InfoSight Compliance eNEWSLETTER
powered by the Georgia Credit Union Affiliates
Your Online Compliance Resource

InfoSight Highlight

Share Insurance: Common Misunderstandings

Common misunderstandings regarding NCUA Share Insurance affect all ownership categories:

1. Many members do not realize that placing funds in different types of deposit accounts (for example, share, share draft, share certificates) does not provide for separate insurance coverage. All types of deposit accounts that a depositor has in the same ownership category are combined and insured up to the insurance limit for that ownership category.

   For example: if Mary Jones has three accounts in her name alone at a credit union - a share account, a share draft account, and a share certificate - the funds in all three accounts will be added together and insured up to $250,000 in total, **NOT** $750,000. Mary being joint on another account and naming POD beneficiaries can change the insured scenario so members benefit if they educate themselves on coverage.

2. Many members do not know that outstanding official items such as interest and cashier's checks are deposits that will be combined with their other deposits in the same ownership category when calculating insurance coverage.

   For example: John Smith has a single account in his name alone with a credit union for $250,000. Every month he receives a check for $200 representing the interest earned on this account. Until this check is presented and has cleared, John Smith has $250,200 in the single account category. If his credit union should fail and this check is outstanding, he will be uninsured for $200.

3. Members may not realize when they have deposit accounts that fail to meet the requirements for insurance coverage in different ownership categories. There are specific requirements that must be met to qualify for share insurance coverage under each of the different ownership categories. When the requirements for a specific ownership category are not met, the insurance coverage will change to a different ownership category, most often the single account category.

Common misunderstandings about single accounts:

1. Owners of sole proprietorships often do not realize that deposit accounts belonging to the sole proprietorship are added together with any other single accounts they may have in their name alone at the same credit union and the combined total is insured to a maximum of $250,000.
2. Some estate executors are under the mistaken impression that accounts held in the name of a decedent or by the executor or administrator of a decedent's estate are fully insured regardless of the deposit amount. In fact, such accounts are insured up to a maximum of $250,000 only, and insured in the name of the decedent.

Georgia Credit Union Affiliates

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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 need to consider. 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, 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.

For additional information, click here for the topic.

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

Compliance News

NCUA Issues Recommendations for Examination Flexibility

NCUA released its report detailing 10 recommendations from the internal working group charged with the task of evaluating the agency's examination and supervision program. For a rundown of the recommendations see below but if you want to go straight to the nine-page report, click here. The NCUA Board will vote on the 10 recommendations when it votes on the agency's 2017-2018 operating budget, currently set for November 17, 2018.

1. Extend the exam cycle for low risk federal credit unions with assets less than $1 billion.
2. Adjust the exam cycle for federal credit unions that don't meet the requirements for an extended exam cycle.
3. Continue enhanced exams at small federal credit unions.
4. Enhance coordination between NCUA and state supervisory authorities in the examination of federally insured state chartered credit unions.
5. Establish a joint working group for increased collaboration between NCUA and state supervisory authorities.
6. Establish applicable provisions for all federally insured credit unions (3 parts: random sampling examinations for small credit unions; measurement of exam cycle; authority to conduct more frequent exams).
7. Enhance examination planning and notice procedures.
8. Optional survey for the credit union at exam completion.
9. Reduce onsite examination presence.
10. Improve consistency of examiner training.

In addition to the release of the report, NCUA has made available a list of FAQs, a summary of stakeholder comments, and separate flowcharts illustrating the requirements credit unions would need to meet for an extended exam cycle (FCU/FISCU). Those materials may be accessed from NCUA's Exam Flexibility Initiative information page, found here.

Partial Exemption from Early Intervention Requirements for Borrowers in Bankruptcy

The new mortgage-servicing rule states that while any borrower on a mortgage loan is a debtor in bankruptcy, a servicer, with regard to that mortgage loan:

- Is exempt from the live contact requirements;
- Is exempt from the written notice requirements if:
  - no loss mitigation option is available *(a loss mitigation option is available if the owner or assignee of a mortgage loan offers an alternative to foreclosure that is made available through the servicer and for which a borrower may apply, even if the borrower ultimately does not qualify)*, or
  - if any borrower on the mortgage loan has provided a Fair Debt Collection Practices Act (FDCPA) notification - notifying the servicer that the borrower refuses to pay a debt or that the borrower wishes the servicer to cease further communications, with respect to that mortgage loan.

Compliance Calendar

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

January 1, 2017:
Member Business Loans; Commercial Lending (NCUA) – Effective date

January 1, 2017:
HMDA – Regulation C, excludes low volume depository institutions from coverage – Effective date

January 2, 2017:
New Year’s Day (observed) - Federal Holiday

Click here for upcoming compliance dates.

Compliance Training

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

If there is an available loss mitigation option and/or no borrower on the mortgage loan has provided a FDCPA notice, the servicer must comply with the written notice requirements as follows:

- If a borrower is delinquent when the borrower becomes a debtor in bankruptcy, a servicer must provide the written notice not later than the 45th day after the borrower files a bankruptcy petition.
- If the borrower is not delinquent when the borrower files a bankruptcy petition, but subsequently becomes delinquent while a debtor in bankruptcy, the servicer must provide the written notice not later than the 45th day of the borrower's delinquency.

A servicer must comply with these timing requirements regardless of whether the servicer provided the written notice in the preceding 180-day period.

No Payment Request: The written notice may not contain a request for payment.

Frequency: A servicer is not required to provide the written notice more than once during a single bankruptcy case.

Multiple borrowers: If any of the borrowers is a debtor in bankruptcy, a servicer may provide the written notice to any borrower.

Resuming contact: A servicer must resume compliance with the live contact and written notice requirements after the next payment due date that follows the earliest of the following events: (A) The bankruptcy case is dismissed; (B) The bankruptcy case is closed; and (C) The borrower reaffirms personal liability for the mortgage loan.

Exception: With respect to a mortgage loan for which the borrower has discharged personal liability, a servicer:

- Is not required to resume compliance with the live contact requirements; and
- Must resume compliance with the written notice requirements if the borrower has made any partial or periodic payment on the mortgage loan after the commencement of the borrower's bankruptcy case.

Bankruptcy case revived: If the borrower's bankruptcy case is revived, for example if the court reinstates a previously dismissed case or reopens the case, the partial exemption requirements once again apply. However, a servicer is not required to provide the written notice more than once during a single bankruptcy case.

CFPB Structure Unconstitutional

The U.S. District Court of Appeals for the D.C. Circuit's Tuesday (10/11/16) decision that the Consumer Financial Protection Bureau's (CFPB) structure is unconstitutional reinforces several concerns expressed by the credit union system about the bureau. *The Hill* reported that the court made a 2-1 ruling in the case brought against the bureau by PHH Corp.

"I applaud the ruling from the U.S. Court of Appeals for D.C. Circuit regarding the PHH case against the Consumer Financial Protection Bureau, in that it will establish a meaningful check and balance and bring needed accountability to the director's role," Jim Nussle, President/CEO of CUNA, said. "This ruling confirms CUNA's concern that the structure of the CFPB is flawed and that an unchecked, independent director who answers to no one can't lead to good public policy. CUNA continues to support a 5-person commission for the CFPB

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 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

instead of its current structure."

CUNA and Georgia credit unions' support legislation that would change the bureau's leadership to a 5-person board, rather than a single director, believing that the change would bring additional accountability to credit unions and consumers and reduce ideologically driven regulatory burden.

The court's decision does not shut down the CFPB, rather it allows the bureau to function by giving the president the power to remove and supervise the director.

NCUA's New Incident Response System

The September 2016 edition of The NCUA Report featured an article on the agency's new Incident Management System.

Previously, NCUA staff relied on a manual process to gather and record information related to the operational status of credit unions after an emergency occurred. NCUA has developed a new Incident Management System which will allow the agency to "rapidly locate all credit union facilities that may have been affected by a disaster and track their operational status throughout the course of a disaster and its recovery."

The Incident Management System uses data from external sources like the National Weather Service and the National Oceanic and Atmospheric Administration, as well as information found in credit union profiles. NCUA urged credit unions to keep their CU Online Profiles up-to-date. Also, during an emergency NCUA's field staff will need the following information from credit unions:

- Specific description of damage to credit union facilities, if any;
- Specific member services that are offline, if any;
- An estimate of when the affected location will be re-opening;
- Specific details of any assistance needed from NCUA;
- A contact number for your members if the normal business number is not working; and
- A contact number - like a cell phone or out-of-area number - that NCUA can use to reach key credit union staff during and after the disaster.

According to NCUA, "having this essential information at the ready will cut down on the amount of follow-up needed by the agency" and "will allow us to better respond to the needs of your credit union."

Click here for the article.

September's edition of the agency newsletter also features:

- Fall Is Here: Start Preparing for Winter and the New Year
- The Basics of Vulnerability Management
- Opinions Are Not Facts, Including When It Comes to the Stabilization Fund
- Help Deter, Detect and Report Insider Fraud
- Back to School Is an Excellent Time to Talk to Your Members About Personal Finance
- New Guidebook Can Help Credit Unions Expand Their Digital Services

Webinar
3:00 - 4:30 ET

November 16, 2016
Quarterly Supervisory Committee 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

November 29, 2016
Top 10 IRA Issues: Compliance, Reporting, Death & Distributions
Webinar
3:00 - 4:30 ET

November 30, 2016:
Annual Robbery Training for All Staff
Webinar
3:00 - 4:30 ET

December 1, 2016:
Meaningful & Strategic Stress Testing: A Valuable Board & Management Tool
Webinar
3:00 - 4:30 ET

December 6, 2016
Cyber Series: Requirements for Tech-Based Marketing: Websites, Social Media, Robo Calls & More
Webinar
3:00 - 4:30 ET

December 13, 2016
Loan Review: Consumer, Commercial & Real Estate
Webinar
3:00 - 4:30 ET

December 14, 2016
Director Series: Essential Compliance Training for the Board

Your CU Should Know…

Largest FCU to Pay $28.5MM for Collection Practices
The CFPB has issued a consent order to the Navy Federal Credit Union, which is the largest credit union in the country, with over $73 billion in assets as of last year-end, ordering the credit union to make redress payments totaling $23 million to consumers and pay a $5.5 civil money penalty for unfair and deceptive debt collection acts and practices. The Bureau investigation found that Navy Federal Credit Union deceived consumers to get them to pay delinquent accounts. The credit union falsely threatened severe actions when, in fact, it seldom took such actions or did not have authorization to take them. The credit union also cut off members' electronic access to their accounts and bank cards if they did not pay overdue loans. The Bureau said that the credit union falsely threatened legal action and wage garnishment and to contact commanding officers about a consumer's debt, misrepresented the consequences of being delinquent on a loan, and illegally froze members' access to their accounts.

For details on the Bureau's action, see "Navy FCU pays $5.5MM CMP for debt collection practices."

TRID Guidance Documents Updated
The CFPB has posted updated versions of two "Know Before You Owe" (TRID Rule) compliance guides. October 7, 2016, versions of the Small entity compliance guide and the Guide to loan estimate and closing disclosure forms are now available on the Bureau's TILA-RESPA Integrated Disclosure rule implementation page.

NCUA: Bureau Should Exempt CUs from Payday Loan Rules
The NCUA reports that Chairman Metsger has submitted a letter to the CFPBrequesting an exemption from the final CFPB payday lending rule for NCUA's payday alternative loan rules. "We respectfully request the Bureau exempt FCUs completely from its final rule for loans made under and consistent with NCUA's PALs regulation," Metsger said in his letter. "As the prudential regulator for federal credit unions, NCUA already ensures that members receive the type of protections the Bureau is seeking to address. The Bureau should therefore defer to determinations of the FCU prudential regulator about this product."

Burma Sanctions Terminated
The U.S. Department of the Treasury has announced that President Obama has issued an Executive Order terminating a Burma-related sanctions program, and Burma-related financial sanctions administered by Office of Foreign Asset Control are no longer in effect. This Executive Order terminates all OFAC-administered restrictions and authorizations under the Burma sanctions program pertaining to banking with Burma. This includes the OFAC general licenses issued in 2012 and 2013 that authorized certain correspondent account activity with Burmese banks. FinCEN also issued an exception to the prohibition imposed by the USA PATRIOT Act which allows financial institutions to maintain correspondent accounts for Burmese banks under certain conditions.

Treasury also released a Fact Sheet and an FAQ on the termination. OFAC posted an SDN List Update with all of the resulting deletions from the Specially Designated Nationals List.

The termination of the Burma sanctions program does not impact Burmese individuals or entities blocked pursuant to other OFAC sanctions authorities, such as counter-narcotics sanctions. They remain on the SDN List, and their

& Senior Management
Webinar
3:00 - 4:30 ET

December 15, 2016
Frontline Series: Powers-of-Attorney In-Depth: Good Faith, Fraud & Fiduciary Capacity
Webinar
3:00 - 4:30 ET

BSA Training Opportunities through GCUA
Click here for details

property and interests in property remain blocked. Further, pending or future OFAC enforcement investigations or actions related to apparent violations of the Burmese Sanctions Regulations when in effect may still be carried out.

Bureau Posts Reg E Corrections
The CFPB published at 81 FR 70319 in today's *Federal Register* a final rule with "clerical and non-substantive corrections" to errors in Regulation E. The errors included two erroneous cross-references to other sections of the regulation, text missing from a remittance transfer model disclosure, and an incorrect heading within the commentary to section 1005.36.

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.