

Loans – Mortgage Servicing

The Mortgage Servicing Rules published by the Consumer Financial Protection Bureau (CFPB) are based on the provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act. The Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act) amended the Real Estate Settlement Procedures Act (RESPA) of 1974, which is implemented by Regulation X, and the Truth in Lending Act (TILA), which is implemented by Regulation Z, with regard to the servicing of certain residential mortgage loans.

What loans will the Mortgage Servicing Rule apply to?

Generally the Mortgage Servicing Rules apply to closed end consumer credit transactions that are secured by a dwelling and which the credit union services.

Are there exemptions to the Rule?

Small servicers are exempt from certain parts of the rule; however, if you service mortgage loans there are parts of the rule that apply to all servicers regardless of size. Your credit union qualifies as a small servicer if the credit union, together with any affiliates, service 5,000 or fewer mortgage loans and are the servicer for all of them.

If the credit union services any mortgage loan it (or an affiliate) did not originate or does not own, the credit union does not qualify as a small servicer, even if it services 5,000 or fewer loans overall.

Requirement for policies and procedures.

The credit union should establish policies and procedures designed to achieve the following objectives in regards to mortgage loan servicing:

1. Accessing and providing timely and accurate information;
2. Properly evaluating loss mitigation applications;
3. Facilitating oversight of, and compliance by, service providers;
4. Promptly facilitating transfer of information during servicing transfers;
5. Informing members of the written error resolution and information request procedures; **and**
6. Set standards for record retention and service file creation.

Effective on April 19, 2018, the credit union will also need to include the following within their policies and procedures:

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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

7. Promptly facilitating communication with potential and confirmed successors in interest and confirming a successor in interest's identity and ownership interest.

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

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

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 News

Back to Basics: Demand Letters and UDAAP

Posted by Michael Christians on 8/22/17

In today's Back to Basics blog post, I'd like to discuss the deceptive prong of the Consumer Financial Protection Bureau's (CFPB) prohibition against unfair, deceptive and abusive acts and practices (UDAAP). Specifically, I want to identify language that may be included in your credit union's demand letters that likely won't pass the UDAAP smell test.

Now I'll be the first to concede that UDAAP is anything but basic. But for purposes of today's discussion, we'll keep it simple. The CFPB considers an act or practice to be deceptive when:

- The act or practice misleads or is likely to mislead the consumer;
- The consumer's interpretation is reasonable under the circumstances; and
- The misleading act or practice is material.

Clear as mud, right?

We have a bit of additional guidance from the CFPB that we can lean on for purposes of today's post. In July 2013, the Bureau issued a bulletin (2013-07) identifying several debt collection practices it considers to be in violation of UDAAP. Among these, the CFPB states that it is deceptive for a creditor to "threaten any action that is not intended or the covered person or service provider does not have authorization to pursue."

With that background, consider the following example:

I am 60-days delinquent on my mortgage loan with your credit union. You send me a demand letter that contains the following language: You have 30 days to cure this default by paying the full amount due on your loan. If you do not cure this default, the credit union will take all

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](#)

legal action available to it, up to and including foreclosure.
Does this paragraph of your demand letter put your cooperative at risk of a UDAAP violation?

In my opinion, absolutely. Remember that Section 1024.41 of Regulation X (the Real Estate Settlement Procedures Act) prohibits a creditor from proceeding to foreclosure until a borrower is at least 120-days delinquent. In the example above, I'm 60-days delinquent and you've given me 30-days to cure the default. You've also threatened foreclosure if I fail to cure the default within the stated time frame (90-days). However, you are prohibited under Federal law from proceeding to foreclosure until I am at least 120-days delinquent. Thus, you are threatening an action that you do not have authorization to pursue. This is in direct contradiction to bulletin 2013-07 and will likely be identified as a deceptive act or practice.

Additional information about UDAAP is available in CUNA's E-Guide to Federal Laws and Regulations at cuna.org. As always, CUNA members may direct specific inquiries to cucomply@cuna.coop.

Source: CUNA Compliance Community

CUNA engaged w/Congressional efforts to exempt CUs from MLA

While the Department of Defense (DOD) has affirmed the Military Lending Act's (MLA) effective date for credit card accounts of Oct. 3, CUNA is engaged with legislators to build support for efforts to exempt credit unions from the rule. Rep. Paul Cook. (R-Calif.), member of the House Armed Services Committee, [circulated](#) a Dear Colleague letter this week requesting DOD exempt credit union from the MLA regulation as amended in July 2015.

Cook's letter aligns with CUNA's position over the past few years that the provisions of the MLA should not apply to credit unions, as they are not engaged in the predatory practices the rule is focused on.

Going forward, CUNA and leagues will continue engagement with policymakers to build support for Cook's effort. CUNA will also continue its push to the DOD for changes to the MLA, as well as necessary interpretive guidance.

While CUNA supports the goal of protecting servicemembers, it believes the requirements of the MLA are having unintended consequences by

- 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](#)

forcing credit unions to cut back on, or eliminate, products designed to provide servicemembers and families with access to credit.

CUNA joined with the Defense Credit Union Council in May to [share data](#) showing the MLA changes have caused military credit unions to decrease offering consumer-friendly products such as the Payday Alternative Loan program.

CUNA also joined with other financial services trade organizations in June to [ask for an interim rule](#) to fix a number of issues with the rule. An opinion piece [appearing](#) in Stars and Stripes in July supported CUNA's suggested changes.

Source: CUNA News

[Here's what you need to know about the new FFIEC HMDA Examiner Transaction Testing Guidelines](#)

Today, the Federal Financial Institutions Examination Council (FFIEC) members announced new [FFIEC Home Mortgage Disclosure Act \(HMDA\) Examiner Transaction Testing Guidelines \(Guidelines\)](#) for all financial institutions that report HMDA data. The Guidelines will apply to the examination of HMDA data collected beginning in 2018 and reported beginning in 2019.

The Guidelines will help ensure accurate data and address reporting burden concerns

When examining financial institutions, federal supervisory agencies with HMDA supervisory authority may verify the accuracy of HMDA data within a sample of reported transactions. If examiners find that the number of errors in the sample exceeds certain thresholds, an institution will be directed to correct and resubmit its HMDA data.

In light of the new data fields that will be required beginning in 2018, the Guidelines:

- Eliminate the file error resubmission threshold under which a financial institution would be directed to correct and resubmit its entire Loan Application Register (LAR) if the total number of sample files with one or more errors equaled or exceeded a certain threshold

[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

- Establish, for the purpose of counting errors toward the field error resubmission threshold, allowable tolerances for certain data fields
- Provide a more lenient 10 percent field error resubmission threshold for financial institutions with LAR counts of 100 or less, many of which are community banks and credit unions

At the same time, the Guidelines ensure HMDA data integrity by maintaining field error resubmission thresholds that safeguard the accuracy of each data field, and thus all data, reported under HMDA. Furthermore, under the Guidelines, examiners may direct financial institutions to change their policies, procedures, audit processes, or other aspects of its compliance management system to prevent the reoccurrence of errors.

All federal supervisory agencies with HMDA supervisory authority will use the same Guidelines

The Guidelines represent a joint effort by the Consumer Financial Protection Bureau (CFPB), the Federal Deposit Insurance Corporation, the Federal Reserve Board, the National Credit Union Administration, and the Office of the Comptroller of the Currency to provide—for the first time—uniform guidelines across all federal HMDA supervisory agencies. This collaboration began with the CFPB issuing a [Request for Information](#) and holding outreach meetings in which the other supervisory agencies participated. The agencies then worked together to develop the Guidelines.

What is HMDA?

HMDA was enacted in 1975. On July 21, 2011, the Dodd-Frank Act transferred HMDA rulemaking authority from the Federal Reserve Board to the CFPB. In October 2015, the CFPB finalized changes to Regulation C implementing HMDA that, among other things, expanded the number of data fields reported.

Thanks to HMDA, each year the public has access to home mortgage application and loan information from thousands of financial institutions. In recent years, HMDA public data have contained roughly between 12 to 19 million records per year. The data includes loan-level information about the lender, loan, property, and applicant. The purposes of HMDA data are to:

- Help show whether lenders are serving the housing needs of their communities

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!

- Give public officials information that helps them make certain housing-related decisions
- Shed light on lending patterns that could be discriminatory

The HMDA data are available to the public from the FFIEC and tools to search and analyze HMDA data are available from the [CFPB](#).

Source: CFPB Blog

Advocacy Highlight

CFPB Launches New Web Form for Regulatory Inquiries

Today, the CFPB announced a change to the process for submitting questions to the Bureau on regulations. The new web form [available here](#) replaces the email address (CFPB_RegInquiries@cfpb.gov) previously used by the CFPB to accept questions and suggestions.

As before, responses to questions submitted via the new web form are not official agency interpretations and shouldn't be relied on for compliance purposes. Submissions should receive a response within 10-15 days.

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.

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.](#)

