



## InfoSight Highlight

Direct Deposit of Payroll Checks

**Question:** Our institution's management team wants all employees to deposit their payroll checks into the credit union via direct deposit. Most employees are in favor of the plan. However, our compliance officer says implementing this plan would violate Regulation E. Is this true?

**Answer:** As the plan stands now, your compliance officer is correct. The credit union cannot mandate direct deposit of payroll checks into the credit union with no other options available to employees.

According to Section 1005.10(e)(2) of Regulation E (compulsory use, employment or government benefit):

"No financial institution or other person may require a consumer to establish an account for receipt of electronic fund transfers with a particular institution as a condition of employment or receipt of a government benefit."

So, the credit union can require direct deposit of salary *if* employees are allowed to choose the institution that will receive the direct deposit.

However, if the management team wants to designate the institution (i.e., the credit union) to receive the direct deposits, it must provide employees additional options for receiving their salary, such as by paper check or cash. See *Comment 10(e)(2)-1 of the Official Staff Interpretations to Reg E*.

For more information on Regulation E, please see the [Electronic Fund Transfers - Reg E](#) topic in the Accounts channel on InfoSight.

## Compliance News

OFAC's 50 Percent Rule

**Question:** What is the OFAC 50 Percent Rule?

**Answer:** According to [CUNA's Compliance Blog](#), the Office of Foreign Assets Control's (OFAC) "50 Percent Rule" applies to entities owned 50% or more in the aggregate by more than one blocked person.

GEORGIA CREDIT UNION

*Affiliates*

InfoSight  
Compliance eNEWSLETTER

February 29, 2016

Vol. 10, Issue 9

Created in partnership with the



Credit Union National Association

**Compliance Calendar**

March 1

HMDA Report Due

GRMA Fee Due to DBF

March 13

Daylight Savings Time Begins

April 15

Operating Fee/Capitalization  
Deposit Adjustment due to  
NCUA

Previous Year's IRA  
Contributions Due

April 22

5300 Call Report Due to NCUA

May 30

Memorial Day - Federal  
Holiday

See OFAC's [Revised Guidance on Entities Owned By Persons Whose Property and Interests in Property Are Blocked \(2014\)](#)

Under OFAC regulations, blocked property includes any property or interest in property, tangible or intangible, including present, future or contingent interests. A property interest subject to blocking includes interests of any nature whatsoever, direct or indirect. Under the 50% Rule:

“Persons whose property and interests in property are blocked pursuant to an Executive order or regulations administered by OFAC (blocked persons) are considered to have an interest in all property and interests in property of an entity in which such blocked persons own, whether individually or in the aggregate, directly or indirectly, a 50 percent or greater interest. Consequently, any entity owned in the aggregate, directly or indirectly, 50 percent or more by one or more blocked persons is itself considered to be a blocked person.”

Therefore, any company that is owned 50% or more by a blocked person or entity is "blocked," even if the company itself is not on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List).

The rule covers ownership and not control. An entity that is controlled (but not owned 50% or more) by one or more blocked persons is not considered automatically blocked pursuant to OFAC's 50% Rule. However, OFAC may still designate the entity and add it to the SDN List. Therefore, OFAC urges caution when considering a transaction with a non-blocked entity in which one or more blocked persons have a significant ownership interest that is less than 50%, or in which one or more blocked persons may exercise control by means other than a majority ownership interest.

Clear as mud? No worries, OFAC has a number of FAQs on the 50% rule, available [here](#).

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SCRA Foreclosure Protection...Updated?

**Question: Did Congress ever extend the SCRA's foreclosure protection provision for 2016?**

June 30

PCI - SSL/TLS can no longer be used as a Security Control after this date

Child Support Data Match Reimbursement Deadline

[Click here for upcoming compliance dates.](#)

**Compliance Training**

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 10 – 12, 2016

[Georgia Credit Union Executives Association](#)

**Hilton Head Island, SC**

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](#)

**Answer:** This is the million dollar question, and the answer is: not yet.

As many of you know, Section 303 of the Servicemember Civil Relief Act requires a creditor to obtain a court order approving the sale, foreclosure, or seizure of real estate if it occurs during the servicemember's military service, or within 90 days after military service ends.

Congress temporarily extended this 90-day protection to 9-months in 2008 (Housing and Economic Recovery Act) and in 2010 (Helping Heroes Keep Their Homes Act). Congress then temporarily increased the foreclosure protection period in from 9-months to 1 year in 2012 (Honoring America's Veterans and Caring for Camp Lejeune Families Act) and again in 2014 (Foreclosure Relief and Extension for Servicemembers Act). This last extension expired on December 31, 2015, and that's where we are now.

There are bills pending to once again extend the provision to 1-year. On December 10, 2015, the Senate unanimously passed S. 2393, the Foreclosure Relief and Extension for Servicemembers Act of 2015 which would extend the one-year protection period until December 31, 2017. There are also a number of related bills in the House, including H.R. 189, the Servicemember Foreclosure Protections Extension Act of 2015, and H.R. 4252, the Foreclosure Relief and Extension for Servicemembers Act of 2015. However, nothing has made its way to the President's desk for signature.

So, the 90-day period is back in place for the moment.

**Question: Should we change our HUD SCRA Notices (which have a 12/31/17 expiration date) to reflect the 90-day period?**

**Answer:** Congress could reinstate the extension at any time requiring you to update your notices again if you change them now. So, perhaps a temporary measure (such as a separate addendum) during the interim period may be in order. That's something your credit union will have to decide.

In the meantime, we'll keep you updated on any additional developments. Stay tuned.

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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 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-

## 5 Things You Should Know About Returning Federal Benefit Payments When a Member Dies

It's been awhile since we have reviewed "reclamation" requirements. Reclamation is the procedure used by the Federal government to recover benefit payments made through ACH to the account of a member who has died.

When a credit union agrees to accept a recurring benefit payment from the federal government, you are agreeing to follow Treasury's reclamation rules, which include sharing the liability for any post-death payments sent via ACH.

### Five things you must know:

**One: A credit union is liable for all benefit payments received after the death of a member, unless you meet the qualifications for limiting this liability.**

You can limit your liability if:

- You certify that you did not have knowledge of the member's death at the time of the deposit;
- You return all post-death benefit payments you receive after learning of your member's death; and
- You respond to the government's Notice of Reclamation within 60 days.

If you meet these criteria, the credit union's Federal Reserve account will only be debited for the amount of the post-death benefit payments received within 45 calendar days following your member's death.

**Two: A credit union must immediately return any post-death benefit payments as soon as you become aware of your member's death.**

You must notify the federal agency as soon as you learn of your member's death. An ACH return using return code R15 (beneficiary deceased) constitutes proper notification.

A credit union is considered to be aware of a member's death when:

- You receive information that the member has died and you have had a reasonable opportunity to verify the information, or

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 - 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**

- If you would have learned of the death if you had followed commercially reasonable business practices.

Once a credit union is aware of the death of a member, you do not have to wait to receive a Notice of Reclamation – you may immediately return all subsequent post-death payments.

### **Three: How to Respond to a Notice of Reclamation**

If the full amount listed on the Notice of Reclamation is returned, the credit union does not need to complete and return the form.

If funds are available, but not sufficient to satisfy the reclamation, a partial payment should be submitted along with the completed Notice of Reclamation.

If additional benefit payments are deposited after the Notice of Reclamation is received by the credit union, the additional amounts should be returned as well.

### **Four: What to do if a post-death payment has already been withdrawn**

If the credit union (which has qualified for limited liability) responds to the Notice of Reclamation, but all or part of the post-death payments were already withdrawn from the account before the credit union learned of the death, the reclamation process will be suspended while the agency attempts to collect the outstanding balance from the withdrawers.

If the agency is unsuccessful in collecting the outstanding total, the credit union's Federal Reserve account will be debited for the post-death payments received within 45 days of the member's death. *Note that the government does not authorize the credit union to try and recover the funds from the withdrawer.*

If the withdrawers tell the credit union that they have already repaid the government, obtain a copy of the front and back of the check and return it with the Notice of Reclamation.

The credit union may be asked by a survivor of the deceased member not to return post-death benefit payments because the survivor may still be entitled to the payment.

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 – 14, 2016

GCUA Annual Convention Savannah, GA

May 11, 2016

Business Accounts: Who is Authorized to Open, Close, 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**

In this case, the government advises the credit union to return the payment and direct the survivor to contact the appropriate benefit agency.

**Five: What if the member is not dead?**

If the credit union obtains satisfactory proof that the member is alive, you are still required to complete and return the Notice of Reclamation in order to avoid your Federal Reserve account from being debited the amount listed on the Notice.

Once you have satisfactory proof that your member is alive, you must correct the error on the Notice of Reclamation, sign Certification #1 on the back of the Notice, return the Notice with a copy of the proof of the error and advise your member to contact the federal agency to restart the payments. Returning the corrected Notice of Reclamation is not enough to restart the monthly benefit payments.

For more information review the [Treasury's Green Book](#).

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Updated Guidance on Money Services Businesses

The Financial Action Task Force (FATF) has **announced the update** of its 2009 "Guidance on a Risk-Based Approach for Money Services Businesses" to bring it into line with the 2012 FATF Recommendations. This non-binding Guidance is intended to assist countries and their competent authorities, as well as the practitioners in the money/value transfer services (MVTs) sector and in the banking sector that have or are considering MVTs providers as customers, to apply the risk-based approach associated to MVTs. The updated guidance is [available here](#).

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CFPB Announces Policy Priorities for the Next Two Years

The CFPB announced its policy priorities for ensuring a fair marketplace and shared these goals with the members of their Consumer Advisory Board. They announced nine priority goals as the areas

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



where they plan to devote significant resources and hope to make substantial progress during the next two years towards achieving more fairness in these markets. These goals also build on their rulemaking agenda and broader strategic plan. The following nine priorities were identified:

1. Arbitration
2. Consumer reporting
3. Debt collection
4. Demand-side consumer behavior
5. Household balance sheets
6. Mortgages
7. Open-use credit
8. Small business lending
9. Student lending

For the full report, please click [here](#).

## Comment Calls

NCUA Requests Comments on Operating Fee Schedule and Overhead Transfer Rate Methodology

**Operating Fee Schedule:** NCUA has issued a [request for comments](#) regarding the National Credit Union Administration's (NCUA) Operating Fee Schedule. The NCUA Operating Budget has two primary funding mechanisms: (1) An Overhead Transfer, which is funded by federal credit unions (FCUs) and federally insured state-chartered credit unions (FISCUs); and (2) annual Operating Fees, which are charged only to FCUs. The NCUA Board is seeking comment on the methodologies for both funding mechanisms.

This request focuses on the methodology NCUA uses to determine the aggregate amount of Operating Fees charged to federal credit unions, including the fee schedule that allocates the Operating Fees at different rates among FCUs according to asset size.

NCUA specifically requests comment on the following questions:

1. Are the asset determination thresholds reasonable; and
2. Is the method for forecasting projected asset growth for the credit union system reasonable?

Commenters are encouraged to provide the specific bases for the comments and recommendations as well as documentation to support any proposed adjustments or alternatives.

**Overhead Transfer Rate Methodology:** NCUA has also issued a [request for comment](#) regarding NCUA's Overhead Transfer Rate Methodology. This request for comment focuses on the methodology NCUA uses to determine the Overhead Transfer Rate (OTR). The Board applies the OTR to NCUA's Operating Budget to determine the portion of the budget that will be funded from the National Credit Union Share Insurance Fund (NCUSIF). The Board invites comments on all aspects of the OTR methodology and any alternatives commenters may offer. Areas the Board specifically seeks comments on include:

- Whether the OTR should continue to be determined using a formula-driven approach, or instead be set largely at the discretion of the Board;
- The definition NCUA uses for insurance-related activities;
- Adjustments or changes to the current calculation; and
- Alternate methodologies to arrive at an accurate and fair allocation of costs.

The Board encourages the public to provide the specific basis for their comments and recommendations, as well as documentation to support any proposed adjustments or alternatives.

GCUA would like to know your thoughts and/or concerns on NCUA's proposals. Please send your comments on these proposals to Selina Gambrell at [selinag@gcu.org](mailto:selinag@gcu.org) by **March 26, 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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