

Regulatory Update Destination Compliance



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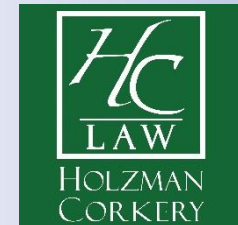
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Agenda

- Military Lending Act
- FinCEN – Customer Due Diligence – Legal Entities
- Deposit Reconciliation Practices
- Interest on Lawyer Trust Accounts (IOLTAs)
- Annual Privacy Notices
- Lending Updates (just a few....)
- Same Day ACH
- Be on the lookout.....



DOD – Military Lending Act

Helping Credit Unions
Serve, Grow and Remain Strong.



DOD – Military Lending Act

Effective Date: October 1, 2015.

Effective Compliance for Loans: October 3, 2016

Effective Compliance for Credit Cards: October 3, 2017

Summary

- Rules expanded the coverage to include additional loans.
- Amended the requirements for assessing who is a “covered borrower” under the rule.
- Amended the disclosures requirements to be provided to covered borrowers.

DOD – Military Lending Act

Does the MLA apply?

- Coverage of the MLA applies to a borrower who is determined to be “covered” **at the time they become obligated on a credit transaction** or established an account.
- There is no requirement to monitor “covered” status for loans, determination is made at the time of consummation.
- The credit union does not have to look backwards at the loans currently in portfolio to determine if a borrower is covered.



DOD – Military Lending Act

Covered Borrower

- *At the time the consumer becomes obligated....*
 - **Is a member of the armed forces**, serving on **active duty, active Guard or Reserve duty**.
 - **Dependents** of the above; spouse, child (under 21 or 23 if full time student or no age limit if there is a mental/physical incapacity); could also be a parent or in-law (if supported by servicemember); another adult in legal custody of the servicemember.



DOD – Military Lending Act

Safe Harbor – Covered Borrower

- Assessing a covered borrower from either the MLA database or a consumer report from a CRA.
 - <https://mla.dmdc.osd.mil/>
 - Credit union responsible for determining covered borrower status for borrower/co-borrower.
 - Time periods for determination
 - When member initiates transaction or 30 days prior;
 - At application or 30 days prior; or
 - 60 days from processing firm offer of credit.
 - Credit union must retain documentation with the loan file.



DOD – Military Lending Act

“Consumer Credit” – will now be generally consistent with Regulation Z;

- Credit offered or extended to a covered borrower primarily for personal, family, or household purposes, and that is:
 - Subject to a finance charge; or
 - Payable by a written agreement in more than four installments.



DOD – Military Lending Act

Excluded Loans

- A residential mortgage (credit transaction secured by an interest in a dwelling – includes purchases, refinances, initial construction, home equity, HELOC or reverse mortgage).
- Any credit transaction intended to finance the **purchase** of a vehicle when the credit is secured by the vehicle being purchased.
- Any credit transaction intended to finance the purchase of personal property when the credit is **secured by the property being purchased**.
- Any credit transaction that is exempt under Regulation Z.
- Any credit transaction for a non-covered borrower (by using a method and complying with recordkeeping requirements outlined in the Act).



DOD – Military Lending Act

Loan Coverage

- Payday loans
- Vehicle title loans
- Refund anticipation loans
- Deposit advance loans
- Installment loans
- Unsecured open-end lines of credit
- Credit cards
- Refinance of an auto loan
- Refinance of a loan on personal property



DOD – Military Lending Act

Protections include:

- 36% MAPR limit (including all interest and fees associated with the loan).
- Prohibition on certain requirements, mandatory arbitration, onerous legal notice requirements, waiving rights under the Servicemembers Civil Relief Act, are just a few.
- Changing the definition of credit to bring any closed and open-end loans within the scope of the regulation, except for loans secured by real estate or a purchase-money loan, including a loan to finance the purchase of a vehicle.



DOD – Military Lending Act

Military Annual Percentage Rate (MAPR)

- Closed-end loans: The MAPR is calculated in the same way an APR is calculated under Regulation Z, including the fees described below:
- Open-end credit: Calculated the same as an APR under Regulation Z, including the fees described below:
 - Credit insurance premium or fee;
 - Debt cancellation or debt suspension fee;
 - Fees for ancillary products sold in connection with the transaction (credit default insurance and debt suspension plans);
 - Financial charges (except for a bona fide fee)
 - Application fee (other than FCU for short term small dollar – can only charge once in any rolling 12 month period)



DOD – Military Lending Act

Mandatory Loan Disclosures

- Information required to be provided to the covered borrower before they are obligated on the transaction.
 - Statement of the MAPR applicable to the extension of credit (model statement);
 - Any disclosures required under Reg Z (this exists now)
 - A clear description of the payment obligation and a payment schedule or account opening disclosure provided pursuant to Reg Z (this exists now)
- Must be provided in writing **and** orally. However, oral requirement can be met by providing a toll-free number the borrower can use to call to receive the oral disclosures (*on application or required disclosures listed above*).



DOD – Military Lending Act

Model Disclosure

“Federal law provides important protections to members of the Armed Forces and their dependents relating to extensions of consumer credit. In general, the cost of consumer credit to a member of the Armed Forces and his or her dependent may not exceed an annual percentage rate of 36%. This rate must include, as applicable to the credit transaction or account: the costs associated with credit insurance premiums; fees for ancillary products sold in connection with the credit transaction; any application fee charged (other than certain application fees for specified credit transactions or accounts); and any participation fee charged (other than certain participation fees for a credit card account).”



DOD – Military Lending Act

Cross Collateralization

- For covered loans under the MLA, credit unions are only permitted to take a security interest in funds deposited after the extension of credit in an account established in connection with the loan.
- Loan agreements with cross collateralization clauses should be amended to reflect the limited security interest the credit union has on share accounts.
- Any credit agreement, promissory note or other contract that fails to comply with the MLA is considered void from inception.



DOD – Military Lending Act

MLA Interpretive Rule – **Published August 26th**

- **Oral disclosure of the covered borrower’s payment obligation can be generic.** *“A general oral description of the payment obligation may be provided, even though the disclosure is the same for borrowers with a variety of consumer credit transactions or accounts.”*
- Exercising a statutory right to take a security interest in funds on deposit **is permissible** under the MLA.
- **Existing loan documents with prohibited terms such as mandatory arbitration can be used**, as long as the clause limits the applicability of those terms to only non-covered borrowers consistent with applicable law.



DOD – Military Lending Act

- Home
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Area: Loans

Item: Military Lending Act

Item Overview

Print

In July 2015, the Department of Defense issued the final Military Lending Act (MLA) rule. This final rule became effective on October 1, 2015, however compliance is not required until October 3, 2016. This final rule amended the previous Act to increase the coverage of applicable loans, increase the protections to Service Members and certain dependents, requires the credit union to provide certain disclosures before consummation and imposes a maximum Military Annual Percentage Rate (MAPR) that cannot be exceeded for covered loans.

Credit unions should have policies and procedures in place to determine if their new borrowers are considered "covered borrowers" under the MLA. If covered borrowers are identified and the loan is also a "covered loan" the credit union should understand their MAPR limitations as well as the required disclosures that need to be provided to the borrower prior to consummation.

Compliance Item Assigned to:

N/A

Next Annual Review Date:

N/A

Status:

Not Started

Additional Resources

- InfoSight
- Regulations
- CU PolicyPro Master 7213
- Questions

Factor Description

Print

Factor Selection

The credit union would not need to comply with the Military Lending Act for transactions that are not considered "covered transactions" or for borrowers that are not "covered borrowers" according to the Act.

Factor 1 - Covered Loans

Consumer credit means credit offered or extended to a covered borrower primarily for personal, family or household purposes that is subject to a finance charge; or payable by a written agreement in more than four installments.

[MCUL > InfoSight Home > Loans and Lending > Servicemembers \(and Dependent\) Consumer Lending](#)

The following transactions are excluded from the "consumer

- 1) A residential mortgage, which includes any credit transaction to purchase or initial construction of the dwelling, any refinance;
- 2) Any credit transaction that is expressly intended to finance the purchase;
- 3) Any credit transaction that is intended to finance the purchase;
- 4) Any credit transaction that is considered "exempt" and subject to disclosure requirements under Regulation Z;
- 5) Any credit transaction or account for credit which is not and complying with the recordkeeping requirements.

Factor 2 - Covered Borrower

The credit union identifies a covered borrower as a person or transaction:

Servicemembers (and Dependent) Consumer Lending: Summary

Last Reviewed: June, 2016

As required by the John Warner National Defense Authorization Act for Fiscal Year 2007 which added 10 USC 987, the Department of Defense (DOD) issued a regulation that implements the Military Lending Act (MLA) regarding the terms of consumer credit extended by creditors to service members and their dependents.

In July 2015, the changes were made that impacted the MLA and became effective on October 1, 2015. Credit unions have until October 3, 2016 to comply. Credit unions should have policies and procedures in place to determine if their new borrowers are considered "covered borrowers" under the MLA. If the covered borrowers are identified and the loan is also a "covered loan" the credit union should understand their Military Annual Percentage Rate (MAPR) limitations as well as the required disclosures that need to be provided prior to consummation.

Loans Covered Under the Rule

The rule defines "consumer credit" as any credit offered or extended to a covered borrower primarily for personal, family, or household purposes and that is:

1. Subject to a finance charge; or
2. Payable by a written agreement in more than four installments.

Exceptions

The definition of consumer credit DOES NOT mean:

1. A residential mortgage (any credit transaction secured by an interest in a dwelling, including a transaction to finance the purchase or initial construction of the dwelling, any refinance transaction, home equity loan or line of credit or reverse mortgage);
2. A credit transaction that is expressly intended to finance the purchase of a motor vehicle when the credit is secured by the vehicle being purchased;
3. A credit transaction that is expressly intended to finance the purchase of personal property when the credit is secured by the property being purchased;
4. A credit transaction that is an exempt transaction for purposes of Regulation Z;
5. A credit transaction for a non-covered borrower.

Welcome Back Latory

Log Out

Laws

10 USC 987, Terms of Consumer Credit Extended to Members and Dependents: Limitations

Regulations

32 CFR 232, Limitations on Terms of Consumer Credit Extended to Service Members and Dependents

Additional Resources

- CUNA E-Guide: Military Lending Act
- CUNA E-Guide: Servicemembers Civil Relief Act
- SCRA: Checklist
- SCRA: FAQs

Related Links

- Military Lending Act Website
- NCUA Letter 09-CU-12 (with end) Interagency Examination Procedures on Credit Extended to the Military and Dependents
- Military One Source

Model Policy 7213: Military Personnel Loans

Model Policy Revised Date: 03/24/2016

General Policy Statement:

On loans to military personnel, the Credit Union will comply with the Servicemembers Civil Relief Act (SCRA) of 2003 (50 U.S.C. 501 et seq.). This Act requires that the interest rate on loans incurred before military personnel began active duty be reduced to 6% for the duration of the active duty. It also affords additional protections to such personnel. The Credit Union will also comply with the Department of Defense's Military Lending Act and the NCUA Letter to Federally Insured Credit Unions "Mortgage Servicing Practices Impacting Military Homeowners" which provides additional protections for the loans outlined herein.

Additionally, the Credit Union will comply with any applicable state law that may cover a particular member.



DOD – Military Lending Act



COMPLIANCE RESOURCES

Credit Unions have access to numerous compliance resources available from the League and CUNA, many of which are free! Click on the summary videos to learn more about each of those resources and access them directly from one location by clicking on the actual resource name.

CUNA

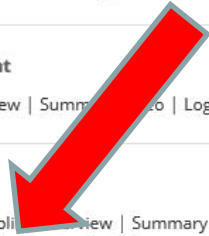
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Military Lending Act

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FinCEN Customer Due Diligence

29454 Federal Register / Vol. 81, No. 91 / Wednesday, May 11, 2016 / Rules and Regulations

**APPENDIX A to § 1010.230 -- CERTIFICATION REGARDING
BENEFICIAL OWNERS OF LEGAL ENTITY CUSTOMERS**

I. GENERAL INSTRUCTIONS

What is this form?

To help the government fight financial crime, Federal regulation requires certain financial institutions to obtain, verify, and record information about the beneficial owners of legal entity customers. Legal entities can be abused to disguise involvement in terrorist financing, money laundering, tax evasion, corruption, fraud, and other financial crimes. Requiring the disclosure of key individuals who own or control a legal entity (i.e., the beneficial owners) helps law enforcement investigate and prosecute these crimes.

Who has to complete this form?

This form must be completed by the person opening a new account on behalf of a legal entity with any of the following U.S. financial institutions: (i) a bank or credit union; (ii) a broker or dealer in securities; (iii) a mutual fund; (iv) a futures commission merchant; or (v) an introducing broker in commodities.

For the purposes of this form, a **legal entity** includes a corporation, limited liability company, or other entity that is created by a filing of a public document with a Secretary of State or similar office, a general partnership, and any similar business entity formed in the United States or a foreign country. **Legal entity** does not include sole proprietorships, unincorporated associations, or natural persons opening accounts on their own behalf.

What information do I have to provide?

This form requires you to provide the name, address, date of birth and Social Security number (or passport number or other similar information, in the case of foreign persons) for the following individuals (i.e., the **beneficial owners**):

II. CERTIFICATION OF BENEFICIAL OWNER(S)

Persons opening an account on behalf of a legal entity must provide the following information:

a. *Name and Title of Natural Person Opening Account:*

b. *Name and Address of Legal Entity for Which the Account is Being Opened:*

c. *The following information for each individual, if any, who, directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, owns 25 percent or more of the equity interests of the legal entity listed above:*

Name	Date of Birth	Address (Residential or Business Street	For U.S. Persons: Social Security	For Foreign Persons: Passport Number and
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FinCEN Customer Due Diligence

Effective Date: **July 11, 2016**

Compliance Required: **May 11, 2018**

- Establish procedures that are reasonably designed to identify and verify beneficial owners of legal entity members.
- Certification for legal entities to complete is included in the Appendix of the new regulation.
- Verify the identity of each beneficial owner according to existing CIP/MIP.



FinCEN Customer Due Diligence

Compliance Required: May 11, 2018

- For new accounts opened on or after May 11, 2018.
- Existing accounts should obtain beneficial ownership information in normal course monitoring.
- No certification process for the new form (such as a notary). Should be completed by the natural person authorized to open the account for the legal entity.
- Credit union can rely on information provided they have “no knowledge of facts that would reasonably call into question the reliability of the information.”



FinCEN Customer Due Diligence

Beneficial Ownership

- Each individual who directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, owns 25% or more of the equity interests of the legal entity; **AND**
- A single individual with significant responsibility to control, manage, or direct the legal entity (e.g., CEO, CFO, COO, Managing Member, General Partner, President, Vice President, or Treasurer or any other individual who regularly performs similar functions).

For trust accounts the beneficial owners would be the trustee(s).



FinCEN Customer Due Diligence

What is considered a Legal Entity

- Corporation
- Limited Liability Company (LLC)
- Another entity that is created by the filing of a public document with a Secretary of State (or similar office)
- General Partnership
- Similar entity formed under the laws of a foreign jurisdiction

What is NOT considered a Legal Entity

- Sole proprietorship
- Unincorporated associations (scout troops, sports leagues)



FinCEN Customer Due Diligence

Record Retention

- Records related to the identification of the beneficial owner(s) of the legal entity are maintained for 5 years after the date the account is closed.
- Records related to the verification of the beneficial owner(s) are retained for 5 years after the record is made.



FinCEN Customer Due Diligence



COMPLIANCE RESOURCES

Credit Unions have access to numerous compliance resources available from the FDIC and CUNA, many of which are free! Click on the summary videos to learn more about each of those resources and access them directly from the location by clicking on the actual resource name.

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Compliance E-Guide

Home > Compliance > Compliance E-Guide > Bank Secrecy Act

BANK SECRECY ACT Like 1

LATEST DEVELOPMENTS	SUMMARY	LAW	REGULATIONS	RESOURCES	FAQ
05-09-2016	CUNA releases CDD Compliance Chart for FinCEN's new BSA requirements				
05-06-2016	The long-awaited CDD rule will be published soon!				
The long awaited Bank Secrecy Act Customer Due Diligence (CDD) rule will be published in the Federal Register next week. Although the effective date will be 60 days after publication, the compliance date will not be until May 11, 2018.					
04-22-2016	More States Expected to Pass Marijuana Legislation				
With the Presidential election in November and voter turnout expected to be "high", the Cannabis organizations are expecting several more states to pass marijuana legislation. The Cannabis supporters are feeling pretty confident that legislation will pass in: NV, CA, VT and AZ. Although less likely, there will also be efforts to pass the legislation in: CT, MI and RI.					
The National Cannabis Industry Association told CUNA that they believe once this legislation passes in a large state like California, there will be a much more coordinated effort to change federal law to make it easier for financial institutions to accept marijuana dispensary accounts.					
12-2-2014	Agencies Release 2014 BSA/AML Exam Manual				
The FFIEC released a revised Bank Secrecy Act/Anti-Money Laundering (BSA/AML) Examination Manual on December 2, 2014. The revisions clarify supervisory expectations regarding compliance and incorporate regulatory changes since the manual was last updated in 2010.					
The NCUA, FDIC, OCC, Federal Reserve Board and State Liaison Committee revised the manual in collaboration with the Financial Crimes Enforcement Network (FinCEN) and the Office of Foreign Assets Control (OFAC). FinCEN and OFAC collaborated on the revisions made to the sections that address compliance with the regulations and sanctions programs that FinCEN and OFAC administer and enforce.					

Deposit Reconciliation Practices

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Deposit Reconciliation Practices

- **Nothing has changed from a regulatory perspective!**
- *Regulation CC – Expedited Funds Availability.*
- [Interagency guidance](#) was released in May 2016 to make financial institutions aware of supervisory expectations regarding customer account deposit reconciliation practices.
- Make sure procedures are in place to “avoid or reconcile discrepancies, or designed to resolve discrepancies such that customers are not disadvantaged.”
 - Address employee transaction processing, reporting discrepancies, taking appropriate steps to determine the cause and reconciling discrepancies timely.



Deposit Reconciliation Practices



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CUNA Regulatory Burden Study

League InfoSight

InfoSight Newsletter
OPS Newsletter (CU PolicyPro)
ComplySight Newsletter



June 2016

Dear CU PolicyPro Client,

Finally, the summer is here and with the end of June comes the next release of our quarterly updates!

As with any quarterly update, one of the policy changes has to do with a regulatory change. Last month FinCEN published their final rule related to customer due diligence (<https://www.gpo.gov/fdsys/pkg/FR-2016-05-11/pdf/2016-10567.pdf>) for legal entity members.

This new rule requires the credit union to obtain specific information on the beneficial owners of legal entities. This new regulation actually becomes effective next month on July 11, 2016. Don't panic yet, as credit unions aren't required to comply until May 11, 2018. However, in order to be prepared, we have once again updated the BSA Policy to accommodate these changes. See the article below for more information on the updates and what your credit union will need to do!

While there hasn't been a change to Regulation CC, there was interagency guidance (<https://www.ncua.gov/regulation-supervision/Pages/policy-compliance/communications/letters-to-credit-unions/2016/04.aspx>) released that reminds credit unions to adopt credit reconciliation policies and practices to avoid or reconcile deposit discrepancies so that members are not disadvantaged. We've also updated policy 2400 – **Funds Availability** to not only comply with this guidance, but to also combine it with policy 9410 – Expedited Funds Availability Act – Regulation CC in order to avoid having duplicate policies within CU PolicyPro. (Policy 9410 has been deleted from the Master Manual)

Unfortunately, the credit union industry (as have other industries) has been in the headlines lately regarding issues of embezzlement and fraud. In order to help credit union's mitigate internal risk and protect themselves and members from these types of unfortunate events, a new policy **3201 – Internal Fraud** was created.

In this edition:

- Monthly OPS Notes Release: Legal Entity – Member Due Diligence
- Content FAQ
- Quarterly Content Update!
- Technical FAQ
- Questions?

Interest on Lawyer Trust Accounts (IOLTA)

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What is an IOLTA?

An account established by an attorney to hold their clients' funds to pay for legal services or for other purposes. The interest on the accounts is typically donated to charities or other 501(c)3 tax exempt organization, based on state law. Funds “pass through” the account and are not owned by the attorney.



IOLTA Updates

- December, 2014: Insurance Fund Parity Act of 2014, which allowed both the NCUA and FDIC to insure IOLTAs and “similar escrow accounts” (e.g., real estate escrow accounts and prepaid funeral accounts). Now based on the membership of the fiduciary managing funds.
- **Effective January 27, 2016** NCUA share insurance coverage was expanded to IOLTAs and “similar escrow accounts.”
- Michigan Supreme Court amended IOLTA rules to allow credit unions to open accounts. www.msbf.org/iolta



IOLTA Conditions

Membership requirements:

- IOLTAs are treated as Escrow Account
- Attorney or Escrow Agent administering the account must qualify for membership of the credit union.
- Membership status of clients or principals is irrelevant.





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Interest on Lawyers Trust Account (IOLTA): Summary

Last Reviewed: January, 2016

Lawyers often receive and hold money from, or on behalf of, their clients for such things as court filing fees, real estate closings, settlements and retainers. A lawyer who receives funds that belong to a client must place those funds in a trust account separate from the lawyer's own personal money and the lawyer must pool all client funds. All accumulated interest/dividends on such funds is required to be paid over to the state IOLTA Committee who in turn uses the funds for the benefit of disadvantaged citizens.

Until recently, the National Credit Union Administration did not separately insure IOLTAs. On December 19, 2014 the Credit Union Insurance Fund Parity Act ([Public Law 113-252](#)), was signed into law. The law provides pass-through share insurance coverage "for the deposits or shares of any IOLTA or other similar escrow account." Pass-through insurance coverage means that the lawyer can be a member of the credit union, set up the IOLTA account, and each owner of escrowed funds in the account (each client) will receive up to \$250,000 of insurance coverage without each client also having to be a member of the credit union. NCUA will soon create regulations relative to share insurance of IOLTAs.

What must a credit union do to offer IOLTAs?

- The credit union must be prepared to keep records on each IOLTA, file quarterly reports, and deliver any accumulated interest to the state's IOLTA Committee.
- The credit union must contact the state's IOLTA committee to become an approved financial institution prior to accepting deposits.
- The credit union must follow specific rules set by the state regarding what dividend/interest rate may be offered for IOLTAs. IOLTA Accounts must be dividend/interest-bearing accounts.
- To open an IOLTA, a lawyer must deliver a notice to the credit union where the account will be maintained. The state Bar Association/IOLTA Committee will provide the appropriate standardized notice to the lawyer.

Characteristics of the IOLTA Account

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Laws

[Public Law 113-252](#)

Related Links

[FFIEC BSA/AML Examination Manual, "Professional Service Providers"](#)

[National Association of IOLTA Programs](#)

Annual Privacy Notices

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Annual Privacy Notices

On December 4, 2015 President Obama signed the [Fixing America's Surface Transportation Act \(FAST Act\)](#). Of particular importance to credit unions, section 750001 of the FAST Act amends Section 503 of the Gramm-Leach-Bliley Act (GLBA) by eliminating, under certain circumstances, the requirement that financial institutions provide an annual privacy notice.



Annual Privacy Notices

- **Effectively immediately**, the amendments provide that credit unions are no longer required to send annual privacy notices if the credit union shares nonpublic personal financial information only within the exceptions of the privacy rule, **and** no changes have been made to their privacy policies.
- If your credit union shares information with nonaffiliated third parties in a manner that requires you to allow your members to opt out, you will be required to continue providing annual notices.
- **July 1, 2016** the CFPB issued amendments to Regulation P as a result of these changes to law. **Comments were due August 10th.**



Annual Privacy Notices



COMPLIANCE PUBLICATIONS

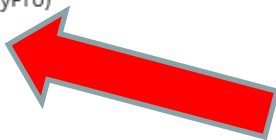
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A Web-Based Compliance Management and Tracking Solution
February 2016
Vol. 3, No. 2

ComplySight
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Introduction

Hello ComplySight Users!

If you are like me, you are wondering where January went! However, here we are in the second month of the year already.

It's not very often that we have the pleasure of talking about regulatory relief! Most of the time we are telling you all about the most recent amendment to our existing regulations and all the new things you are going to have to do to comply! Therefore, we are happy to bring up the fact that when the President signed the [Fixing America's Surface Transportation \(FAST\) Act](#) into law there was a change to the annual privacy notice delivery requirements under the Gramm-Leach-Bliley Act (GLBA). The changes became effective when the law was signed on December 4, 2016. However, as most credit unions are aware, Regulation P is the implementing regulation for the GLBA and the CFPB has not yet revised the regulation to coincide with the new law.

Until Regulation P is updated, the NCUA issued [Letter to Credit Unions \(16-CU-03\)](#) in order to assist credit unions with the compliance of the newly changed law. The letter indicates that the credit union does not need to provide an annual privacy notice if:

- The credit union's policies and practices have not changed since the last privacy notice was provided; and
- The credit union shares nonpublic personal information with nonaffiliated third parties only in accordance with requirements for existing exceptions under the privacy rules.



Regulatory Lending Updates

Helping Credit Unions
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Mortgage Lending – Small Creditor

Effective January 1, 2016

Small Creditor definition for Qualified Mortgages:

During preceding calendar year, the credit union:

- Extended no more than 2,000 covered transactions* (secured by first liens that were sold assigned or transferred to another person); and
- Had assets below \$2 billion (including assets of affiliates).

** Loans that are held in the credit union's portfolio are no longer considered a "covered loan" and don't need to be included in the 2,000.*



Mortgage Lending – Small Creditor

Effective March 31, 2016

Small Creditor Qualified Mortgage Options:

- If the credit union meets the small creditor definition, they are eligible for the Small Creditor Qualified Mortgage, which **does not** limit a DTI ratio of **43%**.
- If the credit union is a small creditor and has had at least **one covered** transaction on a property in a rural or underserved area in the previous calendar year (just changed from “more than 50% of their covered loans”) the credit union is eligible for the Balloon Payment Qualified Mortgage.



Annual Threshold Changes

Effective January 1, 2017

Credit Cards – Safe Harbor Penalty Fees

Permissible fee thresholds under Regulation Z:

- \$27 for the first late payment fee; and
- **\$38** for each subsequent violation within the following six months (**error in CFPB calculation, this should have been \$38 in 2016**).

High Cost Mortgage – Points and Fees Test

Permissible fee thresholds under Regulation Z:

- A transaction is high-cost if its points and fees exceed:
 - 5% of the total loan amount for a loan greater than or equal to **\$20,579**
 - 8% of the total loan amount or **\$1,029** (whichever is less) for a loan amount less than **\$20,579**



Annual Threshold Changes

Effective January 1, 2017

Qualified Mortgage – Points and Fees Threshold

For a loan to be a Qualified Mortgage (QM), these points and fees cannot be exceeded:

Loan Amount	Points and Fees Limit
\$102,894 or more	3%
\$61,737 - \$102,893	\$3,087
\$20,579 - \$61,736	5%
\$12,862 - \$20,578	\$1,029
Less than \$12,862	8%



NCUA - Flood Insurance

Effective January 1, 2016

- Flood insurance premiums and fees secured by residential improved real-estate or mobile homes are required to be escrowed.
- Requires borrowers with covered loans on the books as of the effective date, to have the option to escrow flood insurance premiums and fees. Lenders had until **June 30, 2016** to communicate this information to the borrowers.
- Allows the lender/servicer to force-place flood insurance commencing on the date which the borrower's coverage lapses or becomes insufficient.



NCUA – Member Business Lending

Effective May 13, 2016

- Credit unions making member business loans are no longer required to seek a waiver from the NCUA if they decide that a full and unconditional guarantee from the principal borrower is not necessary.
- Credit unions must document the loan file indicating the mitigating factors sufficient to offset the relevant risk of not requiring the personal guarantee.
- Significant amendments to this rule will take place and become effective **January 1, 2017**.



Michigan State Law Update

Helping Credit Unions
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Consumer Mortgage Protection Act

Consumer Mortgage Protection Act

Law Requires that applicants for the refinance of a primary residence, home improvement loan secured by the principal dwelling and fixed home equity loans be provided with a copy of the *Borrower's Bill of Rights*, the *Consumer Caution and Home Ownership Counseling Notice* and a *list of HUD approved Counseling Agencies*.

But wait.....



Consumer Mortgage Protection Act

■ Borrowers Bill of Rights

- ***Effective June 13, 2016***
- State law amended to indicate that “at the time a person applies for a mortgage loan, the lender shall provide the applicant with a copy of the special information booklet described in 12 CFR 1024.6.” RESPA
 - The lender shall provide the special information booklet to a person from whom the lender receives, or for whom the lender prepares, a written application for a *federally related mortgage loan*.
 - Place in the mail or deliver to applicant no later than **three business days** after the application is received.
 - http://files.consumerfinance.gov/f/201503_cfpb_your-home-loan-toolkit-web.pdf



Consumer Mortgage Protection Act

- **Borrowers Bill of Rights (*Effective June 13, 2016*)**
 - The Credit Union no longer needs to provide this disclosure:

"BORROWERS BILL OF RIGHTS

1. You have the RIGHT to shop for the best loan for you and compare the charges of different mortgage brokers and lenders.
2. You have the RIGHT to be informed about the total cost of your loan including the interest rate, points, and other fees.
3. You have the RIGHT to obtain a "Good Faith Estimate" of all loan and settlement charges before you agree to the loan or pay any fees.
4. You have the RIGHT to know what fees are nonrefundable if you decide to withdraw your loan application.
5. You have the RIGHT to ask your mortgage broker to explain exactly what the mortgage broker will do for you.
6. You have the RIGHT to know how much the mortgage broker is getting paid by you and the lender for your loan.
7. You have the RIGHT to ask questions about charges and loan terms that you do not understand.
8. You have the RIGHT to a credit decision that is not based on your race, color, religion, national origin, sex, marital status, age, or whether any income is derived from public assistance.
9. You have the RIGHT to know the reason if your loan application is turned down.
10. You have the RIGHT to receive the HUD settlement costs booklet "Buying Your Home".

Consumer Mortgage Protection Act

- “Consumer Caution and Home Ownership Counseling Notice” and list of nearest available HUD Approved counseling agencies.
 - **Effective June 13, 2016**
 - This requirement has been repealed!

CONSUMER MORTGAGE PROTECTION ACT (EXCERPT)
Act 660 of 2002

***** 445.1637 PLEASE SEE THE COMPILER'S NOTE REGARDING CONTACT INFORMATION *****

***** 445.1637 THIS SECTION IS REPEALED BY ACT 44 OF 2016 EFFECTIVE JUNE 13, 2016 *****

445.1637 Credit counseling; notice.

Sec. 7.

At the time a person applies for a mortgage loan, the lender shall provide the applicant the following written notice regarding the value of receiving credit counseling before taking out a mortgage loan and a list of the nearest available HUD-approved credit counseling agencies:

“CONSUMER CAUTION AND HOME OWNERSHIP COUNSELING NOTICE

If you obtain this loan, the lender will have a mortgage on your home. You could lose your home, and all money you have invested in it, if you do not meet your obligations under the loan, including making all your payments.

Mortgage loans rates and closing costs and fees vary based on many factors, including your particular credit and financial circumstances, your earnings history, the loan-to-value requested, and the type of property that will secure your loan. Higher rates and fees may be applicable depending on the individual circumstances of a particular consumer's application.

You should shop around and compare loan rates and fees. This particular loan may have a higher rate and total points and fees than other mortgage loans. You should consider consulting a qualified independent credit counselor or other experienced financial adviser regarding the rate, fees, and provisions of this mortgage loan before you proceed. For information on contacting a qualified credit counselor, ask your lender or call the United States Department of Housing and Urban Development's counseling hotline at [1-888-466-3487](tel:1-888-466-3487) for a list of counselors.

You are not required to complete any loan agreement merely because you have received these disclosures or have signed a loan application. If you proceed with this mortgage loan, you should also remember that you may face serious financial risks if you use this loan to pay off credit card debts and other debts in connection with this transaction and then subsequently incur significant new credit card charges or other debts.

Property taxes and homeowner's insurance are your responsibility. Not all lenders provide escrow services for these payments. You should ask your lender about these services.

Your payments on existing debts contribute to your credit ratings. You should not accept any advice to ignore your regular payments to your existing creditors.”

History: 2002, Act 660, Imd. Eff. Dec. 23, 2002

Compiler's Notes: The counseling hotline telephone number for the United States Department of Housing and Urban Development cited in this section is evidently incorrect. Contact information may be found at the HUD website: www.hud.gov.

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Consumer Mortgage Protection Act

■ List of HUD Approved Counseling Agencies

- **12 CFR 1024.20 - RESPA**
- No later than **three business days** after the credit union receives an application, or information sufficient to complete an application, they must provide the applicant with a clear and conspicuous **written list of homeownership counseling organizations** that provide relevant counseling services in the loan applicant's location.
- **List can't be more than 30 days old.**
- **Applies to home equity loans.**
- **<http://www.consumerfinance.gov/find-a-housing-counselor/>**

- Home
- Factor Selection**
- Action Item/Manual Action Item List
- Create Manual Action Item
- Create Examiner/Audit Finding
- Examiner/Audit Finding List
- Regulatory Alert List
- Area/Item Information
- Reports
- Search
- Technical Support
- Compliance Support
- Help
- My Profile
- Change Password

Area: Loans
Item: Consumer Mortgage Protection Act (Michigan)

Factors	Grade	Weight
<input type="checkbox"/> Prohibited Conduct	—	50%
<input type="checkbox"/> Prohibited Payment Schedule	—	50%

Exemption
Mortgage loan does not include any of the following:

- A loan transaction in which the proceeds are used to acquire the borrower's principal dwelling.
- A reverse-mortgage transaction.
- An open-end credit plan (a loan in which the lender reasonably contemplates repeated advances).
- A loan transaction in which the proceeds are not used primarily for personal, family or household purposes.

Additional Resources

[InfoSight](#) [Regulations](#) [CU PolicyPro Master n/a](#) [Questions](#)

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MCUL > InfoSight Home > Loans and Leasing > Michigan Required Loan Disclosures and Laws

Michigan Required Loan Disclosures and Laws

Last Reviewed: June 2016

Credit unions in the state of Michigan are required to comply with the Consumer Mortgage Protection Act and the Mortgage Lending Practices Act. Coverage of these laws depends on the types of mortgage loan transactions offered by the credit union.

Effective on June 13, 2016, the Consumer Mortgage Protection Act was revised to eliminate some of the previous disclosure requirements that credit unions provided their mortgage loan applicants. Specifically, for covered mortgage loans, credit unions are no longer required to provide the Borrower's Bill of Rights and the Consumer Caution and Homeownership Counseling Notice.

Consumer Mortgage Protection Act

Coverage

Credit unions in Michigan must comply with the Consumer Mortgage Protection Act if they originated covered mortgage loans. In addition to required disclosures that are consistent with federal law, the Consumer Mortgage Protection Act prohibits the credit union from engaging in certain activity.

Definitions

Mortgage loan – means a loan or home improvement installment contract secured by a first or subordinate mortgage or any other form of lien or land contract that covers property located in Michigan that is used as the borrower's principal dwelling and is designed for occupancy by 4 or fewer families. Mortgage loan does not include any of the following:

- A loan transaction in which the proceeds are used to acquire the borrower's principal dwelling.
- A reverse-mortgage transaction.
- An open-end credit plan (a loan in which the lender reasonably contemplates repeated advances).

Welcome Back Glory

[Log Out](#)

Laws

- [Consumer Mortgage Protection Act](#)
- [Mortgage Lending Practices](#)

Additional Resources

- [Notice to Inquirers and Loan Applicants](#)



Same Day ACH

Helping Credit Unions
Serve, Grow and Remain Strong



Same Day ACH

Effective September 23, 2016 (Phase 1)

- All RDFI (receiving depository financial institutions) **will be required** to receive Same Day ACH credits.
- Same Day ACH credits such as payroll Direct Deposit will be made available to depositors by the end of the RDFI's processing day (Phase 3 is by 5:00pm local time of RDFI).
- If you are an ODFI (originating depository financial institutions) it is optional for you to offer Same Day ACH to your members.



Same Day ACH

Effective September 15, 2017

- Credits and debits will be required to be processed via Same Day ACH and made available by end of RDFI's processing day.

Effective March 16, 2018

- Credits and debits will be required to be processed via Same Day ACH and made available by 5:00pm local time for the RDFI.



Same Day ACH

Functionality	Phase 1 Sept. 23, 2016	Phase 2 Sept. 15, 2017	Phase 3 March 16, 2018
Transaction Eligibility (\$25,000 limit; IAT not eligible)	Credits only	Credits and debits	Credits and debits
New Same Day ACH ODFI Processing Deadlines	10:30 AM ET and 2:45 PM ET	10:30 AM ET and 2:45 PM ET	10:30 AM ET and 2:45 PM ET
New Settlement Time(s)	1:00 PM ET and 5:00 PM ET	1:00 PM ET and 5:00 PM ET	1:00 PM ET and 5:00 PM ET
ACH Credit Funds Availability	End of RDFI's processing day	End of RDFI's processing day	5:00 PM RDFI local time



Same Day ACH

MCUL

Compliance Helpline Overview - Primary Video
Compliance Connection - cubeTV



YouTube Search

compliance connection

Same Day ACH

CU Solutions Group

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Be on the lookout....

Proposed Rules

- More TRID changes
- Regulation CC – Remote Deposit Capture Liability
- Regulation P - Privacy
- Payday Lending
- Incentive-Based Compensation
- Arbitration Clauses
- NCUA 2016 Regulatory Review



Be on the lookout....

Final Rules

- Mortgage Servicing “clarification” – 2017/2018
- NCUA Risk Based Capital – Effective January 1, 2019
- Current Expected Credit Losses (CECL) – 2020 / 2021
- Home Mortgage Disclosure Act – 2019 (staggered effective dates)
- DOL Overtime Rule – December 1, 2016



Be on the lookout....



REGULATORY ADVOCACY

The MCUL and CUNA also work with state and federal regulators such as the CFPB, NCUA and DIFS to reduce and minimize the level of credit union regulatory burden.

CUNA

Regulatory Advocacy

- Regulatory Rulemakings
- Additional Regulatory Resources
- Congressional and Regulator Meeting Materials

MCUL

Regulatory Advocacy

- Comment Calls
- Comment Letters
- Risk-based Capital Toolkit



Advocacy & Outreach

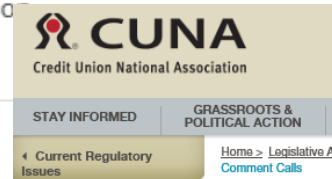
Education & Networking

CU Solutions Group

Home > Advocacy and Outreach > Regulatory Advocacy > Regulatory Outreach > Comment Calls

Comment Calls - 2016

- 16-CC-3 NCUA - Regulatory Review (Due: 8/8/16)**
NCUA reviews all of its existing regulations every three years. The NCUA's Office of General Counsel maintains a rolling review schedule that identifies one-third of NCUA's existing regulations for review each year and provides notice to the public of those regulations under review so the public may have an opportunity to comment on possible amendments or improvements to the rules. NCUA will review the following regulations in 2016: 711 Management Official Interlocks, 712 Credit Union Service Organizations (CUSOs), 713 Fidelity Bond and Insurance Coverage for Federal Credit Unions, 714 Leasing, 715 Supervisory Committee Audits and Verifications, 717 Fair Credit Reporting, 721 Incidental Powers, 722 Appraisals, 723 Member Business Loans, 724 Trustees and Custodians of Certain Tax-Advantaged Savings Plans, 725 National Credit Union Administration Central Liquidity Facility, 740 Accuracy of Advertising and Notice of Insured Status, 741 Requirements for Insurance, 745 Share Insurance and Appendix, 747 Administrative Actions, Adjudicative Hearings, Rules of Practice and Procedure, and Investigations. The proposal to review the regulations can be found here: <https://www.ncua.gov/regulation-supervision/Pages/documents/regulatory-review-notice-2016.pdf>
- 16-CC-2 CFPB - Arbitration Agreements (Due: 8/22/16)** The CFPB is proposing sweeping changes to the use of pre-dispute arbitration clauses, proposing to establish 12 CFR 1040, which would contain regulations pertaining to consumer finance dispute resolution. In 2015, the CFPB published and delivered to Congress a study of arbitration. In the Dodd-Frank Act, Congress also authorized the CFPB, after completing the study to issue regulations restricting or prohibiting the use of arbitration agreements. Despite conflicting findings in the study, some of which show that consumers receive little or no relief from class action litigation, and that there are benefits to arbitration, the CFPB is moving forward with a rulemaking, which eliminates the use of class action waivers in mandatory arbitration agreements. The proposed rule can be found [here](#).



COMMENT CALLS Like 0

We urge you to provide us with your input on regulations the due date shown.

Listed below are all pending regulations for which relevant date for the status that the regulation is in date, depending whether the regulation shown has

Comment Calls can be sorted by any column in the status "Open" until a Comment Letter is sent.



Issue	Date	Agency	Current Status
RFI for Small Dollar Proposed Rule	10/14/2016	CFPB	Open
CFPB Small Dollar Proposal	10/07/2016	CFPB	Open
Community Development Revolving Loan Fund	08/22/2016	NCUA	Open
Arbitration Proposal	08/22/2016	CFPB	Open
2016 Regulatory Review	08/08/2016	NCUA	Open

Need help along the way?

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800-262-6285



HOME ADVOCACY INFORM

Implementation Tools:

A suite of products is available to assist credit unions with the implementation of regulatory compliance...



IMPLEMENTATION TOOLS

Credit Unions have access to numerous compliance tools available from League InfoSight and CUNA! Click on the summary videos to learn more about each of the tools and access them directly from one location by clicking on the actual product name.

CUNA

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- Bank Secrecy Act (BSA)
- SAFE Act

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- Assisting with new/changing regulatory requirements
- Preparing for examiner “hot topics”
- Reviewing and updating required policies
- Addressing examiner or audit findings
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- Both project based and customized ongoing compliance support engagements



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QUESTIONS???



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