

InfoSight Highlight

Expedited Funds Availability: Regulation CC

The Availability of Funds and Collection of Checks (Regulation CC or Reg CC) requires state and federally chartered credit unions and other financial institutions to provide members with disclosures stating when their funds will be available for withdrawal. The Federal Reserve Board issued Regulation CC to implement the Expedited Funds Availability Act, which is made up of four subparts:

- *Subpart A* contains general information and defines the various terms and deposit items.
- *Subpart B* contains rules regarding availability schedules for the withdrawal of funds deposited, along with various disclosure policies.
- *Subpart C* contains rules to expedite the collection and return of checks.
- *Subpart D* provides rules to address substitute checks.

Subpart A: General Deposit Rules

The day the deposit is made is the starting point for determining when funds must be available for withdrawal. The day funds are deposited will vary depending on the circumstances of the deposit:

- Funds received at a staffed teller station are considered deposited when received by the teller.
- Funds mailed to the depository credit union are considered deposited on the banking day they are received.
- Funds received at a night depository are considered deposited on the banking day the deposit is removed, and the contents of the deposit are accessible for processing.
- Funds received at an ATM are considered deposited when the funds are placed in the ATM.
- Funds received at an off-premises ATM that is not serviced frequently (not more than two times each week) are considered deposited on the day they are removed from the ATM. Credit Unions must post a notice at the ATM informing depositors that funds deposited may not be considered received on the day of deposit.

GEORGIA CREDIT UNION

Affiliates

InfoSight
Compliance eNEWSLETTER

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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 video, 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 video [here](#).

Compliance Calendar

September 5, 2016
Labor Day - Federal Holiday

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

A deposit received on a day that the depository credit union is closed, or after the credit union's cut-off hour, may be considered made on the next banking day. A credit union may establish a cut-off hour for receipts of deposits in any branch office, ATM, contractual branch, or off-premises facilities. Also, a credit union may establish different cut-off hours for different types of deposits or for deposits received at different locations, so long as the minimum cut-off hours are followed.

Subpart B: Availability Schedules

Regulation CC states when deposits of various types must be made available to members. All references to the number of business days indicate the maximum time limits for making funds available. Credit unions may provide earlier availability times and may extend the times set by Regulation CC on a case-by-case basis.

For additional information, click [here](#) for the topic.

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

Compliance News

NMLS Expands Functionality to Include MSBs

Money service businesses (MSBs) are losing access to traditional financial services. Oftentimes, credit unions (and banks) refuse to open these accounts due to increased regulatory scrutiny by examiners, perceived high-risk and the additional compliance costs and burdens associated with maintaining these accounts.

Over the past few years, FinCEN has expressed concern with what they call "de-risking" of the MSB industry. The agency defines "de-risking" as when "a financial institution seeks to avoid perceived regulatory risk by terminating, restricting, or denying services to broad classes of clients, without case-by-case analysis of risk or consideration of mitigation options." FinCEN has stated numerous times that it does not support the "de-risking" of any industry without a sufficient risk assessment and determination of whether the financial institution has the ability to manage the risk.

To assist with the MSB risk assessment, the Nationwide Multistate Licensing System (NMLS) (a licensing system initially developed to keep track of bad actors in the mortgage licensing area) expanded its functionality in 2012 to include MSBs. Currently 34 state agencies, including Georgia, are using NMLS for MSB licensure, and more agencies are expected to follow as they adjust their laws and regulations.

Additionally, there is a state effort underway to develop a unified MSB

Phase 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

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

Call Report. The Conference of State Bank Supervisors (CSBS) reports that this will provide the state and federal regulators with standardized information about MSB activities that will allow them to better assess risk and identify trends.

If your credit union services MSB accounts or is considering opening these accounts, this is all good news and will hopefully reduce some of the compliance risks and costs of servicing these accounts.

For more information, see "[The State of State Money Services Businesses Regulation & Supervision](#)" white paper developed by CSBS and the Money Transmitter Regulators Association (MTRA).

Fed 'Soft Implementation' for ACH Quality Fee

Recently, the Federal Reserve Financial Services [notified](#) clients of a "soft implementation" of NACHA's new \$4.50 fee for unauthorized ACH entries. NACHA rules provide that, beginning October 3, 2016, an ODFI will be assessed a fee for each ACH debit that is returned as unauthorized (return reason codes R05, R07, R10, R29, and R51). As a means of compensating the RDFI for a portion of the costs associated with handling unauthorized transactions, the fee collected from the ODFI will be credited to the RDFI.

FedACH Services will start a "soft implementation" of the associated software changes on August 1, 2016, so that FedACH Services customers will receive item counts of unauthorized return items originated and received, but with no accompanying fee assessment. Billing statements for August and September 2016, received in September and October respectively, will provide FedACH Services customers with an early glimpse at their unauthorized return item volumes. While the "soft implementation" period is intended to give FedACH Services customers an opportunity to familiarize themselves with the functioning of the new fees, it is also an opportunity for ODFIs to identify those originators generating unauthorized returns. Actual fees will be seen on November 2016 billing statements, based on October data.

Q&A: Private Flood Insurance

Q: Can you tell me where to find the regulations that address substituting private for federal flood insurance? NCUA's Part 760.9 only mentions "private flood insurance" when describing the contents of the "notice of special flood hazards." Is there any

Conducting Internal Investigations

Webinar

3:00 - 4:30 p.m. ET

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

additional guidance that I'm missing?

A: You can't find additional guidance on private flood insurance because NCUA and the banking agencies haven't issued these regulations yet.

The Biggert-Waters Flood Insurance Reform Act of 2012 included a provision requiring lenders to accept private flood insurance policies if the coverage satisfied the standards specified in the Act. This provision, however, will not become effective until the agencies issue implementing regulations.

On July 21, 2015, the agencies published [amended flood insurance regulations](#) to implement changes required by the Biggert-Waters Act and the Homeowner Flood Insurance Affordability Act of 2014. The final regulation incorporated statutory amendments related to: the force-placement of flood insurance; the exemption for detached structures; and the escrow requirements for flood insurance payments. The missing piece: the Biggert-Waters private flood insurance provisions. The agencies plan to address this outstanding issue in a separate rulemaking.

Also note that there is pending legislation that would further clarify that private flood insurance is to be treated the same as federal flood insurance in cases where homeowners with federally-backed mortgages are required to buy the coverage. The Flood Insurance Market Parity and Modernization Act (H.R. 2901) was approved by the House in April 2016 and has been referred to the Senate Committee on Banking, Housing, and Urban Affairs for consideration but has not received a hearing.

Stay tuned for further developments on both of these fronts!

Visit [CUNA's e-Guide](#) for more information on flood insurance.

CUNA Fair Lending Workshop Scheduled for August 15th and 16th

From its humble beginnings five years ago today, the Consumer Financial Protection Bureau (the "Bureau") has made compliance with fair lending laws a top priority. In its April 2016 report to Congress, the Bureau identified fair lending supervisory and enforcement actions against financial institutions that provided approximately \$108 million in remediation and other monetary payments. And with the release of its 797-page final rule prescribing sweeping changes to the Home Mortgage Disclosure Act, the Bureau tipped its hand that compliance with fair lending laws will continue to be in its crosshairs for the foreseeable future.

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 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 &](#)

To ensure your credit union has the information and resources that it needs to pass muster under this regulatory microscope, the Credit Union National Association is hosting its first ever Fair Lending Workshop. At this two-day event, participants will hear directly from experts in the industry. Day one will focus on identifying regulatory requirements, providing tips for developing a comprehensive fair lending program at your institution, and sharing steps your credit union can take to avoid common violations. Day two will be highly interactive with a series of case studies showing what examiners look for in loan files and instruction on how to conduct self-testing within your cooperative.

The workshop is scheduled for August 15th and 16th at the Embassy Suites by Hilton Downtown Convention Center in Denver, Colorado. For more information and to register, please click [here](#).

Your CU Should Know...

Compliance Road Trip in Georgia

In four locations, September 12-14

North and South Atlanta, Macon and Savannah

Ever want to be in a room filled with compliance geeks to learn and talk about things that make all your friends roll their eyes, well here's your chance! Join us for a half day of compliance Hot Topics and Best Practices! We will cover old and new topics including: Fair Credit Reporting Act, Military Lending Act, website and social media compliance, quality control within the credit union's walls, the CFPB's next move and more. This will also be a perfect networking opportunity with other compliance professionals. Click [here](#) for the event flier (PDF).

To register go to www.gcu.org, the second scrolling banner will take you to an information page along with a link for registration.

Military Lending Act recording now available: GCUA hosted a call recently on the new rules from the Department of Defense regarding lending to active duty personnel. If you missed it, the call is archived on the GCUA website under the Compliance tab, then Compliance Conference Calls. The recording is in a password protected area so if you need a password, apply for one right on the page. In addition to the call, links are provided to the actual rule and to the website utilized for proof of active duty status for Military Lending Act purposes.

Q&A: Application Fees

Q: We are considering charging an application fee for all of our loans. If

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 12-14, 2016

Georgia Compliance Road Trip

North and South ATL, Macon and Savannah

Check link for times

September 13, 2016

Navigating Compliance Issues

for Promotions, Bonuses,

Contests & Sweepstakes

Webinar

3:00 - 4:30 ET

September 19, 2016

HMDA Roadmap Part 1:

Impact, Important Changes &

Implementation Considerations

for Lenders

Webinar

3:00 - 4:30 ET

September 20, 2016

Director Series: Director &

Officer Liability: Rules, Risks

& Trends

Webinar

3:00 - 4:30 ET

September 21, 2016

ACH for the Frontline

Webinar

3:00 - 4:30 ET

we charge the fee and return it to those that are approved, is the fee considered a finance charge?

A: The answer to this question is no. Section 1026.4 (c)(1) of Regulation Z ([Truth in Lending](#)) says that application fees charged to all applicants for credit, whether or not credit is actually extended, is not considered a finance charge.

According to the Commentary of Reg Z, 1026.4(c)(1), that means you can refund an application fee to people who are approved for credit without disclosing the fee as a finance charge. The reasoning behind this opinion is that, in effect, people who get the loan are not charged a fee so there is nothing to include in the finance charge. However, the reverse situation would be different.

If the credit union were to charge an application fee to all applicants and only return it to those who are not approved, the fee would be considered a finance charge. Why is it different in this case? Because it would be a fee charged in connection with receiving credit for those who were approved for the loan.

CFPB monthly spotlight shines on credit card complaints:

The CFPB has [released its monthly complaint snapshot for July 2016](#), which highlights consumer complaints about credit cards. The report shows that consumers continue to complain about trouble receiving clear information from their credit card issuers regarding creditworthiness, and the assessment of payments and fees. This month's report also highlights trends seen in complaints coming from Washington state and the Seattle metro area. As of July 1, 2016, consumers in that area have submitted 18,900 of the 930,700 complaints handled by the Bureau.

New and updated Cuban travel FAQs:

OFAC has [announced](#) the update of its [Frequently Asked Questions regarding Cuba](#) with the issuance of one new FAQ (#38) and the revision of one existing FAQ (#39) relating to certain information collection and recordkeeping requirements for persons subject to U.S. jurisdiction who provide authorized carrier or travel services to or from Cuba for specifically licensed travelers.

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

September 22, 2016

[Debt Collection Series: Best Practices for Garnishments & Levies: Getting It Right!](#)

Webinar

3:00 - 4:30 ET

September 27, 2016

[Cyber Series: Mobile Remote Deposit Strategies: Technology, Deployment Models & Risks](#)

Webinar

3:00 - 4:30 ET

September 28, 2016

[Clarifying Signature Card Confusion for Personal & Business Accounts: Compliance, Account Titling & Ownership](#)

Webinar

3:00 - 4:30 ET

September 29, 2016

[Maximizing LinkedIn to Build a "Social Selling" Culture](#)

Webinar

3:00 - 4:30 ET

October 4, 2016

[Handling Dormant Accounts, Unclaimed Property & Escheatment](#)

Webinar

3:00 - 4:30 ET

October 5, 2016

[Essential Compliance Regulations for Deposit Operations](#)

Webinar

3:00 - 4:30 ET

October 6, 2016

[Avoiding the Top 10 Legal & Compliance Mistakes in the E-](#)

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@gcu.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@gcu.org by **September 16th**.

The [CUNA Advocacy Update](#) keeps you on top of the most important changes in Washington for credit unions – and what CUNA is doing to

[Statement Process](#)

Webinar

3:00 - 4:30 ET

BSA Training Opportunities
through GCUA

[Click here for details](#)

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@gcu.org.