



## InfoSight Highlight

### Annual LIS Survey!!

League InfoSight would appreciate your participation in an annual survey regarding its products (InfoSight, CU PolicyPro and ComplySight). These survey results will help League InfoSight ensure these compliance products are meeting the needs of credit unions.

We ask that the survey be completed prior to August 26th. The survey can be accessed [here](#).

Thank you again for your continued support and feedback!

The League InfoSight Team

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

## Compliance News

### Compliance: TCPA Government Debt Call Rule Finalized by FCC

The Federal Communications Commission issued its [final rule](#) on the handling of automated federal debt collection calls under the Telephone Consumer Protection Act (TCPA) last week. The rule, which will become effective 60 days after its publication in the Federal Register, implements the Bipartisan Budget Act of 2015.

The act created an exemption from the TCPA prior express consent rules for calls and text messages "made solely to collect a debt owed to or guaranteed by the United States." New requirements include:

- Debt collection calls and/or texts will fall under the exemption for federal debts if the consumer is delinquent at the time the call is made, or at an imminent risk of delinquency as a result of the terms or operation of the loan program itself, and in the 30 days before such an event; and
- The exemption only applies to existing debts for which the United States is currently the owner or guarantor of the debt. Note that the FCC did not clarify which federal debts are included or excluded from coverage.

In addition, federal debt collection calls and texts:

- May only be made to the consumer or another person or entity legally responsible for paying the debt;
- Must only be about the debt in question, as any marketing content will transform the call into a non-exempt telemarketing call;
- May only be made to one of three categories of wireless telephone numbers:
  - The wireless number the debtor provided at the time the debt was incurred, such as on the loan application;



**InfoSight**  
**Compliance eNEWSLETTER**  
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**Credit Union National Association**

**Compliance Video**

### 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, 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

- A wireless number subsequently provided by the debtor to the owner of the debt or the owner's contractor; or
- A wireless number the owner of the debt or its contractor has obtained from an independent source, provided that the number actually is the debtor's telephone number.
- Are limited to 3 federal debt collection calls in a 30-day period. In addition, pre-recorded or artificial voice calls cannot exceed 60 seconds and text messages cannot exceed 160 characters;
- Can only be made between 8 a.m. and 9 p.m., of the called party's time zone; and
- Can only be made by the federal government or its contractor.

Consumers also have the ability to stop federal debt collection calls at any point, and debtors may make this request to the caller.

### CFPB Declines to Expand the 120-Day Foreclosure Rule Exceptions

Credit unions have struggled with the 120-day pre-foreclosure waiting period requirement, particularly when it comes to abandoned property. CUNA had requested relief from this requirement in cases where the borrower intentionally walks away from the property. They argued that this situation leaves the mortgage collateral vulnerable to disrepair and even vandalism.

Disappointingly, although the CFPB recognizes that mortgage servicers could be disadvantaged by this requirement if the property deteriorates, it declined to add any new exceptions to the 120-day waiting period in the new rule.

By way of explanation, the Bureau reiterated its 2013 position that "additional exemptions would create uncertainty and could potentially be construed in a manner to permit evasion of the requirements." The Bureau continues to believe that borrowers may be harmed by the risks associated with a broader set of exemptions from this requirement.

On the bright side, the lienholder exception to the rule (1024.41(f)(iii)) has been amended to include foreclosure action of not only subordinate lienholders, but superior lienholders as well.

Under the new mortgage servicing rule, you are not allowed to make the first notice or filing required for any foreclosure process unless:

- A borrower's mortgage loan obligation is more than 120 days delinquent;
- The foreclosure is based on a borrower's violation of a due-on-sale clause, or
- The servicer is joining the foreclosure action of a superior or subordinate lienholder.

For more information, review CFPB's [Amendments to the 2013 Mortgage Rules under the Real Estate Settlement Procedures Act \(Regulation X\) and the Truth in Lending Act \(Regulation Z\)](#).

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 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

##### 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 23, 2016

[Complying with Final Military](#)

## Access To and Submission Limits For the DoD's Database

The Defense Manpower Data Center Military Lending Act Website (<https://mla.dmdc.osd.mil>) permits a creditor to access the DoD's records to determine whether an individual or their military sponsor is currently serving on active duty in the U.S. military.

The website will enable a creditor to input identifying information including the servicemember's name, date of birth and Social Security number, and determine if the individual, either a sponsor or dependent, is eligible based on meeting one of the following criteria:

- is on active duty,
- regular or reserve member of the Army, Navy, Marine Corps, Air Force, or Coast Guard, serving on active duty under a call or order that does not specify a period of 30 days or less, or such a member serving on Active Guard and Reserve duty as that term is defined in 10 U.S.C. 101(d)(6),
- the member's spouse,
- the member's child defined in 38 USC 101(4), or
- an individual for whom the member provided more than one-half of the individual's support for 180 days immediately preceding an extension of consumer credit covered by 32 C.F.R. Part 232.

While the MLA rule permits a credit union to use any method of determining whether a person is considered a covered borrower it only provides two "Safe Harbor" methods to determine active-duty military status of the covered borrower (or dependent):

- a credit union may make the determination by accessing information obtained directly or indirectly from the DoD's database;
- or may use information from a nationwide consumer reporting agency that describes the military status of the loan applicant.

The safe harbor that had previously permitted a credit union to rely on an applicant's declaration in a loan application or elsewhere, will be eliminated on October 3, 2016 because the DoD became aware that military personnel and their spouses and dependents were making false statements about their military status.

While accessing the MLA database or a consumer reporting agency to determine military status is optional, relying on any other method to make the determination would not be covered by the safe harbor and risks potential violation of the MLA regulation as well as significant penalties.

The Defense Manpower Data Center MLA website contains FAQs and a User's Guide that explains how to access the DoD's Database. The User's Guide states that a creditor may submit single record requests or multiple record requests (Batch requests). The number of single record requests that a creditor can make in a day is limited to 1,000.

The number of multiple record requests (batch requests) a creditor may make is limited to 50 files uploaded per day. However, each file may contain up to 250,000 records. So it seems that credit unions should have no problems with these limits.

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 & 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**

## Same-Day ACH – Phase 1 Right Around the Corner

Last year, both [NACHA](#) and the [Federal Reserve Board](#) amended their operating rules to support Same Day ACH payments. The Fed essentially adopted NACHA's amended operating rules into Operating Circular 4 (available [here](#)) which governs the Fed's ACH services.

Since the Phase 1 implementation date of Sept. 23rd is right around the corner, here are five things to remember about the NACHA Same-Day ACH rule:

- **(1)** The NACHA rule will enable ACH originators that want to utilize same-day processing the option to send same-day ACH transactions to accounts at any receiving depository financial institution (RDFI). In other words, offering Same Day ACH products and services will be optional for ACH originators, but receipt of same-day entries will be required for RDFIs.
- **(2)** The rule includes a "Same Day Fee" on each Same Day ACH transaction to allow RDFIs to recover some of their costs for enabling and supporting mandatory receipt of same-day ACH transactions.
- **(3)** Originating depository financial institutions (ODFIs) will be able to submit files of same-day ACH payments through two new clearing windows provided by the ACH Operators:
  - A morning submission deadline at 10:30 AM ET, with settlement occurring at 1:00 PM.
  - An afternoon submission deadline at 2:45 PM ET, with settlement occurring at 5:00 PM.
- **(4)** Virtually all types of ACH payments, including both credits and debits, will be eligible for same-day processing. Only international transactions (IATs) and high-value transactions above \$25,000 will not be eligible.
- **(5)** The rule becomes effective in three phases:
  - Phase 1: effective September 23, 2016, includes credits only with funds availability at end of RDFI's processing day.
  - Phase 2: effective September 15, 2017, includes both credits and debits with funds availability at end of RDFI's processing day.
  - Phase 3: effective March 16, 2018, includes both credits and debits with funds availability required by RDFI at 5:00 p.m. local time.

### For more information:

#### NACHA Rules

[Same Day ACH: Moving Payments Faster](#)

[NACHA Same-Day ACH Resource Center](#)

Questions? Contact NACHA at [SDAquestions@nacha.org](mailto:SDAquestions@nacha.org) or 1-800-487-9180 (ask for NACHA's Rules Department)

#### FedACH Rules

[Federal Reserve Bank Services Same-Day ACH Resource Center](#)

Questions? Contact FedACH Customer Support at 1-877-372-2457.

#### 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!](#)  
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**

## Your CU Should Know...

### Discussion Points for Compliance Road Trip in Georgia

- Form Management (Putting Compliance to Paper)
- Military Lending Act (Where are we now and what about setoff?)
- Fair Credit Reporting Act (The invisible compliance killer)
- Social Media and Website Marketing (There are rules on this stuff!)
- Collections Compliance and Lender Liability (Ouch ... just ouch)
- Compliance Management/Quality Assurance (Putting Knowledge Into Action)

In four locations, September 12 - 14  
North and South Atlanta, Macon and Savannah

Click [here](#) for the event flier (PDF).

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

### Sharing CTR with Member

A common question regarding currency transaction reports (CTRs) is whether a credit union can provide a copy to a member upon request. Although FinCEN's regulations neither prohibit nor require you to provide copies of CTRs to your members, credit unions have reported that when they call the FinCEN Regulatory Helpline with this question they have been told **they should not share CTRs**.

If your current BSA compliance policies and procedures do not address this situation, you should consider adding it. It is much easier to deal with these member requests when a policy is already in place.

And remember, you absolutely CANNOT share a Suspicious Activity Report (SAR), or any information related to a SAR, with your member, or anyone else – except for FinCEN, appropriate law enforcement authorities and NCUA.

### Q&A: When Do We Need to Report SARs to the DBF?

**Q:** We are a State Chartered Credit Union looking for clarification on Rule 80-9-1-.02 - Suspicious Activities: State Financial Institutions. We understand that the code describes instances when we send in a copy of the SAR to the DBF. What we are confused about is the requirement of notifying DBF if we report the SAR to law enforcement and/or our insurer.

**A:** This rule was updated earlier this year to limit the number of SAR reports being submitted to the Department of Banking and Finance. In addition, the new rule provided a section that required financial institutions to inform the Department whether law enforcement or insurers were notified about the concerns noted in the submitted SAR.

In practical terms. In the following instances, a SAR must be sent to the Department:

- The SAR involves a director, officer, employee, or principal shareholder of the state chartered financial institution, or a known immediate family member, related interest, or an affiliate of a director, executive officer, or principal shareholder of the state chartered financial institution;

### 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

### 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

- The SAR indicates that a financial institution is a suspect or indicates the possibility that the financial institution violated the law;
- For credit unions with assets less than one billion dollars, the SAR involves either a loss or a potential loss of one hundred thousand dollars (\$100,000) or more;
- For credit unions with assets of one billion dollars or more, the SAR involves either a loss or a potential loss of two hundred fifty thousand dollars (\$250,000) or more; or
- For all other financial institutions, the SAR involves a loss or a potential loss of one hundred thousand dollars (\$100,000) or more;
- The SAR involves a money service businesses entity that is a customer of the credit union; or
- The SAR involves an affiliate or subsidiary of the financial institution.

When your credit union files a SAR (per the instances above) with the Department and your credit union also notifies law enforcement or your insurer about the potential loss then you should note that occurrence on the SAR you submit to the Department. If a few days or even weeks after submitting the SAR to the Department you notify your insurer or law enforcement, you do not need to refile or notify the Department of the change. If the Department reviews the SAR and believes you should have done more they will reach out to your credit union to ask questions. In addition, if you produce a SAR on a member for a transaction less than the monetary threshold that is required to be reported to DBF you still do not report that SAR to the Department even if you notify law enforcement or your insurer.

#### **OFAC Targets Sinaloa Cartel Associates**

The Department of the Treasury has announced that OFAC has designated two Mexican nationals and two Mexican companies pursuant to the Foreign Narcotics Kingpin Designation Act (Kingpin Act). Juan Manuel Alvarez Inzunza, a money launderer, and Jose Olivas Chaidez, a key narcotics trafficker, have been designated as Specially Designated Narcotics Traffickers (SDNTs) for materially assisting, supporting, or providing services to the Sinaloa Cartel and/or high-ranking Sinaloa Cartel members, including Joaquin “El Chapo” Guzman Loera and Ismael “El Mayo” Zambada Garcia and his top lieutenants. OFAC has also designated two Culiacan, Sinaloa-based companies, Nueva Atunera Triton, S.A. de C.V. and Operadora Eficaz Pegaso, which are owned, controlled, or directed by, or acting for or on behalf of, Juan Manuel Alvarez Inzunza. As a result of these actions, all assets of those designated that are within U.S. jurisdiction or are in the control of U.S. persons are frozen, and U.S. persons are generally prohibited from engaging in transactions with them. See Treasury's OFAC Update for identification information on the new listings and those removed.

Since June 2000, more than 1,900 entities and individuals have been named pursuant to the Kingpin Act for their role in international narcotics trafficking. Penalties for violations of the Kingpin Act range from civil penalties of up to \$1,414,020 million per violation to more severe criminal penalties. Criminal penalties for corporate officers may include up to 30 years in prison and fines up to \$5 million. Criminal fines for corporations may reach \$10 million. Other individuals could face up to 10 years in prison and fines pursuant to Title 18 of the United States Code for criminal violations of the Kingpin Act.

#### **Ott to Oversee FinCEN BSA Compliance and Enforcement**

FinCEN has announced the selection of Thomas P. Ott as Associate Director for its Enforcement Division. Mr. Ott will oversee FinCEN's Bank Secrecy Act compliance and enforcement program. This includes developing and implementing compliance

**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**

**October 25, 2016**  
[Debt Collection Series: Maximizing Recoveries on Charged-Off Loans](#)  
 Webinar  
**3:00 - 4:30 ET**

**October 26, 2016**  
[Audit Compliance Series: Auditing Your Loan Portfolio: Consumer, Commercial & Real Estate](#)  
 Webinar  
**3:00 - 4:30 ET**

**October 27, 2016**  
[Financial Literacy Part 2: Using Financial Statements & Key Ratios to Understand & Monitor Your Credit Union](#)  
 Webinar  
**3:00 - 4:30 ET**

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

and enforcement strategies, supervising investigations, enforcement actions, and other activities that have industry-wide, national and international impact.

## 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 1300-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](mailto:selinag@gcua.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.**

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