



InfoSight Highlight

Amendments to the Cuba Sanctions Regulations Treasury's Office of Foreign Assets Control (OFAC) and the Commerce Department's Bureau of Industry and Security (BIS) have announced significant amendments to the Cuban Assets Control Regulations (CACR) and Export Administration Regulations (EAR). The changes took effect on March 16th, upon publication in the *Federal Register*.

The changes expand Cuba and Cuban nationals' access to U.S. financial institutions and the U.S. dollar from Cuba, and will expand the ability for Cubans legally present in the United States to earn stipends and salaries beyond living expenses. The changes include the following:

- **U-turn payments through the U.S. financial system:** U.S. financial institutions will be authorized to process U-turn transactions in which Cuba or a Cuban national has an interest. This provision will authorize funds transfers from a financial institution outside the United States that pass through one or more U.S. financial institutions before being transferred to a bank outside the United States, where neither the originator nor the beneficiary is a person subject to U.S. jurisdiction.
- **Processing of U.S. dollar monetary instruments:** U.S. financial institutions will be authorized to process U.S. dollar monetary instruments, including cash and travelers' checks, presented indirectly by Cuban financial institutions. Correspondent accounts at third-country financial institutions used for such transactions may be denominated in U.S. dollars.
- **U.S. financial institution accounts for Cuban nationals:** U.S. institutions will be authorized to open and maintain accounts in the United States for Cuban nationals in Cuba to receive payments in the United States for authorized or exempt transactions and to remit such payments back to Cuba.

For more information, see [OFAC's updated FAQs on the Cuban Sanctions Regulations](#). Also, check out the [OFAC](#) topic in the Bank Secrecy Act channel of InfoSight.

Compliance News



InfoSight
Compliance eNEWSLETTER
March 21, 2016
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Credit Union National Association

Compliance Calendar

April 15
Operating Fee/Capitalization
Deposit Adjustment due to
NCUA

Previous Year's IRA
Contributions Due

April 22
5300 Call Report Due to NCUA

May 30
Memorial Day - Federal
Holiday

June 30
PCI - SSL/TLS can no longer
be used as a Security Control
after this date

Child Support Data Match
Reimbursement Deadline

Supervisory Highlights – Winter 2016

The Consumer Financial Protection Bureau (CFPB) has [released its 10th edition of *Supervisory Highlights*](#), which covers CFPB activities between September and December 2015. The Bureau found violations in the student loan market, including illegal automatic defaults imposed by student loan servicers and illegal garnishment threats by debt collectors performing services for the Department of Education. Examiners also found instances of international money transfer companies violating the CFPB's new remittance rule, financial institutions providing inaccurate information to credit reporting companies about customer checking accounts, and debt collectors illegally contacting consumers.

Highlights from the report are discussed below:

- **Compliance with furnisher obligations** at depository institutions under Regulation V was one area of review for CFPB Examiners. Examiners found that some furnishers failed to have policies and procedures in place addressing the furnishing of information related to deposit accounts and lacked processes to verify data furnished through automated internal systems. Additionally, the examiners found that one or more furnishers failed to correct and update account information they furnished to NSCRAs. This is significant because not updating an account to paid-in-full or settled-in-full status could adversely affect consumers' attempts to establish new deposit accounts, and the CFPB has been very clear about making improved access to deposit accounts for more Americans a top priority.
- **Debt collection practices** and violations of the FDCPA were examined as well. Examiners found instances of debt collectors failing to honor consumers written requests to cease communications, and other instances where debt collectors used false, deceptive, or misleading representations and threats of wage garnishment against borrowers that were ineligible for garnishment. In addition to violating Section 807 of the FDCPA, the CFPB can also use its UDAAP enforcement authority in such instances and we have seen a lot of enforcement activity lately in this area.
- **The mortgage origination exam findings** in this report focused on the Title XIV rules as the time period covered in this report precedes the effective date of the Know Before You Owe Disclosure Rule. We anticipate the findings in this area will be much longer in the next report! The findings within the period of this report demonstrate general compliance with the Title XIV rules, with the exception of the absence of written policies and procedures at depository institutions required under the loan

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

Compliance Training

March 22, 2016

[The CFPB's Four Ds of Fair Lending: Deceptive Marketing, Debt Traps, Dead Ends & Discrimination](#) -Webinar
3:00 – 4:30 p.m. EST

March 23, 2016

[Outsourcing Tech Services: Regulations, Examiner Expectations & Actions for Vendor Management](#) -Webinar
3:00 – 4:30 p.m. EST

March 30, 2016

[Your Member Has Filed Bankruptcy, Now What?](#) -Webinar
3:00 – 4:30 p.m. EST

March 31, 2016

[Developing Your Same-Day ACH Game Plan](#) -Webinar
3:00 – 4:30 p.m. EST

April 5, 2016

[New Federal Regulations Targeting Student Accounts, Including Debit & Prepaid Cards:](#)
[Effective July 1, 2016](#) – Webinar
3:00 – 4:30 p.m. EST

April 6, 2016

[Managing IRA Beneficiary Designations & Distributions](#) –

originator rule and findings that indicated deficiencies in compliance management systems at certain institutions that allowed violations of Regulations X and Z to occur. Credit unions need to ensure they have effective compliance management systems in place to avoid such errors.

- **Compliance with the Remittance Rule** was also examined. Examiners found violations such as providing incomplete and inaccurate disclosures, failing to refund cancelled transactions within the allowable timeframe under the regulation, failing to communicate the results of error investigations and failing to promptly credit consumers accounts when errors occurred.
- **Illegal student loan servicing practices** are another priority for the Bureau and examiners found unfair practices in several areas of student loan servicing including private student loan servicers engaged in unfair auto-defaults, failure to disclose the impact of forbearance on co-signor release eligibility, servicing conversion errors costing borrowers money and insufficient policies and procedures to satisfy the furnisher obligations imposed by Regulation V.
- **Fair lending** is also highlighted via the enforcement actions against Ally Bank, Synchrony Bank, Fifth Third, and M&T where in each case millions in damages was paid to harmed minority borrowers subjected to discriminatory lending practices.

Webinar

3:00 – 4:30 p.m. EST

April 7, 2016

Post EMV Card Liability Shift:

Managing & Mitigating Card-Not-Present Fraud - Webinar

3:00 – 4:30 p.m. EST

April 12, 2016

Completing the SAR Line-by-Line - Webinar

3:00 – 4:30 p.m. EST

April 13, 2016

Your Depositor Has Died: Actions to Take, Mistakes to

Avoid - Webinar

3:00 – 4:30 p.m. EST

April 19, 2016

Effective Management of Credit Report Disputes - Webinar

3:00 – 4:30 p.m. EST

April 20, 2016

Troubled Debt Restructuring: Determination & Accounting - Webinar

3:00 – 4:30 p.m. EST

April 26, 2016

Regulator Expectations for Risk Assessment: Policies,

Procedures & Steps in Obtaining Board Approval - Webinar

3:00 – 4:30 p.m. EST

April 27, 2016

Call Report Preparation: Avoiding Common Errors - Webinar

3:00 – 4:30 p.m. EST

FinCEN Updates Guidance for MSB Principals on Agent Monitoring

Question: Will FinCEN's recent MSB guidance impact credit unions?

Answer: The answer, according to CUNA's Compliance Blog, is "not directly." FinCEN's guidance, FIN-2016-G001, reiterates and provides clarity for money services businesses (MSBs) to comply with their own specific anti-money laundering (AML) requirements. Like credit unions, MSBs must establish and maintain effective written AML programs to prevent being used to facilitate money laundering and finance terrorist activities.

Some MSBs (the principal) authorize other business entities (agents) to sell or distribute the principal-MSB's instruments or, in the case of

funds transmission, to sell its “send and receive” transfer services. Your credit union’s MSB account could be a principal-MSB or an agent-MSB. Note that the minimum due diligence expectations associated with opening an MSB account and the risk assessment of such accounts includes determining the principal/agent status of the account.

This recent guidance clarifies the principal-MSB’s requirements to include agent monitoring policies and procedures sufficient to allow the principal to understand and appropriately account for the risks associated with their agents. In a [2005 Interagency Advisory](#), federal regulators, including NCUA, identified the lack of such monitoring as an indicator of a higher-risk account. If you have identified an MSB account as higher-risk, NCUA recommends that you, among other things:

- review the list of agents, including locations, within or outside the United States, that will be receiving services directly or indirectly through the money services business account, and
- review written agent management and termination practices for the money services business.

Although the guidance does not directly impact your credit union’s BSA/AML policy and procedures, you are not required to be the *de facto* regulator for your MSB accounts – having a strong understanding of your MSB accounts’ compliance responsibilities will reflect positively on your level of due diligence. NCUA has stated a number of times over the past couple of years that their field staff have been directed to closely scrutinize credit unions’ relationship with MSBs to ensure that credit unions are in compliance with all BSA requirements.

Notable points reiterated in this recent guidance include:

- Both the principal and the agent are liable for their respective policies, procedures and controls. Neither party can avoid liability by assigning this responsibility to the other party through a contract or other means.
- The MSB principal must have procedures in place to identify those agents conducting activities that appear to lack commercial purpose, lack justification, or otherwise are not supported by verifiable documentation;
- The MSB principal should implement procedures for handling non-compliant agents, including agent contract terminations;
- Principals must periodically reassess risks associated with their agents and update the principals’ program to address any changing or additional related risks;

April 28, 2016
[ACH Rules Update 2016 - Webinar](#)
3:00 – 4:30 p.m. EST

May 3, 2016
[Conducting the Annual Physical Security Review – Webinar](#)
3:00 – 4:30 p.m. EST

May 4, 2016
[Loan Participation Due Diligence: Practices, Documentation, Servicing & Risks – Webinar](#)
3:00 – 4:30 p.m. EST

May 10, 2016
[Succession Planning for the Board & Supervisory Committee - Webinar](#)
3:00 – 4:30 p.m. EST

May 11 – 14, 2016
[GCUA Annual Convention Savannah, GA](#)

May 11, 2016
[Business Accounts: Who is Authorized to Open, Close, Transact? – Webinar](#)
3:00 – 4:30 p.m. EST

May 12, 2016
[Managing the Force-Placed Insurance Process - Webinar](#)
3:00 – 4:30 p.m. EST

May 17, 2016
[Wire Transfer Compliance, Including International Remittances – Webinar](#)
3:00 – 4:30 p.m. EST

- Principals must take corrective action once becoming aware of any weaknesses or deficiencies in their AML programs;
- FinCEN expects a principal to have information readily available to demonstrate that it has effectively developed and implemented risk-based policies, procedures, and internal controls to ensure adequate ongoing monitoring of agency activity.



Your CU Should Know...

Bureau Schedules Another TRID Q&A Webinar: The CFPB will present a 60-minute webinar using the Federal Reserve's Outlook Live portal on **Tuesday, April 12, at 2:00 p.m. EST**. The presentation will answer some frequently asked questions on the TRID rule. The webinar will address specific questions that various stakeholders have raised to the Consumer Financial Protection Bureau related to the interpretation and implementation of the rule's requirements. In particular, this session will cover questions that have been raised since the rule took effect on October 3, 2015. [Online registration](#) for the event is now available.

NCUA Announces Financial Literacy Webinar: Credit unions are invited to learn more about promoting financial literacy, financial inclusion and financial capability by participating in "[The Pathway to Financial Well-Being](#)," a free webinar hosted by the NCUA on **March 30, 2016, beginning at 2:00 p.m. EST**.

Matz and Cordray Town Hall Meeting: The NCUA has [announced](#) the availability of the audio recording and written transcript of the February 9, 2016, town hall webinar hosted by NCUA Chairman Matz and CFPB Director Cordray, which are available online. The topics discussed included:

- The status of the overdraft protection rule,
- Consumer access to checking accounts and prepaid cards,
- The NCUA's member-business lending rule, and
- The impact of the Military Lending Act rule.

May 24, 2016
[Understanding & Managing the CFPB Complaint Process](#) – Webinar
3:00 – 4:30 p.m. EST

May 25, 2016
[Developing Quality & Efficiency in Your IT Audit](#) – Webinar
3:00 – 4:30 p.m. EST

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

FTC's Hall of Shame lists over 100 Banned Collectors: The Federal Trade Commission has [posted an article](#) on its Consumer Information blog listing recent additions to its "Hall of Shame," a list of banned debt collectors—individuals and companies whose behavior was so egregious that courts have banned them permanently from participating in the debt collection business. The Commission's "collection" of [banned collectors](#) now numbers over 100.

Bureau 'Owning a Home' Series: The CFPB has posted a Bureau Blog article, "[Mortgage Moves: Where will you start?](#)," introducing a series of email messages with an "Owning a Home" theme that will offer consumers information on steps involved in the purchase and financing of a home.

Comment Calls

NCUA Requests Comments on Operating Fee Schedule and Overhead Transfer Rate Methodology

Operating Fee Schedule: NCUA has issued a [request for comments](#) regarding the National Credit Union Administration's (NCUA) Operating Fee Schedule. The NCUA Operating Budget has two primary funding mechanisms: (1) An Overhead Transfer, which is funded by federal credit unions (FCUs) and federally insured state-chartered credit unions (FISCUs); and (2) annual Operating Fees, which are charged only to FCUs. The NCUA Board is seeking comment on the methodologies for both funding mechanisms.

This request focuses on the methodology NCUA uses to determine the aggregate amount of Operating Fees charged to federal credit unions, including the fee schedule that allocates the Operating Fees at different rates among FCUs according to asset size.

NCUA specifically requests comment on the following questions:

1. Are the asset determination thresholds reasonable; and
2. Is the method for forecasting projected asset growth for the credit union system reasonable?

Commenters are encouraged to provide the specific bases for the comments and recommendations as well as documentation to support any proposed adjustments or alternatives.

Overhead Transfer Rate Methodology: NCUA has also issued a [request for comment](#) regarding NCUA's Overhead Transfer Rate Methodology. This request for comment focuses on the methodology NCUA uses to determine the Overhead Transfer Rate (OTR). The Board applies the OTR to NCUA's Operating Budget to determine the portion of the budget that will be funded from the National Credit Union Share Insurance Fund (NCUSIF). The Board invites comments on all aspects of the OTR methodology and any alternatives commenters may offer. Areas the Board specifically seeks comments on include:

- Whether the OTR should continue to be determined using a formula-driven approach, or instead be set largely at the discretion of the Board;
- The definition NCUA uses for insurance-related activities;
- Adjustments or changes to the current calculation; and
- Alternate methodologies to arrive at an accurate and fair allocation of costs.

The Board encourages the public to provide the specific basis for their comments and recommendations, as well as documentation to support any proposed adjustments or alternatives.

GCUA would like to know your thoughts and/or concerns on NCUA's proposals. Please send your comments on these proposals to Selina Gambrell at selinag@gcu.org by **March 26, 2016**.

The [CUNA Advocacy Update](#) 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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