



InfoSight Highlight

Which Rule Created Substitute Checks?

A substitute check is a paper copy of an electronic check file of the original share draft. It contains an image of the front and back of the original check and can be processed just like the original check. It will bear a MICR line with information from the original share draft and will conform to the industry standards for substitute checks. A substitute check must bear a legend that states, "This is a legal copy of your check. You can use it in the same way you would use the original check." A properly prepared substitute check is the legal equivalent of the original check for all purposes. A credit union does not have to create substitute checks or accept checks electronically, but it must accept a substitute check.

To find out which rule implemented substitute checks and for additional information, click [here](#) for the topic.

Compliance News

TRID Rule to be Postponed Two Months

Consumer Financial Protection Bureau (CFPB) Director Richard Cordray has issued a [statement](#) announcing that the Bureau will issue a proposed amendment to delay the effective date of the Know Before You Owe/TRID rule until **October 1, 2015**. Cordray said that the agency made the decision to postpone the effective date "to correct an administrative error" that would have "delayed the effective date of the rule by two weeks."

FRB Reg D Final Rule Approved

The Federal Reserve Board has [announced](#) its approval of a [final rule](#) amending Reg D (Reserve Requirements of Depository Institutions) to make changes to the calculation of interest payments on excess balances maintained by depository institutions at Federal

GEORGIA CREDIT UNION

Affiliates

InfoSight
Compliance eNEWSLETTER

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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](#)

Reserve Banks. Under the current rule, if the rate of interest paid on excess reserves (the IOER rate) has changed in the middle of a two-week reserve maintenance period, the change is not fully reflected in the interest payments to depository institutions until the beginning of a new maintenance period. The final rule bases interest payments to depository institutions with excess balances on the IOER rate in effect each day and the level of balances held each day, rather than on the average IOER rate and average level of excess balances over the maintenance period. The final rule is effective **July 23, 2015**.

NCUA Board Actions Includes Flood Insurance Rule
The National Credit Union Administration Board has unanimously approved the following:

- **A recommendation to extend the current interest-rate ceiling on most federal credit union loans through March 10, 2017 to help federal credit unions remain competitive;**
- A notice under the Economic Growth and Regulatory Paperwork Reduction Act of 1996, part of the agency's ongoing regulatory review process, to identify rules for possible modification, simplification or repeal covering corporate credit unions; directors, officers and employees; and money laundering;
- A final policy statement creating a Minority Depository Institution Preservation Program to support minority credit unions; and
- **A final interagency rule amending regulations on loans in areas with special flood hazards.**

The Board approved a final interagency rule (Part 760) to amend regulations covering loans in areas with special flood hazards.

The five federal regulatory agencies have announced the approval of a joint final rule that modifies regulations that apply to loans secured by properties located in special flood hazard areas. The final rule implements provisions of the Homeowner Flood Insurance Affordability Act of 2014 (HFIAA) relating to the escrowing of flood insurance payments and the exemption of certain detached structures from the mandatory flood insurance purchase requirement. The final rule also implements provisions in the Biggert-Waters Flood

channel, where they are generally updated quarterly.

Compliance Calendar

July 3

Independence Day - Federal Holiday

July 18

Higher-Priced Mortgage Loans: Modified exemptions for loans secured by manufactured homes

July 23

Changes to Posting Rules for ACH Transactions (Federal Reserve) Effective date

July 24

5300 Call Report Due to NCUA

August 1

CFPB: Know Before You Owe Disclosure - Effective Date

CFPB: Integrated Mortgage Disclosures - Effective Date

September 7

Labor Day - Federal Holiday

September 18

NACHA's Return Rate Levels & Reinstated Transactions Rule

October 12

Columbus Day - Federal Holiday

Insurance Reform Act of 2012 (the Biggert-Waters Act) relating to the force placement of flood insurance.

In accordance with HFIAA, the final rule requires regulated lending institutions to escrow flood insurance premiums and fees for loans secured by residential improved real estate or mobile homes that are made, increased, extended or renewed on or after **January 1, 2016**, unless the loan qualifies for a statutory exception. In addition, certain regulated lending institutions are exempt from this escrow requirement if they have total assets of less than \$1 billion. Further, the final rule requires institutions to provide borrowers of residential loans outstanding as of January 1, 2016, the option to escrow flood insurance premiums and fees. The final rule includes new and revised sample notice forms and clauses concerning the escrow requirement and the option to escrow.

The final rule includes a statutory exemption from the requirement to purchase flood insurance for a structure that is a part of a residential property if that structure is detached from the primary residence and does not also serve as a residence. However, under HFIAA, lenders may nevertheless require flood insurance on the detached structures to protect the collateral securing the mortgage.

Lastly, the final rule includes the Biggert-Waters Act provisions on force placement. These provisions clarify that regulated lending institutions have the authority to charge a borrower for the cost of force-placed flood insurance coverage beginning on the date on which the borrower's coverage lapses or becomes insufficient. The final rule also stipulates the circumstances under which a lender must terminate force-placed flood insurance coverage and refund payments to a borrower.

This final rule does not address the private flood insurance provisions in the Biggert-Waters Act. The agencies plan to address these provisions in a separate rulemaking.

The final rule is being issued by the Board of Governors of the Federal Reserve System, the Farm Credit Administration, the Federal Deposit Insurance Corporation, the National Credit Union Administration, and the Office of the Comptroller of the Currency.

The rule will become effective **October 1, 2015**, with the exception of the mandatory escrow provisions, which will become effective on **January 1, 2016**.

October 23
5300 Call Report Due to NCUA

November 1
Daylight Savings Time Ends

November 11
Veterans' Day - Federal Holiday

November 26
Thanksgiving Day - Federal Holiday

December 25
Christmas Day - Federal Holiday

December 31
Foreign Account Tax Compliance Act Effective Date

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

Compliance Training

June 25, 2015
[Use of Loan Guaranties Instead of Co-Signers](#) - Webinar
12:00 – 1:00 p.m. EST

June 30, 2015
[IRA Beneficiary Distributions](#) - Webinar
12:00 – 1:30 p.m. EST

July 7, 2015
[IRA Conversions and Recharacterizations](#) – Webinar
12:00 – 1:30 p.m. EST

July 7, 2015
[Minimizing the Risk of](#)

Anatomy of a \$4.5 Million BSA Violation Penalty

It's becoming less uncommon to read in the news about multi-million dollar penalties for Bank Secrecy Act (BSA) violations. FinCEN has announced the assessment of a \$4.5 million civil money penalty against a West Virginia Bank for failing to comply with several requirements of its anti-money laundering (AML) program.

CUNA's Compliance Blog takes a look at what the bank specifically did, or failed to do, so that your credit union can breathe a sigh of relief as you tell yourself (and your credit union's BOD), "whew, we would never do that!".

First some background: The West Virginia bank has 48 employees, six branches and \$93,879,000 in assets. It offers personal, commercial, and consumer banking products, as well as online services.

The following actions lead to the bank's BSA violations:

- Although the bank designated a BSA compliance officer, it did not provide the BSA officer with sufficient resources and time to adequately oversee its compliance program (*uh-oh*);
- The bank assigned the BSA officer multiple non-BSA responsibilities that left him unable to adequately fulfill his BSA obligations, and failed to designate an additional person to support the BSA officer;
- A branch manager facilitated a corporate customer's structured transactions to evade the filing of CTRs;
- Bank management was aware of the branch manager's structuring scheme, but failed to file the required CTRs and SARs (allowing \$9.2 million in structured, and otherwise suspicious, cash transactions to flow through the bank (*that's a lot of structuring!*));
- The bank did not risk-rate its customers during the account opening process or classify their respective accounts;
- The bank did not assess its money laundering risk for its high-risk customers nor design an anti-money laundering compliance program to address those risks;
- Although the bank used a software system to monitor its accounts for unusual activity going through the bank; it did not

Mortgage Fraud – Webinar
2:00 – 3:30 p.m. EST

July 7 – 28, 2015
CUNA Residential Mortgage Lending eSchool
2:00 – 3:30 p.m. EST

July 13 – September 14, 2015
CUNA Fundamentals of Investment Management eSchool
3:00 – 4:30 p.m. EST

July 14, 2015
IRA Simplified Employee Pension (SEP) Plans – Webinar
12:00 – 1:30 p.m. EST

July 21, 2015
IRA 72(t) Payments – Webinar
12:00 – 1:30 p.m. EST

July 21, 2015
What's New in Mortgage Lending Compliance – Webinar
2:00 – 3:30 p.m. EST

July 22 – August 5, 2015
CUNA Marketing Compliance eSchool
3:00 – 5:00 p.m. EST

July 23 – 25, 2015
Coastal Supervisory Committee & Internal Auditor Conference
Charleston, SC

July 28, 2015
QRP Beneficiary Rollovers to Inherited IRAs – Webinar
12:00 – 1:30 p.m. EST

August 4, 2015
IRA Excess Contributions -

use it to detect and report suspicious activity (*hello?! Are you kidding me?*);

- The bank failed to address procedures to handle check cashing, payroll activity and cash intensive customers;
- The bank's required BSA independent testing failed to include high-risk activities and failed to determine whether appropriate controls were in place to detect, monitor, and report suspicious activity and large currency transactions (*um – what did they test?*);
- The bank's employees lacked the knowledge and skills to identify high-risk accounts, recognize and report suspicious activities and currency transactions, and appropriately aggregate large cash transactions for BSA reporting requirements;
- The bank did not have comprehensive training tailored to the needs of specific positions, departments, board members and other personnel;
- A large percentage of the bank's accounts were opened with P.O. Box addresses rather than physical street addresses as required by the BSA's Customer Identification Program (CIP);
- The bank failed to properly aggregate currency transactions and file the required CTRs;
- A customer's file indicated an account closure statement from a different bank, the customer made significant cash deposits (\$310,000) compared to check deposits (\$72,000) – which was unusual activity for the account, however no account monitoring or enhanced due diligence was triggered for this account.

And finally,

- The branch manager approved a \$50,000 line of credit (LOC) for a corporate customer and instructed the customer to fax a "Request for Advance" form to the branch for each cash withdrawal. The branch manager or his assistant would approve the Request for Advance, and a teller would then prepare a cashier's check in the name of the corporate customer's employee for amounts just under \$10,000. The employee was allowed to cash the check without depositing it into the checking account of the corporate customer (over a five year period the customer withdrew \$9.2 million this way!). (*yeah, so that happened!*)

Boards of Directors and Management Take Note: For a credit union to be found "acting willfully" in these types of violations, FinCEN only needs to show that the credit union acted with "reckless

Webinar

12:00 – 1:30 p.m. EST

August 6, 2015

Surviving in the Compliance
Jungle of Collections - Webinar

12:00 – 1:30 p.m. EST

August 11 & 13, 2015

Performing Your ACH Audit
and ACH Risk Assessment -
Webinar

2:00 – 3:30 p.m. EST

August 25 – December 31,
2015

CUNA Regulatory Compliance
Update eSchool

BSA Training Opportunities
through GCUA

[Click here for details](#)

disregard” or “willful blindness”. FinCEN does not need to show that the credit union or credit union employee/board member had knowledge that the conduct violated the BSA or that the credit union or employee/board member acted with “improper motive or bad purpose”. **Bottom line:** Make sure you fully understand your BSA compliance responsibilities!

NCUA Issues Final Diversity Standards

The National Credit Union Administration and federal banking regulators have issued their final interagency policy statement establishing joint standards for assessing diversity policies and practices of the institutions they regulate.

Required by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, the statement applies to those regulated by NCUA, the Federal Reserve Board, the Consumer Financial Protection Bureau, the Federal Deposit Insurance Corp., the Office of the Comptroller of the Currency, and the Securities and Exchange Commission.

Each agency was required to establish an Office of Minority and Women Inclusion (OMWI), responsible for all diversity matters in management, employment and business activities. The act also instructed that each OMWI director develop standards for assessing diversity policies and practices of the entities regulated by the agencies.

The final standards are similar to the proposed standards and provide a framework for regulated entities to create and strengthen their diversity policies and practices, the agencies said. These include their organizational commitment to diversity, workforce and employment practices, procurement and business practices, and practices promoting transparency of organizational diversity and inclusion within the entities’ U.S. operations.

The agencies’ assessments of regulated entities’ diversity policies will not be a part of the examination or supervisory process. Instead, they will rely on a “model assessment” that would include a self-assessment by the entity. Financial institutions’ self-assessment would use the proposed standards, voluntary disclosure of their assessment to

the regulator, and publication of their diversity efforts to increase public awareness and understanding.

The entities “are in the best position to assess their own diversity policies and practices,” the policy stated, adding that “self-assessments can provide entities with an opportunity to focus on areas of strength and weakness in their own policies and programs.” The agencies will periodically review the public information and reach out to the institutions to discuss diversity and inclusion.

Your CU Should Know...

NCUA and AARP Elder Abuse Webinar: A free one-hour webinar, "[Avoiding Frauds and Scams: A Primer for Older Americans](#)," will be hosted by the NCUA and the AARP on **June 24, 2015, beginning at 2:00 p.m. EST**. Experts from both organizations will discuss:

- Examples of frauds and scams;
- Helpful prevention tips;
- Guidance about safely conducting online financial transactions; and
- Information on AARP's [Fraud Watch Network](#) initiative.

FATF Comments on High-Risk Customers: The [Financial Action Task Force \(FATF\)](#) has issued comments regarding financial institutions' obligation to identify and monitor high-risk customers and report suspicious transactions. The FATF emphasizes the importance of a stringent application of its Recommendation 10 to ensure that financial institutions treat high-risk customers with greater levels of scrutiny and report on any suspicious transactions. The [FATF Standards \(Recommendation 10\)](#) require financial institutions to take the necessary steps to determine, on a case-by-case basis, whether a customer is high-risk. There are many factors which could lead to a customer being treated as high risk. For example, an ongoing public debate about the integrity of an entity should raise red flags to financial institutions. As a result, they should treat customers that are related to that entity, as high-risk customers. As an inter-governmental body, FATF recommends standards and promotes effective implementation of legal, regulatory and operational measures for

combating money laundering, terrorist financing and other related threats to the integrity of the international financial system.

National Money Laundering and Terrorist Financing Risk

Assessments: Treasury has issued the National Money Laundering Risk Assessment (NMLRA) and the National Terrorist Financing Risk Assessment (NTFRA). The assessments are issued to help the public and private sectors understand the money laundering and terrorist financing methods used in the United States, the risks that these activities pose to the U.S. financial system and national security, and the status of current efforts to combat these methods.

Bureau Report on Co-signer Release Rates: The CFPB has announced its Student Loan Ombudsman's report finding that 90% of consumers are being rejected for co-signer release on their private student loans, based on its review of industry practices. Other findings:

- Consumers left in the dark on co-signer release criteria
- Most private student loan contracts continue to contain auto-default clauses
- Borrowers are at risk when loans are sold and packaged by Wall Street
- Company policies can permanently disqualify borrowers from co-signer release
- Potentially harmful clauses found in the fine print

Comment Calls

NCUA's IOLTA Proposal

At the April open Board Meeting the National Credit Union Administration's Board issued a proposed rule to amend its share insurance regulation to implement statutory amendments to the Federal Credit Union Act (FCU Act) resulting from the Credit Union Share Insurance Fund Parity Act (H.R. 3468). The statutory amendment requires NCUA to extend share insurance to interest on lawyers trust accounts (IOLTA) and other similar escrow accounts.

The Credit Union Share Insurance Fund Parity Act specifically requires that NCUA provide IOLTAs pass-through insurance coverage when the attorney administering the IOLTA is a member of the federally insured

credit union, regardless of the membership status of the individual beneficial owners of the funds in the account.

Prior to H.R. 3468 share insurance coverage was limited only to clients of an attorney that were also members of the credit union where the IOLTA account was held. NCUA had detailed how the agency would insure these accounts in various legal opinion letters. NCUA pulled these letters after CUNA asked NCUA to address the inconsistencies in this letter after the passage of H.R. 3468.

GCUA would like to know any thoughts you have regarding this proposal. Please send your comments to Selina Gambrell at selinag@gcua.org by **June 26th**.

The [CUNA Regulatory Advocacy Report](#) keeps you on top of the most important changes in Washington for credit unions--and what CUNA is doing to monitor, analyze, and influence government agencies and federal law. You can view the current report and past reports from the archive.

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