In this update, agencies publish Fall Unified Rulemaking Agenda, the NCUA Board will hold its December meeting, the CFDI Fund publishes the new CDFI Certification Application, and FinCEN will join MCUL's Cheers! to Compliance to discuss BOI updates.

NCUA
NCUA's Fintech Director Testifies Before Subcommittee on Digital Assets, Financial Technology, and Inclusion.
Read More
The NCUA's Director of Financial Technology and Access, Charles Vice, testified before the U.S. House of Representatives' Subcommittee on Digital Assets, Financial Technology, and Inclusion, testifying that the NCUA is committed to promoting effective and efficient uses of emerging technology. He stated the agency has implemented several initiatives, including a Virtual Examination Program and a Digital Asset Working Group. Director Vice noted the NCUA is exploring methods to use technology to improve its examination and supervision procedures with its Virtual Examination Program. He also stressed the need to restore the NCUA's authority over third-party service providers.
Committee Hearing
12/15/23

NCUA December Board Meeting Agenda Published.
Read More
The December Board Meeting is scheduled for Thursday, December 14th at 10:00 am. The budget and Overdraft Transfer Rate (OTR) methodology are the two big items on the agenda for the National Credit Union Administration (NCUA) Board meeting this week. CUNA notes that it may be Board Member Rodney Hood's last meeting. The full agenda includes four items to be considered:
1. NCUA Operating Fee Schedule Methodology.
2. NCUA's 2014-2025 Budget.
3. Request for Comment, NCUA Overhead Transfer Rate (OTR) Methodology.

CFPB
CFPB Orders Bank of America to Pay $12 Million for Reporting False Mortgage Data.
Read More
The Consumer Financial Protection Bureau (CFPB) has ordered Bank of America to pay a $12 million fine for submitting inaccurate mortgage data. The CFPB found that the bank had reported false information about its mortgage transactions, in violation of the Home Mortgage Disclosure Act (HMDA). The inaccurate data potentially hindered the public and regulators' ability to assess the bank's fair lending practices. The enforcement action emphasizes the importance of accurate reporting by financial institutions to ensure transparency and fair lending in the mortgage market. As part of the settlement, Bank of America is required to take corrective actions to improve its HMDA compliance management system and prevent future violations.
11/10/23

CFPB Orders Atlantic Union Bank to Pay $6.2 Million for Illegal Overdraft Fee Harvesting.
Read More
The CFPB has ordered Atlantic Union Bank to pay a $6.2 million fine for engaging in illegal overdraft fee harvesting. The CFPB found that the bank violated consumer protection laws by engaging in "overdraft fee harvesting," a practice where the bank re-sequenced transactions to maximize the number of overdraft fees imposed on consumers. This deceptive practice harmed consumers by substantially increasing the costs associated with overdrawing their accounts. The enforcement action underscores the importance of financial institutions adhering to fair and transparent practices to protect consumers from abusive fees and practices related to overdrafts. As part of the settlement, Atlantic Union Bank is required to provide restitution to affected consumers and make changes to its overdraft fee practices.
11/10/23

FinCEN
FinCEN Extends Deadline for Companies Created or Registered in 2024 to File Beneficial Ownership Information Reports.
Read More
The Financial Crimes Enforcement Network (FinCEN) issued a final rule today that extends the deadline for certain reporting companies to file their initial beneficial ownership information (BOI) reports with FinCEN. Reporting companies created or registered in 2024 will have 90 calendar days from the date of receiving actual or public notice of their creation or registration becoming effective to file their initial reports.
Final Rule
FinCen has also updated their BOI Guidance Materials.
12/15/23

FinCEN will join MCUL on the next Cheers! to Compliance.
Read More
MCUL is pleased that FinCEN will be joining us for our upcoming Cheers! to Compliance event! Session description and registration link below. We look forward to seeing you there!
Beneficial Ownership Information Reporting Requirements: What You Need to Know. Hear from the U.S. Department of the Treasury's Financial Crimes Enforcement Network about beneficial ownership information reporting requirements going into effect for many small businesses on January 1, 2024.
Presenter: David King, Senior Regulations Advisor, FinCEN
Date: Friday, December 15th
Time: 3:00pm
REGISTER

DEAC
Settlement Agreement between the U.S. Department of the Treasury’s Office of Foreign Assets Control and Nasdaq, Inc.
### CFDF Fund

**Reminder: Submit Your FY 2024 SDL Program Application by December 20, 2023!**

As a reminder for fiscal year (FY) 2024 Small Dollar Loan Program (SDL Program) applicants, the deadline for online submission of the rest of the application materials through the CFDF Fund’s Awards Management Information System (AMIS) is before 5:00 p.m. Eastern Time (ET), December 20, 2023. To ensure a successful application submission, the CFDF Fund encourages all FY 2024 applicants to submit applications as early as possible.

### CFDF Fund Releases Final Revised CFDF Certification Application.

The Fund has released the long-awaited revised CFDF Certification Application, as well as the Annual Certification and Data Collection Report (ACR) and Transaction Level Report (TLR). The CFDF Fund is instituting a phased approach for organizations seeking to become newly Certified or renew their CFDF Certification:

- Only non-certified organizations will be able to immediately apply for CFDF Certification. For those non-certified organizations interested in submitting an Application for CFDF Certification, the CFDF Fund will reopen the CFDF Certification Application AMIS submission portal on December 20, 2023.
- All currently Certified CFDFs will be required to reapply for Certification using the revised version of the Certification Application by December 20, 2024. Until this date, currently Certified CFDFs will: 1) retain their status as Certified CFDFs; and 2) remain eligible to apply for all CFDF Fund programs where CFDF Certification is an eligibility requirement – provided they abide by ACR reporting requirements and have no material event affecting their CFDF Certification status.

To assist organizations in understanding the requirements of the revised CFDF Certification Application, the CFDF Fund will conduct a live webinar:

- **Date:** Wednesday, December 13
- **Time:** 1:30pm EST
- **ACCESS WEBINAR**

FAQs document, and additional guidance information are available on the CFDF Fund’s website at www.cfdffund.gov/CFDFCert.

### Federal Reserve

**2023 Fair Lending Interagency Webinar.**

The Federal Reserve is hosting 8 federal agencies for an interagency webinar on fair lending, with topics including: algorithmic bias, redlining, appraisal discrimination, indirect automobile lending, disability discrimination, and other supervision and/or enforcement updates from the agencies.

- **Date:** Thursday, December 14
- **Time:** 2:00-3:30pm EST
- **REGISTER**

### CUNA

**CUNA files motion to intervene with TX court.**

CUNA publishes analysis of updated CDFI Certification Application.

**NAFCU:** Treasury announces updates to CDFI certification application.

**NAFCU:** Published analysis of updated CFDF Certification Application.

### Michigan

**CRA Regulatory Agency Takes Disciplinary Action Against Licensure throughout the State.**

Administrative formal complaints and disciplinary actions taken against adult-use/medical licensees in November are now available for review in the Cannabis Regulatory Agency’s November 2023 Use/Medical Licensee disciplinary action report.

- **CRA Disciplinary Action Reports**

### Other Points of Interest

Regarding the delay of Dodd-Frank Section 1071 (CFPB Small Business Lending Rule) implementation, most recently, the House has passed a resolution to block the rule. The resolution will head to the President’s desk, who is expected to veto.

- **Read More**
- **Full Timeline:**
  - 8/12/23 – Rule blocked by TX federal judge for certain banks.
  - 8/7/23 – CUNA, NAFCU write to CFPB requesting stay for all covered entities.
  - 11/30/23 – CUNA files motion to intervene with TX court.
**CUNA, NAFCU and other organizations met with new Federal Communications Commission (FCC) Commissioner Anna Gomez and her staff about the FCC's recent Report and Order on illegal automated text messages and ongoing proceedings regarding revocation of consent under the Telephone Consumer Protection Act (TCPA). This meeting concludes a series of joint trades meetings held with CUNA’s coalition of other trades. It also served as follow up to the coalition’s letter to Commissioner Gomez earlier this fall discussing credit union priorities before the FCC. During the meeting, the group discussed several issues currently open on the FCC’s docket, including the FCC’s recent public draft Second Report and Order and Second Further Notice of Proposed Rulemaking on illegal robocalling. We also spent significant time discussing the operational practicalities implicated by the FCC’s proposal regarding consent revocation under the TCPA that make a 24-hour turnaround time not only impracticable but impossible. The coalition filed an amicus brief with the FCC describing the meeting.**

**Updated: 12/3/23**

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**NAFCU, CUNA detail CU priorities, recommendations for CFPB reform.**

**CFPB continues to miss opportunity to leverage CU mission, structure.**

**NAFCU CUNA urge White House to discourage CFPB’s spotty regulation.**

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**AGENCIES RELEASE FALL RULEMAKING AGENDAS.**

Federal agencies, including the NCUA and CFPB, released their Fall 2023 regulatory agendas last week. There are several credit union advocacy priorities included among the items, many of which have previously been introduced or included on previous rulemaking agendas.

**Fall ’23 Unified Rulemaking Agenda**

- NCUA Agenda
- CFPB Agenda
- Treasury/FINCEN Agenda
- Federal Reserve Agenda

**Additional Links:**

- NAFCU breaks down financial regulator rulemaking agendas for CUs
- CFPB Fall 2023 rulemaking agenda indicates imminent issuance of final credit card late fees rule and proposed rules on overdraft and NSF fees

**Relevant Blog Pages/Posts**

- Regulatory Response Letters

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**OTHER LETTERS TO REGULATORS**

- OMB Proposed Memorandum: Advancing Governance, Innovation, and Risk Management for Agency Use of Artificial Intelligence

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**OPEN COMMENT CALLS**

If you have input on any comment calls below that you would like to provide for consideration, please reach out to Bradley Willett, MCUL: Bradley.Willett@mcul.org

**NAFCU Proposed Rule: Simplification of Share Insurance Rules**

Docket No. CUNA-2023-0082

The CUNA Board (Board) is seeking comment on proposed amendments to its regulations governing share insurance coverage. The proposed rule would address the following items: simplify the share insurance regulations by phasing out a "trust accounts" category that would provide for coverage of funds of both revocable trusts and irrevocable trusts deposited at federally insured credit unions (FICUs); provide consistent share insurance treatment for all mortgage servicing account balances held to satisfy principal and interest obligations to a lender; and provide more flexibility for the NCUA to consider various records in determining share insurance coverage in liquidations.

**Other relevant information:**

CUNA and NAFCU have submitted a letter to the NCUA requesting an extension out to 90 days. If the request is granted, comments would be due January 23, 2024 – this tracker will be updated as needed.

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**NAFCU Proposed Rule: Required Rulemaking on Personal Financial Data Rights**

**Comments Due:**

Agency Announcement
Federal Register
Regulations.gov

**Updates:**

- 8/14/23 – TK court grants CUNA’s motion to intervene.
- 8/17/23 – CUNA files for an emergency Motion for Preliminary injunction.
- 9/1/23 – Eight Senators wrote to CFPB Director Chopra requesting stay for all covered entities.
- 10/18/23 – Senate passes joint resolution of disapproval of 1071 rule. Biden administration opposes.
- 10/26/23 – TK court grants CUNA’s 8/17 motion and expands stay for all covered entities.
- 12/4/23 – House of Representatives passes resolution to block 1071 rule.

**Updated: 12/3/23**

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**NAFCU, CUNA detail CU priorities, recommendations for CFPB reform.**

**CFPB Proposed Rule: Simplification of Share Insurance Rules.**

**Comments Due:**

Agency Announcement
Federal Register
Regulations.gov

**Updated: 12/3/23**

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**Regulatory Response Letters**

- Fall ‘23 Unified Rulemaking Agenda
- CFPB Agenda
- Treasury/FINCEN Agenda
- Federal Reserve Agenda

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**NAFCU Proposed Rule: Required Rulemaking on Personal Financial Data Rights**

**Comments Due:**

Agency Announcement
Federal Register
Regulations.gov

**Updated: 12/3/23**
The Consumer Financial Protection Bureau (CFPB) is proposing to establish 12 CFR part 1033, to implement section 1033 of the Consumer Financial Protection Act of 2010 (CFPA). The proposed rule would require depository and non-depository entities to make available to consumers and authorized third parties certain data relating to consumer transactions and accounts; establish obligations for third parties accessing a consumer’s data, including important privacy protections for that data; provide basic standards for data access; and promote fair, open, and inclusive industry standards.

Proposed Regulatory Text: 12 CFR Part 1033
Additional Resource: CFPB Fast Facts Sheet

NCUA Proposed Rule: Fair Haring in Banking
Docket No. NCUA-2023-0023

The NCUA Board (Board) proposes to incorporate its “Second Chance” Interpretive Rule and Policy Statement (IRPS 19-1 [EPA-10]) and the Fair Hiring in Banking Act (SEC. 570S, p.1037) into its regulations. Section 205(d) of the Federal Credit Union Act (Section 205(d) prohibits, except with the Board’s prior written consent, any person who has been convicted of certain criminal offenses involving dishonesty or breach of trust (a covered offense), or who has entered into a pretrial diversion or similar program in connection with a prosecution for such offense (program entry), from participating in the conduct of the affairs of an insured credit union.

Comments Due: January 8, 2024

FTC Proposed Rule: Trade Regulation Rule on Unfair or Deceptive Fees
Docket No. FTC-2023-0064

The Federal Trade Commission commences a rulemaking to promulgate a trade regulation rule entitled “Rule on Unfair or Deceptive Fees,” which would prohibit unfair or deceptive practices relating to fees for goods or services, specifically, misrepresenting the total costs of goods and services by omitting mandatory fees from advertised prices and misrepresenting the nature and purpose of fees. The Commission finds these unfair or deceptive practices relating to fees to be prevalent based on prior enforcement, the comments it received in response to its advance notice of proposed rulemaking, and other information discussed in this proposal.

Comments Due: January 8, 2024

CFPB Proposed Rule: Defining Larger Participants of a Market for General-Use Digital Consumer Payment Applications
Docket No. CFPB-2023-0053

The Consumer Financial Protection Bureau (CFPB) proposes a rule to define a market for general-use digital consumer payment applications. The proposed market would cover providers of funds transfer and wallet functionalities through digital applications for consumers’ general use in making payments to other persons for personal, family, or household purposes. Larger participants of this market would be subject to the CFPB’s supervisory authority under the Consumer Financial Protection Act (CFPA).

The proposed rule implements section 1024 of the Consumer Financial Protection Act, which grants the Bureau supervision authority over certain non-depository entities. If enacted, the proposed regulation would grant the Bureau supervision authority over wallet apps and P2P providers that are deemed “larger” participants within the consumer payments market. While no apps/providers are named, this would likely include Zelle, PayPal, Venmo, CashApp, Samsung/Google/Apple Pay, and the like.

Proposed Regulatory Text: 12 CFR Part 1000

FinCEN Notice of Proposed Rulemaking: Convertible Virtual Currency Recordkeeping and Reporting Requirements
Docket No. FINCEN-2023-0016

This NPRM (1) sets forth FinCEN’s finding that transactions involving CVC mixing within or involving jurisdictions outside the United States are a class of transactions that are of primary money laundering concern; and (2) proposes requiring covered financial institutions to implement certain recordkeeping and reporting requirements on transactions that covered financial institutions know, suspect, or have reason to suspect involve CVC mixing within or involving jurisdictions outside the United States.

Comments Due: January 8, 2024

Federal Reserve Board Proposed Rule: Debit Card Interchange Fees and Routing
Docket No. R-1818

This proposed rule would make significant revisions to Regulation I’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:

- The base component would be 14.4 cents (down from 21.0 cents)
- The ad valorem component would be 4.0 basis points (down from 5.0 basis points)
- The fraud-prevention adjustment would be 1.3 cents (up from 1.0 cents)

Additionally, the proposal would codify in Reg I an approach for updating the three components of the interchange fee cap every other year going forward based on the latest data reported to the Board by covered issuers, without opportunity for public comment.

Related Material: 2021 Interchange Fee Revenue Report

Additional relevant information:
- Consumer Bowman Dissent
- NAFCU, CUNA and other trades have submitted a letter to the FRB requesting an extension of an additional 90 days to comment.

December 29, 2023
Agency Announcement
Federal Register
Regulations.gov
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**Compliance Calendar**

- **November 1 – December 31, 2023**: Safe Act Annual Renewal of Credit Union Information with NMLS; Safe Act Annual Renewal of Individual MLO Registrations
- **December 31, 2023**: Complete ACH Audit