

InfoSight Highlight

Loans – Interest Rate and FCUs

The Federal Credit Union Act (the Act) permits Federal Credit Unions to make loans and extend lines of credit to members but prohibits FCUs from charging an annual percentage rate (APR), inclusive of all finance charges, above 15%. The Act, however, permits the NCUA Board (NCUA), after considering certain statutory criteria, to establish a higher interest rate ceiling in 18-month cycles. (The Federal Credit Union Act: Section 1757(5)(A)(vi))

Current Increases

Since 1987, when the NCUA Board decreased the temporary ceiling from 21%, it has consistently acted to maintain a temporary ceiling of 18%. The current NCUA Board approved 18% ceiling remains in effect through March 10, 2017. (Per NCUA Rules and Regulations Part 701.21 (c)(7)(ii)).

Finance Charges

Finance charges that must be included in the determination of the interest rate are consistent with those defined in Regulation Z, Truth in Lending.

Penalty for Exceeding the Allowable Interest Rate

An FCU that knowingly charges or receives an interest rate that exceeds that allowed by law is subject to forfeiture of the entire amount on interest charged or received. Such action must be taken by the borrower or his legal representative within two years of the time the usurious collection was made.

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

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

Compliance News

TRID amendments to be published August 11

InfoSight Compliance eNEWSLETTER August 18, 2017 Vol. 11, Issue 32

Created in partnership with the



Credit Union National Association

Compliance Videos

Quarterly Update for Q2 and Q3 2017

This [video](#) reviews a few important laws and regulations that will impact our credit unions in the 2nd and 3rd quarters of 2017. League InfoSight CEO Glory LeDu covers the **DOL – Fiduciary Rule** effective 6/9/17, Phase II of the **NACHA Same Day ACH**, the changes to the **DOD - Military Lending Act** related to credit cards, and an overview to the 1st set of changes made to **Mortgage Servicing**.

Mortgage Servicing Rule

This [video](#) provides more detailed information from Glory LeDu, CEO of League InfoSight, regarding the upcoming **Mortgage Servicing Rules, effective 10/19/2017**. Be sure to review this video to ensure

The CFPB is publishing on Friday, August 11, the TRID rule amendments announced on July 7. The amendments will be effective October 10, 2017, with compliance required by October 1, 2018, as to loans for which applications are received on or after October 1, 2018 (except for two provisions that will apply to all loans regardless of when applied for). The Bureau is also publishing on Friday its [proposed rule](#) relating to when a creditor may compare charges paid by or imposed on the consumer to amounts disclosed on a Closing Disclosure or corrected Closing Disclosure, instead of a Loan Estimate, to determine if an estimated closing cost was disclosed in good faith. Comments on the proposal will be accepted through October 10, 2017.

Source: CFPB

Labor shows intent to delay parts of fiduciary rule

In a court filing this week, the Department of Labor said it has submitted to the Office of Management and Budget a proposal to delay implementing the remaining parts of its fiduciary rule for 18 months, reports [CNBC.com](#). If approved by the OMB, the move would push out the effective date to July 1, 2019, from January 1, 2018.

Source: CNBC.com

E-SIGN Reminders

The Electronic Signatures in Global and National Commerce Act of 2000 ("ESIGN") promotes the use of electronic signatures and records in commercial transactions by granting them the same legal validity and enforceability as paper records and handwritten signatures.

When credit unions are required by law or regulation to make information available to a consumer in writing, the information can be delivered electronically as long as the credit union complies with ESIGN's requirements. The federal ESIGN statute doesn't affect the content or timing of any disclosures required to be provided to consumers by the Truth in Lending Act, Truth in Savings Act, Electronic Fund Transfers Act, or any other consumer protection laws.

Pre-Consent Disclosures

you are in compliance with these upcoming changes.

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

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](#)

ESIGN requires “affirmative consent” to conduct business electronically – in other words, consent must be a voluntary “opt-in.” Businesses cannot convert consumer accounts to online accounts without first obtaining consumers’ affirmative consent.

Prior to consenting, consumers must be provided with a clear and conspicuous statement informing them of their rights regarding the transaction, as well as a statement of hardware and software requirements for access and retention of electronic records.

There are also subsequent disclosure requirements when changes to hardware or software create a "material risk" that the member will not be able to access or retain an electronic record of the transaction. In this case, the credit union would have to provide the member with a statement of the revised hardware and/or software requirements, as well as the right to withdraw consent without the imposition of any fees or conditions not originally disclosed.

Affirmative Consent

Once the pre-consent disclosure requirements are satisfied, a consumer must consent electronically, or confirm his or her consent electronically in a manner that “reasonably demonstrates” that s/he can access information in the electronic form that will be used to provide the information that is the subject of the consent." So, the member has to do more than click “I agree” to receive online disclosures. The credit union’s consumer consent process must also include a method for members to "demonstrate" that they can access the required disclosures in the electronic format that the credit union plans to utilize.

Record Retention

An electronic record will satisfy a statute or regulation's record-keeping requirements if the record accurately reflects the information in the contract or other record; and remains accessible to anyone who is legally entitled to access, in a form that is capable of being accurately reproduced for later reference (whether by transmission, printing or otherwise). E-SIGN doesn’t prescribe how long to keep records available online. [The Federal Reserve Board’s previous electronic communication regulations (eliminated in 2007) required retention of electronic disclosures posted on a website for at least 90 days. But, these provisions no longer exist.]

Note that E-SIGN does *not* apply to:

- October 29th, 2017: [5300 Call Report Due to NCUA](#)

November, 2017

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

April, 2018

- April 1st, 2018: [Prepaid Accounts under the Electronic](#)

- Wills, codicils, or testamentary trusts;
- Laws governing adoption, divorce, or other matters of family law;
- All articles of the UCC (except Section 1-107, Section 1-206 and Articles 2 and 2A);
- Court orders or notices, or official court documents (including briefs, pleadings, and other writings) required to be executed in connection with court proceedings;
- Any notice of: (1) the cancellation or termination of utility services (including water, heat, and power); (2) *default, acceleration, repossession, foreclosure, or eviction, or the right to cure, under a credit agreement secured by, or a rental agreement for, a primary residence of an individual*; (3) the cancellation or termination of health insurance or benefits or life insurance benefits (excluding annuities); or (4) recall of a product, or material failure of a product, that risks endangering health or safety; or
- Any document required to accompany any transportation or handling of hazardous materials, pesticides, or other toxic or dangerous materials.

What about state law?

ESIGN generally preempts state e-signature laws, except with regard to a state that has adopted the Uniform Electronic Transactions Act (UETA) as approved by the National Conference of Commissioners on Uniform State Laws (NCCUSL). If a state's legislature has made any exceptions to the scope of UETA, these exceptions will be preempted by the federal statute to the extent that they are inconsistent with ESIGN.

Both UETA and ESIGN validate the use of electronic records and signatures. However, since they are not identical, credit unions should contact their state league or association regarding any additional UETA requirements.

This is just a snapshot of ESIGN for “back-to-basics” purposes. For more detailed information, including FAQs, please visit CUNA’s e-Guide, accessible via the Compliance Resources drop down menu on [CUNA’s Compliance Community](#) (compliancecommunity.cuna.org).

Source: CUNA Compliance Community

Advocacy Highlight

[Fund Transfer Act/Regulation E and the Truth In Lending Act/Regulation Z \(Date Extended\)](#)

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 [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

CUNA Offers Suggestions as Part of NCUA's Annual Regulatory Review

Last week, CUNA's Senior Director of Advocacy and Counsel Luke Martone, [sent a letter to the NCUA](#) in regard to the Office of General Counsel's list of regulations scheduled for review this year.

In the letter, CUNA reminds the NCUA of that the cumulative regulatory burden on credit unions is at an all-time high and urged the NCUA to promulgate new or expand existing rules only if such rules are clearly warranted based on a compelling need. Similarly, the agency should strongly consider the current regulatory burden on credit unions as it proceeds with this and future regulatory reviews.

One of the main points of the letter is requesting the NCUA to minimize compliance burdens related to the Bank Secrecy Act (BSA). Compliance with BSA and anti-money laundering (AML) requirements remains a substantial regulatory issue for a number of credit unions. The letter highlights a number of the compliance burdens and also gives ideas and suggestions on how to reduce the regulatory burden for BSA/AML compliance.

The letter also reiterates CUNA's concerns with a yet-finalized joint proposal issued at the end last year that would mandate acceptance of private flood insurance under certain circumstances. CUNA urges the agency to use its discretion to adopt changes that will not unduly increase the compliance burden on credit unions or detract from their ability to independently manage their institutions.

CUNA appreciates the opportunity to share insights regarding NCUA's 2017 regulatory review. While CUNA recognizes that some of the concerns and suggestions detailed in the letter are outside NCUA's sole authority, we continue to urge the agency to work with its federal partners, including Congress, to achieve meaningful regulatory relief for credit unions.

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

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.

[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 has provided a [recorded webinar](#) from July 13, 2017 to help!

influence government agencies and federal law. Additional Advocacy efforts may also be found under CUNA's [Removing Barriers](#) blog.

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.

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.](#)