



March 5th, 2024

In this edition of the RegCorner,

## From the Regulators

### NCUA

#### NCUA Inspector General: Lack of Vendor Authority Puts Billions at Risk

[Read More](#)

The National Credit Union Administration’s inability to oversee credit union third-party vendors leaves billions of dollars at risk, agency Inspector General James Hagen said last week.

“Without this authority, the NCUA cannot accurately assess the actual risk present in the credit union system or determine if the risk-mitigation strategies of credit union service organizations and third-party vendors, which provide much of the industry’s information technology infrastructure, are adequate and can effectively protect the system from potential attacks,” Hagen wrote, in a letter to the NCUA board, outlining the agency’s top management and performance challenges.

Read the [Letter](#)

2/20/24

#### America’s Credit Unions meets with Chairman Harper

[Read More](#)

America’s Credit Unions President/CEO Jim Nussle and members of the organization’s advocacy team met with NCUA Chairman Todd Harper to discuss America’s Credit Unions’ policy priorities, including the overly broad use of “junk fees,” field of membership expansion, increased flexibility for credit union investments, and credit unions’ participation in the Greenhouse Gas Reduction Fund.

2/23/24

### CFPB

#### CFPB Issues Rule Modifying Supervisory Appeals Process

[Read More](#)

The CFPB has published revisions to its supervisory appeals process, aiming to provide clarity and efficiency for financial institutions. The updated process streamlines the appeals procedure, ensuring consistency and fairness in addressing supervisory findings. Financial institutions can now submit appeals directly to the CFPB’s Supervision, Enforcement, and Fair Lending Division, enhancing transparency and accountability. These revisions mark a significant step in improving the regulatory landscape for financial institutions, fostering better communication and cooperation between the CFPB and the entities it supervises.

More from [America’s Credit Unions](#)

2/16/24

#### Blog: Credit card interest rate margins at all-time high

[Read More](#)

The bureau highlights that despite a decline in overall interest rates, credit card interest rates have remained persistently high, resulting in increased profits for credit card issuers. This trend is attributed to various factors including competition, risk considerations, and changes in consumer behavior. The article also raises concerns about the impact of high credit card interest rates on consumers, particularly those with lower credit scores or limited access to credit, and it suggests that consumers should be aware of their options and consider alternatives to high-interest credit card debt.

Other reading:

- [Washington Credit Union Daily](#) – CFPB: Credit Card APRs Almost Doubled in Past Decade

2/22/24

#### CFPB Orders Federal Supervision for Installment Lender Following Contested Designation

[Read More](#)

The bureau has ordered federal supervision for an installment lender after a disputed designation. The lender, LendUp Loans LLC, challenged its classification as a "covered person" under the Dodd-Frank Act. Despite the disagreement, the CFPB asserts that LendUp Loans fits the criteria and thus falls under federal supervision. The decision comes after the lender sought to appeal a 2016 order. This move highlights ongoing regulatory efforts to oversee financial institutions and ensure compliance with consumer protection laws.

2/23/24

#### CFPB Issues Guidance to Rein in Rigged Comparison-Shopping Results for Credit Cards and Other Financial Products

[Read More](#)

The CFPB has issued guidance aimed at addressing biased comparison shopping results for credit cards and other financial products. The guidance focuses on ensuring that consumers receive fair and accurate information when comparing financial products. It aims to prevent deceptive practices that may influence consumers' decisions unfairly. The CFPB encourages companies to prioritize transparency and fairness in their comparison shopping tools to better serve consumers' needs.

2/29/24

### FinCEN

#### FinCEN Issues Small Entity Compliance Guide for Beneficial Ownership Information Access and Safeguards Requirements

[Read More](#)

FinCEN has published a small entity compliance guide today that provides an overview of the requirements regarding access to beneficial ownership information (BOI) by small entities – in particular, small financial institutions authorized to access BOI. The guide includes sections summarizing the Access Rule’s requirements that pertain to small financial institutions’ access to BOI.

More from [America’s Credit Unions](#)

2/21/24

#### FinCEN Seeks Comments on Renewal of OMB Control Number for Current Account-Opening Requirements for Legal Entity Customers of Covered Financial Institutions

[Read More](#)

Under 31 CFR 1010.230, covered financial institutions are required to collect, and to maintain records of, the information used to identify and verify the identity of each beneficial owner of their legal entity customers, subject to certain exclusions and exemptions. FinCEN seeks comment on existing regulatory requirements and burden estimates.

Additional information available in the [Open Comment Calls](#) section.

2/26/24

### CDFI Fund

#### CDFI Fund Seeks Public Comment on NMTC Program Allocation Application

[Read More](#)

<p>CDFI is seeking comments concerning the New Markets Tax Credit Program (NMTC Program) Allocation Application. The application under review is part of the award selection process for the allocation of tax credit authority to CDEs. The Allocation Application has five main sections: Business Strategy – Community Outcomes; Management Capacity; Capitalization Strategy; and Information Regarding Previous Awards – in addition to an Applicant Information section and various tables. The CDFI Fund is required by law to make the Application publicly available for comment prior to submission for a new PRA number.</p> <p>More information available in the <a href="#">Open Comment Calls</a> section.</p>		2/23/24
Michigan		
MDOS		
<p><b>Michigan driver's licenses and IDs have been redesigned</b></p> <p><a href="#">Read More</a></p> <p>Michigan's new driver's licenses and IDs with higher security features are now in circulation. Michigan's old card design featuring the Mackinac Bridge is valid until expiration and will phase out over the next five years. The state has published a flyer detailing the redesign and the new security features.</p>		
2/26/24		
Other Points of Interest		
<p><b>California AG Warns Credit Unions, Banks About ‘Surprise’ Overdrafts and Return Fees</b></p> <p><a href="#">Read More</a></p> <p>California Attorney General Rob Bonta last week warned small credit unions and banks that so-called “surprise” overdraft and returned deposit fees may violate the state’s Unfair Competition Law and federal consumer protection statutes.</p>		
2/26/24		
Relevant Blog Pages/Posts		
<ul style="list-style-type: none"><li><a href="#">America’s Credit Unions Compliance Blog</a><ul style="list-style-type: none"><li><a href="#">2/22/24</a> – FFIEC Issues Statement on Examination Principles Related to Valuation Discrimination and Bias in Residential Lending</li><li><a href="#">2/27/24</a> – CFPB Revises Its Supervisory Appeals Process for Financial Institutions</li><li><a href="#">2/29/24</a> – 2024 HMDA Reporting Requirements</li></ul></li></ul>		
Submitted Regulatory Comment Letters		
<p><b>Regulatory Response Letters</b></p> <ul style="list-style-type: none"><li><a href="#">NCUA Request for Comment</a>: Overhead Transfer Rate Methodology<ul style="list-style-type: none"><li><a href="#">America’s Credit Unions Letter</a></li></ul></li><li><a href="#">Treasury Request for Information</a>: Financial Inclusion<ul style="list-style-type: none"><li><a href="#">America’s Credit Union Letter</a></li></ul></li></ul> <p><b>Other Letters to Regulators</b></p> <ul style="list-style-type: none"><li><a href="#">America’s Credit Unions</a> Letter to NCUA on Call Report Changes</li></ul> <p><b>Browse All Industry Comment Letters</b></p> <ul style="list-style-type: none"><li><a href="#">MCUL</a></li><li><a href="#">America’s Credit Unions</a></li><li><a href="#">NASCUS</a></li></ul>		
Open Comment Calls		
If you have input on any comment calls below that you would like to provide for consideration, please direct them to <a href="mailto:Bradley.Willett@mcul.org">Bradley.Willett@mcul.org</a> no later than 3 weeks prior to the comment due date.		
<p><b>FTC Proposed Rule:</b> Children’s Online Privacy Protection Rule</p> <p><b>Docket No.</b> FTC-2024-0003</p> <p>The Commission proposes to amend the Children's Online Privacy Protection Rule, consistent with the requirements of the Children's Online Privacy Protection Act. The proposed modifications are intended to respond to changes in technology and online practices, and where appropriate, to clarify and streamline the Rule. The proposed modifications, which are based on the FTC's review of public comments and its enforcement experience, are intended to clarify the scope of the Rule and/or strengthen its protection of personal information collected from children.</p>		<p><b>Comments Due:</b> March 11, 2024</p> <p><a href="#">Agency Announcement</a></p> <p><a href="#">Federal Register</a></p> <p><a href="#">Regulations.gov</a></p>
<p><b>CFPB Proposed Rule:</b> Nonsufficient Funds (NSF) Fees for Instantaneously Declined Transactions</p> <p><b>Docket No.</b> CFPB-2024-0003</p> <p>The Consumer Financial Protection Bureau (CFPB) is proposing to prohibit covered financial institutions from charging fees, such as nonsufficient funds fees, when consumers initiate payment transactions that are instantaneously declined. Charging such fees would constitute an abusive practice under the Consumer Financial Protection Act's prohibition on unfair, deceptive, or abusive acts or practices.</p> <p><u>Additional relevant information</u></p> <ul style="list-style-type: none"><li><a href="#">ACU Summary of Proposed Rule</a></li><li><a href="#">ACU: Shape Comments on CFPB NSF Fee Proposal</a></li></ul>		<p><b>Comments Due:</b> March 25, 2024</p> <p><a href="#">Agency Announcement</a></p> <p><a href="#">Federal Register</a></p> <p><a href="#">Regulations.gov</a></p>
<p><b>CFPB Proposed Rule:</b> Overdraft Lending: Very Large Financial Institutions</p> <p><b>Docket No.</b> CFPB-2024-0002</p> <p>The CFPB is proposing several amendments to Regulation Z, as well as to Regulation E, which would limit the per-item amount of overdraft fees to a potential maximum of \$14. In the commentary to the proposal, the CFPB discusses several regulatory exemptions that the Federal Reserve Board implemented in the 70’s and 80’s which exempted overdraft plans from Reg Z coverage. The proposal modifies those exceptions, along with several definitions, to shift overdraft from a non-covered to a covered status under Reg Z. First, the proposal updates an exception that currently provides that overdraft fees are not finance charges. This exception is being modified so that it will no longer apply to fees that were above a breakeven amount. This modification adds several ways for financial institutions to determine if a fee is above the breakeven amount, by either 1) calculating its own costs/losses, or 2) relying on a benchmark fee set by the CFPB. For the latter, the proposal provides four options based on four different calculation methods, resulting in possible benchmark fees set at \$3, \$6, \$7, or \$14. Second, the proposal updates an exception related to fees to transfer funds from an overdraft line of credit. The modifications here will result in fees for such transfers being finance charges. Additionally, the proposal would require that deposit accounts no longer be brought negative and that offset is prohibited, instead requiring that financial institutions provide separate credit accounts so that consumers have more control over when and how they repay the overdraft credit. Finally, the CFPB proposes to remove overdraft credit as an exception from regulatory</p>		<p><b>Comments Due:</b> April 1, 2024</p> <p><a href="#">Agency Announcement</a></p> <p><a href="#">Federal Register</a></p> <p><a href="#">Regulations.gov</a></p>

<p>provisions of the CARD Act, indicating that a debit card with access to overdraft credit is a “credit card” per the Act. This would mean these debit cards would be subject to things like ability-to-repay underwriting requirements, limitations on penalty fees, and so on, and have proposed a new definition for “hybrid debit-credit card” as a result. Finally, the proposal would only apply to “very large institutions” \$10B in assets or more, but the CFPB acknowledges that the rule, if implemented, could result in wider market changes as large players evolve their business models and as smaller institutions modify their own as a result.</p> <p><b>Proposed Rule Text:</b>  <a href="https://files.consumerfinance.gov/f/documents/cfpb_overdraft-credit-very-large-financial-institutions_proposed-rule_2024-01.pdf">https://files.consumerfinance.gov/f/documents/cfpb_overdraft-credit-very-large-financial-institutions_proposed-rule_2024-01.pdf</a></p> <p>Additional Information:</p> <ul style="list-style-type: none"> <li>MCUL is seeking input and feedback on this proposed rule. Contact Brad Willett for more information.</li> <li><a href="#">ACU</a> is seeking CU data and feedback on this proposed rule.</li> </ul>	
<p><b>FinCEN Notice and Request for Comment:</b> Agency Information Collection Activities; Proposals, Submissions, and Approvals: Beneficial Ownership Information Requests</p> <p><b>Docket No.</b> FinCEN-2024-0002</p> <p>FinCEN is seeking comments on the information to be collected from certain authorized recipients requesting access to beneficial ownership information, consistent with the requirements of the final Access and Safeguards rule. The Corporate Transparency Act authorizes law enforcement, government agencies, and financial institutions and their regulators to obtain beneficial ownership information under certain specified circumstances for national security and law enforcement purposes.</p> <p>The public has an opportunity to comment on: (1) the information to be collected from certain persons requesting beneficial ownership information from FinCEN; and (2) FinCEN’s estimate of the burden involved in the information collection.</p>	<p><b>Comments Due:</b> April 1, 2024</p> <p>Agency Announcement</p> <p><a href="#">Federal Register</a>  <a href="#">Regulations.gov</a></p>
<p><b>FinCEN Proposed Rule:</b> Anti-Money Laundering Regulations for Residential Real Estate Transfers</p> <p><b>Docket No.</b> FinCEN-2024-0005</p> <p>FinCEN is issuing a proposed rule to require certain persons involved in real estate closings and settlements to submit reports and keep records on identified non-financed transfers of residential real property to specified legal entities and trusts on a nationwide basis. Transfers made directly to an individual would not be covered by this proposed rule. The proposed rule describes the circumstances in which a report must be filed, who must file a report, what information must be provided, and when a report is due. These reports are expected to assist the U.S. Department of the Treasury; Federal, State, and local law enforcement; and national security agencies in addressing illicit finance vulnerabilities in the U.S. residential real estate sector and to curtail the ability of illicit actors to anonymously launder illicit proceeds through the purchase of residential real property, which threatens U.S. economic and national security.</p> <p><b>Additional Information:</b></p> <ul style="list-style-type: none"> <li>FinCEN <a href="#">Fact Sheet</a></li> </ul>	<p><b>Comments Due:</b> April 16, 2024</p> <p><a href="#">Agency Announcement</a>  <a href="#">Federal Register</a>  <a href="#">Regulations.gov</a></p>
<p><b>CDFI Request for Comment:</b> Agency Information Collection Activities; Proposed Collection; Comment Request; New Markets Tax Credit Program (NMTC Program) Allocation Application</p> <p><b>Docket No.</b> CDFI-2024-03707</p> <p>CDFI is seeking comments concerning the New Markets Tax Credit Program (NMTC Program) Allocation Application. The application under review is part of the award selection process for the allocation of tax credit authority to CDEs. The Allocation Application has five main sections: Business Strategy – Community Outcomes; Management Capacity; Capitalization Strategy; and Information Regarding Previous Awards – in addition to an Applicant Information section and various tables. The CDFI Fund is required by law to make the Application publicly available for comment prior to submission for a new PRA number.</p>	<p><b>Comments Due:</b> April 23, 2024</p> <p><a href="#">Agency Announcement</a>  <a href="#">Federal Register</a>  Regulations.gov</p>
<p><b>FinCEN Request for Comment:</b> Agency Information Collection Activities; Proposed Renewal; Comment Request; Renewal Without Change of the Beneficial Ownership Requirements for Legal Entity Customers</p> <p><b>Docket No.</b> FinCEN-2024-0008</p> <p>As part of its continuing effort to reduce paperwork and respondent burden, FinCEN invites comment on a renewal, without change, of existing information collection requirements related to beneficial ownership requirements for legal entity customers. Comments are invited on:</p> <ol style="list-style-type: none"> <li>whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;</li> <li>the accuracy of the agency's estimate of the burden of the collection of information;</li> <li>ways to enhance the quality, utility, and clarity of the information to be collected;</li> <li>ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and</li> </ol> <ol style="list-style-type: none"> <li>(e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.</li> </ol>	<p><b>Comments Due:</b> April 26, 2024</p> <p>Agency Announcement</p> <p><a href="#">Federal Register</a>  <a href="#">Regulations.gov</a></p>
<p><b>Federal Reserve Board Proposed Rule:</b> Debit Card Interchange Fees and Routing</p> <p><b>Docket No.</b> R-1818</p> <p>This proposed rule would make significant revisions to Regulation II’s interchange fee cap. Specifically, the proposed revisions would update all three components of the interchange fee cap based on the latest data reported to the Board by covered issuers regarding debit card transactions performed in 2021. Under the proposal:</p> <ul style="list-style-type: none"> <li>The base component would be 14.4 cents (down from 21.0 cents)</li> <li>The ad valorem component would be 4.0 basis points (down from 5.0 basis points)</li> <li>The fraud-prevention adjustment would be 1.3 cents (up from 1.0 cents)</li> </ul> <p>Additionally, the proposal would codify in Reg II an approach for updating the three components of the interchange fee cap every other year going</p>	<p><b>Comments Due:</b> May 12, 2024</p> <p><a href="#">Agency Announcement</a>  <a href="#">Federal Register</a>  <a href="#">Regulations.gov</a></p>

forward based on the latest data reported to the Board by covered issuers, without opportunity for public comment.

**Related Materials:** [2021 Interchange Fee Revenue Report](#)

Additional relevant information:

- [Governor Bowman Dissent](#)
- NAFCU, CUNA and other trades have submitted a [letter](#) to the FRB requesting an extension of an additional 90 days to comment.
- FRB [approves](#) comment extension to May 12, 2024.
- 2/6/24 – ACU met with the Board of Governors’ Vice Chair to discuss the impact of this NPRM.

Relevant Federal Rulemaking Links

Agency	Unified Rulemaking Agenda (Fall 2023 Update)	Agency Rulemaking Tracker	Federal Register	Regulations.gov
NCUA	<a href="#">LINK</a>	<a href="#">LINK</a>	<a href="#">LINK</a>	<a href="#">LINK</a>
CFPB	<a href="#">LINK</a>	<a href="#">LINK</a>	<a href="#">LINK</a>	<a href="#">LINK</a>
Treasury <i>CDFI Fund</i> <i>FinCEN</i>	<a href="#">LINK</a> n/a n/a	n/a <a href="#">LINK</a> <a href="#">LINK</a>	<a href="#">LINK</a> <a href="#">LINK</a> <a href="#">LINK</a>	<a href="#">LINK</a> <a href="#">LINK</a> <a href="#">LINK</a>
Federal Reserve System	<a href="#">LINK</a>	<a href="#">LINK</a>	<a href="#">LINK</a>	<a href="#">LINK</a>
FHFA	<a href="#">LINK</a>	<a href="#">LINK</a>	<a href="#">LINK</a>	<a href="#">LINK</a>
FTC	<a href="#">LINK</a>	n/a	<a href="#">LINK</a>	<a href="#">LINK</a>
HUD	<a href="#">LINK</a>	n/a	<a href="#">LINK</a>	<a href="#">LINK</a>
FCC	n/a	<a href="#">LINK</a>	<a href="#">LINK</a>	<a href="#">LINK</a>