



InfoSight
Compliance eNEWSLETTER
June 20, 2016
Vol. 10, Issue 25

Created in partnership with the



Credit Union National Association

Compliance Video

CU Compliance Connection

In this **recently released** video (now on YouTube!), Glory LeDu, Manager of League System Relations, discusses the Compliance outlook for the 2nd Quarter of 2016 and reviews the 1st Quarter of 2016. View the CUBE TV video [here](#).

Compliance Calendar

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

InfoSight Highlight

Checklists List!

In InfoSight, there are over 70 checklists available to assist you. From Account Aggregation to Vendor Due Diligence; and including BSA and Information Security Programs, these checklists can provide reminders and questions to support your daily operations.

For example, the Appraisals Checklists includes these questions:

1. Does the credit union identify which real estate-related financial transactions require the services of an appraiser?
2. Does the credit union identify if the real estate-related financial transaction is considered a high priced mortgage loan under Truth in Lending?
3. Does the credit union identify which categories of federally related transactions must be appraised by a state-certified appraiser and which by a state-licensed appraiser?

Click [here](#) to view the Checklists List.

Review the information in these checklists today to help your credit union remain in compliance.

Compliance News

FFIEC Mobile Payments Guidance

In May, the Federal Financial Institutions Examination Council (FFIEC) [issued new guidelines for examiners](#) to use when assessing mobile banking and payments security. Given the market imperative of data security as well as ever-growing consumer interest in mobile payments - not to mention the ballooning number of in-market solutions - this guidance is sure to play a key role in upcoming credit union examinations.

The 18-page appendix to the [FFIEC's IT Handbook](#) manages to offer significant detail without becoming prescriptive. In essence, it tasks credit unions with having a documented plan demonstrating they have thought through various aspects of security and business risk. It does not specify the required means of assessment, nor does it weigh in on the acceptable level of risk for a given institution.

Fortunately, most CUs have already been thinking about these issues. The FFIEC's guidance serves as a reminder that such discussions and thought processes should be memorialized in a documented plan that can be presented to examiners.

On a more tactical level, John Best of CUNA partner Best Innovation Group recommends that CUs be sure to consider the following:

- Prepare a mobile risk assessment specifically addressing payments-related software.
- Implement biometric security routines; SMS and similar types of mobile authentication are likely to receive added scrutiny (since an unauthorized party can see the codes and sent emails if they gain possession of the phone).
- Make sure your mobile provider is not storing unencrypted data on the phone.
- Make sure that your mobile provider is obfuscating the code to the mobile application so that it cannot be reversed engineered.
- Review your enrollment procedures for mobile; the FFIEC guidance appears to recommend extra controls for mobile enrollment for mobile payments applications.

Bureau Publishes CMP Inflation Adjustments

The Consumer Financial Protection Bureau has published [81 FR 38569] in the Federal Register an interim final rule to adjust the civil monetary penalties within the Bureau's jurisdiction for inflation, as required by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996 and further amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. The interim rule will be effective on, and comments on the rule will be accepted through, July 14, 2016. The rule adds new Part 1083 ("Civil Penalty Adjustments") to chapter X in title 12 of the CFR. Specifically, it adjusts these civil money penalties:

- Consumer Financial Protection Act, 12 U.S.C. 5565(c)(2)(A) - Tier 1 penalty for any violation of any provision of Federal consumer financial law, or rule, or final order imposed in writing by the Bureau -- \$5,000 per day, adjusted to \$5,437
- Consumer Financial Protection Act, 12 U.S.C. 5565(c)(2)(B) - Tier 2 penalty for any reckless violation of any provision of Federal consumer financial law, or rule, or final order imposed in writing by the Bureau - \$25,000 per day, adjusted to \$27,186
- Consumer Financial Protection Act, 12 U.S.C. 5565(c)(2)(C) - Tier 3 penalty for any knowing violation of any provision of

July 25
5300 Call Report Due to NCUA

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

Compliance Training

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

June 22, 2016
[Product Terms Part 1: Modifying Existing Product Terms & Fees, Including Timing, Content & Requirements for Change-in-Term Notices](#) - Webinar
3:00 – 4:30 p.m. ET

June 23, 2016
[Legal Aspects of HELOCs: Disclosures, Advertising, Termination, Credit Line Reduction & More](#) - Webinar
3:00 – 4:30 p.m. ET

June 23, 2016
[Telephone Consumer Protection Act: Complying with the Recent Ruling – CUNA Webinar](#)
12:00 – 1:15 ET

June 26 – 29, 2016
[America's Credit Union Conference](#)
Seattle, WA

June 27, 2016
[Developing a Sound Appraisal Management Program](#) -

Federal consumer financial law, or rule, or final order imposed in writing by the Bureau - \$1,000,000 per day, adjusted to \$1,087,450

- Interstate Land Sales Full Disclosure Act, 15 U.S.C. 1717a(a)(2) - Per violation, \$1,000, adjusted to \$1,894; annual cap from \$1,000,000 to \$1,893,610
- Real Estate Settlement Procedures Act (RESPA), 12 U.S.C. 2609(d)(1) - Provision of annual escrow statement, per failure, \$50, with annual cap of \$100,000, increased to \$89 per failures, with annual cap of \$178,156; per intentional failure, \$100 raised to \$178 (no caps)
- S.A.F.E. Act , 12 U.S.C. 5113(d)(2) - (Only in states where there is a licensing system imposed by the CFPB) \$25,000 per violation, increased to \$27,455
- Truth in Lending Act , 15 U.S.C. 1639c(k) (Appraisal independence requirements in real estate transactions) - \$10,000 per day for first violation, increased to \$10,875; \$20,000 per day for subsequent violations, increased to \$21,749

Due to a number of questions regarding IRS W-9 forms and taxpayer identification numbers, the following is a review of a few IRS FAQs on the topic:

Q: Under what circumstances does the IRS consider a TIN missing or incorrect?

A: The IRS considers a TIN to be missing if it is not provided, has more or less than nine numbers, or it has an alpha character as one of the nine positions. The agency considers a TIN to be incorrect if it is in the proper format but the Name/TIN combination does not match or cannot be found on IRS or SSA files.

Q: How do I know if a TIN is incorrect?

A: After the submission of Form 1099 information returns, the IRS will send you a CP2100 or a CP2100A Notice and a listing of incorrect Name/TIN(s) reported on those forms.

You are required to compare the listing(s) with your records. For missing TINs: If you have not started backup withholding, begin to do so immediately and continue until you receive a TIN. You must make up to three solicitations for the TIN (initial, first annual, second annual) to avoid a penalty for failing to include a TIN on the information return.

Webinar
3:00 – 4:30 p.m. ET

June 29, 2016
[Understanding FCRA Permissible Purposes in Obtaining Credit Reports](#) - Webinar
3:00 – 4:30 p.m. ET

June 30, 2016
[Compliance Officer Training: Risk Assessments, Monitoring & Testing](#) - Webinar
3:00 – 4:30 p.m. ET

July 7, 2016
[Your Borrower Has Died: Actions to Take, Mistakes to Avoid](#) - Webinar
3:00 – 4:30 p.m. ET

July 10-13, 2016
[Southeast Regional Directors' Conference](#)
Pinehurst, NC

July 11, 2016
[New Overtime Rule Critical Budgeting Issues](#) - Webinar
3:00 – 4:30 ET

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

July 13, 2016
[Manufactured & Mobile Home Lending Standards & Eligibility](#) - Webinar
3:00 - 4:30 p.m. ET

July 14, 2016
[Call Report Preparation for](#)

For incorrect TINs: Compare the accounts on the listing with your business records. If they agree, send the appropriate “B” (backup withholding) Notice to the payee. If an account does not agree, this could be the result of a recent update to SSA records, an error in the information you submitted, or an IRS processing error. If this type of error occurred, the only thing you should do is correct or update your records, if necessary. NOTE: You do not have to call or write to the IRS to say that you made the correction or update to your records.

Q: What should I do if a payee refuses or neglects to provide a TIN?

A: The IRS requires you to begin backup withholding immediately on any reportable payments and do the required annual solicitation (request) for the TIN. Backup withhold until you receive a TIN.

Q: What are the annual solicitation requirements?

A: A solicitation is a request for a payee's correct TIN. You must make the request to satisfy the backup withholding requirements and to avoid a penalty for filing another information return with a missing or an incorrect TIN.

The payee must furnish a certified TIN (initial solicitation) on Form W-9 with respect to payments of interest, dividends, and amounts subject to broker reporting. For other payments, the payee may furnish/provide the TIN in any manner.

For missing TINs: For all payees you must make the initial solicitation when the payee opens the account or when the transaction occurs. If the payee does not provide a TIN when you initially ask for it, you must begin backup withholding. In addition, to avoid a penalty for filing an incorrect information return, you must make a first annual solicitation by December 31 of the year in which the account is opened (for accounts opened before December) or January 31 of the following year (for accounts opened during the preceding December). If the payee does not provide a TIN after the first annual solicitation, you must make the second annual solicitation by December 31 of the year following the calendar year in which the account was opened.

For incorrect TINs: You must make up to two annual solicitations in response to the CP2100 or CP2100A Notice. You must send a B Notice within 15 business days after you receive a CP2100 or CP2100A Notice. If you receive a Proposed Penalty Notice (972CG) but not a CP2100 or CP2100A Notice, your annual solicitation must be made by December 31st of the year you received the Proposed Penalty Notice (972CG). However, if you already sent a B Notice in the calendar year in response

New Preparers & Reviewers - Webinar

3:00 – 4:30 p.m. ET

July 18, 2016

New FFIEC Guidance on Mobile Financial Services - Webinar

3:00 – 4:30 p.m. ET

July 19, 2016

Collection Concepts, Compliance & Risks - Advanced - Webinar

3:00 – 4:30 p.m. ET

July 20, 2016

Analyzing & Managing Escrow Accounts - Webinar

3:00 – 4:30 p.m. ET

July 21, 2016

Same Day ACH Deadline - Webinar

3:00 – 4:30 p.m. ET

July 26, 2016

Risks & Precautions for Endorsements & Other Negotiable Instruments - Webinar

3:00 – 4:30 ET

July 27, 2016

Understanding Letters of Credit: Rules, Responsibilities & Liabilities - Webinar

3:00 – 4:30 ET

July 28, 2016

Overdraft Outlook: Litigation Lessons, Avoiding Violations & Best Practices - Webinar

3:00 – 4:30 ET

to a CP2100 or CP2100A Notice, you do not have to send another solicitation in response to the proposed penalty notice. If the IRS notifies you in the next calendar year that a TIN is still incorrect, you must make a second annual solicitation within 15 business days after you receive the second CP2100 or CP2100A Notice.

Q: What should I do if a TIN was actually on file but was omitted from the Form 1099 or reported incorrectly?

A: Make any required change to your records and use the correct information on future filings. Do not send a “B” Notice to the payee.

Q: What should I do if this is the first notification and the Form W-9 is returned with the same incorrect information?

A: Keep the Form W-9 on file to show that the payee certified the Name/TIN combination. Do not backup withhold.

Q: Can a sole proprietor have an SSN or does he or she need an EIN?

A: A sole proprietor may have an SSN or an EIN. However, he or she must always furnish his or her individual name (on Name Line 1), regardless of whether he or she uses a SSN or an EIN. A sole proprietor may also provide a business name or Doing Business As (DBA) (on Name Line 2), but he or she must list his or her individual name first on the account with you.

Extended Exam Cycle Moves Forward With 2017 Implementation Likely

Last week, NCUA made some positive developments that suggest it will soon begin implementing an extended exam cycle for most credit unions with under \$1 billion in assets.

NCUA Chairman Metsger, [in a letter](#) to House Financial Services Committee Chairman Jeb Hensarling, stated that his goal was to have the extension in place for the 2017 exam cycle. Chairman Metsger also mentioned details on NCUA’s ongoing process to overhaul the agency’s call report and exam efforts.

In the letter, Metsger wrote, “As part of our efforts to modify the exam process, last month I proposed removing the requirement that every federal credit union, and all federally insured, state-chartered credit unions with more than \$250 million in assets, be examined each calendar

August 3, 2016
[Product Terms Part 2: Establishing New Product & Service Controls](#) - Webinar
3:00 – 4:30 ET

August 4, 2016
[15 Errors to Avoid When Conducting Internal Investigations](#) - Webinar
3:00 – 4:30 ET

August 9, 2016
[E-Mail Risks, Rules, Records & Regulations](#) - Webinar
3:00 – 4:30 ET

August 10, 2016
[Legally Handling ATM & Debit Card Claims Under Regulation E](#) - Webinar
3:00 – 4:30 ET

August 11, 2016
[Saving for Education: Coverdell & College Savings Plans](#) - Webinar
3:00 – 4:30 ET

August 16, 2016
[The Application Process for the New Mortgage Lender: Mortgage Application](#) - Webinar
3:00 – 4:30 ET

August 17, 2016
[Quarterly Supervisory Committee Series: Internal Controls & Due Diligence](#) - Webinar
3:00 – 4:30 ET

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

year. This prescriptive requirement creates a logjam of exams at the end of each year, which is neither effective nor efficient. My goal is to have the NCUA Board vote on this change within the next two months.”

The letter was prompted by Chairman Hensarling’s announcement, on June 7th, that his Dodd-Frank reform package known as the Financial CHOICE Act would include, among many other important provisions, an 18-month exam cycle for certain credit unions.

Additionally, on June 9th, Rep. Frank Guinta introduced a standalone bill H.R. 5419, which would amend the Federal Credit Union Act to extend the NCUA’s examination cycle to 18 months.

Your CU Should Know...

OFAC Terminates Fax-On-Demand Service: Due to lack of user demand, OFAC has terminated its fax-on-demand service (202-622-0077), effective Friday, June 10, 2016. General sanction program information remains publicly available on [OFAC's web site](#), including:

- [Specially Designated Nationals \(SDN\) List](#)
- [Consolidated Sanctions List](#)
- [Other OFAC Sanctions Lists](#)

Q&A: HUD SCRA Disclosure

Q: Is the HUD Servicemembers Civil Relief Act disclosure up-to-date?

A: Yes. On March 31, 2016, President Obama signed the S. 2393, the Foreclosure Relief and Extension for Servicemembers Act of 2015, to extend foreclosure protection for military homeowners from 90 days to a one-year period after military service ends. The provision expires on December 31, 2017. The U.S. Department of Housing and Urban Development's "Servicemembers Civil Relief Act Notice Disclosure" (Form 92070) reflects this extension. The expiration date on the form is 12/31/2017. Click [here](#) for the form.

For more information on the SCRA, visit [CUNA's e-Guide – Servicemembers Civil Relief Act](#)

GAO faults CFPB's internal controls and accounting: The Government Accountability Office has [published a report](#) that in its audit of the CFPB's fiscal years 2015 and 2014 financial statements, GAO identified deficiencies in CFPB’s internal control over accounting for property, equipment, and software that collectively constituted a significant deficiency in CFPB’s internal control over financial

reporting. Specifically, GAO found that CFPB did not effectively design or implement controls to (1) reasonably assure accurate and timely classification and recording of software costs and (2) maintain ongoing accuracy and completeness of property and equipment inventory records. The GAO found that the CFPB had completed corrective actions on two of the four recommendations from GAO's prior management report that remained open at the beginning of GAO's fiscal year 2015 audit. As a result, the CFPB currently has seven financial audit-related GAO recommendations to address: the previous two open recommendations and the five recommendations GAO made in the current report.

Comment Calls

CFPB Arbitration Rule

The Consumer Financial Protection Bureau (CFPB) is proposing sweeping changes to the use of pre-dispute arbitration clauses. Congress directed the CFPB to study pre-dispute arbitration agreements in the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). In 2015, the CFPB published and delivered to Congress a [study of arbitration](#). In the Dodd-Frank Act, Congress also authorized the Bureau, after completing the study to issue regulations restricting or prohibiting the use of arbitration agreements. Despite conflicting findings in the study, some of which show that consumers receive little or no relief from class action litigation, and that there are benefits to arbitration, the CFPB is moving forward with a rulemaking, which eliminates the use of class action waivers in mandatory arbitration agreements. In October 2015, the CFPB published Small Business Regulatory Enforcement Fairness Act (SBREFA) proposals in conjunction with a [Small Business Review panel](#).

GCUA would like to know your thoughts and/or concerns with this proposal. Please email Selina Gambrell at selinag@gcua.org by **August 2nd**.

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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