

**InfoSight Highlight**

**Customer Due Diligence and Beneficial Ownership (NEW InfoSight Topic!)**

On May 11, 2016, FinCEN published a final rule regarding Customer Due Diligence (CDD) Requirements for Financial Institutions. This rule amends the Bank Secrecy Act regulations and formalizes several existing practices related to the monitoring of customer activity, and adds new requirements that covered financial institutions establish and maintain written procedures that are reasonably designed to identify and verify the beneficial owners of legal entity customers. Financial institutions must comply with this new rule by May 11, 2018. Four core elements of CDD described in the final rule are required for all AML programs, those being the:

- 1. Identification and verification of customers;
- 2. Identification and verification of beneficial owners of legal entity customers, subject to certain exceptions;
- 3. Development of a customer risk profile through an understanding of the nature and purpose of the customer relationship, and
- 4. Ongoing monitoring for reporting suspicious activity, and on a risk basis, maintaining and updating customer information.

Several of these elements are part of the existing customer identification program (CIP) rules, with others implied through suspicious activity reporting (SAR) requirements. The beneficial ownership identification requirement is new and not part of any existing rule.

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

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

**Compliance News**

**Military Lending Act Follow-Up**

Last week, the Department of Defense (DOD) released their much anticipated interpretations of the Military Lending Act (MLA). Products offered to Service members and their families will soon be subject to a maximum military annual percentage rate (MAPR) of 36%, more loan types falling under the definition of consumer credit, certain disclosure requirements, limits on arbitration clauses and more.

The interpretive rule does not substantively change the regulation implementing MLA, but rather states the Department's preexisting interpretations of the existing regulation issued in July 2015.

Visit the Federal Register for the full [document](#).



**InfoSight**  
**Compliance eNEWSLETTER**  
**August 29, 2016**  
**Vol. 10, Issue 35**

Created in partnership with the



**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

Compliance is required by October 3, 2016.

## New Procedure Helps People Making IRA and Retirement Plan Rollovers

WASHINGTON – The Internal Revenue Service provided a self-certification procedure designed to help recipients of retirement plan distributions who inadvertently miss the 60-day time limit for properly rolling these amounts into another retirement plan or individual retirement arrangement (IRA).

In [Revenue Procedure 2016-47](#), posted on IRS.gov, the IRS explained how eligible taxpayers, encountering a variety of mitigating circumstances, can qualify for a waiver of the 60-day time limit and avoid possible early distribution taxes. In addition, the revenue procedure includes a sample self-certification letter that a taxpayer can use to notify the administrator or trustee of the retirement plan or IRA receiving the rollover that they qualify for the waiver.

Normally, an eligible distribution from an IRA or workplace retirement plan can only qualify for tax-free rollover treatment if it is contributed to another IRA or workplace plan by the 60th day after it was received. In most cases, taxpayers who fail to meet the time limit could only obtain a waiver by requesting a private letter ruling from the IRS.

A taxpayer who missed the time limit will now ordinarily qualify for a waiver if one or more of 11 circumstances, listed in the revenue procedure, apply to them. They include a distribution check that was misplaced and never cashed, the taxpayer's home was severely damaged, a family member died, the taxpayer or a family member was seriously ill, the taxpayer was incarcerated or restrictions were imposed by a foreign country.

Ordinarily, the IRS and plan administrators and trustees will honor a taxpayer's truthful self-certification that they qualify for a waiver under these circumstances. Moreover, even if a taxpayer does not self-certify, the IRS now has the authority to grant a waiver during a subsequent examination. Other requirements, along with a copy of a sample self-certification letter, can be found in the revenue procedure.

The IRS encourages eligible taxpayers wishing to transfer retirement plan or IRA distributions to another retirement plan or IRA to consider requesting that the administrator or trustee make a direct trustee-to-trustee transfer, rather than doing a rollover. Doing so can avoid some of the delays and restrictions that often arise during the rollover process. For more information about rollovers and transfers, check out the [Can You Move Retirement Plan Assets?](#) section in Publication 590-A or the [Rollovers of Retirement Plan and IRA Distributions](#) page on IRS.gov.

## 5 Things to Know About the New Changes to the Force-Placed Insurance Requirements

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

**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 30, 2016**  
[Frontline Series: Essential Compliance Regulations for the Frontline - Webinar](#)  
**3:00 - 4:30 ET**

**August 31, 2016**  
[IRA Conversions & Recharacterizations: Understanding Requirements &](#)

1. **Insufficient insurance coverage:** Currently, before a credit union can assess a charge for force-placed insurance, written notices must be sent that state that the borrower's hazard insurance is expiring or has expired. Until now, this required notice did not provide for the situation where a borrower has insufficient insurance coverage.

The new mortgage servicing rule amendments will require "a statement that:

(A) The borrower's hazard insurance is expiring, has expired, or provides insufficient coverage, as applicable;

(B) The servicer does not have evidence that the borrower has hazard insurance coverage past the expiration date or evidence that the borrower has hazard insurance that provides sufficient coverage, as applicable; and

(C) If applicable, identifies the type of hazard insurance for which the servicer lacks evidence of coverage;"

The Bureau declined to modify the notices for any additional situations, such as where the insurance company used by the borrower is not acceptable to the lender. CFPB notes that such additional information can be included on a separate piece of paper with the same transmittal.

2. **Loan account number:** The new rule will allow credit unions to include the borrower's mortgage loan account number on the force-placed insurance notices. The Bureau agrees that including this information on the written notices will help borrowers identify the loan for which the written notice applies and would facilitate communication between the borrower and the credit union. Putting the loan number on the notice will be optional.
3. **Updating notice with borrower information:** A comment to the new rule clarifies that if a written notice was put into production no more than 5 days (excluding legal holidays, Saturdays, and Sundays) prior to the credit union delivering or placing the notice in the mail, you are not required to update the notice with new insurance information recently received. The regulation states it must be put into production within "a reasonable time", this comment to the rule clarifies that five days is the maximum period that would be considered "a reasonable time."
4. **Additional information required in reminder notices:** When a credit union has received hazard insurance information after delivering the initial notice, but has not received evidence demonstrating that the borrower has had hazard insurance coverage in place continuously, the required reminder notice must include:

A statement that insurance the servicer has purchased or purchases:

(A) May cost significantly more than hazard insurance purchased by the borrower; (B) May not provide as much coverage as hazard insurance purchased by the borrower.

This new required statement will accompany the information currently required:

- The date of the notice;
- The servicer's name and mailing address;
- The borrower's name and mailing address;

#### 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 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

- A statement that requests the borrower to provide hazard insurance information for the borrower's property and identifies the property by its physical address;
  - The servicer's telephone number for borrower inquiries;
  - If applicable, a statement advising the borrower to review additional information provided in the same transmittal;
  - A statement that the notice is the second and final notice;
  - The cost of the force-placed insurance, stated as an annual premium, except if a servicer does not know the cost of force-placed insurance, a reasonable estimate must be disclosed and identified as such;
  - A statement that the servicer has received the hazard insurance information that the borrower provided;
  - A statement that requests the borrower to provide the information that is missing; and
  - A statement that the borrower will be charged for insurance the servicer has purchased or purchases for the period of time during which the servicer is unable to verify coverage.
5. **Notices must be formatted in the same manner:** Technical corrections have been made to the regulation to clarify that when the same information appears in both the initial notice and the reminder notice, it must be formatted in the same manner in both notices.

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 \(Regulation Z\)](#).

## The CFPB Recognizes Privacy Issues in the New Mortgage Servicing Rule

CUNA has repeatedly raised concerns with the CFPB in regard to sharing personal financial information with "successors in interest" of mortgaged property, as required in the new mortgage servicing rule. A successor in interest is a person to whom an ownership interest in property secured by a closed-end mortgage is transferred, for example via divorce, death or as a beneficiary of a trust.

In response, the Bureau added a new provision (§1024.36(d)(3)) that limits the information successors in interest may receive about other borrowers, and limits the information borrowers may receive about any successors in interest.

The Bureau continues to believe that it's important for confirmed successors in interest to be able to obtain information about the terms, status, and payment history of the mortgage loan. However, the Bureau recognizes that providing additional financial, contact or location information about other borrowers could raise privacy concerns, especially with respect to a borrower's Social Security number. Similarly, the Bureau finds it appropriate to allow servicers to withhold certain information provided by successors in interest from borrowers on the account.

To address these potential privacy concerns, the new provision provides that, in responding to a request for information, a servicer may omit location and contact information and personal financial information (other than information about the terms, status, and payment history of the mortgage loan) if:

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**

**September 29, 2016**

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

Webinar

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

**October 3, 2016**

[New CFPB Amended Mortgage Servicing Rules: What You Must Know Now & Why Advance Planning is Critical](#)

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 &](#)

(1) the information pertains to a potential or confirmed successor in interest who is not the requester; or

(2) the requester is a confirmed successor in interest and the information pertains to any borrower who is not the requester.

The final rule does not, however, make any changes with respect to the types of information that joint borrowers who are not confirmed successors in interest can obtain about each other.

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 \(Regulation Z\)](#).

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## **Q&A: Contacting a Delinquent Borrower Under the CFPB's New Mortgage Servicing Rules**

**Q: The CFPB's mortgage servicing rules require credit unions to establish live contact with a delinquent borrower within 36 days of delinquency. When is a borrower officially delinquent? And what is a "good faith effort" to make live contact?**

**A:** According to CFPB's new servicing rules, "delinquency" begins on the date a periodic payment sufficient to cover principal, interest, and, if applicable, escrow becomes due and unpaid, until such time as no periodic payment is due and unpaid, even if the borrower is afforded a period after the due date to pay before the servicer assesses a late fee. By providing that the delinquency exists only until no periodic payment is due and unpaid, the revised definition addresses the situation where a borrower may not have made the outstanding payment, but no periodic payment is due and unpaid, such as a borrower performing under a permanent loan modification agreement who may not have made all outstanding payments yet but is making all periodic payments due under the modified contract terms. Such a borrower performing on a permanent loan modification would not be delinquent under the new definition.

Furthermore, if, for example, a payment is due on January 1, the credit union must establish or make good faith efforts to establish live contact no later than 36 days after January 1, which would be February 6, if the payment is not paid in full by that date.

Good faith efforts to make live contact consist of reasonable steps, under the circumstances, to reach the borrower and may include telephoning the borrower more than once or sending written or electronic communication encouraging the borrower to establish live contact with the servicer. Additionally, the length of a borrower's delinquency and a borrower's failure to respond to the servicer's repeated attempts at contact are relevant circumstances to consider in determining whether the servicer has made a "good faith" effort. For example, a "good faith" effort to make contact with a borrower that has missed two consecutive payments might require a phone call, whereas a "good faith" effort to contact an unresponsive borrower with six or more consecutive payments might only require a note on the periodic statement or in an electronic communication requesting that the borrower contact the servicer about the delinquencies.

### 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**

**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 24, 2016**

### New CFPB Amended Rules for Mortgage Foreclosure & Bankruptcy Protections: Preparing

Additionally, promptly after establishing live contact the credit union must inform the borrower about the availability of loss mitigation options, if appropriate.

## 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.

### Revised Uniform Residential Loan Application Released

Fannie Mae and Freddie Mac announced Tuesday the publication of the redesigned Uniform Residential Loan Application (URLA), the standardized form used by borrowers to apply for a mortgage loan. This is the first substantial revision made to the form in more than 20 years and the changes will allow lenders to deliver an easier, more consumer-friendly loan application experience. The redesigned URLA form includes a reorganized layout, simplified terminology, and new data fields that capture necessary information in an easy-to-read format.

Additionally, the GSEs worked together to create a common corresponding dataset, called the Uniform Loan Application Dataset (ULAD) to ensure consistency of data delivery. The documents are being published now, in an effort to provide the industry with ample time to become familiarized with the URLA and ULAD updates and plan necessary changes to their systems.

Lenders may begin using the redesigned URLA on January 1, 2018. A timeline for required use of the redesigned URLA and ULAD will be established at a later date. The forms are preliminary, and could still be updated after a CFPB review.

### NCUA Releases New Legal Opinion Letter on Classification of MBLs

On August 9, 2016, NCUA released [Legal Opinion Letter 16-0604](#) clarifying whether a FICU is required to continue to report a single closed-end member business loan (MBL) as an MBL once the loan is paid down below \$50,000. NCUA answered no, stating that an MBL paid down below \$50,000 no longer needs to be classified as an MBL. The opinion relies on a [2002 opinion letter](#) and the [preamble to the 2003 MBL rule](#) which clarified that an MBL does not have to be reported once the aggregate of the total business purpose loans

[Now for the 2017 Effective Date](#)  
Webinar

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

**November 2, 2016**

[Notary Essentials & Legalities for](#)  
[Credit Unions](#)

Webinar

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

**November 3, 2016**

[Cyber Series: Member](#)

[Authentication & Validation: The](#)  
[New Normal in Risk Mitigation](#)

Webinar

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

**BSA Training Opportunities**  
**through GCUA**

[Click here for details](#)

to a member falls below \$50,000.

So while this is not exactly new news, the August 2016 letter does clarify the reporting requirement for a single closed-end MBL that has been paid down below the \$50,000 threshold, whereas the 2002 letter and the preamble addressed the scenario of aggregating multiple business purpose loans. The analysis NCUA applied is the same, so credit unions should feel confident that they do not have to classify a loan as an MBL once the outstanding balance falls below \$50,000, whether it is the balance of a single loan or the aggregate outstanding balance of multiple business purpose loans. It is important to note, however, that this analysis does not apply to lines of credit, just closed end loans.

### **NMLS Software Update Release Target Date**

The NMLS has announced the target date for Release 2016.3 is September 12, 2016. The release contains several enhancements and system maintenance updates. [Release notes on the changes were also issued.](#)

### **Wells Fargo Fined for Student Loan Servicing Practices**

The Consumer Financial Protection Bureau (CFPB) has taken action against Wells Fargo Bank, N.A., for illegal private student loan servicing practices that increased costs and unfairly penalized certain student loan borrowers. The Bureau identified breakdowns throughout Wells Fargo's servicing process including failing to provide important payment information to consumers, charging consumers illegal fees, and failing to update inaccurate credit report information. The CFPB's order requires Wells Fargo to improve its consumer billing and student loan payment processing practices. The company must also provide \$410,000 in relief to borrowers and pay a \$3.6 million civil penalty to the CFPB.

### **NCUA Phishing Scam**

On August 23rd, the NCUA reported that it had received consumer calls about a suspicious text message claiming to come from the agency. Just an FYI - this is not a communication from NCUA. The agency does not seek personal information through the Internet or on the telephone. If your members suspect that they may have become a victim of identity theft as a result of this scam, they should immediately contact the three major credit bureaus and request a fraud alert be placed on their credit report.

## **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 [selina@gcua.org](mailto:selina@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).**