



InfoSight Highlight

IRS Form 1098

Credit unions (i.e., "interest recipients"/lenders) who receive mortgage interest payments of \$600 or more during a calendar year, must report those interest payments to both the member (i.e., payer of record making those payments) and to the IRS on "Form 1098, Mortgage Interest Statement."

In 1994, the IRS issued a final regulation on reporting prepaid interest in the form of points paid on residential mortgages. Although this regulation took effect December 8, 1994, the reporting requirements do not apply to points received before January 1, 1995.

The IRS compares the 1098 provided by the credit union with the mortgage interest payments claimed as deductions on the member's income tax return.

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

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

On December 7, 2016, affiliated credit unions were emailed the 2016 year-end bulletin to help your credit union prepare for tax reporting season. You can access a copy of the bulletin [here](#).

Compliance News

Santander to Pay \$10 Million for Overdraft Practices

The Consumer Financial Protection Bureau (CFPB) has [ordered Santander Bank, N.A.](#) to pay a \$10 million fine for illegal overdraft service practices.

The [CFPB's press release](#) reports that Santander's telemarketing vendor deceptively marketed the overdraft service and signed certain bank customers up for the service without their consent. In addition to paying the civil money penalty to the CFPB, Santander Bank must go back and give consumers the opportunity to provide their affirmative consent to the overdraft service, must not use a vendor to telemarket its overdraft service, and must increase oversight of vendors used to telemarket consumer financial products or services.

The Bureau found that Santander Bank's illegal and improper practices included:

- **Signing consumers up for overdraft service without their consent:** In some instances, Santander's telemarketer briefly described Account Protector to consumers, then asked for the last four digits of their Social Security numbers, and enrolled them without their consent. In other instances, consumers said they did not want to enroll but requested information about the overdraft service, but the telemarketer enrolled them anyway. When Santander charged those consumers overdraft fees on ATM and one-time debit card transactions, it violated the opt-in rule.

GEORGIA CREDIT UNION

Affiliates

InfoSight
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Credit Union National Association

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;
Commercial Lending (NCUA) -
Effective date

January 1, 2017:

HMDA - Regulation C, excludes
low volume depository institutions

- **Deceiving consumers that overdraft service was free:** Call representatives led consumers to believe that Account Protector was free, when in fact it could potentially cost them hundreds of dollars in fees. Some call representatives falsely suggested that consumers would not be charged a fee if they brought their account current within five business days of an overdraft. Other representatives implied that consumers would be charged fees only for emergency transactions, and that non-emergency purchases would not result in fees.
- **Deceiving consumers about the fees they would face if they did not opt in:** In some instances, call representatives told consumers the bank would charge overdraft fees on ATM and one-time debit card transactions regardless of whether they signed up for Account Protector. In fact, Santander could not charge those fees without the consumer's consent. Some representatives even told consumers that they risked being charged additional fees if they did not sign up for Account Protector, when in fact the opposite was true.
- **Falsely claiming the call was not a sales pitch:** Call representatives falsely told consumers that "this is not a sales call" and that the reason for the call was that the bank had recently changed its name. In fact, the purpose of the call was to sell Account Protector, and Santander's name change was irrelevant.
- **Failing to stop its telemarketer's deceptive tactics:** Santander offered the telemarketer financial incentives to hit certain sales targets. Santander then failed to identify and stop the deceptive and other improper tactics that its telemarketer used to achieve those sales targets.

The Bureau found that Santander violated both the Electronic Fund Transfer Act and Regulation E, and the protections against unfair, deceptive or abusive acts or practices in the Dodd-Frank Act. In addition to paying the \$10 million civil penalty to the Bureau's Civil Penalty Fund, Santander was ordered to:

- Validate all opt-ins associated with the telemarketer.
- Refrain from using a vendor to conduct outbound telemarketing of overdraft service to consumers, and not require its own employees to generate a target number of opt-ins or provide its employees with financial incentives in connection with opt-ins.
- Increase oversight of all third-party telemarketers of consumer financial products or services.

The full CFPB order is available [here](#).

NCUA Notes Premium Range Could Change

Although it is projecting a combined stabilization fund assessment and National Credit Union Share Insurance Fund premium range of between 3 to 6 basis points in 2017, NCUA also indicates that - "in the event of an extraordinary change in economic condition" or "material failure of a large credit union" - actual premium needs in 2017 could vary significantly from the projected range. In a Letter to Credit Unions (16-CU-10) NCUA stated that the range results only from an insurance fund premium, and that (at least for now) the agency projects no assessment range for the Temporary Corporate Credit Union Stabilization Fund. However, additional information about the stabilization fund, and the NCUA Guaranteed Notes Program, will be provided at the Dec. 14 NCUA Board meeting, the letter states. "Notwithstanding a major, unexpected development, such as a severe economic downturn, the Stabilization Fund assessment is expected to be zero for 2017," the letter states. "However, if adverse conditions develop, the NCUA Board may have to reconsider an assessment," the letter adds.

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 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](#)
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](#)

Further, the agency makes it clear that credit unions should not expense any premium or assessment until either is actually declared by the board. The letter also emphasizes that credit unions should not use the projected premium range as the basis for any accruals of future expenses.

The NCUA Board heard a briefing at the November board meeting, at which staff of the Office of Examination and Insurance recommended a share insurance premium for 2017 because growth in insured shares in credit unions, combined with a continuing low interest-rate environment, is resulting in a slow decline in the insurance fund's equity ratio - which likely won't recover as the year goes on. According to NCUA's analysis, "the present low interest-rate environment makes it difficult to generate sufficient retained earnings to bring the equity ratio back to 1.30%," which (since 2007) has been set as the "normal operating level" of the insurance fund. By law, the normal operating level for fund must fall between 1.20% and 1.50%.

[NCUA letter to credit unions 16-CU-10](#)

Guidance for New MBL Rule Published Online

In a letter, the agency announced that its examiners' guidance for the new member business loan (MBL) rule is open for public use as part of the agency's online examiners guide. In LTCU 16-CU-11, NCUA Board Chairman Rick Metsger noted that the new rule (which takes effect Jan. 1) "is designed to provide greater flexibility to credit unions to meet the needs of their members through prudent risk-management practices." He also noted that the agency continues to emphasize that credit unions which engage in commercial lending activities "need to have the people, processes, and policies in place to ensure the safety and soundness of their operations."

Metsger stated that the examiner guidance - considered critical by credit union practitioners and supervisors in how the agency will approach the new "principles-based" rule - "will help credit unions understand NCUA's supervisory expectations for sound commercial risk-management practices."

Although the new rule takes effect in January, its implementation has been challenged by a bankers' group (the Independent Community Bankers of America (ICBA)), which has asked a federal court to invalidate and set aside a provision of the new rule that allows federally insured credit unions to exclude purchased commercial loans or participations in such loans from the aggregate cap on MBLs. NCUA has responded to (and discounted) the bankers' complaint, as have the two largest national credit union trade groups (CUNA and NAFCU).

[NCUA LTCU 16-CU-11: Member Business Loans Guidance Added to Examiner's Guide](#)

[Examiners' Guide: Commercial and Business Loans](#)

Policy Change Allows Access to One Additional Authorized Official

Credit unions will have more flexibility to use the National Credit Union Administration's Consumer Assistance Complaint portal, the agency announced.

NCUA has improved its consumer complaint process to allow for expanded

**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 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**

portal access by additional authorized credit union staff.

Credit union chief executive officers may now designate an additional credit union employee or official to use the portal to view consumer complaints submitted to the Consumer Assistance Center concerning their credit unions. Previously, only CEOs had access to the portal on behalf of their credit unions. This expanded access will help credit unions provide timely responses to consumer complaints received through the portal.

The portal, which opened in November 2015, is located on NCUA's MyCreditUnion.gov site. It allows credit unions to correspond with NCUA's Consumer Assistance Center about complaints concerning their institutions. Information contained within the portal is not accessible by the public.

Using the portal is voluntary; however, users must first register to gain access. Credit unions that want to use the portal should review the newly updated [frequently asked questions](#) available on the agency's website for information on how to register or request an additional user be added to their user profiles.

NCUA's Consumer Assistance Center also implemented complaint resolution procedures last year to improve the way the agency handles consumer complaints involving federal consumer financial protection laws and regulations. NCUA informed federally insured credit unions about these improvements in a June 2015 [Letter to Credit Unions](#).

Under the new complaint handling procedures, a complaint filed with the Consumer Assistance Center involving a federal consumer financial protection matter is sent to the credit union for attempted resolution, as appropriate. If the complaint remains unresolved after 60 days, the Consumer Assistance Center may begin its own investigation to determine compliance with federal consumer financial protection laws and regulations.

Your CU Should Know...

FEMA Suspending Communities from Flood Program

The Federal Emergency Management Agency has published two final rules identifying communities that are scheduled for suspension from the National Flood Insurance Program.

- A rule at [81 FR 87467](#), with a suspension date of December 22, 2016, affects communities in Polk County, Florida; McKean County, Pennsylvania; Cheatham, Dickson and Williamson counties in Tennessee; Sedgwick and Summer counties in Kansas; and Carson City, Nevada.
- A rule at [81 FR 87470](#), with a suspension date of December 8, 2016, affects communities in Walton County, Georgia; Brown County, Indiana; Benton and Linn counties in Oregon; and Richland and Vernon counties in Wisconsin.

CFPB Fall 2016 Rulemaking Agenda Update

The CFPB has [announced on the Bureau Blog](#) the fall semiannual update of its rulemaking agenda. The items listed included:

- Know Before You Owe (TRID) mortgage disclosure rule (reviewing comments on proposed revisions)

January 24, 2017

State GAC/Grassroots Academy
Atlanta, GA
[More information](#)

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

February 1, 2017

[Developing & Managing a Consumer Complaint Program – Avoiding Reputational Damage](#)

3:00 - 4:30 ET

Webinar

February 6, 2017

[The New World of Debt Collection: What Recent CFPB Actions Indicate About the Future of Regulations & Enforcement](#)

3:00 - 4:30 ET

Webinar

February 7, 2017

[Regulation E Series: Handling Provisional Credit Under Reg E: Rules, Best Practices & FAQs](#)

3:00 - 4:30 ET

Webinar

February 8, 2017

[Real Estate Series: Understanding TRID Tolerance Cures](#)

3:00 - 4:30 ET

Webinar

February 9, 2017

[Establishing Compliant E-SIGN](#)

- HMDA (working on proposed fine-tuning amendments to 2018 HMDA rule)
- Larger participants and non-depository lender registration (ongoing)
- Arbitration (reviewing comments on proposed rule)
- Payday, auto title, and similar lending products (reviewing comments on proposed rule)
- Debt collection (potential proposed rule for debt collectors soon; ongoing study on need for rule for first-party collectors)
- Overdraft services (under research)
- Reporting under ECOA of info on credit applications from women-owned, minority-owned and small businesses (outreach and research)

Consumer Compliance Outlook Published

The Federal Reserve Bank of Philadelphia has posted the latest edition of *Consumer Compliance Outlook*. This edition features articles on subpart B of Regulation E on Remittance Transfers and the updated interagency questions and answers regarding Community Reinvestment.

OFAC Sanctions Supporters of North Korean Government

In response to North Korea's September 2016 nuclear test, ongoing prohibited development of weapons of mass destruction (WMD), and continued violations of United Nations Security Council resolutions (UNSCRs), the U.S. Department of the Treasury has announced that its Office of Foreign Assets Control (OFAC) has designated 16 entities and seven individuals for their ties to the Government of North Korea or its nuclear and weapons proliferation efforts and identified 16 aircraft blocked as property of a designated entity. The targets include individuals and companies from North Korea's transportation, mining, energy and financial services industries. As a result of this action, any property or interests in property of the designated persons in the possession or control of U.S. persons or within the United States must be blocked. Additionally, U.S. persons are generally prohibited from engaging in transactions involving the designated persons and listed aircraft.

Whistleblower Gets \$3.5M

The SEC has announced that a whistleblower has been awarded approximately \$3.5 million for coming forward with information that led to an SEC enforcement action. The SEC's whistleblower program has now awarded approximately \$135 million to 36 whistleblowers since issuing its first award in 2012. SEC enforcement actions from whistleblower tips have resulted in more than \$874 million in financial remedies.

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 October 2013 proposal and re-propose the provisions on private flood

Act Procedures for Electronic Documents & Statements

3:00 - 4:30 ET

Webinar

February 13, 2017

Part 2 – New FFIEC Consumer Compliance Rating System, Effective March 31, 2017: Violations of Law & Consumer Harm

3:00 - 4:30 ET

Webinar

February 14, 2017

Military Lending Act: Exam Procedure Changes, Post-Implementation Considerations & FAQs

3:00 - 4:30 ET

Webinar

February 15, 2017

Qualifying Borrowers Using Personal Tax Returns Part 1: Schedules A, B, C & D

3:00 - 4:30 ET

Webinar

February 16, 2017

BSA Compliance Series: FinCEN's CDD Rules & BSA Compliance: Why Preparing Now for the Fifth Pillar is Critical

3:00 - 4:30 ET

Webinar

BSA Training Opportunities through GCUA

[Click here for details](#)

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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Need a BSA, ACH or Website review? Email compliance@gcua.org.