

## InfoSight Highlight

### Advertising Overdraft Programs

The NCUA addresses overdraft program disclosure requirements, regardless of whether a credit union promotes the payment of overdrafts, in Part 707.

All credit unions that charge fees for paying overdrafts are required to disclose them on the periodic statement, both for the statement period and for the year-to-date. The disclosure does not have to be provided if no fees have been charged (e.g., the credit union would not have to disclose "\$0" for the statement period or year-to-date).

The disclosure must be made in a tabular format and be near the other itemized fees. The final rule includes a sample form for making this disclosure. Credit unions may either use the term "returned item fee" or "NSF fee" on the form to describe the fee for returning items unpaid. The regulations require that the periodic statement disclosure be provided in tabular format, as illustrated in NCUA's model form B-12.

#### **Periodic Statements**

The credit union must separately disclose on each periodic statement:

- The total dollar amount for all fees or charges imposed on the account for paying checks or other items when there are insufficient funds and the account becomes overdrawn, **using the** term "Total Overdraft Fees;" **and**
- The total dollar amount for all fees imposed on the account for returning items unpaid.

The overdraft services covered do not include a service providing for the transfer of funds from another share account of the member to permit the payment of items without creating an overdraft, even if a fee is charged for the transfer.

These disclosures must be provided for the statement period and for the calendar year to date.

The aggregate fee disclosures required must be disclosed in close proximity to the other itemized fees, using a format substantially similar to Sample Form B-12 in Appendix B of NCUA's Rules & Regulation.

For additional information, [click here for the topic](#).

## InfoSight Compliance eNEWSLETTER July 21, 2017 Vol. 11, Issue 28

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Credit Union National Association

## Compliance Videos

### First Quarter 2017 Recap and Second Quarter Outlook

This [video](#) provides a recap from Glory LeDu, Director of League System Relations, of the first quarter compliance updates and gives a "sneak peek" of what is to come in the second quarter of 2017. Included are such topics as the NCUA changes to Member Business Lending, the Fixed Assets Rule and the Chartering and Field of Membership Manual as well as a minor revision to the CFPB's HMDA information. There were also annual updates from the CFPB, FRB and the IRS. The FFIEC has also updated the Uniform Interagency Consumer Compliance Rating System, which is mentioned in this video as well as covered in depth in a separate video.

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

### Compliance News

#### U.S. targets supporters of Iranian military and Revolutionary Guard

The Treasury Department has [announced](#) OFAC's designation of 16 entities and individuals for engaging in support of illicit Iranian actors or transnational criminal activity. These designations include seven entities and five individuals for engaging in activities in support of Iran's military or Iran's Islamic Revolutionary Guard Corps (IRGC), as well as an Iran-based transnational criminal organization and three associated persons. Treasury's announcement reported that the State Department also designated today two Iranian organizations involved in Iran's ballistic missile program. As a result of these actions, all property and interests in property of those designated subject to U.S. jurisdiction are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

*Source: US Department of the Treasury/OFAC*

#### CFPB Proposes Increase to HELOC Reporting Threshold Under HMDA

The Consumer Financial Protection Bureau (CFPB) has released a proposal to increase the HELOC reporting threshold under the Home Mortgage Disclosure Act (HMDA).

##### Background

In October 2015, the CFPB published amendments to Regulation C (HMDA) as required under the Dodd-Frank Act. One of these changes was to the institutional coverage test; identifying those credit unions responsible for collecting and reporting data about their mortgage lending activities. Under the revised institutional coverage test, beginning January 1, 2018 a credit union would be required to collect and report HMDA data if it:

- Had assets over a certain threshold as of 12/31/2017;
- Had a home or branch office located in a Metropolitan Statistical Area (MSA);
- Originated at least one home purchase or refinance transaction in the preceding calendar year;

#### FFIEC Consumer Compliance

In this [video](#), Glory LeDu explains the updates made to the Uniform Interagency Consumer Compliance Rating System by the Federal Financial Institutions Examination Council (FFIEC), as well as the CFPB's requirements for an effective Consumer Compliance Management System. Credit unions should review this video to determine how their current compliance management system stacks up, as examiners will be using this rating system to evaluate credit unions on compliance factors and will be assigning an overall Consumer Compliance Rating.

#### Member Business Lending

[This video](#) provides the details you will need to know to comply with the NCUA's Member Business Lending rules.

### Compliance Calendar

July, 2017

- Was Federally insured or regulated;
- Originated at least 25 closed-end mortgage loans in each of the two preceding calendar years; and
- Originated at least 100 open-end mortgage loans in each of the two preceding calendar years.

Due to explosive growth in the HELOC market in recent years, the CFPB determined that reporting information on open-end mortgage loans was necessary to further the purposes that for which HMDA was originally intended. The CFPB estimated that by setting the reporting threshold at 100 for open-end loans, the additional reporting requirement would extend to 749 financial institutions.

However, due to insufficient data regarding the HELOC market to date, the CFPB now believes that it may have underestimated the implementation challenges and compliance costs associated with setting the open-end reporting threshold at 100.

#### **The Proposed Rule**

On July 14th, the CFPB issued a 39-page proposed rule in which it intends to raise the open-end reporting threshold to 500 for calendar years 2018 and 2019. Thus, beginning January 1, 2018 a credit union would not be required to collect and report HMDA data on its HELOCs if it originated fewer than 500 in either of the two preceding calendar years. The proposed rule reinstates the 100 open-end reporting threshold beginning January 1, 2020.

The CFPB opines that increasing the open-end reporting threshold will lead to a 69% reduction in the number of financial institutions required to collect and report HELOC data under HMDA (from 749 FI's to 231 FI's). This will give credit unions some much needed breathing room when it comes to implementing the other changes mandated by the new HMDA rule. In addition, it will give the CFPB time to obtain necessary additional information about the HELOC market.

To be clear, the proposed rule does NOT:

- Adjust the reporting threshold for closed-end mortgage loans (currently 25). The CFPB believes it relied on sufficient market data in establishing this threshold.
- Postpone the January 1, 2018 effective date for other mandated HMDA changes.
- Make any other substantive changes to the HMDA rule.

- 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

- 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](#)

November, 2017

- November 10th, 2017: Veterans' Day (Observed) - FRB will be open

The proposed rule can be found [here](#). Comments are due on or before July 31st.

Source: *CUNA Compliance Blog*

## Children's Online Privacy Protection Rule (COPPA) – What You Need to Know

### 1. The Purpose of COPPA:

The purpose of the Children's Online Privacy Protection Act (COPPA) is to allow parents to control what information is collected online about their children. Enacted almost 20 years ago, COPPA applies to the online collection of personal information about children under the age of thirteen. The law details what a website operator must include in a privacy policy, when and how to seek verifiable consent from a parent or guardian, and what responsibilities an operator has to protect children's privacy and safety online including restrictions on the marketing of children under 13.

### 2. How to Determine whether COPPA applies to your Website:

COPPA applies to your website if:

- Your website or online service is directed to children under 13 and you collect personal information from them.
- Your website or online service is directed to children under 13 and you let others collect personal information from them. AND/OR
- Your website or online service is directed to a general audience, but you have actual knowledge that you collect personal information from children under 13.

The FTC may determine your website is “directed” to children under 13 if you use, for example:

- animated characters or other child-oriented activities and incentives,
- child celebrities or celebrities that appeal to children,
- young models or
- other evidence that suggests the age of your intended audience is under 13.

- November 23rd, 2017: Thanksgiving Day - Federal Holiday

December, 2017

- December 25th, 2017: Christmas Day - Federal Holiday

January, 2018

- January 1st, 2018: [Home Mortgage Disclosure Act – Regulation C \(CFPB\), most provisions – Effective date](#)

March, 2018

- March 16th, 2018: [Same-day ACH \(NACHA\) – Phase 3 of the implementation period for the rule.](#)

### Compliance Training

#### Regulatory Compliance Training

#### NCUA Field-of-Membership Rule

Get more information about the NCUA's new field-of-membership rule by watching the [agency's webinar online](#) and review

### 3. The 5 Steps You Must Take to Comply with COPPA:

1. Post a privacy policy that complies with COPPA;
2. Notify parents directly before collecting personal information from their kids;
3. Get parents' verifiable consent before collecting personal information from their kids;
4. Honor parents' ongoing rights with respect to personal information collected from their kids;
5. Implement reasonable procedures to protect the security of kids' personal information

### 4. Exceptions to COPPA's Parental Consent Requirement:

- Where the sole purpose of collecting the name or online contact information of the parent or child is to provide notice and obtain parental consent. If you have not received consent within a reasonable time after you collected the information, you must delete the information from your records.
- Where the purpose of collecting a parent's online contact information is to provide voluntary notice and update the parent about the child's participation on the Web site – and you do not otherwise collect, use or disclose the child's information. You must make reasonable efforts, using available technology, to ensure that the parent receives the notice.
- Where the sole purpose of collecting online contact information from a child is to respond directly on a one-time basis to a specific request from the child, and where such information is not used to re-contact the child or for any other purpose, and is deleted promptly after responding.
- Where the purpose of collecting a child's and a parent's online contact information is to respond directly more than once to a child's specific request, and where such information is not used for any other purpose. You must make reasonable efforts, using available technology, to ensure the parent receives the appropriate notice. You will not be deemed to have made reasonable efforts where the notice to the parent was unable to be delivered.
- Where the purpose of collecting a child's and a parent's name and online contact information, is to protect the safety of the child, and where the information is not used for any other purpose. You

[questions and answers](#) from the event.

The NCUA Board unanimously approved the new field-of-membership rule at its [October 2016 open meeting](#).

#### [NCUA videos on effective board meetings](#)

The NCUA has [released](#) a new video series, "Effective Board Meetings," designed to help credit union directors make the best use of their meetings. The four-part series features different examples of well-run and poorly run board meetings. It also provides helpful tips on how to run constructive meetings and create an environment that engages a credit union's board members.

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

must make reasonable efforts, using available technology, to ensure the parent receives the appropriate notice.

- Where the purpose of collecting a child's name and online contact information is to: (1) protect the security and integrity of the Web site; (2) take precautions against liability; (3) respond to judicial process; or (4) to the extent permitted under law, to provide information to law enforcement agencies and where the information will not be used for any other purpose;
- Where you collect a persistent identifier and no other personal information and the identifier is used only to support the internal operation of the Web site. In this case notice is not required.
- Where you have collected a persistent identifier from a user who affirmatively interacts with you and whose previous registration indicates that the user is not a child. In this case notice is not required.

#### 5. The Most Recent COPPA Guidance

In June 2017, the Federal Trade Commission (FTC) updated its COPPA guidance to reflect evolving technologies. Two new methods for acquiring parental consent were approved: (1) asking knowledge-based authentication questions, and (2) using facial recognition to get a match with a verified photo ID. The scope of the requirements has been expanded to include voice-activated devices that collect personal information and children's products intended to collect personal information, including voice recordings and geolocation data.

*Source: CUNA Blog*

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#### **CFPB issues 2017 TILA-RESPA final rule and Executive Summary**

The Bureau has issued a final rule (2017 TILA-RESPA Rule) amending and clarifying certain mortgage disclosure provisions implemented in Regulation Z. To support implementation of the 2017 TILA-RESPA Rule, the Bureau has issued an Executive Summary.

We have also issued a notice of proposed rulemaking regarding when a creditor may use a Closing Disclosure, instead of a Loan Estimate, to determine if an estimated closing cost was disclosed in good faith and within tolerance. The 2017 TILA-RESPA Rule does not make changes or

[Click here](#) for updates on compliance, operations, lending topics and more!

#### **CUNA Fair Lending Workshop**

August 23-24, 2017//Orlando FL. Information on this great workshop can be found [here](#).

#### **MLA Part Two: New Credit Card Rules Webinar**

Will you be ready for the changes, effective October 3, 2017? CUNA is making [this webinar](#) available on July 13, 2017 to help!



clarifications related to this issue. Comments on the proposal are due 60 days after it is published in the Federal Register.

You can access the 2017 TILA-RESPA Final Rule on the Bureau's [website](#).

You can access the proposal on the Bureau's [website](#).

You can access the Executive Summary [here](#).

*Source: CFPB*

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### **FinCEN Updates: CMIR Reporting Change**

The Financial Crimes Enforcement Network (FinCEN) has notified filers that the Department of Homeland Security (DHS), Customs and Border Protection (CBP), has changed the mailing address for filing the Currency and Monetary Instrument Report (CMIR). Individuals and shippers and mailers that mail the report must use the following new address:

Attn: CMIR  
Passenger Systems Program Directorate # 1256  
CBP  
7375 Boston Blvd.  
DHS, VA 20598-1256

This address change has been included in the July 2017 version of the CMIR on the FinCEN [website](#).

*Source: FinCEN*

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### **Enhanced Public Record Data Standards**

As of July 1, the three nationwide consumer reporting companies (Equifax, Experian and TransUnion) began enforcing stricter standards on the public records they collect. As part of the previously announced [National Consumer Assistance Plan](#) (NCAP), the credit bureaus have developed “enhanced” public record data standards for the collection and timely updating of civil judgments and tax liens.

The NCAP is an initiative launched by the 3 major credit bureaus to “make credit reports more accurate and make it easier for consumers to correct any errors on their credit reports.” The plan stemmed from a [2015 settlement](#) between the three credit bureaus and several state attorneys general. The plan has a 3-year implementation period: March 2015 – March 2018. See the Consumer Data Industry Association’s (CDIA’s) March 9, 2015 [press release](#).

The new standards apply to new and existing public record data on credit reporting databases and require:

- A minimum of consumer personal identifying information (PII): name, address, and Social Security Number and/or date of birth; and
- A minimum frequency of courthouse visits to obtain newly filed and updated public records of at least every 90 days (i.e., public records will need to be updated on a regular basis in order to remain on a consumer report).

The standards apply to consumer reporting databases that maintain civil judgment data where, according to the CDIA, a vast majority of data may not meet PII requirements. With respect to tax lien data, approximately half of this data may not meet the PII requirements.

The goal is to remove incomplete and/or inaccurate public record data from consumer reports. The concern, however, is that removing this information could make some loan applicants appear to be a better credit risk than they actually are. Nevertheless, the CDIA states that “FICO and VantageScore show only modest credit scoring impacts and impact to predictive performance as a result of the changes to public record standards.” See CDIA’s March 13, 2017 [press release](#).

*Source: CUNA Compliance Blog*

### Advocacy Highlight

#### **CUNA Sends Letter in Support of CU Tax Status**

At the request of Senate Finance Committee Chairman Orrin Hatch (R-UT), [CUNA sent a letter to both him and Ranking Member Wyden](#) earlier this week in support of the credit union tax status. The Committee



requested stakeholders to submit comments and proposals to the Committee as they continue their work on tax reform.

In the letter, CUNA urges Congress to retain and reaffirm the credit union tax status and goes into further detail explaining the importance of not-for-profit credit unions in the financial services marketplace.

Congress should preserve the credit union tax status because:

- The tax treatment for credit unions continues to serve the purpose for which it was conveyed;
- The tax status represents good public policy, because it causes the creation of substantial benefits to the public, far in excess of its cost; and,
- Taxing credit unions would represent a tax increase on 110 million Americans—taxpayers who paid a total of \$1.2 trillion in taxes in 2014—and would likely lead to the elimination of many, if not most, credit unions.

As Congress continues its tax reform efforts, CUNA will continue to advocate on behalf of America's credit unions and their 110 million members to ensure the credit union tax status is preserved.

*Source: CUNA*

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### **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.

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### **New ComplySight Enhancements – File Manager!**

ComplySight's newest enhancement, File Manager, is now available and you can learn all about it in [this 35-minute video](#). File Manager allows users to upload files and documents individually or in bulk and associate them to Areas, Items and/or Factors. If you have any questions, please feel free to contact [info@complysight.com](mailto:info@complysight.com).

### **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.](#)