

InfoSight Highlight

Recent Content Updates

New Topic! FFIEC Cybersecurity Assessment Tool

In June 2015, the Federal Financial Institutions Examination Council (FFIEC) launched their Cybersecurity Assessment Tool to help institutions identify their risks and assess their cybersecurity preparedness. This topic provides an overview of the components of the new tool, a link to the tool itself and some additional links to resources from the NCUA. This [new topic](#) is now available in the [Security Channel](#).

Servicemembers (and Dependent) Consumer Lending: Summary

In order to provide credit unions with resources to comply with the changes to the Military Lending Act (compliance required on October 3, 2016) we have updated the [Servicemembers \(and Dependent\) Consumer Lending](#) page in InfoSight. The Additional Resources section has also been updated to include the resources published by CUNA on this topic.

Elder Financial Exploitation: Summary

The [Elder Financial Exploitation](#) topic, located in the [Security Channel](#), was updated to include information about state laws and a link to the U.S Department of Health and Human Services' list of laws related to elder abuse.

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

Compliance News

Military Lending Act - Compliance Call

Save the Date! July 20 at 10:00 a.m.

Join us for a compliance call covering the new Military Lending Act (MLA). Department of Defense rules dramatically expand the MLA's coverage to almost all forms of credit within the Truth in Lending Act's scope, other than residential mortgages and purchase money loans, so that a wider range of creditors will be prohibited from charging more than 36% interest or requiring consumers to submit their disputes to arbitration.

Rule change compliance is required October 3, 2016. Mandatory compliance as to the credit card provisions is extended to October 3, 2017.

Join us as Suzanne Vesper, from Shery & Jones, P.A., leads this discussion.

Call-in information and handouts will be pushed out to newsletter subscribers prior to the call.

InfoSight
Compliance eNEWSLETTER
July 11, 2016
Vol. 10, Issue 28
Created in partnership with the



Credit Union National Association

Compliance Video

CU Compliance Connection

This **new video** provides an overview of the key changes made to the Military Lending Act that credit unions are going to need to consider and implement prior to the compliance effective date of October 3, 2016. View the video [here](#).

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

July 25
5300 Call Report Due to NCUA

September 5, 2016
Labor Day - Federal Holiday

September 23, 2016
Same-day ACH (NACHA) – Phase

Send us your MLA questions now to compliance@gcua.org, so we address your needs during the call.

Regulatory Alert 16-RA-05 for All Federally Insured Credit Unions

The Consumer Financial Protection Bureau (CFPB) issued regulatory alert [16-RA-05](#), which amended three final rules that amend Regulation Z, which implements the Truth-in-Lending Act. The amendments apply to credit unions that originate or service closed-end mortgages secured by a dwelling, including small creditors operating in rural or underserved areas. They affect some special provisions and exemptions related to the ability to repay/qualified mortgage rule, balloon-payment high-cost mortgages, and escrow requirements for higher-priced mortgage loans.

Taken together, the changes made by these final rules may give credit unions more flexibility in complying with applicable standards by making it more likely your credit union can be considered to be a small creditor or to be operating in a rural or underserved area. The one exception is a provision requiring you to count the assets of an affiliate originating covered mortgages toward the asset threshold for small-creditor status. The main changes made by the final rules:

- Revise the definition of "small creditor" to -
 - Increase the number of mortgage loans you and your affiliates can make and still maintain small-creditor status, and
 - Count the assets of mortgage-originating affiliates towards the asset limit for small-creditor status;
- Revise the definition of "rural area" to include a census block that is not in an urban area;
- Establish a process for applying to CFPB to have an area designated as "rural";
- Provide that creditors operate in a rural or underserved area if they make one loan in such an area, changing the previous standard of making more than 50 percent of loans in rural or underserved areas; and
- Make technical changes and clarifications to Regulation Z and the related commentary.

The three final rules have different effective dates, but the changes were fully effective on March 31, 2016. The enclosed chart and summary explain the changes, and the summary discusses steps to take if your credit union relies on provisions applicable to small creditors or creditors operating in a rural or underserved area. Please see the enclosures below.

[Charts of Changes Relating to Small Creditors and Rural or Underserved Areas under the Truth in Lending](#)

Q&A: The Impact of a New Loan Payment on a 1099-C Filing?

Q: We filed a 1099-C form with the IRS when we hadn't received payment on a debt for 36 months. The member has now made a payment on this debt. Do we need to file an amended 1099-C?

[1 of the implementation period for the rule](#)

October 3rd, 2016:
[DOD Military Lending Act Regulation - Effective Date](#)

October 3rd, 2016:
[NACHA's Network Quality Rule](#)

October 10th, 2016:
Columbus Day - Federal Holiday

October 24th, 2016:
[5300 Call Report Due to NCUA](#)

November 6th, 2016:
Daylight Saving Time Ends

November 11th, 2016:
Veterans' Day - Federal Holiday

November 24th, 2016:
Thanksgiving Day - Federal Holiday

December 25th, 2016:
Christmas Day - Federal Holiday

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

Compliance Training

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

A: No. Once you have filed a Cancellation of Debt Form 1099-C, the IRS does not require any additional, amended or corrected 1099-C forms to be filed in connection with that debt. The IRS has stated that the filing of corrected 1099-C forms would neither improve tax compliance nor reduce debtors' confusion.

Since you brought up the "36-month non-payment" rule, we would like to take the opportunity to remind you that the IRS currently has a proposal pending that would eliminate this rule.

As you know, credit unions are required to file Form 1099-C when an "identifiable event" indicates that a debt of \$600 or more during a calendar year will not be repaid. The IRS rule lists nine "identifiable events", for example, a discharge in bankruptcy, foreclosure, expiration of the statute of limitations for collecting the debt, agreement between credit union and debtor, the 36-month period of non-payment, and more.

Notably, the 36-month period of non-payment rule does include a rebuttable presumption. The creditor may rebut the presumption that the debt will never be repaid if the creditor has engaged in "significant bona fide collection activity" at any time within the 12-month period ending at the close of the calendar year following the expiration of the 36-month non-payment period.

This rule has resulted in a lot of confusion for both debtors and creditors. Debtors often mistakenly believe that receipt of this form means their debt has been cancelled, and creditors are often uncertain of whether they may continue collection activities on these debts once the Form 1099-C has been filed. Other times, the amount reported on the Form 1099-C may not be the same as the amount that the debtor is required to report as income.

For these reasons, the IRS has proposed to remove the 36-month non-payment rule. (Federal Register, October 15, 2014). The IRS' Spring 2016 agenda lists this proposal to become final in December. We'll keep you posted.

Pulling credit reports for cross-selling purposes

Credit reports only can be obtained if the user has a "permissible purpose," as defined in the Fair Credit Reporting Act, and a credit report cannot be obtained for a permissible purpose (in connection with a loan application) and then used for an impermissible one (cross-selling additional products and services).

Section 604(a) of the FCRA allows a credit bureau to release a consumer report to a credit union when authorized in writing by the consumer to whom the report relates, or when the credit bureau has reason to believe that the credit union intends to use the information:

- In connection with a credit transaction involving the consumer that involves the extension of credit to the consumer, or a review or collection of the consumer's account;
- For employment purposes (requires applicant/employee's written authorization);
- In connection with insurance underwriting involving the consumer; or

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 p.m. ET

July 27, 2016
Understanding Letters of Credit: Rules, Responsibilities & Liabilities - Webinar
3:00 - 4:30 p.m. ET

July 28, 2016
Overdraft Outlook: Litigation Lessons, Avoiding Violations & Best Practices - Webinar
3:00 - 4:30 p.m. ET

August 3, 2016
Product Terms Part 2: Establishing New Product & Service Controls - Webinar
3:00 - 4:30 p.m. ET

August 4, 2016
15 Errors to Avoid When Conducting Internal Investigations - Webinar
3:00 - 4:30 p.m. ET

- When the credit union otherwise has a legitimate business need for the information in connection with a business transaction that is initiated by the consumer or to review an account to determine whether the consumer continues to meet the terms of the account.

In general, marketing is not a permissible purpose. The only exception is making pre-screened credit solicitations in accordance with [this section](#) of the FCRA.

Your CU Should Know...

Bureau proposes to update Reg P for FAST Act changes: The Consumer Financial Protection Bureau (CFPB) has announced a proposal to implement recent Congressional legislation that allows financial institutions that meet certain requirements to be exempt from sending annual privacy notices to their customers. In December 2015, Congress amended the GLBA as part of the Fixing America's Surface Transportation Act (FAST Act). This amendment provides financial institutions that meet certain conditions an exemption to the requirement under the GLBA to deliver an annual privacy notice. A financial institution can use the annual notice exception if it limits its sharing of customer information so that the customer does not have the right to opt out and has not changed its privacy notice from the one previously delivered to its customer. The proposed amendment would implement this legislation. The proposal would also establish deadlines for institutions resuming annual privacy notices if their practices change and cease to qualify for the exemption.

Because the proposal would render obsolete the alternative delivery method in Regulation P section 1016.9(c)(2), the Bureau proposes to eliminate that alternative. Comments on the proposal will be accepted until August 10, 2016.

Pharmaceutical firms pay \$7.6M for OFAC violations: OFAC has [announced](#) that Alcon Laboratories, Inc., Fort Worth, Texas, Alcon Pharmaceuticals Ltd., Fribourg, Switzerland, and Alcon Management, SA, Geneva, Switzerland (collectively, "Alcon") have agreed to settle potential civil liability with OFAC in the amount of \$7,617,150 for apparent violations of the Iranian Transactions and Sudanese Sanctions Regulations. An OFAC investigation found Alcon violated sanctions regulations on 513 occasions when it engaged in the sale and exportation of medical end-use surgical and pharmaceutical products from the United States to distributors located in Iran and Sudan without OFAC authorization.

July designated Military Consumer Protection Month: The The Consumer Financial Protection Bureau Blog [announces](#) the designation of July as Military Consumer Protection Month. This annual event was first launched in 2013 as Military Consumer Protection Day by the Federal Trade Commission as a way to raise awareness about identity theft crimes impacting service members, but now it's become a national month-long campaign supported by more than [50 partners](#) including the NCUA. Servicemembers are reminded to review the CFPB's [servicemember resources](#) for more information.

CFPB reports \$24.5M in restitution to consumers: The CFPB has announced the release of a report that its supervisory actions in the first four months of the year uncovered illegal activities in auto finance and payments that led to approximately \$24.5 million in restitution to more than 257,000

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

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

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

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

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

August 18, 2016
[Lending Series: Consumer Loan Documentation](#) - Webinar
3:00 - 4:30 p.m. ET

August 23, 2016
[Complying with Final Military Lending Act Rule Changes Effective October 3, 2016](#) - Webinar
3:00 - 4:30 p.m. ET

August 24, 2016
[Audit Compliance Series: Auditing for BSA Compliance](#) - Webinar
3:00 - 4:30 p.m. ET

August 25, 2016
[Annual MLO Compliance Requirements & Auditing for SAFE Act](#) - Webinar
3:00 - 4:30 p.m. ET

August 30, 2016
[Frontline Series: Essential](#)

consumers. The report also highlights issues CFPB examiners found through the agency's examination of businesses in auto loan origination, debt collection, mortgage origination, and small-dollar lending.

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**.

Small-Dollar Payday, Vehicle Title and Certain High-Cost Installment Loans

On June 2, in conjunction with a field hearing in Kansas City, Missouri, the CFPB released a more than 1,300-page rule for Payday, Vehicle Title, and Certain High-Cost Installment Loans. The CFPB released the Small Business Regulatory Enforcement Fairness Act (SBREFA) proposals, prior to a Small Businesses Review Panel, for this rule more than a year ago. We have concerns that the rule will sweep in consumer-friendly credit union small-dollar loan products.

While the CFPB's proposed rule addresses some of the concerns raised by CUNA and credit unions prior to its release, and purports to exempt the National Credit Unions Administration's (NCUA) Payday Alternative Loan (PAL) program as requested, in actuality it adds many new regulatory and compliance burdens for federal and state-chartered credit unions working to underwrite consumer friendly small-dollar options. The added requirements and changes to the PAL program eliminate flexibility in offering these loans, and will likely make many credit unions reevaluate their participation in the program. The rule also does not account for the diverse and unique structure of consumer-friendly small-dollar loans offered at state-chartered credit unions. To read CUNA's summary of the proposal [click here](#). GCUA would like to know your thoughts and/or concerns with this proposal. Please email Selina Gambrell at selinag@gcua.org by **August 15th**.

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,

[Compliance Regulations for the Frontline](#) - Webinar

3:00 - 4:30 ET

August 31, 2016

[IRA Conversions &](#)

[Recharacterizations:](#)

[Understanding Requirements &](#)

[Avoiding Errors](#) - Webinar

3:00 - 4:30 ET

September 7, 2016

[Financial Literacy Part 1:](#)

[Understanding the NCUA](#)

[Regulation & the 7 Critical Risk](#)

[Areas Directors Should Track](#) -

Webinar

3:00 - 4:30 ET

September 8, 2016

[Lending Series: Writing Effective](#)

[Credit Memos & Loan Narratives](#) -

Webinar

3:00 - 4:30 ET

September 12, 2016

[New Customer Due Diligence](#)

[Rules for Beneficial Ownership:](#)

[Implementation Game Plan](#) -

Webinar

3:00 - 4:30 ET

September 13, 2016

[Navigating Compliance Issues for](#)

[Promotions, Bonuses, Contests &](#)

[Sweepstakes](#) - Webinar

3:00 - 4:30 ET

BSA Training Opportunities through GCUA

[Click here for details](#)

and influence government agencies and federal law. You can view the current report and past reports from the archive.

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