

Compliance News

Operating Fee Schedule Adjustment for 2019 and Capitalization Deposit Adjustments Due April 17th

In March 2019, federal credit unions with assets greater than \$1 million will receive an invoice for their 2019 operating fees. The operating fee exemption continues to apply for federal credit unions with assets of less than \$1 million. Your credit union's operating fee will be based on assets reported as of December 31, 2018.

At the same time, all federally insured credit unions will be notified of any adjustments needed to maintain their Share Insurance Fund capitalization deposits at 1 percent of insured shares, as required by the Federal Credit Union Act. Your credit union's capitalization deposit may be adjusted up or down, based on insured shares reported as of December 31, 2018.

NCUA will combine your operating fee and capitalization deposit adjustment into a single invoice. Payment will be due no later than April 17, 2019.

All federal credit unions are encouraged to sign up to pay their invoices through [Pay.gov](#). This website allows for secure, seamless payments to the NCUA and other participating government agencies. Using Pay.gov ensures your credit union's payment will be made accurately and on time.

For federal credit unions signed up to pay through Pay.gov, no further action is required. Payments will occur automatically on the due date.

Federal credit unions that do not use Pay.gov will need to submit their payments to the NCUA in accordance with the instructions provided with the invoice and no later than Wednesday, April 17, 2019.

Click [here](#) for additional information found in Letter to Federal Credit Unions 18-FCU-03 (Operating Fee Scale Adjusted for 2019).

Annual Compliance Training Reminder?

All training is not specifically stated in state and federal law, or regulations. However, even when training is not specifically required by a statute or a regulation, it is still critical that your credit

GEORGIA CREDIT UNION

Affiliates

InfoSight
Compliance eNEWSLETTER
January 7, 2019
Vol. 13, Issue 1

Created in partnership with the



Credit Union National Association

Compliance Video

Compliance Connection Video

Compliance videos can be found on YouTube at the [Compliance Connection](#) channel, where they are generally updated quarterly.

Compliance Calendar

January 2019

January 21st
Martin Luther King Jr. Day

February 2019

February 18th
Presidents Day

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

Compliance Training

January 8, 2019

Teller Training Series: Compliance

union provide job-specific training to staff and board members. Both groups have a shared responsibility to ensure the credit union complies with all applicable laws and regulations.

Below are some examples of credit union specific training:

- **Bank Secrecy Act.** Financial institutions are required to have an anti-money laundering program that includes an ongoing employee training program. The Bank Secrecy Act (BSA) is always a hot topic with all financial institution regulatory agencies. Your BSA training should be institution-wide. Every employee needs to receive general training, and training specific to their job function, on BSA compliance. This training should include Management and the Board.
- **NCUA Rules & Regulations Part 748.2 (b) & (c).** Much like the BSA, this regulation requires all federally insured credit unions to have a BSA program in writing, approved by the Board of Directors of the credit union and noted in the minutes. The program must provide training for appropriate personnel. However, no interval is mandated for providing that training.
- **Regulation CC, Availability of Funds and Collection of Checks.** Section 229.19 (f) of this regulation states that financial institutions must do whatever is necessary to inform employees performing tasks governed by the regulation of the requirements and establish and maintain procedures designed to ensure and monitor employee compliance with the requirements.
- **Regulation B, Equal Credit Opportunity Act.** Section 1002.15 (c) (2) of the commentary to this regulation states that "identifying and then training and/or disciplining the employees involved" is an appropriate corrective action for problems discovered as a result of a self-test for compliance with this regulation.
- **NCUA Rules & Regulations Part 748, Safeguarding Member Information.** Appendix A III (c) (2) requires all credit unions to train their staff to implement the information security program.
- **Privacy.** NCUA Letter to Credit Unions 00-CU-02 states all staff including credit union volunteers, temporary and part-time employees, vendors as well as independent consultants should be informed of the expectations surrounding privacy protection.
- **Financial Literacy for Board Members of Federal Credit Unions**[NCUA Rules and Regulations §701.4(b)(3)] - Board members of federal credit unions must have or gain an understanding of basic finance and accounting principles within six months after election or appointment. A director must have the ability to understand the balance sheet and income statement and ask, as appropriate, questions of management and auditors.
- **Red Flags/Identity Theft.** Section 12 C.F.R 717.90(e)(3) states that each credit union must train staff to implement its Identity Theft Protection Program.

Training for the Frontline
3:00 pm - 4:30 pm ET

January 9, 2019

Record Retention & Destruction
Rules: Paper & Electronic
3:00 pm - 4:30 pm ET

January 10, 2019

Credit Analysis & Underwriting
Series: Regulator Issues & Update
for the Credit Analyst
3:00 pm - 4:30 pm ET

January 14, 2019

IRA & HSA 2019 Update,
Including Tax Reform
Considerations
3:00 pm - 4:30 pm ET

January 15, 2019

FFEIC Exam Procedures for
Business Continuity
3:00 pm - 4:30 pm ET

January 16, 2019

2018 HMDA Submission Due
March 1, 2019, Part 1: Identifying
Reportable Loans, Data Integrity &
FIG Analysis
3:00 pm - 4:30 pm ET

January 22, 2019

Successful Skip Tracing
Techniques for Locating
Borrowers & Recovering Collateral
3:00 pm - 4:30 pm ET

January 23, 2019

Determining Cash Flow from
Personal Tax Returns After 2018
Tax Reform Part 1: Schedules A,
B & C
3:00 pm - 4:30 pm ET

January 24, 2019

2018 HMDA Submission Due
March 1, 2019, Part 2:
Requirements, Clearing Edits,
Exempt Fields & More
3:00 pm - 4:30 pm ET

January 29, 2019

Real Estate Loan Collection Rules
for Lenders & Mortgage Servicers

- **CONSIDER the Frequency of Harassment Prevention Training and Internal Controls.** The events of 2018 show that no one is exempt from various forms of harassment and theft. Provide training at hire and periodically thereafter. Do not allow a lack of regulatory requirements to deter you from providing training that could be beneficial to your institution. Even if there is no specific training requirement contained in a regulation, you should be prepared as much as possible before a disaster happens.

Develop training by starting with the five most important concepts for the topic being discussed and build on that list. Be sure to customize the training to reflect your credit union's philosophy, procedures and terminology. Make sure to cover any regulatory changes since the last training. Develop testing or other feedback mechanisms to ensure that each employee understands the basic principles. **Remember to document attendance and content of your training.**

Credit Unions See Victory with Dismissal of Appellate Level ADA Suit

CUNA and credit unions saw a major win Thursday, January 3rd when the 4th Circuit Court of Appeals ruled in favor of DOL FCU, a credit union hit with a frivolous lawsuit claiming violations of the Americans with Disabilities Act (ADA). CUNA [filed a brief](#) in support of DOL FCU.

CUNA stated that the court's decision is a major step forward in our defense of credit unions facing predatory lawsuits exploiting a law designed to protect disabled Americans and this is an encouraging victory in the court system, one that creates binding precedent throughout the Fourth Circuit.

The court ruled that the plaintiff is not allowed to sue under the ADA, since the plaintiff "barred by law from making use of defendant's services."

This lawsuit is one of several similar suits around the country alleging website noncompliance with the ADA. However, the ADA does not contain specific website accessibility guidelines.

The credit union industry is still waiting on the Department of Justice to clarify this issue, and its efforts have led numerous legislators from the [House](#) and [Senate](#) to write to the DOJ calling for a solution. State credit union leagues also [coordinated a letter](#) to the DOJ from 19 state attorneys general, also calling for clarity.

Your CU Should Know

FinCEN Seeking Nominations for Bank Secrecy Act Advisory Group

FinCEN has published a notice [\[83 FR 67487\]](#) inviting the public to

3:00 pm - 4:30 pm ET

January 30, 2019

[Credit Analysis & Underwriting Series: Analyzing Financial Statements for the Credit Analyst](#)

3:00 pm - 4:30 pm ET

January 31, 2019

[Teller Training Series: Frontline Fraud Prevention: Stopping Fraud at the Teller Line](#)

BSA Training Opportunities through GCUA

[Click here for details](#)

nominate financial institutions, trade groups and non-federal regulators or law enforcement agencies for membership on the Bank Secrecy Act Advisory Group. New members will be selected for three-year membership terms. The BSAAG is how the Treasury receives advice on the operations of the Bank Secrecy Act. As chair of the BSAAG, the Director of FinCEN is responsible for ensuring that relevant issues are placed before the BSAAG for review, analysis, and discussion. Nominations must be received by January 28, 2018.

Bureau Announces Year-End Adjustments

The Bureau has announced year-end dollar amount adjustments under Regulations C and Z, and one under the Fair Credit Reporting Act.

- The asset-size exemption threshold for depository institutions under Regulation C will increase in 2019 from \$45 million to \$46 million. Banks, savings associations, and credit unions with assets of \$46 million or less as of December 31, 2018, are exempt from collection of HMDA data in 2019.
- The asset-size threshold under Regulation Z for certain creditors to qualify for an exemption to the requirement to establish an escrow account for a higher-priced mortgage loan will increase from \$2.112 billion to \$2.167 billion. Therefore, creditors with assets of less than \$2.167 billion (including assets of certain affiliates) as of December 31, 2018, are exempt, if other requirements of Regulation Z also are met, from establishing escrow accounts for higher-priced mortgage loans in 2019. This asset limit will also apply during a grace period, in certain circumstances, with respect to transactions with applications received before April 1 of 2020.
- The adjustment to the escrows asset-size exemption threshold will also increase a similar threshold for small-creditor portfolio and balloon-payment qualified mortgages. Balloon-payment qualified mortgages that satisfy all applicable criteria, including being made by creditors that have (together with certain affiliates) total assets below the threshold, are also excepted from the prohibition on balloon payments for high-cost mortgages.
- Under section 612(f)(1)(A) of the Fair Credit Reporting Act, the Bureau each year sets a ceiling on the charges a credit reporting agency can charge for making a disclosure to the consumer under section 609 of FCRA. For 2019, that amount will increase to \$12.50.

Reminder of Changes to Fed Operating Circular 3

FRB Services has posted the January edition of Fed 360°, which includes a reminder of changes to the Fed's Operating Circular 3, *Collection of Cash Items and Returned Checks*. The revisions, which were effective January 1, 2019:

- Make the operating circular more focused on electronic processing;
- Update the adjustment provisions;
- Reflect other changes to the way the Reserve Banks provide check services;
- Define terms in the operating circular or Regulation CC (Reg CC);
- Reflect proposed Regulation J (Reg J) amendment language explicitly stating that electronically created items (ECIs), which are essentially images that were not issued as paper checks, are not items.

The [Revised OC 3](#) and a complete summary of changes can be found on FRB Services' [Operating Circulars](#) page.

The Fed 360° edition also includes a complete [FedACH Services schedule for 2019 holidays](#). Starting this year, FedACH Services will no longer share holiday service notifications via email.

Bureau Issues HMDA Data Disclosure Policy Guidance

The Bureau has issued policy guidance that describes modifications that the Bureau intends to apply to HMDA data compiled by financial institutions in or after 2018, before the data are made available to the public beginning in 2019. You can access the policy guidance on the Bureau's [website](#).

The Bureau also published an executive summary of this policy guidance. You can access the executive summary on the HMDA rule implementation [webpage](#).

Wells Fargo Fined, Exits Personal Insurance Business in California

The California Department of Insurance [announced](#) that Wells Fargo Bank, N.A. and Wells Fargo Insurance, Inc. have agreed to pay a \$10 million penalty as part of a [settlement agreement](#) with the Department. This settlement resolves the department's [accusation](#) alleging improper insurance sales practices related to Wells Fargo's online insurance referral program. The improper practices resulted in consumers being signed up and charged for insurance products without their consent. Wells Fargo has agreed to not transact any new business during the remaining term of its two insurance licenses, which expire in July and September 2020, respectively. The company also agreed to not apply for a license for at least two years following the expiration of their current licenses. Wells Fargo has provided restitution to all California consumers who were charged premiums, bank fees and other direct monetary losses connected to the unauthorized insurance policies. Half of the penalty is due immediately. If the company ever seeks to return to the California insurance marketplace, it will then pay the remaining \$5 million penalty. The Department may also decline to issue a new license.

Compliance Q&As

Q: What is the industry's best practice for frequency in conducting surprise cash counts?

A: Typically, at least once a month for each drawer/vault. The cash counts should also be well spaced and random. Anyone who always performs "surprise" cash counts on the last business day of the month because procedures state that the counts are to be performed monthly isn't providing much of a surprise to an employee. A dishonest staff member could very easily decide to pilfer funds on the first business day of the month knowing that the next count would be four weeks away.

Q: If member disputes ATM withdrawals and we are suspicious, do we have to give the temporary credit? We did just that and they immediately withdrew all the funds. Could we have denied the claim or put a hold on the provisional credit?

A: The credit union has 10 business days after being notified of the claimed unauthorized ATM withdrawals to investigate and determine whether they were, in fact, unauthorized or not. If you completed your investigation in those 10 business days and determined that the withdrawals were unauthorized, you should not give provisional credit, you should give final credit. If you completed your investigation in those 10 business days and determined the withdrawals were authorized by your member, then you could (and should) deny the claim. If you could not complete your investigation within the 10 business days, then you would be obligated to provide provisional credit while you continued to investigate, and you could take up to 45 calendar days from the initial notice to complete the investigation. Giving provisional credit means making those funds fully available for withdrawal and/or paying clearing items. You cannot put a hold on the provisional credit. Also, be cautious about using the fact that they withdrew the provisional credit money as a reason to deny the claim. It is important to have more substantive support than that when determining that the ATM withdrawals were authorized.

Q: When filing a CTR on a business, and only one account signer made the deposit, are we required to get the information on the other signers that were not present to file the CTR?

A: The signer would be the "Person conducting transaction for another" and the business would be listed as the "Person on whose behalf transaction is conducted." The other signers on the business account are not required for the CTR under these circumstances.

Comment Calls

Pending Regulatory Comment Calls

For more information regarding these proposals, please follow the

links below:

Issues	Comment Period Deadline	Agency	CUNA Staff Contact
Federal Credit Union Bylaws	Jan. 14, 2019	NCUA	Luke Martone
Fidelity Bonds	Jan. 22, 2019	NCUA	Mitria Wilson
FHLB Housing Goals Amendment	Jan. 31, 2019	FHFA	Mitria Wilson
Availability of Funds and Collection of Checks (Reg CC)	Feb. 8, 2019	BCFP	Alexander Monterrubio
Policy on No-Action Letters and the BCFP Product Sandbox	Feb. 11, 2019	BCFP	Alexander Monterrubio

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.

Bookmark InfoSight

No need to go through the Georgia Credit Union Affiliates home page to access InfoSight. Simply add the following link to your bookmarks: <http://ga.leagueinfosight.com/>.

Need a BSA, ACH or Website review?

Email compliance@gcua.org.