InfoSight Highlight

Board Responsibilities

Succession Planning

There's no such thing as an overnight success. The average "overnight success" is years in the making and takes considerable planning, likewise with credit unions. Credit unions that fail to plan for the future strategic and operational success of the credit union plan to fail. The safety and soundness of credit unions greatly depends upon maintaining healthy continuity of leadership, and credit unions board members should make the development of future leadership a key priority of their service. The loss of a CEO or other high level leader can disrupt the normal functioning of the credit union, resulting in at least a temporary loss of direction, productivity, and effectiveness. Yet, according to CUNA, while 50% of credit union CEOs will be eligible for retirement in the next 15 years, only half of credit unions with a CEO nearing retirement have formal succession plans in place. Succession plans provide for an acceptable transition in the event of loss of the CEO, key management or employees. By planning ahead to manage turnover at the top, credit unions ensure they have the leadership they need to successfully address the challenges of emergency and planned CEO, board, and key staff vacancies.

An effective succession plan not only helps to keep critical operations going by maintaining stability and minimizing disruption during a leadership change, it is also a vital tool that will enable the credit union to anticipate future position needs, identify leadership gaps that could pose a risk and improve professional development. Succession plans also satisfy regulators' demands for detailed and documented succession policies and procedures.

THE ROLE OF THE BOARD OF DIRECTORS

It is the duty of the board to look ahead to the future in order to establish the strategic and operational direction of the credit union. Succession planning is the architectural blueprint that the credit union will use to construct the future it has created. Boards play a critical role in succession planning by ensuring that the credit union will be able to continue to serve its members effectively even if key staff or directors are unable to continue in their position. An integral part of management succession plans involves cross training of both management and staff to ensure necessary backup for vacant positions. The Board should have in

InfoSight
Compliance eNEWSLETTER
January 20, 2017
Vol. 11, Issue 3

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 place a succession plan that addresses the steps necessary for finding a new CEO, board members or key personnel in the event of termination, retirement, resignation, or other event.

While a board may charge a committee or board member with overseeing the groundwork, and individual directors maybe more involved in specific parts of the process, the full board should be involved in CEO succession planning. The entire process should not be delegated to a committee.

For additional information, click here for the topic.

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

Compliance News

NCUA's Supervisory Priorities for 2017

The NCUA issued letter 17-CU-01 for federally insured credit unions this month to assist in the preparation for NCUA examinations. In the letter, the NCUA highlights their primary areas of supervisory focus for 2017 including:

Cybersecurity Assessment – the NCUA will continue to evaluate credit unions' cybersecurity risk management practices, encouraging them to use the Cybersecurity Assessment Tool.

Bank Secrecy Act Compliance – the NCUA will review credit unions' compliance with the Bank Secrecy Act. This year, there will be a focus on credit unions' relationships with money services businesses (MSBs) and other accounts that may pose a higher risk for money laundering.

Internal Controls and Fraud Prevention – the NCUA will continue to evaluate the adequacy of credit union internal controls, as well as the overall efforts to prevent and control fraud.

Member Business Lending rules.

Compliance Calendar

January, 2017

- January 20th, 2017: NCUA FCU's Occupancy, Planning and Disposal of Acquired and Abandoned Premises; Incidental Powers
- January 29th, 2017: 5300 Call Report Due to NCUA

February, 2017

- February 6th, 2017: NCUA Charting and Field of Membership Manual
- February 20th, 2017: President's Day - Federal Holiday

April, 2017

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

May, 2017

Interest Rate and Liquidity Risk – this year, the NCUA will begin using a revised interest rate risk supervisory tool and new examination procedures to assess interest rate risk management practices. The NCUA will be focusing on the relationship between interest rate risk and liquidity risk.

Commercial Lending – with the changes to Part 723 of NCUA rules becoming effective at the beginning of the year, the NCUA will evaluate credit union's loan policies and procedures and assess the risk management process associated with managing a commercial loan portfolio.

Consumer Compliance – the NCUA will be evaluating credit union's compliance with the Military Lending Act and Servicemembers' Civil Relief Act.

Click here to access NCUA Letter 17-CU-01 for more detailed information.

How the New FACTA Rules May Affect Your W-8BEN & 1042-S Reporting

Congress passed the Foreign Account Tax Compliance Act (FATCA) in 2010 in response to a series of U.S. tax evasion scandals. FATCA requires foreign financial institutions (FFIs) to report on their U.S. accounts to the IRS. A large portion of the FATCA rules don't impact U.S. credit unions.

However, you may remember that in March 2014 the IRS issued temporary "coordinating regulations", which revised the provisions for withholding tax on nonresident aliens' income to coordinate with the FATCA withholding requirements. These temporary regulations will expire February 28, 2017.

Last week, the IRS finalized some of these temporary rules, and issued additional temporary regulations. Although most of the new rules address accounts related to foreign financial institutions and foreign entities, clarifications and amendments have also been made to requirements for U.S. withholding agents and U.S. nonresident alien accounts.

- 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

- October 1st, 2017: Prepaid Accounts under the Electronic Fund Transfer Act/Regulation E and the Truth In Lending Act/Regulation Z

Compliance Training

Regulatory Compliance Training

These changes include:

- Extending the period for being allowed to rely on authorized Form W-8BEN or documentary evidence that are received by fax or scanned and e-mailed;

To read the rest of our blog post, click here.

Source: CUNA Compliance Blog

DOL Frequently Asked Questions – Part 2

The Department of Labor (DOL) has issued a second set of Frequently Asked Questions (FAQs) on the agency's fiduciary conflict of interest rule. The rule, which is scheduled to go into effect on April 10, 2017, impacts anyone who provides investment advice or recommendations **for a fee or other compensation** with respect to assets of an ERISA-covered retirement plan or IRA. The 2nd set of FAQs focuses on technical questions raised by financial service providers, generally limited to investment advice related to these types of plans. Click here for the FAQs.

If you missed the first set of FAQs, click here. Also see CUNA Removing Barriers Blog post: DOL Releases FAQs for Implementing Fiduciary Rule (Nov. 3, 2016). These FAQs focus on the rule's exemptions, such as the best-interest contract exemption and prohibited-transaction exemption. The exemptions allow certain compensation and fee practices to continue as long as regulatory requirements are satisfied.

Also note that Rep. Joe Wilson (R-S.C.) has introduced the Protecting American Families' Retirement Advice Act which would delay the DOL's fiduciary rule. The legislation would delay implementation of the rule for two additional years after April 2017, when the first implementation date is currently set. Click here to read more.

For more information on the rule:

- DOL Conflict of Interest Web Page
- CUNA's Final Rule Analysis is available here

Source: CUNA Compliance Blog

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 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!

Advocacy Highlight

Metsger Expects Stability at NCUA as Trump Takes Office

As the NCUA board prepares for its last meeting during the Obama Administration, Chairman Rick Metsger said Thursday he does not expect any great change in policy direction in the near future.

The NCUA board meets Jan. 19 and has two items on its agenda – an advanced notice of rulemaking dealing with alternative capital and a briefing on inflation adjustment of civil money penalties.

As he takes office, President-elect Donald Trump may designate a board member belonging to his own party as chairman. The board currently has two members – Metsger and Republican J. Mark McWatters, a Republican. The board has a vacancy and speculation has centered on McWatters becoming chairman after Trump is sworn in.

"I don't envision any major policy change as far as the board goes in the near future," Metsger said at the Western States Summit Roundtable, according to a transcript of his remarks.

President-elect Trump appoints two people to his NCUA landing team.

Metsger said he and McWatters have developed a strong working relationship and he expects for that to continue.

"It still takes two to tango, and regardless of who has the gavel, our commitment to working together on behalf of a sound and progressive credit union system remains the same," he said.

At the Jan. 19 meeting, the board will consider soliciting comments on alternative capital before issuing proposed rules. The proposal would govern both secondary capital and supplemental capital; the board has been considering the issue for quite some time.

In late 2014, then-Chairman Debbie Matz announced a working group on supplemental capital.

The board adopted a risk-based capital final rule in October 2015, but delayed action on supplemental capital. At its October 2016 meeting, the board received a staff briefing on supplemental capital. NCUA staff members said at the time that including supplemental capital in the calculation for the risk-based capital rules poses legal and regulatory questions for federally-insured credit unions.

In his Thursday discussion, Metsger said that as the credit union system consolidates, the NCUA must respond. He said, for example, he has asked NCUA staff to evaluate whether the office space for NCUA Region II are still needed, since they are located in Alexandria, Va. – the same city as the NCUA's headquarters.

Metsger also said that in the coming months, the NCUA will unveil a new web-based tracking tool that will allow credit unions to monitor the status of field of membership applications.

He also questioned whether a five-region NCUA structure and a separate Office of National Examinations and Supervision for the largest credit unions are still needed.

"Are all five current regions needed if an increasing proportion of credit union assets are supervised and examined by the Office of National Examinations and Supervision?" he asked. "Would a four- or even three-region network design be more efficient and effective in the coming years?"

Metsger also said that the NCUA must remain adaptable to ensure that non-traditional, web-based service providers are held to the same consumer protection standards as traditional service providers.

Source: CU Times

Leagues Continue to Seek Expanded Powers and Protections for Credit Unions

This week, 36 states were in session and legislation was introduced that would expand both powers and protections for credit unions.

In Oregon, H 2161 would empower credit unions by permitting amendments to articles of incorporation and bylaws to become automatically effective unless disapproved by the state regulator. If enacted, the bill also authorizes credit unions to expel members who create undue risk of loss. The measure further eliminates the requirement that boards of directors meet at least 10 times per calendar year and authorizes the regulator to establish rules regarding meeting frequency.

A data security measure, H 2581, was introduced in Oregon as well. If enacted, in situations where retailer negligence causes breaches, they can be held liable to financial institutions for the costs associated with the breaches. Institutions could recover the costs for reissuing cards, stopping payments, closing accounts and notifying customers. The bill further directs state regulators to adopt security standards consistent with the Payment Card Industry Data Security Standards ("PCI DSS"), which are technical and business process requirements developed by the credit card industry to enhance payment card data security.

Texas took steps to permit credit unions to conduct prize-linked savings programs with the introduction of the Texas Savings Promotion Act, H 471. The legislation authorizes credit unions to hold the raffles and outlines their parameters. Last session, the Governor vetoed a prize-linked savings bill, noting that an amendment to the Texas Constitution is required for the programs to be legally conducted. As such, TX HJR 37 was introduced. The bill would amend the Lotteries and Gaming Enterprises; Bingo Games section of the Texas Constitution to permit lawmakers to authorize "promotional activities to promote savings."

Like their colleagues in Texas, Delaware lawmakers are also considering legislation, H 31, that would permit credit unions to conduct prize-linked savings programs.

Bills impacting credit unions were introduced in New York. One measure, A 410, would require credit unions to have a notary public available during business hours and another, A 472, would bar financial institutions, including credit unions, from retaliating against employees.

Indiana lawmakers are exploring a bill that would prevent the public from being misled and protect the reputation of credit unions and other cooperatives. Under H 1236, businesses that are not cooperatives or mutual organizations would be prohibited from using the terms cooperative, co-op, or mutual in their names or marketing materials.

Source: CUNA Removing Barriers Blog

CFPB - CUAC and CAB Application Process

The CFPB will be seeking applicants for the Credit Union Advisory Council (CUAC) and the Consumer Advisory Board (CAB) starting January 16, 2017. To serve on CUAC you must be a current employee of a credit union with total assets of $10 Billion or less. If you are at a larger credit union or a credit union volunteer, advocate, or supporter you may want to consider applying to serve on the CAB, which also discusses many relevant issues to credit unions and members.

The complete application packets must be submitted by March 1, 2017. A live link will be available when the application period begins. The CAB has seven open seats and the CUAC has six open seats.

Even if you have applied in the past and were not selected, we would encourage you to apply again if you are interested. Particularly, with the potential changes at the CFPB over the next few months and an updated rulemaking agenda, the CFPB may be seeking different expertise/geographic locations/memberships from year-to-year

Click here to read more.

Source: CUNA Compliance Blog

Do Not Fire CFPB's Cordray, Dems Warn Trump

Senate Democratic Leader Chuck Schumer (D-N.Y.) delivered a stern message to President-elect Donald Trump today—"Do not tell Richard Cordray he's fired."

Schumer joined Sen. Sherrod Brown (D-Ohio) and Elizabeth Warren (D-Mass.) on a conference call with reporters to defend the embattled CFPB director.

Several Republicans have called on Cordray's removal as Trump takes office.

And last week, Trump met with former Rep. Randy Neugebauer (R-Texas), who reportedly is under consideration as a possible Cordray replacement.

Trump appoints an outspoken critic of the CFPB as Sen. Warren fights to save the agency.

Schumer said Neugebauer, a longtime critic of the CFPB, would not be acceptable as a replacement. He contended that as chairman of the House Financial Institutions subcommittee, Neugebauer was a defender of the payday loan industry.

“That’s like putting the biggest arsonist in the firehouse,” he said.

Warren said the CFPB is working on rules governing arbitration agreements, payday loans and debt collection. She accused businesses involved with those activities of actively lobbying for Cordray’s removal.

The senators said that converting the agency into a five-member commission would not be acceptable to Democrats.

Two Republican Sens.—Ben Hasse of Nebraska and Mike Lee of Utah—have called on Trump to fire Cordray. However, Senate Banking Chairman Mike Crapo (R-Id.) declined to support that effort, simply saying that Cordray should quit so Trump can appoint his own director.

To make matters even more uncertain, Trump’s ability to simply fire Cordray is hung up in federal court.

Currently, Cordray may only be fired for cause, Warren said, adding that no federal agency head has been removed for cause for more than a century.

A panel of the U.S. Circuit Court of Appeals for the District of Columbia ruled that the structure of the agency is unconstitutional since it is governed by a single director who can only be removed for cause. The panel said that the president has the power to fire the director for any reason, but has stayed its order.

The ruling came in a case in which PHH, a mortgage lender, was the subject of $109 million penalty from the CFPB. A panel of appellate court judges voided that penalty and sent the case back to a lower court for review.

The CFPB and the Obama Administration have asked that the full D.C. Circuit Court of Appeals consider the case.

And last week, the appellate court gave PHH until Jan. 27 to file a supplemental brief—effectively ensuring that there will not be a ruling before Trump takes office.

Brown said that Trump voters supported the President-elect because they believe the financial system is unfair.

“The people who voted for Trump believe the system was rigged,” he said, adding that Trump should support Cordray who, he added, has been fighting that system.

Source: CU Times

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: 30 Day Free Trial!

League InfoSight is offering a free, 30-day trial of ComplySight so you can see the benefits first hand. It's easy to get started. Just visit us online.

FREE Webinars on ComplySight, the League's latest compliance resource

Registration is now open for your front row seat to learn about ComplySight, League InfoSight’s newest addition to your compliance toolbox. If you're looking for a solution to the compliance tidal wave, this system is for you!

RECORDED WEBINARS – Available ANY Time!

For “recorded” webinars, click on the title of the webinar to listen. Users may be asked to download WebEx, which is a safe download for viewing the webinars. These are also available on the Dashboard in ComplySight and are available 24/7!

New Webinar! New Factor Selection Navigation Screens!

Factor Selection Navigation Screens

To simplify the ability to access Factor Grading screens and Item information, the Factor Selection screens have been redesigned. Check out this short webinar for details!

Access Level 2.5 and How to Use It

Introducing the newest access level, allowing the L1 Administrator to set L2.5 access and then assign specific Areas that only that user may review.

Introduction to ComplySight
Designed to introduce and show the many features and benefits of ComplySight.

ComplySight Training & Tips – *Where to Start?*
This webinar will: suggest a starting point as a new ComplySight user, discuss how Factor Grading works, review the Action Item Build/Edit process, and discuss the need for a compliance management tool that regulators - and you - will appreciate.

ComplySight Training & Tips – *Regulatory Alerts, Assigning Employees, Preview of L2.5, Tools in the Help Area*
What should be done when you get an email about a Regulatory Alert? Where are “old” Regulatory Alerts? How do I assign an employee to an Area, and what will be different with the upcoming Level 2.5? And – what tools are available in the Help area? This webinar will explore all of this – and more!

ComplySight Training & Tips – *How to Export Data*
When you need to archive or copy data out of ComplySight for a fresh start or to provide information for a Board meeting, this webinar will explain the process.

ComplySight Training & Tips – *Reports in ComplySight*
What information is contained on the reports in ComplySight and how are they used?