InfoSight Highlight

Truth In Lending Act (Regulation Z)

The purpose of the Truth in Lending Act (TILA), implemented by Regulation Z, is to promote the informed use of consumer credit by requiring disclosures about its terms and costs, to ensure that consumers are provided with greater and more timely information on the nature and costs of the residential real estate settlement process, and to effect certain changes in the settlement process for residential real estate that will result in more effective advance disclosure to home buyers and sellers of settlement costs. The regulation also includes substantive protections. It gives consumers the right to cancel certain credit transactions that involve a lien on a consumer's principal dwelling, regulates certain credit card practices, and provides a means for fair and timely resolution of credit billing disputes.

Regulation Z applies to each individual or business that offers or extends credit, when four conditions are met:

1. The credit is offered or extended to consumers;
2. The offering or extension of credit is done regularly;
3. The credit is subject to a finance charge or is payable by a written agreement in more than four installments; and
4. The credit is primarily for personal, family or household purposes.

If a credit card is involved, however, certain provisions apply even if the credit is not subject to a finance charge, or is not payable by a written agreement in more than four installments, or if the credit card is to be used for business purposes.

In addition, certain requirements apply to persons who are not creditors, but who provide applications for home-equity plans to consumers.

Certain provisions within Regulation Z apply to institutions of higher education.

For additional information, click here for the topic.

Review the information today to help your credit union remain in compliance.

InfoSight
Compliance eNEWSLETTER
March 10, 2017
Vol. 11, Issue 10

Created in partnership with the
Credit Union National Association

Compliance Videos

Q4 2016 Overview and Q1 2017 Changes Coming

In this recent video, Glory LeDu reminds us of the regulatory changes that became effective in the 4th quarter of 2016 (which includes the DELAY of the DOL Overtime rules). Glory also provides a review of the changes effective in the 1st Quarter of 2017 including the updates to Member Business Lending and the new requirements for HMDA reporting for 2017. This also includes the updated threshold changes effective on 1/1/2017.

Member Business Lending

This video provides the details you will need to know to comply with the NCUA's

Compliance News

Proposal to delay Labor Department Fiduciary Rule

The Department of Labor's Employee Benefits Security Administration has published in this week's Federal Register a proposal to extend for 60 days the April 10, 2017, applicability date of Labor's "Fiduciary Conflict of Interest" rule defining who is a “fiduciary” under the Employee Retirement Income Security Act (ERISA) and the Internal Revenue Code of 1986 (Code), and the applicability date of related prohibited transaction exemptions including the Best Interest Contract Exemption and amended prohibited transaction exemptions (collectively PTEs) to address questions of law and policy. The proposed delay would be to afford the Labor Department time to examine whether the fiduciary rule may adversely affect the ability of Americans to gain access to retirement information and financial advice, and to prepare an updated economic and legal analysis concerning the likely impact of the final rule as part of that examination, all as required by a Presidential Memorandum to the Secretary of Labor.

See the “Advocacy Highlight” section of this newsletter for information on commenting on this change.

Source: Federal Register

From the GAC: Call Report Modernization – Update

The Call Report Modernization (CRM) project is underway, and here is some preliminary information, from the recent GAC. It consists of four phases:

- Outreach (on-going)
- Analyze (happening now)
- Decide
- Implement

There's an internal NCUA working group working on the CRM project. The working group is in the “analysis” phase and is reviewing the 53 comments received during “outreach.” While the comment period has closed, NCUA is still interested in hearing from credit unions. If you have suggestions for improvements please email CallReportMod@ncua.gov.

Member Business Lending rules.

Compliance Calendar

April, 2017

- April 10th, 2017: Fiduciary Rule (Department of Labor) – Compliance date - DELAYED
- April 30th, 2017: 5300 Call Report Due to NCUA

May, 2017

- May 29th, 2017: Memorial Day - Federal Holiday

July, 2017

- July 4th, 2017: Independence Day - Federal Holiday
- July 30th, 2017: 5300 Call Report Due to NCUA

September, 2017

- September 4th, 2017: Labor Day - Federal Holiday
- September 15th, 2017: Same-day ACH (NACHA) – Phase 2 of the implementation period for the rule.

October, 2017

The working group is conducting a review of all account codes, data fields, forms and instructions that are used in the Call Report and the CU Profile, to determine where improvements are needed and where functionality can be streamlined and/or enhanced.

As for implementation, credit unions can look for the first wave of Call Report changes brought forth by the CRM project and the working group, in about a year, March 2018.

A full completion date for the project is currently undetermined--BUT once the project is completed the reporting process will offer improved instruction, less redundancy, and more clarification…every little bit helps, right!!

From the GAC – Extended Exam Cycle

For those of you unable to attend CUNA's GAC, here are seven takeaways on the extended examination cycle from the breakout session on NCUA examinations and Call Reports...

1. It may take two years for NCUA to fully transition qualifying credit unions to the extended exam cycle, so there may be instances where NCUA schedules exams that aren't following the extended cycle.
2. NCUA will notify credit unions approximately four weeks in advance of the examination.
3. Small federal credit unions with limited segregation of duties that would otherwise qualify for an extended examination cycle, may be examined more frequently (remember that a limited segregation of duties was listed as a supervisory concern and an area of focus for 2017).
4. For federal credit unions between $30 - $50 million coded CAMEL 1, 2, or 3, it is up to the discretion of the NCUA region to determine if the examination will follow the procedures used for the small credit union examination program (SCUEP).
5. There's a pilot program underway in Region 4 to reduce NCUA's presence on-site. Region 4 consists of CO, IL, IA, KS, MN, MO, MT, NE, NM, ND, OK, SD, TX, and WY. Looking ahead long-term, NCUA is thinking virtual examinations.
6. NCUA will try to conduct federally insured state-chartered credit union examinations with the appropriate state supervisory authority. If NCUA is unable to schedule a joint exam, then NCUA will conduct an independent insurance review.

- October 1st, 2017: Prepaid Accounts under the Electronic Fund Transfer Act/Regulation E and the Truth In Lending Act/Regulation Z
- October 3rd, 2017: Military Lending Act for Credit Cards
- October 9th, 2017: Columbus Day - Federal Holiday
- October 19th, 2017: Amendments to the 2013 Mortgage Rules under the Real Estate Settlement Procedures Act - Regulation X and the Truth in Lending Act -Regulation Z
- October 29th, 2017: 5300 Call Report Due to NCUA

Compliance Training

Regulatory Compliance Training

Cybersecurity – Intrusion threats and vulnerabilities (recorded webinar)

CUNA AND CUNA Webinars

CUNA offers hundreds of online training events that make it easy for you to learn right at your desk. Whether you are looking for a

7. NCUA has established its working group with state regulators. Based on the discussions of future meetings of the working group, it is possible that NCUA may adopt an alternating exam approach for federally insured state-chartered credit unions.

Source: CUNA Compliance Blog

NCUA webinar on providing electronic financial services

The NCUA has announced it will host a webinar, "Pathways to Offering E-Services," to help credit unions better understand how to put electronic financial services to work for their members. The free 90-minute webinar will be presented on Wednesday, March 22, 2017, beginning at 2 p.m. EDT.

McWatters discusses possible closing of stabilization fund

NCUA acting Chairman McWatters, in an address at the CUNA 2017 Governmental Affairs Conference, has informed credit unions they can anticipate a "thoughtful loosening" of regulations, a streamlined agency budget, and the possible closure of the Temporary Corporate Credit Union Stabilization Fund in 2017.

Source: NCUA

NMLS posts reactivation reminder

The NMLS has posted a reminder of the need for any mortgage loan originator who failed to complete the renewal process by December 31, 2016, to reactivate that registration before acting as a mortgage loan originator in 2017.

Source: NMLS

Advocacy Highlight

Delay of Fiduciary Rule – Opportunity to Comment

beginner course or want a comprehensive understanding on a specific topic, CUNA webinars, audio conferences and eSchools have what you need.

Click here for updates on compliance, operations, lending topics and more!

As indicated in the Compliance New section of this newsletter, the Department of Labor (DOL) has proposed a 60-day delay of the agency's fiduciary ("conflict of interest") rule. The rule, which currently requires compliance by April 10, 2017, would impact anyone who provides investment advice or recommendations for a fee or other compensation with respect to ERISA-covered retirement plans or IRAs.

The proposed delay was published in response to President Trump's February 3, 2017 memorandum directing the DOL to examine whether the final fiduciary rule "may adversely affect the ability of Americans to gain access to retirement information and financial advice."

The Presidential Memorandum also instructs the DOL to prepare an updated economic and legal analysis concerning the likely impact of the fiduciary rule, considering among other things:

- Whether the anticipated applicability of the fiduciary rule has harmed or is likely to harm investors due to a reduction of Americans' access to certain retirement savings offerings, retirement product structures, retirement savings information, or related financial advice;
- Whether the anticipated applicability of the fiduciary rule has resulted in dislocations or disruptions within the retirement services industry that may adversely affect investors or retirees; and
- Whether the fiduciary rule is likely to cause an increase in litigation, and an increase in the prices that investors and retirees must pay to gain access to retirement services.

President Trump's memo directs the DOL to rescind or revise the rule if the review determines that it is inconsistent with the Administration's priorities regarding consumer access to retirement information and financial advice.

Comments on the proposal to extend the applicability date for 60 days must be submitted to DOL on or before March 17, 2017.

Comments regarding the examination described in the President's Memorandum must be submitted on or before April 17, 2017. Click here for the proposal. The proposed delay will be effective once the final rule is published in the Federal Register.

CUNA plans to comment on the proposed delay. Please contact Leah Dempsey in CUNA Advocacy with your credit union's concerns regarding the fiduciary rule.

State Bills Impacting Credit Unions Under Review Nationwide

While the credit union world converged on Washington, D.C. last week, legislation impacting credit unions continues to move in the states. The pending bills would permit credit unions to accept public deposits in Florida, provide Minnesota credit union members with new methods to vote, extend the credit union exam cycle in North Carolina, require tow truck companies to notify lienholders when vehicles are towed in Georgia and permit surcharging in Maine and Montana.

In **Florida,** a league-supported public deposits bill was introduced. If enacted, S 1170 would allow Florida credit unions to become qualified public depositories. The League has been working closely with leaders of both legislative bodies and expects a companion bill to be introduced in the House soon.

In **Minnesota,** a pending bill, S 1190, would allow credit union members to vote for directors, credit and supervisory committee members and amendments to bylaws by any verifiable means. Current law requires members to vote either in-person or by mail.

North Carolina's S 113 would extend the credit union exam cycle from 12 to 18 months. The bill also permits state credit unions to hold escrow and bond accounts. The bill was introduced at the behest of the Carolina Credit Union League.

In **Georgia**, League-supported H 417 would require tow truck companies to notify lienholders in a timely manner when vehicles are towed. Oftentimes when vehicles are towed, credit unions are uninformed about the possession of vehicles until the company places a lien on the vehicle to recoup the cost of towing and storage.

Leagues are opposing surcharge bills in **Maine** and **Montana**. In Maine, S 222, would repeal Maine's ban on surcharging and Montana's H 506 would explicitly permit surcharging in the state. Surcharging credit card transactions can be detrimental as they could lead to consumers using other forms of payments, which could force credit unions and other smaller institutions to re-evaluate their credit offerings and possibly exit the market. In December, CUNA filed an amicus brief in the Supreme

Court that supports credit union members' ability to use credit cards without being charged a fee or surcharge.

TCPA Petition Seeks to make it More Difficult for Credit Unions to Contact Members

A recent TCPA petition filed by Craig Cunningham and Craig Moskowitz urges the Commission initiate a rulemaking to overturn the longstanding interpretation that "prior express consent" includes implied consent resulting from a party's providing a telephone number to the caller. The petitioners have requested that the Commission issue a declaratory ruling to remove uncertainty regarding the meaning of "prior express consent" resulting from the 1992 and 2008 Orders, and from 2012, 2014 and 2015 Commission orders to the extent they reiterate the Commission's positions in the 1992 and 2008 Orders.

In short, the petition is urging the FCC to adopt a rule requiring that every call made to either a cellphone or residential line must be made pursuant to consent that is expressly stated, specifically pertaining to autodialed or prerecorded calls, at a specified number, and in writing. This means that a credit union could not rely on implied consent when for instance a member provides their cellphone number in an application, or other form.

This petition would reverse the FCC's 25-year old interpretation that persons who knowingly release their phone numbers have given their consent to be called under the TCPA.

We believe that such a dramatic change would prevent credit union members from receiving important communications on their mobile phones, communications that provide critical information that consumers want and need to receive. It would also likely require credit unions to make fundamental changes to their practices for obtaining consent in conformity with the TCPA's requirements.

Comment on this petition are due on March 10, 2017. Questions or feedback can be sent to Senior Director of Advocacy and Counsel Leah Dempsey at ldempsey@cuna.coop.

Source: CUNA Removing Barriers Blog

CUNA Advocacy Update

The CUNA Advocacy Update is published at the beginning of every week and keeps you on top of the most important changes in Washington for credit unions--and what CUNA is doing to monitor, analyze, and influence government agencies and federal law. Additional Advocacy efforts may also be found under CUNA's Removing Barriers blog.

ComplySight: A Complete Compliance Management and Tracking System

What can ComplySight do for your credit union? It is central site that allows your credit union to:

- review regulations and laws to assess the level of compliance within your own organization;
- manage regulatory requirements and the associated internal organizational communications;
- assign and track the activities needed to achieve or maintain compliance; and
- keep current on regulatory alerts and updates.

Click here to see six more ways ComplySight can help your credit union!

ComplySight Training is Available!

Not sure how to get started, or want a refresher on how to use ComplySight? Or are you interested in seeing more of how ComplySight works? We are excited to make available recorded webinars to help you get the most out of ComplySight! We currently have seven training modules available! The ComplySight training webinars are available at any time, and registration is not required. Click here to start training today!

ComplySight: 30 Day Free Trial!

If you're interested in a "trial run" of ComplySight, League InfoSight is offering a free, 30-day trial so you can see the benefits first-hand. It's easy to get started. Just visit us online and click on Free Trial Offer.