



InfoSight Highlight

Cuban Assets Control Regs Updated

OFAC is amending the Cuban Assets Control Regulations, (the "CACR") to further implement the new policy direction toward Cuba that the President announced in December 2014. These changes are intended to further engage and empower the Cuban people and promote political, social, and economic reform in Cuba by easing sanctions related to, among others, travel, trade, humanitarian projects, and banking. The amendment has been published [81 FR 4583] in the *Federal Register* and was effective upon publication. OFAC also published new and updated CACR FAQs along with an updated Travel Guidance document.

For more information on the Office of Foreign Assets Control see the OFAC topic in the Bank Secrecy Act channel on InfoSight.

Compliance News

Regulatory Relief on Annual Privacy Notices

NCUA clarifies for credit unions in **Letter to Credit Unions 16-CU-03** that if your credit union has not changed its credit union's privacy policy since your last annual privacy notice, **you may not have to send another privacy notice this year—as long as you meet the conditions described in the letter.**

This letter describes a recent amendment to the Gramm-Leach-Bliley Act (GLBA) that creates a new exception, in certain circumstances, to the statutory requirement that credit unions provide consumers with annual privacy notices. This exception is available to credit unions that have not changed their policies and practices for disclosing nonpublic personal information since they last provided an annual disclosure to consumers, if they meet other specified conditions, discussed below.

Based on the amendment, **your credit union need not provide an annual privacy notice if:**

- Your policies and practices have not changed since your credit union provided its most recent privacy notice to consumers; and
- **You share nonpublic personal information with nonaffiliated third parties only in accordance with requirements for certain existing GLBA exceptions**, including those related to:



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Credit Union National Association

Compliance Calendar

February 15
Washington's
Birthday/President's Day -
Federal Holiday

March 13
Daylight Savings Time Begins

April 22
5300 Call Report Due to NCUA

**Click here for upcoming
compliance dates.**

Compliance Training

February 3, 2016
**New Compliance Officer Boot
Camp - Webinar**
3:00 – 4:30 p.m. EST

February 4, 2016
Dealing with ACH Tax

- Performing services for, or functions on behalf of, the credit union, pursuant to a joint marketing agreement;
- Administering, servicing, or processing a transaction a consumer requests or authorizes; maintaining or servicing certain consumer accounts; or performing securitizations, secondary market sales, or similar transactions; or
- Other specified operational and legal purposes, including disclosure with the consumer's consent or at the consumer's direction and disclosure to protect the confidentiality and security of records related to the consumer, service, product, or transaction.

NCUA examiners have been notified that if your credit union meets the applicable requirements, you need not send annual privacy notices unless and until your credit union no longer meets those requirements. **NCUA examiners will only expect annual privacy notices to be provided if your credit union does *not* meet the new requirements described in this letter.**

NCUA staff will consult with Consumer Financial Protection Bureau staff as CFPB works to implement the FAST Act's amendment to GLBA and address interactions with other laws, such as the Fair Credit Reporting Act.

Credit unions with questions about your credit union's NCUA examination, please contact NCUA's Office of Examination and Insurance at EIMail@NCUA.gov or 703-518-6360, your Examiner, Supervisory Examiner, or Regional Office. For questions about Gramm-Leach-Bliley Act requirements related to privacy notices, please contact NCUA's Office of Consumer Protection at ComplianceMail@ncua.gov or 703-518-1140.

Enhanced Share Insurance Coverage

NCUA reminds credit unions in **Regulatory Alert 16-RA-02** that as of January 27, 2016, three types of credit union accounts are eligible to receive enhanced federal insurance coverage from NCUA:

- Interest on Lawyers' Trust Accounts (IOLTAs);
- Real Estate Escrow Accounts; and

Refunds: Exceptions, Posting & Liabilities - Webinar
3:00 – 4:30 p.m. EST

February 9, 2016
Handling Debit Card Chargebacks - Webinar
3:00 – 4:30 p.m. EST

February 11, 2016
Avoiding Compliance Violations in Advertising - Webinar
3:00 – 4:30 p.m. EST

February 16, 2016
Telephone Consumer Protection Act: What You Need to Know About the New Requirements - Webinar
3:00 – 4:30 p.m. EST

February 17, 2016
Overseeing Credit Union Performance: the Role of Audit - Webinar
3:00 – 4:30 p.m. EST

February 21 – 25, 2016
CUNA Governmental Affairs Conference
Washington D.C.

February 23, 2016
Teller Development: Managing Dual Control & Cash Limits - Webinar
3:00 – 4:30 p.m. EST

February 24, 2016
Construction to Permanent Lending Compliance with CFPB Rules: Including TRID Changes - Webinar
3:00 – 4:30 p.m. EST

- Prepaid Funeral Accounts.

In any of these accounts, if the primary account holder (the lawyer or escrow agent) is a member of a federally insured credit union, then all other depositors who contributed money to the account will likewise be federally insured by NCUA—even if they are *not* members of that credit union.

For example, if a lawyer, real estate agent, or funeral director member maintains an escrow account in a federally insured credit union on behalf of clients, all clients' contributions will be insured up to \$250,000.

The new share insurance regulation approved last month by the NCUA Board will also accommodate “other similar escrow accounts.” NCUA also includes guidance from NCUA’s Office of General Counsel that describes principles that will determine how NCUA could qualify other similar escrow accounts, on a case-by-case basis, for insurance coverage to pass through from a member to non-members.

In general, if a person pays into an NCUA-insured account held by a member escrow agent—and if the member has a fiduciary duty to save the funds (like a lawyer, real estate agent, or funeral director does on behalf of clients)—then the account could be treated as an other similar escrow account. In such a case, pass-through coverage would apply so that the insured account held by the member escrow agent covers everyone who paid into that account—including members and non-members.

Credit unions with questions about the new insurance coverage for the three accounts mentioned above, or other similar escrow accounts, should contact NCUA’s Office of General Counsel at 703-518-6540 or ogcmail@ncua.gov.

IRS Updates Information on Direct Deposit of Tax Refunds for CUs
As the number of tax payers opting to receive their tax refunds electronically continues to increase, the IRS has added new information to its guidance for financial institutions accepting tax refunds via direct deposit:

March 3, 2016
How to Complete & File UCC-1 Financing Statements-
Webinar

3:00 – 4:30 p.m. EST

March 8, 2016
Credit Reporting Guidelines, Rules & Best Practices: FCRA & FACT Act -Webinar

3:00 – 4:30 p.m. EST

March 15, 2016
Auditing for TRID Compliance: Safe Harbor Expires February 1, 2016 - Webinar

3:00 – 4:30 p.m. EST

March 16, 2016
Flood Insurance Compliance Update & FAQs -Webinar

3:00 – 4:30 p.m. EST

March 22, 2016
The CFPB’s Four Ds of Fair Lending: Deceptive Marketing, Debt Traps, Dead Ends & Discrimination -Webinar

3:00 – 4:30 p.m. EST

March 23, 2016
Outsourcing Tech Services: Regulations, Examiner Expectations & Actions for Vendor Management -Webinar

3:00 – 4:30 p.m. EST

March 30, 2016
Your Member Has Filed Bankruptcy, Now What? - Webinar

3:00 – 4:30 p.m. EST

March 31, 2016
Developing Your Same-Day

- The number of refunds that can be electronically deposited into a single credit union account or pre-paid debit card is limited to three. If your member is due any additional refunds, the IRS will send them a notice informing them that the direct deposit limit has been exceeded, and that they should receive a refund check within the month, as long as there are no other issues with the return.
- The IRS is responsible for monitoring how many IRS refund deposits are being made to the same account. Credit unions have no obligation to monitor accounts for this purpose.
- At the request of the IRS, NACHA has implemented an opt-in program to allow financial institutions to use a specific return reason code (R17) to return refunds where fraud is suspected.
- Federal tax refund payments are not protected against offset by the credit union. However, if the member has already closed the account the credit union cannot open the account to accept the deposit – it should be returned to the IRS.
- If the credit union learns that an IRS tax refund has been misdirected to the wrong account, the credit union should NOT originate a Notification of Change. The IRS discourages this because the tax refund payments are non-recurring. The credit union should instead return the original ACH credit entry to the IRS with an appropriate return reason code. Credit unions are encouraged to alert their members to the importance of double checking their account numbers and the credit union's routing number when filing their returns.

As a reminder:

- Credit unions may post IRS tax refunds received via ACH using the account number only - you are not required to perform a match between the name on the payment and the name on the account. (Although the IRS appreciates any assistance to stop this type of fraud).
- Credit unions are not liable for an IRS tax refund sent through the ACH system to an erroneous or fraudulent account, since the IRS provided the incorrect information.
- If the IRS discovers that a refund was misdirected or was fraudulent, the agency may request the credit union to return any funds available in the account, but the credit union is not legally required to do so.
- IRS refund payments are not subject to reclamation. If a credit union receives a tax refund for a deceased accountholder, you are not required to take any further action.

ACH Game Plan -Webinar
3:00 – 4:30 p.m. EST

April 5, 2016
New Federal Regulations Targeting Student Accounts, Including Debit & Prepaid Cards:
Effective July 1, 2016 –
Webinar
3:00 – 4:30 p.m. EST

April 6, 2016
Managing IRA Beneficiary Designations & Distributions –
Webinar
3:00 – 4:30 p.m. EST

April 7, 2016
Post EMV Card Liability Shift: Managing & Mitigating Card-Not-Present Fraud - Webinar
3:00 – 4:30 p.m. EST

April 12, 2016
Completing the SAR Line-by-Line - Webinar
3:00 – 4:30 p.m. EST

April 13, 2016
Your Depositor Has Died: Actions to Take, Mistakes to Avoid - Webinar
3:00 – 4:30 p.m. EST

April 19, 2016
Effective Management of Credit Report Disputes - Webinar
3:00 – 4:30 p.m. EST

April 20, 2016
Troubled Debt Restructuring: Determination & Accounting -

Credit unions are encouraged to review all of the information on the [IRS Tax Refunds Resource Page](#).

Your CU Should Know...

Updated Consumer Credit Reporting Companies Information: The Bureau has posted a [blog article](#) with an updated list of consumer reporting companies and a reminder to consumers that they have the right to request their information maintained by the credit reporting companies. The list includes the latest company name and contact information for the three largest nationwide consumer reporting companies and dozens of specialty companies (sorted by specialty). It also includes tips on which specialty reports might be important for an individual consumer to fact check depending on his or her situation, as well as new information on how consumer reporting companies validate a consumer's identity before providing a report. The article also provides tips on fact-checking the reports and a link to a 2012 [CFPB bulletin](#) that highlights the legal requirement that certain consumer reporting companies must establish and manage "a streamlined process for consumers to request consumer reports."

Furthermore, the list also makes note of the companies that will provide free credit scores along with free reports, although not many companies offer credit scores for free.

Reminder: Georgia law [Section 10-1-393(29)(c)] allows **two** free credit reports per calendar year.

January CFPB Complaint Snapshot Released: The CFPB has released the [January edition of its Consumer Complaint Snapshot](#), highlighting consumer complaints about financial services such as debt settlement, check cashing, money orders, and credit repair. The report shows that consumer complaints about these types of financial services generally revolve around issues of fraud or problems with reliable customer service. Consumer complaints have totaled over 790,000 complaints since January 1st of this year. The report shows the most significant increase in prepaid complaints (a 233% increase from last year) and the biggest decrease in student loan complaints (down 14% from last year). This month's snapshot also highlights trends seen in

Webinar

3:00 – 4:30 p.m. EST

April 26, 2016

[Regulator Expectations for Risk](#)

[Assessment: Policies,](#)

[Procedures & Steps in](#)

[Obtaining Board Approval -](#)

Webinar

3:00 – 4:30 p.m. EST

April 27, 2016

[Call Report Preparation:](#)

[Avoiding Common Errors -](#)

Webinar

3:00 – 4:30 p.m. EST

April 28, 2016

[ACH Rules Update 2016 -](#)

Webinar

3:00 – 4:30 p.m. EST

May 3, 2016

[Conducting the Annual](#)

[Physical Security Review -](#)

Webinar

3:00 – 4:30 p.m. EST

May 4, 2016

[Loan Participation Due](#)

[Diligence: Practices,](#)

[Documentation, Servicing &](#)

[Risks - Webinar](#)

3:00 – 4:30 p.m. EST

May 10, 2016

[Succession Planning for the](#)

[Board & Supervisory](#)

[Committee - Webinar](#)

3:00 – 4:30 p.m. EST

May 11, 2016

[Business Accounts: Who is](#)

[Authorized to Open, Close,](#)

complaints coming from New York State and the New York City metro area.

Call Reports and CMPs: The NCUA has announced that 22 credit unions have signed consent orders agreeing to pay civil money penalties for filing late their Call Reports for the third quarter 2015. The late filers will pay a total of \$18,682 in penalties. One credit union agreed to a \$10,000 CMP. The median penalty was \$330.

Enhancements to IdentityTheft.gov: The Federal Trade Commission (FTC) has announced that enhancements have been made to its IdentityTheft.gov website that allow victims to go online and get a free, personalized identity theft recovery plan. IdentityTheft.gov is now integrated with the FTC's consumer complaint system, allowing consumers who are victims of identity theft to quickly file a complaint with the Commission and get a personalized guide to recovery that helps streamline many of the steps involved. A video explaining how the new system works is now available, along with educational materials for consumers.

Same Day ACH Resource Center: Federal Reserve Financial Services has announced the creation of a resource center devoted to helping ACH network participants prepare for the September 23, 2016, implementation of the ACH Rules changes providing for Same Day ACH. The resource center contains helpful FAQs, processing schedules, and links to NACHA resources, and will be updated as new information becomes available.

NCUA Schedules Webinar on CUSO Registry: NCUA will host a February webinar on how to use the CUSO Registry. The webinar is scheduled to begin at **2:30 p.m. EST on Thursday, February 11th**. Online registration will be available soon.

Reminder: The CUSO registration period begins Monday, February 1, and ends Thursday, March 31.

Transact? – Webinar
3:00 – 4:30 p.m. EST

May 12, 2016
Managing the Force-Placed Insurance Process - Webinar
3:00 – 4:30 p.m. EST

May 17, 2016
Wire Transfer Compliance, Including International Remittances – Webinar
3:00 – 4:30 p.m. EST

May 24, 2016
Understanding & Managing the CFPB Complaint Process – Webinar
3:00 – 4:30 p.m. EST

May 25, 2016
Developing Quality & Efficiency in Your IT Audit – Webinar
3:00 – 4:30 p.m. EST

BSA Training Opportunities through GCUA
[Click here for details](#)

FTC Issues 2015 Privacy and Data Security Update: The FTC has released its [2015 Privacy and Data Security Update](#), which highlights the consumer privacy initiatives taken by the Commission last year, including law enforcement, reports, public workshops, educational efforts, and international cooperation.

CFPB Action Sends \$80M to Ally Borrowers: The CFPB has posted an [article](#) on its Blog to update the results of the Bureau's actions for customers of Ally Bank. In December 2013, together with the Department of Justice (DOJ) and pursuant to a federal court order, the [CFPB ordered](#) Ally Financial Inc. and Ally Bank to pay \$80 million in damages to consumers harmed by Ally's discriminatory auto loan pricing policies. On January 29, harmed borrowers participating in the settlement were mailed checks by the Ally settlement administrator, totaling \$80 million plus interest. The Bureau's investigation found that Ally had a policy of allowing dealers to increase or "mark up" consumers' risk-based interest rates, and paying dealers from those markups, and that the policy lacked adequate controls or monitoring. As a result, between April 2011 and December 2013, this markup policy resulted in African-American, Hispanic, Asian and Pacific Islander borrowers paying more for auto loans than similarly situated non-Hispanic white borrowers.

Comment Calls

The Holder Rule

As part of the Federal Trade Commission's (FTC) [systematic review of all current rules and guides](#), it is [seeking public comment](#) on the efficiency, costs, benefits, and impact of the Trade Regulation Rule Concerning Preservation of Consumers' Claims and Defenses (Holder Rule).

The Holder Rule preserves consumers' rights to assert the same legal claims and defenses against anyone who purchases a credit contract, as they would have against the seller who originally provided the credit. The effect of the language is to keep the consumer from losing his or her rights under the sales contract and under state law if the seller assigns or sells the contract to any other creditor such as a credit union or other financial institution. The Holder Rule does not, by itself, create a right for the consumer to withhold payment from the creditor. Whether the consumer has such a right to withhold any payment from a creditor is determined by state contract law. The Holder Rule preserves

whatever rights the consumer may have, no matter who holds the contract.

The Holder Rule applies to sellers of goods, such as automobile dealers, who provide or arrange financing for their customers. Sellers are required to include a notice in their loan agreement or ensure that lenders they refer customers to include the notice in their loan agreement that preserves the consumer's claims and defenses against the seller of the goods. The Holder Rule does not directly create a duty by a financial institution to place the notice in a loan agreement unless a financial institution has a relationship with the seller or automobile dealer or unless the lender is selling the goods such as an automobile directly to the consumer. Credit unions who engage in indirect auto lending are most likely to be impacted by this rule, but it is also relevant in other consumer contracts.

The FTC is seeking feedback on potential modifications to the rule as outlined in the summary attached. GCUA is seeking feedback from credit unions about if they are impacted by outdated provisions in the Holder Rule, how the Holder Rule impacts operations, and what changes could be made to it to relieve regulatory burdens. Please send your feedback to Selina Gambrell at selinag@gcu.org by **February 5th, 2016**.

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@gcu.org.