



## InfoSight Highlight

### Member Business Lending

**Business Loan Policy Requirement.** NCUA requires that to engage in business loans, the credit union must have specific business loan policies that are adopted by the board of directors and reviewed annually.

**Collateral and Security Requirements.** Unless there is a waiver or covered by certain exceptions, member business loans must be secured by collateral and the maximum loan to value cannot exceed 80% unless the excess is covered by private mortgage insurance (PMI) or an equivalent type of insurance, or insured, guaranteed, or subject to advance commitment to purchase by a government agency, but in no case can it exceed 95%. The one exception is that new amendments to the MBL rules exempt SBA guaranteed loans from MBL collateral requirements. The 80% loan to value ratio requirement does not apply to member business loans for purchasing certain consumer-type vehicles that are used for commercial purposes such as a car, van, pick-up truck, or sports utility vehicle (SUV) that are not part of a fleet of vehicles.

As of **May 13, 2016**, the credit union may require a full and unconditional personal liability and guarantee from the principal(s) of the borrower. If the credit union determines a personal guarantee is not needed, the credit union will need to document the loan file with the mitigating factors that sufficiently offset the relevant risk for not requiring the guarantee.

For more on complying with MBL rules, see the [Member Business Lending](#) topic in the Loans and Leasing Channel on InfoSight.

## Compliance News

### Member Account Deposit Reconciliation Practices

NCUA has issued **Letter to Credit Unions 16-CU-04** to inform credit unions of guidance NCUA has issued with four other federal financial regulatory agencies to address discrepancies that may occur with amounts deposited by a member or customer and the dollar amount credited to that account. The guidance, "[Interagency Guidance Regarding Deposit Reconciliation Practices](#)," discusses consumer protection laws applicable to deposits, including the Expedited Funds Availability Act (as implemented by Regulation CC), the Federal Trade Commission Act, and the Dodd-Frank Wall Street Reform and



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

Compliance Calendar

Consumer Protection Act, and that violations could occur if “credit discrepancies” are permitted or are not resolved in a timely manner. The guidance does not mandate specific practices. However, it does emphasize the need to reconcile variances resulting from encoding errors, poor image capture, and other issues.

NCUA encourages credit unions to review their policies and practices to address discrepancies between amounts presented by members for deposit and the actual amount credited to the member’s account. NCUA expects credit unions to design and manage their deposit reconciliation practices to comply with Regulation CC and other applicable laws or regulations as part of maintaining robust compliance management systems.

The Agencies want to ensure that when a consumer makes a deposit to an account, they are credited the full amount of that deposit and are not penalized for any discrepancies that may exist. Discrepancies can occur when the consumer accidentally writes an amount on the deposit slip that differs from the amount on the actual check, or if there is poor image capture or encoding errors. For instance, if a member deposits a \$110 check but accidentally writes “\$100” on the deposit slip, if the credit union does not reconcile this error then the member has been credited \$10 less than the amount of his check. This would harm the member and benefit the credit union, so the Agencies want to ensure that financial institutions adopt policies and procedures to prevent this from happening.

This is not the first time financial institutions have heard about credit discrepancies from the CFPB. In August of 2015, the CFPB issued a consent order against Citizens Bank for failing to credit customers the full amount of their deposits. In this instance, the CFPB relied on its UDAAP authority, saying that the bank’s practice of failing to resolve discrepancies that were less than \$25 was an unfair and deceptive practice, especially because the bank advertised that all deposits were subject to verification.

The aforementioned enforcement action, coupled with the new guidance, indicates that this is an important area of focus for the CFPB and other agencies, so now is the time to examine your deposit verification practices and ensure there are not any credit discrepancies at your credit union.

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DOL Expands Overtime Pay Requirements to Cover More Employees  
The DOL has issued its final overtime pay rule. As you know, the Fair

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

July 4  
Independence Day - Federal Holiday

July 22  
5300 Call Report Due to NCUA

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

### Compliance Training

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**

June 2, 2016  
[Best Practices for Member Business Lending - Webinar](#)  
**3:00 – 4:30 p.m. EST**

June 7, 2016  
[Hiring in the Digital Age: What Every HR Manager Needs to Know About Social Media –](#)

Labor Standards Act (FLSA) guarantees a minimum wage for all hours worked during the workweek and overtime pay for hours worked beyond 40 in a workweek. While these protections extend to most workers, the FLSA does provide a number of exemptions, for example, the “EAP” exemption for employees who meet the rule’s definition of “executives, administrative and professionals.”

To be considered exempt, employees must meet certain minimum requirements related to their primary job duties and, in most instances, must be paid on a salary basis at not less than the minimum amounts specified in the regulations.

In this final rule the DOL updates the standard salary level (from the existing \$455/ week to \$913/ week) and total annual compensation requirements for “highly compensated employees” or HCEs (from the existing \$100,000 to \$134,000).

**The rule is effective on December 1, 2016.**

The DOL has provided several resources on [their website](#) to help employers impacted by the new rule understand the changes:

- [Overview and Summary of the Final Rule](#)
- [Wage & Hour Division Overtime Fact Sheet](#)
- [Comparison Table: Current Regulations, Proposed Rule, and Final Rule](#)
- [Upcoming Overtime Webinars from the Department of Labor’s Wage & Hour Division](#)
- [Small Business Guide](#)
- [Non-profits and the Final Rule](#)
- [Higher Education and the Final Rule](#)
- [Non-Enforcement Policy Questions and Answers](#)
- [State by State Breakdowns of Affected Workers](#)

For specific information regarding the impact this final rule will have on your credit union’s HR policies and procedures, contact your employment counsel.

EMV and “Fallback Transactions”

**Question: What’s a “fallback transaction”?**

**Answer:** According to [CUNA’s Compliance Blog](#), a fallback transaction occurs when an EMV chip card is presented to a chip-enabled terminal, but the transaction is conducted as a “swipe” instead of a “dip” (i.e., the

Webinar  
**3:00 - 4:30 p.m. EST**

June 8, 2016  
[Federal Government ACH Payments, Reclamations & Garnishments - Webinar](#)  
**3:00 – 4:30 p.m. EST**

June 9, 2016  
[FFIEC Cyber Security Risk Assessments: Recent Findings & Recommended Actions - Webinar](#)  
**3:00 – 4:30 p.m. EST**

June 10 – 17, 2016  
[Southeast CUNA Management School](#)  
**Athens, GA**

June 14, 2016  
[Comparing Regulation E Requirements with Visa & MasterCard Rules - Webinar](#)  
**3:00 – 4:30 p.m. EST**

June 16, 2016  
[ACH Rules for Deceased Accountholders & Federal Government Payments - Webinar](#)  
**3:00 – 4:30 p.m. EST**

June 21, 2016  
[The Growing Scope of Vendor Management: Business Continuity, Cyber Security, Contract Negotiation & More - Webinar](#)  
**3:00 – 4:30 p.m. EST**

June 22, 2016  
[Product Terms Part 1: Modifying Existing Product Terms & Fees, Including](#)

terminal “falls back” to using magnetic stripe data to complete the transaction instead of chip technology).

Why would this happen in an otherwise chip-on-chip transaction? Any number of reasons – damaged chip card, incorrectly configured POS terminal, compatibility issues, etc. Let’s call it growing pains since everyone is still transitioning to EMV. Could it be a counterfeit card with an intentionally damaged chip? It’s a possibility, but during this transition period, it’s likely (we hope) that most transactions are still legitimate.

Why should your credit union care? The EMV liability shift, plain and simple. Remember, EMV 101: if there is counterfeit fraud, liability will shift to the party that is not EMV-compliant.

If the chip card is swiped (as a magnetic stripe transaction) at a chip-enabled terminal, fraud liability remains with the card issuer if: (1) the acquirer/merchant sends the appropriate indicators identifying the transaction as fallback; and (2) the card issuer approves the fallback transaction.

Should you decline fallback transactions? It depends on the situation. The EMV rollout is far from complete, and declining all of these transactions would be a huge inconvenience to cardholders. So, you'll have to closely monitor reports from your payment processor to determine where the problems are coming from – defective cards, incorrectly configured POS terminals, or in the worst case scenario fraud, and proceed accordingly.

For more information on EMV-related issues, visit [emv-connection.com](http://emv-connection.com), developed by The Smart Card Alliance to assist industry stakeholders with EMV migration.

Speaking of EMVs... Wal-Mart stepped up its longstanding battle with Visa over point-of-sale rules by suining the card network for the right to require PIN authorization for all debit card transactions.

For a period following the EMV rollout, Wal-Mart required PIN authentication for all chip-enabled debit payments, declining transactions for customers unable or unwilling to provide such a code. Wal-Mart ended this approach after Visa pointed out it violated the terms of its merchant agreement. With this lawsuit Wal-Mart aims to reestablish such flexibility. In the meantime, Wal-Mart attempts to steer debit users to PIN via its on-screen prompts, but will settle via signature

Timing, Content & Requirements for Change-in-Term Notices - Webinar  
**3:00 – 4:30 p.m. EST**

June 23, 2016  
Legal Aspects of HELOCs: Disclosures, Advertising, Termination, Credit Line Reduction & More - Webinar  
**3:00 – 4:30 p.m. EST**

June 26 – 29, 2016  
America’s Credit Union Conference  
**Seattle, WA**

June 27, 2016  
Developing a Sound Appraisal Management Program - Webinar  
**3:00 – 4:30 p.m. EST**

June 29, 2016  
Understanding FCRA Permissible Purposes in Obtaining Credit Reports - Webinar  
**3:00 – 4:30 p.m. EST**

June 30, 2016  
Compliance Officer Training: Risk Assessments, Monitoring & Testing - Webinar  
**3:00 – 4:30 p.m. EST**

July 7, 2016  
Your Borrower Has Died: Actions to Take, Mistakes to Avoid  
**3:00 – 4:30 p.m. EST**

July 10-13, 2016  
Southeast Regional Directors'

debit. MasterCard's rules allow retailers to require PIN authentication, if they so choose.

As of this writing, the courts have not ordered any near-term changes so Wal-Mart continues to accept signature debit for now. Should you receive inquiries from your members, they should be able to opt out of Wal-Mart's on-screen PIN request and process by signature if desired.

Your CU Should Know...

**CUs Pay Late Filing Penalties:** The NCUA has [announced](#) that 22 federally insured credit unions have consented to civil monetary penalties for filing late Call Reports in the fourth quarter of 2015. Twenty-eight credit unions consented to penalties in the fourth quarter of 2014. The late filers will pay a total of \$13,548 in penalties. Individual penalties range from \$157 to \$2,580. The median penalty was \$356.

**New Burma Designations:** OFAC has amended the Burmese Sanctions Regulations and updated the SDN List. The [regulatory amendments](#) are intended to support trade with Burma; facilitate the movement of goods within Burma; allow certain transactions related to U.S. individuals residing in Burma; and allow most transactions involving designated financial institutions. New [FAQs on the Burma Sanctions program](#) were also released.

**Bureau Issues Auto Title Loan Report:** The CFPB has issued a [report](#) finding that one in five borrowers who take out a single-payment auto title loan have their car or truck seized by their lender for failing to repay their debt. According to the Bureau's research, more than four in five of these loans are renewed the day they are due because borrowers cannot afford to repay them with a single payment. More than two-thirds of auto title loan business comes from borrowers who wind up taking out seven or more consecutive loans and are stuck in debt for most of the year. The Bureau also posted an [article on the report](#) and [prepared remarks](#) from Director Cordray for the Bureau's press call.

## Comment Calls

NCUA Occupancy Rule

The NCUA Board has issued a [proposed rule](#) that would amend the agency's regulations governing a federal credit union's (FCU) requirements for occupancy, planning, and disposal of acquired and abandoned premises. The proposal eliminates a requirement in the current occupancy rule that an FCU must plan for, and eventually achieve, full occupancy of acquired premises. Instead, it allows for a

[Conference](#)  
**Pinehurst, NC**

July 12, 2016  
[Board Oversight & Responsibility for ACH Risk - Webinar](#)  
**3:00 – 4:30 p.m. EST**

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

credit union to achieve partial occupancy with an at least fifty percent use of premises by an FCU and partial occupancy can be maintained with not plan for full occupancy.

GCUA would like to know your thoughts and/or concerns with this proposal. Please email Selina Gambrell at [selinag@gcua.org](mailto:selinag@gcua.org) by **June 17<sup>th</sup>**.

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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**Email [compliance@gcua.org](mailto:compliance@gcua.org).**