



**CU Compliance Connection**

**Military Lending and 3rd Quarter 2016 Review (NEW!)**

This 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](#).

Be sure to view this [new video](#), where Glory LeDu, Manager of League System Relations, provides an overview of the compliance challenges your credit union is facing now in the 3rd quarter of 2016.

**New Compliance Video: Same Day ACH Preview**

In this newly released video,

**InfoSight Highlight**

BSA: FinCEN BSA Leadership Expectations

**Engaging Leadership**

A successful BSA/AML program requires the participation and encouragement of leaders at all levels of the credit union, including the Board of Directors, Senior and Executive Management, and at lower levels of management. The program should have the demonstrable support of the leadership, and leadership should receive position appropriate periodic training. An understanding of BSA/AML obligations and compliance will help the credit union make appropriate decisions when allocating resources to the BSA/AML functions. Leaders should also remain informed of the state of BSA/AML Compliance on an ongoing basis.

**Compliance Should Not Be Compromised by Revenue Interests**

Compliance staff should be empowered with sufficient authority and autonomy to implement the credit union's AML program. The pursuit of revenue should not compromise efforts to effectively manage and mitigate BSA/AML deficiencies and risk, including the timely submission of appropriate and accurate reports to FinCEN. The structure of the credit union should allow for the BSA/AML function to work independently and to take the appropriate actions necessary to address and mitigate any risks.

FinCEN makes it clear that any inappropriate activity must be investigated thoroughly, and appropriate action taken regardless of the impact on revenue. The sales or marketing unit of the credit union should not have any express or implied authority to veto a compliance decision, especially based on sales grounds.

**Leadership Should Provide Adequate Human and Technological Resources**

The credit union should have a dedicated BSA/AML compliance officer that is responsible for coordinating and monitoring day-to-day compliance with BSA. This person should have the sufficient authority, knowledge, and training to administer the BSA/AML program. If

additional resources are needed, the credit union should devote sufficient support staff to carry out the task, especially when the credit union's risk profile indicates a higher risk for suspicious activity.

FinCEN stresses that the failure to devote appropriate resources and staff to a BSA/AML compliance function could result in other failures. Since financial institutions have staff that review alerts generated by transaction monitoring systems, devoting insufficient staff and resources may result in alerts not being properly scrutinized, due to backlog or improper identification. Credit unions should be prepared to provide sufficient resources to make sure these functions are properly handled.

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

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

Amy Smith, VP and Executive Director of The Clearing House Payments Authority, provides background information on the current batch-and-forward ACH payment system and introduces the "Phased Approach" of the Same Day ACH program, which will begin in September of 2016. You will want to pay special attention to Amy's suggestion to review current ACH files you may be transmitting. View the video [here](#).

## Compliance News

### Bureau Issues Final Servicing Rule Changes

The CFPB has issued a final rule to require residential mortgage loan servicers to provide certain borrowers with foreclosure protections more than once over the life of the loan, clarify borrower protections when the servicing of a loan is transferred, and provide important loan information to borrowers in bankruptcy. The changes also help ensure that surviving family members and others who inherit or receive property generally have the same protections under the CFPB's mortgage servicing rules as the original borrower. The Bureau issued a proposed rule in November 2014, but has made several changes in the final rule based on comments received from the public. The rule will:

- require servicers to provide certain borrowers with foreclosure protections more than once of the life of their loan;
- expand consumer protections to surviving family members and other homeowners (successors in interest) when a borrower dies;
- require servicers to notify borrowers when loss mitigation applications are complete;
- protect struggling borrowers during servicing transfers;
- clarify servicers' obligations to avoid dual-tracking and prevent wrongful foreclosures; and
- clarify when a borrower becomes delinquent.

The rule also provides servicers some flexibility to comply with certain force-placed insurance and periodic statement disclosure requirements, and clarify several requirements regarding early intervention, loss mitigation, information requests, and prompt crediting of payments, as well as the small servicer exemption.

## Compliance Calendar

September 5, 2016

Labor Day - Federal Holiday

September 23, 2016

Same-day ACH (NACHA) – 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

Additionally, the Bureau issued an [interpretive rule](#) under the Fair Debt Collection Practices Act relating to servicers' compliance with certain mortgage servicing provisions as amended by the final rule.

Most of the provisions of the final rule will take effect 12 months after publication in the Federal Register. The provisions relating to successors in interest and the provisions relating to periodic statements for borrowers in bankruptcy will take effect 18 months after publication.

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#### CFPB Releases New HMDA Resources

The new HMDA rule will be here before we know it, and the CFPB has just added some new resources to its [HMDA Implementation page](#) to help get you up to speed on the new requirements well in advance of the implementation dates. The bulk of the new rule becomes effective January 1, 2018; however, one change in coverage that narrows the scope of depository institutions subject to the rule becomes effective January 1, 2017.

New resources available on the CFPB website include a new [webinar](#) (the first in series of HMDA webinars) by CFPB staff that provides an overview of the final rule and key dates, as well as a [transactional coverage chart](#) to help determine whether a particular transaction is reportable under the rule. A [PDF](#) of the sample data collection form from Appendix B of the final rule has also been posted, as well as a [technology preview](#) of the new HMDA platform.

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#### New CDD Requirements Find Support in FinCEN Geographic Targeting Orders

In January 2016, the Financial Crimes Enforcement Network (FinCEN) stated that it was concerned with the money-laundering vulnerabilities associated with all-cash real estate transactions. To that end, FinCEN issued Geographic Targeting Orders (GTOs) that required title insurance companies in Manhattan and Miami-Dade County to identify and report the beneficial owner(s) behind legal entities involved in high-end residential real estate transactions.

On July 27th, FinCEN announced these initial GTOs showed that "a significant portion of covered transactions have indicated possible criminal activity associated with the individuals reported to be the beneficial owners behind shell company purchasers." As a result,

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

November 24th, 2016:  
Thanksgiving Day - Federal Holiday

December 1, 2016:  
Overtime Rule - Department of Labor

December 25th, 2016:  
Christmas Day - Federal Holiday

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

#### Compliance Training

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](#)

FinCEN will be expanding its GTO coverage to also include the following geographic areas:

- New York, New York
- Broward and Palm Beach counties in Florida
- Los Angeles, California
- San Francisco, California
- San Diego, California; and
- San Antonio, Texas

The GTOs are effective for 180 days beginning on August 28, 2016.

This announcement provides significant support for FinCEN's final rule issued in May of this year enhancing customer due diligence requirements for financial institutions. Below is a quick summary of the new CDD requirements, which take effect on May 11, 2018.

**FinCEN Enhanced Customer Due Diligence Requirements**

- Credit unions will be required to identify and verify the beneficial owner(s) of legal entities.
- Beneficial owners are defined as:
  - A person with significant responsibility to control the legal entity (e.g. CEO, CFO, COO, etc.) and if applicable;
  - Any person who owns a 25% or more equity interest in the legal entity.
- Legal entities are defined as entities formed by a filing with the Secretary of State (or similar office) such as corporations, LLCs and partnerships.
- Credit unions must obtain a Certification of Beneficial Owner identifying each beneficial owner of a legal entity and verify the identity of those owners consistent with its existing CIP practices.

Click [here](#) to review the CDD Checklist from cuna.org.

**Q&A:** How the New CDD Rule Applies to Trust Accounts and DBAs

**Q:** I'm looking at the list of exemptions in the new CDD rule and can't find Trusts or "doing business as" (DBA) accounts. Are they covered by the new beneficial owner requirements effective in 2018?

**A:** For trust accounts, it will depend on the trust. Business trusts are created by a filing with a state office (statutory trusts), which are included in the definition of "legal entity" in the rule, which means they are covered by the requirements.

**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 &  
Loan Narratives

**Webinar**  
**3:00 - 4:30 ET**

Non-statutory trusts (which are more common at credit unions) are contractual arrangements between the person who provides the funds or other assets and specifies the terms (grantor) and the person with control over the assets (beneficiaries). Formation of this type of trust does not generally require any action by the state – so these trust do not meet the definition of "legal entity" for purposes of this rule. FinCEN recognizes that identifying a "beneficial owner," as defined in the rule, from among these parties would be impossible.

FinCEN further notes that where 25 percent or more of the equity interests of a legal entity are owned by a trust (other than a statutory trust), credit unions would collect and verify the identity of the trustee. In this case, the individual opening the account would still be the one required to provide the credit union with the beneficial owner information.

FinCEN also reminds credit unions that although they are not required to look through a trust to its beneficiaries, they "may need to take additional steps to verify the identity of a member that is not an individual, such as obtaining information about persons with control over the account."

In regard to DBAs, if it is a sole proprietorship the rule does not apply. If it is a corporation, LLC, general partnership or other similar entity that is created by filing a public document with a state or federal office, it is considered a "legal entity" under this rule.

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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.gcua.org](http://www.gcua.org), the second scrolling banner will take you to an information page along with a link for registration.

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**

September 22, 2016  
[Debt Collection Series: Best Practices for Garnishments & Levies: Getting It Right!](#)



**Q&A: Why does the board have to approve new members at every board meeting?**

**Q:** I was recently at a meeting and was reminded that frequently credit unions just keep doing things because that is how it has always been done. That got me thinking – why does the board of directors of my credit union approve a list of all new members at every board meeting?

**A:** Both the Federal Credit Union Act (see section 113 of the FCUA: 12 U.S.C. 1761b) and the State Credit Union Act (OCGA 7-1-656 (a) (1)) specifically list under the duties of board members to act on all applications for membership. That can be done in a variety of ways. Either as you describe by your board monthly approving a list of new members or as quite a few credit unions do by having your board appoint a membership officer to approve those applications. It should be noted that the following positions should not be appointed as the membership officer: CEO/Manager, Vice President/Assistant Manager, CFO/Treasurer/ Asst. Treasurer, Loan Officer and any board member paid by the credit union. It is still prudent to review all account openings and closings with the board, and this can be done by sharing a high-level report that describes how many new accounts are opened and closed during the month and also a running total for YTD numbers.

**HUD and Richmond settle discrimination complaints:** HUD has announced that it has approved an agreement with the City of Richmond, Virginia, settling 14 complaints of housing discrimination filed against the City by Hispanic residents. The complaints alleged that the City of Richmond selectively enforced its code requirements against residents of the City’s mobile home parks, who are predominantly Hispanic. The complainants, who are current or former residents of mobile home parks in Richmond, alleged that, due to their national origin, the City imposed unreasonable and legally unjustified requirements that they had to meet to avoid condemnation of their homes; intimidated and harassed them by conducting intrusive inspections with armed police escorts and threatening criminal court action and large monetary fines; and failed to provide meaningful access to residents who have limited English proficiency. Under the terms of the agreement, Richmond will pay \$30,000 in damages to some of the complainants, analyze its language access needs, develop a language access plan; and conduct outreach to the Spanish-speaking community.

**NCUA digital banking guidebook:** The NCUA has released a new guidebook to help credit unions better meet members’ needs for digital banking services. Going Digital: Strategies for Providing Digital Services provides step-by-step instructions for creating a strategic plan for analyzing members’ needs and tailoring digital products to meet

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-Statement Process

Webinar  
**3:00 - 4:30 ET**

those needs. It also details potential advantages and disadvantages to members and credit unions.

## Comment Calls

### 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](mailto: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 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.**

Bookmark InfoSight

No need to go through the Georgia Credit Union Affiliates home page to access InfoSight. Simply add the following link to your bookmarks: <http://ga.leagueinfosight.com/>.

**Need a BSA, ACH or Website review? Email [compliance@gcu.org](mailto:compliance@gcu.org).**

October 11, 2016  
[HMDA Roadmap Part 2: Operations Systems, Audit & Reporting Implications](#)

Webinar  
**3:00 - 4:30 ET**

October 12, 2016  
[Frontline Series: Skills & Tools for Improving Teller Performance](#)

Webinar  
**3:00 - 4:30 ET**

October 13, 2016  
[Proper Repossession, Notice & Sale of Non-Real Estate Collateral](#)

Webinar  
**3:00 - 4:30 ET**

October 17, 2016  
[Countdown to the New Overtime Rules: How to Bring Your Credit Union into Compliance by the December 1, 2016 Deadline](#)

Webinar  
**3:00 - 4:30 ET**

October 18, 2016  
[Liquidity Funding Concerns in a Rising Interest Rate Market](#)

Webinar  
**3:00 - 4:30 ET**

October 19, 2016  
[Understanding Title Insurance Policies, Commitments & ALTA Endorsements](#)

Webinar  
**3:00 - 4:30 ET**

October 20, 2016  
[Conducting the 2016 ACH Audit](#)

Webinar

**3:00 - 4:30 ET**

BSA Training Opportunities  
through GCUA

[Click here for details](#)