In this first update of the new year, Tanya Otuka is sworn in as NCUA Board Member; the CPB issues asset-size exemption threshold updates for Reg C and Reg 2; 2023 HMDA filing period now open; revised COFI certification application now available; and response letters are available for five proposed rules.

NCUA

Webinar: Simplified CECL Tool Best Practices
Date: Thursday, January 11 @ 3pm EST

Read More

2022 Credit Union Diversity Self-Assessment Results Report is Available

Read More

In 2022, 481, or 10 percent of all credit unions, submitted a self-assessment. The figure represents an all-time high for submissions to the NCUA. The number of CUDSA responses in 2022 was twice as much as the 240 self-assessments submitted in 2021. The diversity, equity, and inclusion standards outlined in the voluntary CUDSA describe best practices for creating more diverse and inclusive credit unions. The self-assessment is an opportunity for the NCUA to learn about credit unions’ diversity policies and programs and their challenges, allowing the agency to provide effective technical assistance and resources to enhance diversity programs. It also helps credit unions assess, guide, and monitor their diversity-related efforts and compare their progress with peer organizations. Credit unions are encouraged to complete their 2023 Credit Union Diversity Self-Assessment to identify promising areas in their diversity policies and programs, as well as challenging areas where the NCUA can provide technical assistance, guidance, and resources to advance diversity and inclusion within the credit union system. The deadline for submission is January 31, 2024.

12/29/2023

NCUA Board Met for Final Board Meeting of the Year

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During the meeting, the Board approved four items:

• 2024/2025 Agency Budget
• 2024 CECL Budget
• Issuance of final notice on Operating Fee Schedule Methodology
• Issuance of notice and RFC on Overhead Transfer Rate Methodology

The Board unanimously approved the issuance of the final notice making the following revisions to the Operating Fee Schedule methodology:

• Increasing the fee exemption asset threshold below which federal credit unions are not required to pay the operating fee from $1 million to $2 million.
• Increasing the fee exemption asset threshold in future years by the aggregate growth rate for federal credit union assets.

Request for Comment: Overhead Transfer Rate Methodology

The NCUA Board unanimously approved the issuance of a notice and request for comment on the existing Overhead Transfer Rate (OTR) methodology. The Board is inviting comment on the NCUA’s methodology to determine the OTR. The request for comment clarifies the four principles for calculating the OTR and the various cost allocations associated with the calculation.

Additional information available in the Open Comment Calls section.

12/30/2023

NCUA Issues Technical Correction for the CECL Transition Amount

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Credit unions that adopted the CECL accounting standard in 2023 should use the method described below to calculate and report on the Call Report their CECL transition amount. The Transition to the CECL Methodology recognized the need to phase in the CECL day-one adjustment on the net worth ratio. As a result, the final rule phased in the day-one effects of adopting the CECL accounting standard over a three-year transition period. To ensure computation alignment with the transition rule’s intent, credit unions should calculate the CECL transition amount for quarters 4 through 12 as the difference between:

• The credit union’s retained earnings as of the beginning of the fiscal year in which the credit union adopts CECL, adjusted for any restatement of the initial CECL adoption amount; and
• The credit union’s retained earnings as of the closing of the fiscal year immediately before the credit union’s adoption of CECL.

12/30/2023

Senate confirms Otuka to NCUA Board

Read More

Following the Senate confirmation, on Monday, 1/8/24, Tanya Otuka was sworn in as 25th NCUA Board Member.

12/30/2023

NCUA Prohibits One Individual From Participating in the Affairs of Any Federally Insured Depository Institution

Read More

The National Credit Union Administration issued one prohibition notice in December 2023. The individual named below is permanently prohibited from participating in the affairs of any federally insured depository institution:

Andrea Alice Nedow, a former employee of Traverse Catholic Federal Credit Union, Traverse City, Michigan.

12/30/2023
The CFPB on Monday announced the size adjustments for certain creditors under the size exemption thresholds for HMDA (Reg C) and TILA (Reg Z). The exemption threshold is adjusted to increase to $56 million from $54 million.

Read More
**FinCEN Names Jimmy Kirby as Deputy Director**

(For more information on Jimmy Kirby, see the full text below.)

**FinCEN Solicits Nominations for BSA Advisory Group.**

(For more information on the BSA Advisory Group, see the full text below.)

**FinCEN Issues Final Rule Regarding Access to Beneficial Ownership Information**

(For more information on the Final Rule, see the full text below.)

**OFAC Settlement Agreement between the U.S. Department of the Treasury’s Office of Foreign Assets Control and CoinList Markets LLC**

(For more information on the settlement agreement, see the full text below.)

**Revised CDFI Certification Application Now Available in AMIS**

(For more information on the revised CDFI Certification Application, see the full text below.)

**Virtual Public Meeting of the CDFI Fund’s Advisory Board Rescheduled**

(For more information on the rescheduled meeting, see the full text below.)

**FinCEN Issues Analysis of Identity-Related Suspicious Activity**

(For more information on the analysis, see the full text below.)

**Other Points of Interest**

(For more information on other points of interest, see the full text below.)

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NCUA has been coordinating with FINCEN, as well as the NY Credit Union Association (NYCUA) and their outside counsel to determine the applicability of the NY law on credit unions not headquartered in the state. Given the complexity of interstate legal jurisdiction and given several open questions that will not be answered until legal action is pursued, certainly on this matter is yet to be had. However, based on reviews of the law and the surrounding context conducted by CUNA and NYCUA’s outside counsel, it has been determined that it is very likely that Michigan credit unions will need to comply with the state law, if the following circumstances exist:

1. You have members residing in the state of New York; and
2. Those members have been issued credit cards with rewards programs.

Review the full compliance alert for more details.

Agencies release fall rulemaking agendas.

 Req'd More

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:

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

Refer to the above agendas for specific information on the topics that may impact your organization.

Submitted Regulatory Comment Letters

Regulatory Response Letters

- NCUA Proposed Rule: Simplification of Share Insurance Rules
  - NCUA Letter
  - CUNA Letter
- CFPB Proposed Rule: Required Rulemaking on Personal Financial Data Rights
  - CUNA/NAFCU Joint Letter
- NCUA Proposed Rule: Fair Hiring in Banking
  - America’s Credit Unions Letter
- FIC Proposed Rule: Trade Regulation Rule on Unfair or Deceptive Fees
  - America’s Credit Unions Letter
- CFPB Proposed Rule: Defining Larger Participants of a Market for General-Use Digital Consumer Payment Applications
  - America’s Credit Unions Letter

Other Letters to Regulators

- Joint Trades Letter to FHFA on Credit Score Testing Data Transparency

Browse All Industry Comment Letters

- NCUA
- CUNA
- NAFCU
- NACUSU

Open Comment Calls

If you have input on any comment calls below that you would like to provide for consideration, please direct them to Bradley.Willett@mcul.org no later than 3 weeks prior to the comment due date.

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 22, 2024
Agency Announcement
Federal Register
Regulations.gov

Federal Reserve Board Proposed Rule: Debit Card Interchange Fees and Routing

Docket No. R-1818

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:

- 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 II 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 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.

NCUA Request for Comment: Overhead Transfer Rate Methodology
Docket No. NCUA-2023-0142

The NCUA Board (Board) is inviting comment on the methodology used to determine the Overhead Transfer Rate (OTR). The Board applies the OTR to the NCUA’s operating budget to determine the portion of the budget that will be funded from the National Credit Union Share Insurance Fund (Share Insurance Fund). In response to industry recommendations, the Board has provided more detail, clarity, and transparency so the public can better understand the OTR methodology. No changes to the existing OTR methodology are being proposed as part of this request for comment. The added transparency and clarity do not constitute a change in methodology.

Comments Due: February 20, 2024

Agency Announcement
Federal Register
Regulations.gov

Relevant Federal Rulemaking Links

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