



InfoSight Highlight

GCUA Call on DOL Proposed Overtime Regulations

On July 2, 2015, the US Department of Labor unveiled proposed regulations that could make roughly five million workers who are currently exempt from overtime pay eligible for overtime. Once implemented, as the proposed regulations are expected to be, this will be the first major change to the Fair Labor Standards Act regulations since 2004. When the new regulations are implemented, failure to comply with the new requirements can result in significant liability for an employer.

In order to educate credit unions and gain some feedback on the proposal, GCUA is hosting a call for all credit union CEOs, and HR and Compliance experts to learn about the possible implications of the proposal.

The call will be held on **August 13th from 10:00 a.m. - 11:00 a.m.** J. Larry Stine and Rhonda L. Klein, from Wimberly, Lawson, Steckel, Schneider & Stine, P.C. Attorneys at Law, will lead our discussion.

During this call we'll cover:

- In-depth overview of the proposed overtime revisions and what they mean for employers.
- The significance of the new proposed revised regulations with regard to how many additional employees will now be entitled to overtime pay.
- Changes with regard to the salary level test for determining who is an exempt employee, which will make many more employees eligible for overtime.
- How credit unions and other employers should implement the proposed rules in order to protect themselves from liability for misclassifying employees.

There will be no charge for the call and no registration is needed. The handouts will be provided prior to the call through email.

Date: Thursday, August 13, 2015

Time: 10:00 a.m. EST

Toll Free Dial In: 877.868.6863

Participant Passcode: 618748#

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

Any questions and responses should be sent to Sherrich Thegg, Human Resources Specialist, at sherricht@gcua.org or call 770-476-9625 ext 3447.

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

Compliance News

The FCC's Declaratory Rulings on the TCPA Could Impact CUs
The Federal Communications Commission (FCC) recently issued a package of declaratory rulings aimed at clarifying the requirements for automated telemarketing calls and texts messages under the Telephone Consumer Protection Act (TCPA). The rulings do provide some good points of clarification for financial institutions and other numerous businesses that are affected, but only vaguely address certain issues that leave determination of the applicability of the rule up to each enterprise.

This rule was effective immediately upon the release date of the Declaratory Ruling (**July 10, 2015**).

Question: What was clarified in this rule?

Answer: The FCC clarified several areas of the TCPA. Some of the clarifications that apply to credit unions include:

- The consumer has the right to revoke their consent to receive automated calls at any time and through any reasonable means. The ruling went on to clarify that the institution cannot have a designated opt out method, but instead must accept an opt out/revocation of consent in a number of ways, including orally, in writing, by calling a toll free number, replying "STOP" to a text message, etc. The institution must have a way to track the revocation of consent regardless of the manner in which it was given.
- The ruling clarified that text messages are covered under the TCPA to the same extent that calls to landlines and wireless numbers are covered.
- The ruling clarified that an auto-dialer includes any system with the potential ability, or capacity, to serve as an auto-dialer. They went on to clarify that this does include systems that have **the potential ability, even if not currently enabled, to make auto-dialed calls.**
- The ruling also addressed wireless phone numbers that have been assigned to a new subscriber (no longer your member). The FCC states that callers (the credit union) can place one call to a wireless phone number that is under the operation of a new subscriber. Once the caller has received information that states that the person they are trying to contact is no longer the subscriber to that number, **the caller must not call that**

Compliance Calendar

September 7

Labor Day - Federal Holiday

September 18

NACHA's Return Rate Levels & Reinstated Transactions Rule

October 3

CFPB: Know Before You Owe Disclosure - Effective Date

CFPB: Integrated Mortgage Disclosures - Effective Date

October 12

Columbus Day - Federal Holiday

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

number again unless consent is received prior to doing so. The caller is considered to have received notification of the subscriber change even if no one answers the phone because of the possibility of the voicemail identifying the new subscriber. The clarification states that one call placed to the phone number is sufficient to gather this data and that additional phone calls could incur liability under the TCPA.

Compliance Act Effective Date

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

Compliance Training

August 4, 2015

[IRA Excess Contributions - 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 13, 2015

[GCUA Call on DOL Proposed Overtime Rules](#)

10:00 a.m. - 11:00 a.m. EST

August 24-25, 2015

[NASCUS/CUNA Cybersecurity Symposium](#)

Denver, CO

Aug. 25 – Dec. 31, 2015

[CUNA Regulatory Compliance Update eSchool](#)

September 1, 2015

[Improving Credit and Correcting Errors on Credit Reports – Webinar](#)

2:00 – 3:30 p.m. EST

Question: What about fraud prevention related calls and texts?

Answer: The FCC received numerous requests to exempt phone calls and texts meant to inform consumers about data breaches and fraud from this rule. The FCC did provide some protections, although limited. **If the calls are not charged to the consumer, the financial institutions placing phone calls and texts to their members regarding fraudulent transactions, data breaches, or identity theft prevention are exempt from the TCPA consent requirements, provided they follow these specific requirements:**

- The credit union can only place voice calls and send text messages to the wireless telephone number provided by the member;
- Voice calls and text messages must state the name and contact information of the credit union (for voice call, this must occur at the beginning of the call);
- The calls and text messages must not contain any telemarketing, cross-marketing, solicitation, debt collection, or advertising of any kind. These exempt calls may not be used for marketing purposes.
- The voice calls and text messages must be concise, generally one minute or less in length for voice calls (unless more time is needed to obtain member responses or answer their questions) and 160 characters or less in length for text messages;
- The credit union cannot initiate more than 3 messages (whether by voice call or text message) per event over a three-day period for the affected account;
- The credit union must offer the recipients, within each message, a way to opt out of future messages:
 - o Voice calls that could be answered by a live person must include an automated, interactive voice-and/or key-press activated opt-out mechanism that enables the call recipient to make an opt-out request prior to terminating the call.
 - o Voice calls that could be answered by an answering

machine or voicemail service must include a toll-free number that the consumer can call to opt out of future calls.

- o Text messages must inform recipients of the ability to opt out by replying “STOP”.

- o The credit union must immediately honor the opt-out request.

If the credit union exceeds the 3 message over the 3 day limit, it must have prior consent from the member in order to not violate the TCPA.

Question: How can our credit union ensure compliance with this rule?

Answer: The best advice for credit unions is to obtain consent from your members at account opening. Since you cannot assume consent is given solely because the member gave you a contact number, you could implement a procedure that has the member acknowledge on the signature card or separate form, their consent to receive the calls covered under the TCPA. Of course, the member may revoke this consent at any time and you would want to have a way to ensure that the consent given at account opening (if documented on a signature card) doesn't override the member's revocation of consent at a later time.

Question: Was anything left unclear by the declaratory rulings?

Answer: Yes. The rule mentions “human intervention” as one of the defining factors of an auto-dialed call. However, the FCC explicitly states that it will not specify what is considered human intervention because each system is set up differently. The best recommendation at this point would be to contact your legal counsel and review your auto-dialing system (and potential capabilities) with them. From there, your attorney may be able to provide you with a legal opinion on “human intervention” based on your specific system.

The FCC's ruling can be viewed [here](#).

Note: If your credit union is getting ready to contract with a vendor for 3rd party marketing or collection calls, you will want to make sure you discuss this new rule with the vendor. It appears that many vendors are not notifying credit unions of this new rule.

September 8, 2015
[Helping Your Members Understand Their Rights on Repossessions, Foreclosures and Bankruptcies](#) - Webinar
2:00 – 3:30 p.m. EST

September 8 – October 7, 2015
[CUNA Lending Compliance eSchool](#)
3:00 – 4:30 p.m. EST

September 16 – 17, 2015
[Leadership Development Institute](#)
Duluth, GA

September 20 – 25, 2015
[CUNA Regulatory Compliance School](#)
Boston, MA

Sept. 24 – Oct. 15, 2015
[CUNA Bank Secrecy Act eSchool](#)
3:30 – 5:30 p.m. EST

September 28, 2015
[BSA Internal Audit Strategies](#) – Webinar
3:30 – 5:30 p.m. EST

October 1, 2015
[Don't Let Orange Become the New Black: Enforcement Actions](#) – Webinar
3:30 – 4:30 p.m.

October 8, 2015
[What's In Your Member's Wallets](#) – Webinar
3:30 – 4:30 p.m. EST

GCUA is actively working with CUNA and other Leagues to develop avenues to lessen the impact of this ruling for credit unions. Currently, we see three possible approaches to get the rule modified:

1. Regulatory – Will the FCC change the rule due to the broad impact it has obviously had? Another possibility could be to see what NCUA’s Office of Consumer Protection may be able to do?
2. Legislative – Can federal or state laws be passed to diminish the burden of this ruling upon credit unions?
3. Judicial/Litigation – There has been active litigation filed within the various industries impacted by the ruling to get the rule ‘changed.’

As we mention above, your credit union will need to get with its legal counsel and review the impact of this rule on your auto-dialing system. **Remember, your credit union doesn’t have to be currently auto-dialing your members for this rule to impact you.** You simply have to have the potential ability. You will need to develop your own risk in dealing with this new rule, using the legal guidance provided by your attorney.

For more information:
[FCC’s Press Release](#)
[CUNA Comp Blog](#)

(A special thanks to the Northwest Credit Union Association for their assistance with this article.)

Get A Head Start On Your Unclaimed Property
Your credit union’s unclaimed property is due by **November 1, 2015**. Get a head start by beginning to identify and work your dormant account lists now. The period covered for the 2015 report is July 1, 2014, through June 30, 2015.

Remember, in 2004 the Department of Revenue (DOR) began requiring a report filing even if there is no property to report. Credit unions should complete forms [UP-1F](#) and [UP-2F](#) (due November 1) and submit them to the DOR.

October 13 & 22, 2015
[ACH Origination](#) – Webinar
2:00 – 3:00 p.m. EST

October 15, 2015
[Beneficial Owners and Business Accounts](#) – Webinar
3:30 – 4:30 p.m. EST

October 21, 2015
[Lending Workshop](#)
Duluth, GA

November 12, 2015
[BSA/OFAC Workshop](#)
Atlanta, GA

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

Credit unions that filed reports on Form UP-1 or UP-2 last year will automatically get unclaimed property report forms and instructions. If your credit union is sending reports for the first time or you didn't send any unclaimed property in 2014, you are responsible for contacting the DOR at (404) 968-0490, to get your forms. Holders remitting 25 accounts or more are required to file electronically. The State of Georgia has adopted the standard electronic filing format approved by the National Association of Unclaimed Property Administrators. To access these specifications, click [here](#).

The time periods for property to go unclaimed in order for it to be considered 'abandoned' and thus remittable to the State are:

- Money orders - 7 years from issue date.
- Traveler's checks - 15 years from issue date.
- Wages - 1 year from pay date.
- Safe deposit boxes - 25 months after drilling date.
- All other property - 5 years from date of last contact.

Before you remit abandoned property to the state, Georgia law requires your credit union to perform an act of due diligence on accounts valued at \$50.00 or more. This means, at a minimum, you should send a first-class letter to the last known address of the owner as indicated on the records of the holder at least 60 days (September 1, 2015), but no more than 120 days (July 1, 2015), prior to the submission of the report.

If your credit union offers safe deposit rentals and has unclaimed property to remit to the state, the due diligence requires more effort. Section 44-12-209 of the O.C.G.A. states that if the rental on a safe deposit box has not been paid for one year, the credit union should take the following steps:

1. The credit union must send a letter by registered mail to the last known address of the member stating that the box will be opened and its contents stored at the member's expense if the rent is not paid within 30 days. A written notice must be sent to the Commissioner of Revenue stating the intent to drill the box at least 30 days before the time of drilling.
2. If rent is not paid within 30 days, the box can be drilled in the presence of a credit union officer and the contents inventoried and sealed. The credit union must then send a copy of the inventory certificate to the last known address of the member via registered mail.

3. If the member does not claim the contents within two years, the credit union may send a second letter to the last known address stating that if the accumulated charges are not paid within 30 days, the contents will be delivered to the state.
4. Upon remittance to the state, the credit union shall deliver a verified inventory of the contents of the box. If enough cash is in the box to cover all accumulated charges, the state will pay the credit union for them. If no cash or not enough cash is available in the box to cover the accumulated charges, the Commissioner shall sell the contents and pay such costs to the credit union. If the sale of the contents does not generate enough income to completely cover the costs, the state will pay the credit union the value of the contents less any costs or expenses of the sale.

For more information on unclaimed property, visit the [Georgia Department of Revenue's website](#).

For questions on unclaimed property, contact the Georgia Department of Revenue at UCPMAIL@DOR.GA.GOV or (404) 968- 0490.

NCUA Publishes Ownership of Fixed Assets Rule

The [final rule](#) on governing federal credit union ownership of fixed assets has been published in the *Federal Register*. The rule removes the 5% threshold, eliminates a waiver process as it pertains to the threshold, and establishes a six-year time period for partial occupancy of premises. NCUA will oversee FCU ownership of fixed assets through the supervisory process and guidance. The rule has an effective date of **October 2, 2015**. Supervisory guidance is expected to be released in September.

OFAC Crimea Sanctions Advisory Added
OFAC has issued a [Crimea Sanctions Advisory](#), "Obfuscation of

Critical Information in Financial and Trade Transactions Involving the Crimea Region of Ukraine," to highlight some of the practices that have been used to circumvent or evade U.S. sanctions involving Crimea. The evasive practices identified by OFAC include the omission or obfuscation of references to Crimea and locations within Crimea in documentation underlying transactions involving U.S. persons or the United States. These practices apply to a range of activities involving both the financial services and international trade sectors.

Your CU Should Know...

HMDA Data to Include Principal City Information: The FFIEC has announced that, resuming with calendar year 2014 HMDA data, the Census Bureau Data will be updated to include principal city information.

Payday Loans Video for Consumers: The NCUA has posted an educational consumer video, "Understanding Payday Loans," on its YouTube channel. The video, which is part of the NCUA's Consumer Report series, explains how payday loans work and highlights important features of these loans that consumers should understand.

CFPB Issues Spanish Version of Home Loan Tool Kit: The Consumer Financial Protection Bureau has issued *Su conjunto de herramientas para préstamos hipotecarios*, the Spanish-language version of its Home Loan Tool Kit, the replacement for the "Shopping for Your Home Loan: Settlement Cost Booklet" that will be provided by lenders in connection with purchase-money mortgage loans beginning **October 3, 2015**.

CFPB Financial Education Resources: The Bureau's Blog highlights recently developed financial education materials for recent immigrants. The Newcomer's Guides to Managing Money cover ways to pay bills, receive money, open a bank account, and compare financial products.

Comment Calls

NCUA MBL Proposal

The NCUA Board has approved a proposed member business loan (MBL) rule.

The proposed rule would completely overhaul NCUA's MBL regulation. Almost all requirements not in the Federal Credit Union Act would be removed. The proposal would create a category of "commercial" loans for safety and soundness purposes and utilizes the category of MBLs for compliance with the Act's limitations on member business lending. For example, the Act does not categorize any nonmember participations as MBLs and neither does the proposed rule. However, business loan participations are considered commercial loans for the purposes of safety and soundness.

The rule would remove all of the specific requirements that currently require waivers, including the personal guarantee requirement. It would also exempt some credit unions with less than \$250 million in assets from the board of director and management responsibility requirements and commercial loan policy requirements. The proposal does have an 18-month implementation period.

GCUA would like to know your thoughts and comments on this proposal. Please send them to Selina Gambrell at selinag@gcua.org by **August 17th**.

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.

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

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Need a BSA, ACH or Website review? Email compliance@gcua.org.