) contains information from the office of the President of CUNA about regulatory issues that affect credit unions. You can view the current report and past reports from the archive.

**Click [here](#) to request to be added to the mailing list for this and/or other GCUA email publications.**

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