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

InfoSight Highlight

Trust Accounts

A trust is a tool used to transfer, control and distribute property. A formal trust is one created under a written agreement drafted by an attorney. The trust establishes a relationship among three parties: the person who creates the trust (called the "Grantor"); the person who manages the assets of the trust (called the "Trustee"); and the person who benefits from the trust, (called the "Beneficiary"). There may be one or more Grantors, Trustees, or Beneficiaries of a trust. In some trusts, the grantor, the trustee and the beneficiary are all the same person. The Trustee holds legal title to the property of the trust and is required to manage the trust property for the benefit of the beneficiaries in accordance with the terms set out by the grantor in the trust document.

An informal trust is created when a person sets up a deposit account in his or her own name, followed by the words "trustee for" a named beneficiary. The term "Totten Trust" or "Payable on Death" is used to describe this type of trust. The person who sets up the account is deemed to be the owner of the funds and is entitled to deposit and withdraw funds from the account as he or she deems fit. When the depositor dies, any funds in the account automatically become the property of the beneficiary.

Trusts may be revocable or irrevocable. A revocable trust is one that may be altered, changed, modified or revoked after it is established. An irrevocable trust, as the name implies, is not revocable once it has been established. Once a Grantor transfers property to an irrevocable trust, the Grantor can no longer take the property back from the trust.

Trusts that are created during the Grantor's lifetime are called "living trusts." Trusts that are included in a will and therefore do not take effect until after the death of the Grantor are called "testamentary trusts."

For additional information, click here for the topic.

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

Compliance News

Overtime Rule Blocked by Federal Judge

A federal District Court judge in Texas in the case *Nevada v. U.S. Department of Labor*, U.S. District Court for the Eastern District of Texas, granted an emergency preliminary injunction stopping the Department of Labor (DOL) from enforcing its rule for overtime pay, which was set to go into effect on December 1. The injunction is effective nationwide and will remain in effect pending further order of the court. Credit unions have expressed concerns that the regulatory burdens associated with this rule, and potential negative unintended consequences even for the employees the rule intends to help, outweigh the

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Compliance Video

Q3 and Q4 2016 Overview
In this newly released video, Glory LeDu reminds us of the regulatory changes that became effective in the 3rd quarter of 2016 and provides an overview of those that are coming up in the 4th quarter, including FinCEN Member Due Diligence, NACHA Same Day ACH rules as well as the Military Lending Act and the Overtime Rule from the Department of Labor.

Member Business Lending
This new video provides the details you will need to know to comply with the NCUA's Member Business Lending rules.

Compliance Calendar

December 26, 2016:
Christmas Day (observed)- Federal Holiday

January 1, 2017:
Member Business Loans;

good intention of the rule.

Small credit unions and those in rural and underserved areas are particularly harmed by this rule. About 35% of all credit unions have no employees making salaries over the DOL's threshold, and approximately 46% of all credit union CEOs work at credit unions with $20 million or less in total assets. In certain areas, and at credit unions with smaller asset sizes, even CEOs can make below the threshold or approximately $50,000. The DOL will very likely appeal this decision. However, it is also likely President-elect Trump will appoint a new Labor Secretary in 2017, and the appeal could potentially be dropped eventually.

While many credit unions have already made changes to come into compliance with the rule, a court decision or legislation modifying the rule could help relieve the compliance challenge of having to continue to make changes every three years.

The final rule currently requires employers to automatically update the salary level every three years, maintaining the standard salary level at the 40th percentile of full-time salaried workers in the lowest-wage Census region, and the Highly Compensated Employees (HCE) total annual compensation level at the 90th percentile of full-time salaried workers nationally.

CFPB Takes Action Against Another Lender for UDAAP Violations

The CFPB announced an enforcement action against an online lender, Flurish, Inc. (doing business as "LendUp") for failure to deliver promised benefits to consumers. LendUp offers single payment loans and installment loans in 24 states, and pitched itself as a consumer-friendly alternative to traditional payday loans. The company began advertising its loans as a way for consumers to build credit and improve their credit scores and promised the opportunity to advance to more favorable loan terms such a lower rates and longer repayment periods over time.

The CFPB found that some of these product offerings were not available to consumers where they were advertised and for several years, the company did not properly furnish consumers' information to the credit reporting companies, therefore the consumers were denied the opportunity to improve their credit scores over time. The CFPB found other violations including hiding the true cost of credit through misleading ads and failing to disclose the APR as required in violation of TILA, reversing pricing without consumer knowledge, and misleading consumers about graduating to lower priced loans when in fact those loans were not available in some cases.

The CFPB used its authority to take action against institutions engaging in unfair, deceptive or abusive acts or practices (UDAAPs) and ordered LendUp to pay $1.83 million in redress to over 50,000 consumers affected by their loan practices. In addition, LendUp was ordered to stop misrepresenting loan benefits and fees and must use the correct finance charge and APR in its advertisements. LendUp will also pay $1.8 million to the CFPB's Civil Penalty Fund.

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

January 29, 2017:
5300 Call Report Due to NCUA

Click here for upcoming compliance dates.

Compliance Training

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

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

December 14, 2016
Director Series: Essential Compliance Training for the Board & Senior Management
3:00 - 4:30 ET
Webinar

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

December 20, 2016
Disaster Preparedness, Recovery & Business Continuity

This enforcement action serves as a reminder to be careful of potential UDAAPs when advertising promised benefits of a loan program to consumers. LendUp pitched itself as a consumer-friendly alternative to payday loans, but despite their intentions, they failed to pay attention to the required consumer laws.

For more information on UDAAP, see the UDAAP summary, related links and regulation in InfoSight, available here. The full text of the CFPB consent order is available here.

FinCEN Issues Cyber FAQs

The Financial Crimes Enforcement Network (FinCEN) has issued new frequently asked questions (FAQs) to supplement its advisory on cyber-events and cyber-enabled crime and assist financial institutions in reporting these events on suspicious activity reports (SARs). The FAQs supersede those published in 2001 regarding computer intrusion and provide information and details not contained in the 2001 FAQs.

Q&As include:

- What information should a financial institution include in SARs when reporting cyber-events and cyber-enabled crime?
- How should a financial institution complete SARs when reporting cyber-events and cyber-enabled crime?
- How should cyber-events and cyber-enabled crime be characterized in SARs?
- How does a financial institution report numerous cyber-events in SARs?
- Is a financial institution required to file SARs to report continuous scanning or probing of a financial institution's systems or network?
- Should a SAR be filed in instances where an otherwise reportable cyber-event is unsuccessful?

And more. Click here to read the FinCEN FAQs and here for FIN-2016-A005.

Your CU Should Know…

NCUA Posts 2017 Call Report Deadlines

The National Credit Union Administration has announced that, beginning with the Call Report for the quarter ending December 31, 2016, federally insured credit unions will have until the last Sunday of the month following quarter end to file Call Reports. The due dates in 2017 are January 29, April 30, July 30, and October 29. This change gives credit unions, on average, an additional seven days to file.

Fed and CFPB Finalize Rule on Regs M and Z Exemption Thresholds

The Federal Reserve Board and the Consumer Financial Protection Bureau have announced they have issued final rules detailing the method that will be used to adjust the thresholds for exempting certain consumer credit and lease transactions from the Truth in Lending Act and Consumer Leasing Act. The

3:00 - 4:30 ET
Webinar

December 21, 2016
Emerging Need & Regulatory Expectations for Enterprise Risk Management Framework
3:00 - 4:30 ET
Webinar

January 4, 2017
Top 10 HMDA Issues for 2016 Reporting: Checkup for March 1st Submission
3:00 - 4:30 ET
Webinar

January 5, 2017
Cross Selling Products & Services: Compliance with TCPA & FCRA
3:00 - 4:30 ET
Webinar

January 9, 2017
ADA Website Compliance Requirements & Common Errors
3:00 - 4:30 ET
Webinar

January 10, 2017
Director Series: Credit Union Success Guide: Best Steps for Success in a Difficult Environment
3:00 - 4:30 ET
Webinar

January 11, 2017
Asset-Liability Management Overview
3:00 - 4:30 ET
Webinar

January 12, 2017
Account Documentation Series: Compliance & Due Diligence at Account Opening
3:00 - 4:30 ET
Webinar

January 17, 2017
Loan Underwriting Basics: Interviewing, Credit Reports, Debt

final rules also apply the calculation method to the thresholds for exempt credit and lease transactions for 2017. The thresholds will remain at $54,600 based on the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) in effect on June 1, 2016. The thresholds last changed on January 1, 2015.

OFAC Designates Six as Global Terrorists
The Department of the Treasury's Office of Foreign Assets Control has added Specially Designated Global Terrorist (SDGT) designations to its Specially Designation Nationals Lists. Four individuals were added, and two designated narcotics traffickers with the Kingpin Act designation were updated to add the SDGT designation. See the OFAC Update for details.

2017 FHFA Loan Limits Rise for the First Time Since 2006
Recently, the Federal Housing Finance Agency announced that the conforming loan limits for much of the country will increase from $417,000 to $424,100 in 2017. The new ceiling loan limit, which applies in areas with the most expensive homes, will be $636,150 (which is 150% of $424,100) for one-unit properties in the contiguous U.S.

The Housing and Economic Recovery Act of 2008 (HERA) established the baseline loan limit of $417,000 and requires this limit to be adjusted each year to reflect the changes in the national average home price. However, after a period of declining home prices, HERA also made clear that the baseline loan limit could not rise again until the average U.S. home price returned to its pre-decline level. Until this year, the average U.S. home price remained below the level achieved in the third quarter of 2007 and thus the baseline loan limit had not been increased.

FHFA has published its third quarter 2016 House Price Index (HPI), which makes clear that average home prices are now above their level in the third quarter of 2007. The expanded-data HPI value for the third quarter of 2016 was roughly 1.7 percent above the value for the third quarter of 2007, and thus the baseline loan limit will increase by that percentage.

Comment Calls

The OCC, Fed, FDIC, Farm Credit Administration, and NCUA (the Agencies) have issued a proposal to amend their regulations regarding loans in areas having special flood hazards to implement the private flood insurance provisions of the Biggert-Waters Flood Insurance Reform Act of 2012. Specifically, the proposed rule would require lending institutions – including credit unions – to accept policies that meet the statutory definition of private flood insurance in the Biggert-Waters Act and permit such institutions to accept flood insurance provided by private insurers that does not meet the statutory definition of "private flood insurance" but does meet certain established criteria.

As part of the Biggert-Waters Act amendments to the National Flood Insurance Program (NFIP), the Agencies are required to issue a rule directing lending institutions to accept "private flood insurance." In October 2013, the Agencies jointly issued proposed rules to implement aspects of the Biggert-Waters Act, including provisions on private flood insurance. However, due in part to 2014 amendments to the Biggert-Waters Act (by the Homeowner Flood Insurance Affordability Act), the Agencies decided to finalize certain aspects of the

Ratios & Regulation B
3:00 - 4:30 ET
Webinar

January 18, 2017
Identifying Fraudulent Transactions: Including Recent FinCEN Advisory on Email Fraud Schemes
3:00 - 4:30 ET
Webinar

January 19, 2017
ACH Specialist Series: Direct Deposit Tax Refunds: Posting & Exceptions
3:00 - 4:30 ET
Webinar

January 23, 2017
Part 1 - New FFIEC Consumer Compliance Rating System, Effective March 31, 2017: Oversight & Compliance Management Program
3:00 - 4:30 ET
Webinar

January 24, 2017
Same Day ACH: Lessons Learned & FAQs for RDFIs
3:00 - 4:30 ET
Webinar

January 25, 2017
IRA & HSA Review & Update, Including New Fiduciary Rule Implications
3:00 - 4:30 ET
Webinar

January 26, 2017
Procedural & Compliance Responsibilities of the Board Secretary
3:00 - 4:30 ET
Webinar

January 31, 2017
Auditing Call Reports
3:00 - 4:30 ET
Webinar

October 2013 proposal and re-propose the provisions on private flood insurance. The current proposal is similar to the October 2013 proposal regarding private flood insurance but incorporates some of the input received during the open comment period. Please have comments back to Selina Gambrell at selinag@gcua.org by December 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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