InfoSight Compliance eNEWSLETTER
powered by the Georgia Credit Union Affiliates
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InfoSight Highlight

New Topic! ACH - Same-Day ACH Payments

Last year, NACHA and the Federal Reserve Board amended their operating rules to support Same-Day ACH payments.

The rule will enable ACH originating depository financial institutions (ODFIs) that want to utilize same-day processing the option to send same-day ACH transactions to accounts at any receiving depository financial institution (RDFI). Offering same-day ACH products and services will be optional for ODFIs, but receipt of same-day entries will be required for RDFIs.

To allow financial institutions and businesses to acclimate to a faster processing environment, as well as to ease the implementation effort, these new capabilities will become effective over three phases beginning in September 2016. They are:

- **Phase 1**, which is effective September 23, 2016, for credits only with funds availability at the end of the RDFI's processing day (funds do not need to be available for cash withdrawal at that time; they must be available to satisfy other subsequent debit entries against the account);
- **Phase 2**, which is effective September 15, 2017, for credits and debits with funds availability at the end of the RDFI's processing day (funds do not need to be available for cash withdrawal at that time; they must be available to satisfy other subsequent debit entries against the account); and
- **Phase 3**, which is effective March 15, 2018, for both credits and debits, with funds availability from same-day ACH credits required by the RDFI at 5 p.m. local time (funds must be available for withdrawal, including cash withdrawal at the teller window or ATM as applicable).

For additional information, click here for the topic.

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

Compliance News

Incentive Program Costs Wells Fargo $185 M in CMPs, Reputational Damage and a Call Before Congress

Last week, the CFPB, OCC and the Office of the Los Angeles (California) City Attorney announced that they will impose civil money penalties totaling $185 million on Wells Fargo Bank, N.A. The CFPB, OCC and the Office of the Los Angeles (California) City Attorney announced monetary penalties of $100 million, $35 million and $50 million, respectively, on the bank. In addition, the bank will pay at least $2.5 million in restitution payments for failing to monitor and control a cross-selling incentive program. The bank encouraged sales of

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Compliance Video

CU Compliance Connection

Military Lending and 3rd Quarter 2016 Review
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 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.

Compliance Video: Same Day ACH Preview
In this 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 program,

new accounts and services in a program that established sales goals and bonus incentives, and a widespread employee practice developed that boosted sales figures by opening deposit and credit card accounts without customer authorization.

Money in customers' accounts was transferred to these new accounts without authorization. Debit cards were issued and activated, as well as PINs created, without telling customers. In some cases, Wells Fargo employees even created fake email addresses to sign up customers for online banking services. The bank determined that as many as two million accounts were opened that may not have been authorized, and stated that about 5,300 employees involved in the scheme have been fired "over the last few years."

The CFPB found the bank's actions to be unfair and abusive under the Consumer Financial Protection Act of 2010. The OCC found the actions to be unsafe and unsound practices. The City of Los Angeles settled a 2015 suit brought against the bank alleging violations of California's Unfair Competition Law.

Since that announcement, numerous major media sources have written articles detailing how abusive the practices described by the agencies were to consumers. And the practice has shed bad press on not only Wells Fargo but also the banking industry.

The attention and egregious behavior has resulted in Wells Fargo announcing they will eliminate all product sales goals in retail banking, effective January 1, 2017. It is believed the regulators and elected officials may now step up the pressure against institutions using a similar business model. For example, on September 20th, the CEO of Wells Fargo, John Stumpf, will be testifying before the Senate Banking Committee Wells Fargo's sales practices.

The House Financial Services Committee on Friday, September 16th, launched an investigation into allegations of widespread fraud at Wells Fargo & Co., making the panel the latest government entity to take a closer look at the bank's sales incentive practices.

It should not be a surprise that if your institution offers similar sales incentive plans you can expect regulators to spend some extra time reviewing your practices.

Regulatory Alert 16-RA-06 - Military Lending Act

NCUA notifies credit unions in **Regulatory Alert 16-RA-06** that the Department of Defense (DOD) has issued Interpretive Guidance on issues related to the 2015 amendments to the regulation implementing the Military Lending Act (MLA). The regulation affects most non-mortgage-related consumer credit a lender extends to active duty service members and their dependents. Credit unions must comply with most of the regulatory changes starting October 3, 2016. Compliance with changes related to credit card accounts begins October 3, 2017.

The Interpretive Guidance clarifies a number of issues the regulation addresses, including:

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 3, 2016:
DOD Military Lending Act Regulation - Effective Date

October 3, 2016:
NACHA's Network Quality Rule

October 10, 2016:
Columbus Day - Federal Holiday

October 24, 2016:
5300 Call Report Due to NCUA

November 6, 2016:
Daylight Saving Time Ends

November 11, 2016:
Veterans' Day - Federal Holiday

November 24, 2016:
Thanksgiving Day - Federal Holiday

December 1, 2016:
Overtime Rule - Department of Labor

December 25, 2016:
Christmas Day - Federal Holiday

Click here for upcoming compliance dates.

Compliance Training

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

- Determining a person's covered borrower status;
- Exercising a statutory right to take a security interest in a member's account;
- Timing and delivering required disclosures; and
- Identifying fees which can be excluded when calculating the military annual percentage rate for credit card accounts.

NCUA provided guidance explaining the MLA regulation in Regulatory Alert 16-RA- 04, issued in March 2016, and Regulatory Alert 15-RA-04, issued in October 2015. NCUA staff is developing examination procedures in connection with the Final Rule.

If you have any questions, contact NCUA's Office of Consumer Protection at (703) 518-1140 or compliancemail@ncua.gov.

New Mortgage Servicing Rule Clarifies Live Contact Requirements for Early Intervention

The CFPB has made two clarifying changes to the early intervention live contact requirements of the mortgage-servicing rule:

1. Clarification that early intervention live contact obligations recur in each billing cycle while a borrower is delinquent, and
2. Highlights the bankruptcy and Fair Debt Collections Act (FDCA) exceptions from the live contact requirements.

Recurring Live Contact Obligations: Apparently, many mortgage servicers were relying on the **written contact** requirements that limit the servicer's contact obligation to only once in a 180-day period. The CFPB amended the live contact provision to clarify that servicers are expected to make good-faith efforts to establish live contact, or to attempt to make live contact, by the 36th day after each payment due date **for the duration of the borrower's delinquency**. The servicer's early intervention live contact obligations recur in each billing cycle while a borrower is delinquent.

If the credit union has established and is maintaining ongoing contact with the borrower under the loss mitigation procedures (12 CFR 1024.41), the credit union is considered to be in compliance with the live contact requirement and doesn't need to make additional good faith efforts to establish live contact. The CFPB believes that at this point, continued attempts by the credit union to establish live contact may frustrate or even harass a borrower who was recently denied loss mitigation options.

However, credit unions must resume compliance with the live contact requirements for a borrower who cures a prior delinquency but subsequently becomes delinquent again.

Exceptions: Since this rule was initially issued in 2013, credit unions have been concerned with the live contact requirements for borrowers who have filed for bankruptcy, as well as those who have invoked certain rights under the FDCA. This amended rule clarifies that the live contact requirements apply, "except as otherwise provided in the rule." Bankruptcy and FDCA exceptions are provided for in other sections of the rule (§1024.39(c) & (d)).

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

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 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).

Vendor Management - Reminder from the Georgia Department of Banking and Finance

Outsourced Information Technology Services

Financial institutions depend on third-party service providers to support critical operations and meet customer service needs. As such, Boards and management teams must maintain proper oversight and risk management of outsourced information technology functions. The Board is responsible for establishing an appropriate risk management program to manage relationships with technology service providers. This program should be focused on the primary goals of any information technology program: maintain confidentiality of sensitive data, ensure data is accessible at the time it is needed, and ensure integrity of data during storage and transmission. An effective vendor management program provides the opportunity for institutions to identify weaknesses in outsourcing relationships that may compromise confidentiality, accessibility, and integrity and take appropriate action before problems arise.

The Federal Financial Institutions Examinations Council (FFIEC) Information Technology Examination handbook "Outsourcing Technology Services" provides guidance to financial institutions for evaluating risk management processes to establish, manage, and monitor outsourcing relationships.

Typically, oversight of outsourcing relationships incorporates the following activities:

- Risk assessment and requirements definition;
- Due diligence in selecting a service provider;
- Contract negotiation and implementation; and
- Ongoing monitoring.

Key elements of an effective risk management program include:

- Establishing senior management and Board awareness of the risks associated with outsourcing agreements in order to ensure effective risk management practices;
- Ensuring that an outsourcing arrangement is prudent from a risk perspective and consistent with the business objectives of the institution;
- Systematically assessing needs while establishing risk-based requirements;
- Implementing effective controls to address identified risks;
- Performing ongoing monitoring to identify and evaluate changes in risk from the initial assessment; and
- Documenting procedures, roles/responsibilities, and reporting mechanisms.

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

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

In addition, institutions are partially or completely outsourcing information security functions to third-party service providers, known as Managed Security Service Providers (MSSPs). Examples of well-known MSSPs in the financial sector include Dell SecureWorks and ProfitStars Gladiator Tech. While institutions may gain needed expertise and cost benefits from relationships with MSSPs, proper management of these relationships require enhanced risk management controls. In addition to the normal management responsibilities, a successful engagement with an MSSP should include:

- A contract with mutually agreed upon Service Level Agreements (SLAs);
- Strategies for ensuring transparency and accountability that include:
- Regular communication between the financial institution and the MSSP on matters including change control, problem resolution, threat assessments, and management information systems reporting,
- Descriptions of processes for physical and logical controls over financial institution data; and
- Periodic review of the MSSP's processes, infrastructure, and control environment through offsite reviews of documentation and onsite visitations.

Institutions are also expected to incorporate relationships with outsourced service providers into Disaster Recovery and Business Continuity Plans. In February 2015, the FFIEC updated the "Business Continuity Planning" booklet by adding Appendix J: Strengthening the Resilience of Outsourced Technology Services. Most importantly, the appendix stresses the need for institutions to ensure that relationships with outsourced service providers will not negatively affect their ability to appropriately recover critical functions in a timely manner. This appendix discusses four key elements of business continuity planning that a financial institution should address to ensure they are contracting with services providers that are strengthening the resilience of technology services:

- Third-party management addresses a financial institution management's responsibility to control the business continuity risks associated with service providers and their subcontractors.
- Third-party capacity addresses the potential impact of a significant disruption on a servicer's ability to restore services to multiple clients.
- Testing with service providers addresses the importance of validating business continuity plans with technology service providers and considerations for a robust third-party testing program.
- Cyber resilience covers aspects of business continuity planning unique to disruptions caused by cyber events.

Outsourcing technology services can provide a significant benefit from a cost and expertise standpoint, but requires the necessary oversight to manage the related risks. Institutions should utilize the interagency information technology handbooks as guide for establishing a strong risk management framework and should regularly evaluate the quality of their risk management programs as both the institution and technologies continue to evolve.

Webinar
3:00 - 4:30 ET

October 24, 2016
New CFPB Amended Rules for Mortgage Foreclosure & Bankruptcy Protections: Preparing 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

November 9, 2016
Form 1099 Reporting: Third-Party Vendors, Foreclosures, Debt Forgiveness & More
Webinar
3:00 - 4:30 ET

November 10, 2016
Audit Compliance Series: Developing a Risk-Based Compliance Audit Process for Deposits
Webinar
3:00 - 4:30 ET

November 14, 2016
Nonresident Alien Accounts: W-8s, W-8BENs, BSA, Rules & More
Webinar
3:00 - 4:30 ET

November 15, 2016
Recognizing & Responding to Elder Fraud: What Every Staff Member Should Know
Webinar
3:00 - 4:30 ET

November 16, 2016
Quarterly Supervisory Committee

Your CU Should Know…

Letter to Credit Unions (16-CU-05) Voluntary Diversity and Inclusion Policies and Practices Checklist
NCUA has created a Voluntary Credit Union Self-Assessment Checklist to help credit unions assess their diversity and inclusion policies and practices and identify opportunities to put those policies and practices to work. Access to the letter can be found here.

Letter to Credit Unions (16-CU-06) Preparing for Same-Day Automated Clearing House (ACH) Payments
On September 23, 2016, Same Day ACH, an amendment to the NACHA Operating Rules, will become effective, allowing ACH users to send same-day ACH credit payments. Same Day ACH builds on existing next-day ACH Network capabilities and establishes a new option for same-day clearing and settlement via ACH. Both ACH Operators will begin delivering same-day ACH credit payments to receiving depository financial institutions twice each banking day beginning September 23. Access to the letter can be found here.

FFIEC Revises Information Security Booklet
The FFIEC has announced the revision of the "Information Security" booklet of its IT Handbook. The revised Information Security booklet provides guidance to examiners and addresses factors necessary to assess the level of security risks to a financial institution's information systems. It also helps examiners evaluate the adequacy of the information security program's integration into overall risk management. The OCC also issued Bulletin 2016-27 to announce the revision.

Interagency Fair Lending and Hot Topics Webinar
The 2016 Interagency Fair Lending Hot Topics live webinar will be hosted by the Federal Reserve from 2-3 pm ET on October 4, 2016, during the session, representatives from six federal agencies will discuss a variety of emerging fair lending issues and hot topics, including:

- CFPB updates
- Compliance management
- Redlining
- HMDA validation
- Automobile lending

The presentation will be followed by a Q&A, where speakers will respond to audience questions.

FinCEN Advisory on Email Compromise Fraud Schemes
The Financial Crimes Enforcement Network (FinCEN) has issued an advisoryto help financial institutions guard against a growing number of email fraud schemes in which criminals misappropriate funds by deceiving financial institutions and their customers into conducting wire transfers. This advisory also provides red flags - developed in consultation with the Federal Bureau of Investigation (FBI) and the U.S. Secret Service (USSS) - that financial institutions may use to identify and prevent such e-mail fraud schemes.

Series: What the Board Needs to Know to Manage IT
Webinar
3:00 - 4:30 ET

November 17, 2016
Handling ACH Exceptions & Returns: Unauthorized, Revoked, or Stop Payment?
Webinar
3:00 - 4:30 ET

November 22, 2016
Trust Accounts: Opening, Transacting, Deposit Insurance & More
Webinar
3:00 - 4:30 ET

BSA Training Opportunities through GCUA
Click here for details

Comment Calls

Amendments to Federal Mortgage Disclosure Requirements Under Truth in Lending Act - TRID

CFPB has issued a proposed rule regarding Amendments to Federal Mortgage Disclosure Requirements under the Truth in Lending Act (Regulation Z). This Rule is commonly referred to as the "TRID" rule (TILA-RESPA Integrated Disclosures), "KBYO" (Know Before You Owe) Rule, or "TILA-RESPA" Rule, finalized in January 2015 and became effective October 3, 2015. This proposed rule attempts to remediate numerous operational and technical issues with the original TILA-RESPA rule but is not intended to open up the rule for significant policy changes.

The proposed amendments memorialize the Bureau's informal guidance on various issues and include clarifications and technical amendments. The Bureau is also proposing tolerance provisions for the total of payments, an adjustment to a partial exemption mainly affecting housing finance agencies and nonprofits, extension of coverage of the integrated disclosure requirements to all cooperative units, and guidance on sharing the disclosures with various parties involved in the mortgage origination process. To read CUNA's summary of the proposal click here. GCUA would like to know your thoughts and/or concerns with this proposal. Please email Selina Gambrell at selinag@gcua.org by **October 5th**.

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.

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