

## InfoSight Highlight

### Servicemembers (and Dependent) Consumer Lending (Military Lending Act)

As required by the John Warner National Defense Authorization Act for Fiscal Year 2007 which added 10 USC 987, the Department of Defense (DOD) issued a regulation that implements the Military Lending Act (MLA) regarding the terms of consumer credit extended by creditors to service members and their dependents.

In July 2015, the changes were made that impacted the MLA and became effective on October 1, 2015. Credit unions were required to comply with the changes on October 3, 2016. Credit unions should have policies and procedures in place to determine if their new borrower(s) are considered “covered borrowers” under the MLA. If the borrower(s) are determined to be covered under the rules, the credit union must also determine if the loan a “covered loan.” If the borrower(s) and the loan are both covered under the rules, the credit union should understand their Military Annual Percentage Rate (MAPR) limitations as well as the required disclosures that need to be provided prior to consummation.

#### Loans Covered Under the Rule

The rule defines “consumer credit” as any credit offered or extended to a covered borrower primarily for personal, family, or household purposes and that is:

1. Subject to a finance charge; or
2. Payable by a written agreement in more than four installments.

#### Exceptions

The definition of consumer credit DOES NOT mean:

1. A residential mortgage (any credit transaction secured by an interest in a dwelling, including a transaction to finance the purchase or initial construction of the dwelling, any refinance transaction, home equity loan or line of credit or reverse mortgage);
2. A credit transaction that is expressly intended to finance the purchase of a motor vehicle when the credit is secured by the vehicle being purchased;

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## 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 2<sup>nd</sup> and 3<sup>rd</sup> 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 1<sup>st</sup> 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

3. A credit transaction that is expressly intended to finance the purchase of personal property when the credit is secured by the property being purchased;
4. A credit transaction that is an exempt transaction for purposes of Regulation Z;
5. A credit transaction for a non-covered borrower.

Credit unions should be mindful that if they are refinancing a loan for a borrower, it may be deemed a covered loan. For example, if the credit union is refinancing an auto loan from another lender in order to provide the member with a lower rate, that would not be a credit transaction that is expressly intended to finance the purchase of a motor vehicle and would therefore be a “covered loan” and subject to the MAPR limitations and disclosure requirements.

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 Calendar**

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
- November 23rd, 2017: Thanksgiving

### **Compliance News**

#### **NCUA Publishes Letter to Credit Unions FAQ on New Accounting Standards**

NCUA recently published [Letter to Credit Unions 17-CU-05](#) announcing additional frequently asked questions related to FASB's new accounting standard on Financial Instruments – Credit Losses. Questions 24 – 37 have been added to the list of questions that were released in December 2016. The regulatory reporting effective date for credit unions is December 31, 2021.

*Source: NCUA*

#### **League InfoSight Announces Complaint Management System**

League InfoSight, a collaborative effort of 15 credit union leagues/associations and the Credit Union National Association (CUNA), announced this week that it has added the ability to log and manage complaints to ComplySight, its self-assessment tool credit unions can use to grade themselves on compliance with federal regulations.

This enhancement, added with no extra fee for users, reinforces the organization's ongoing effort to provide effective and affordable compliance products to credit unions.

“Our goal is to continually enhance our products to be best-in-class, making sure we are keeping pace with credit unions' compliance needs,” said League InfoSight CEO Glory LeDu. “Adding the ability to log, assign and store complaints within ComplySight adds even more value to a sophisticated, cost-effective tool that assists credit unions in maintaining an effective compliance management system — something regulators expect.”

Along with its new capacity to maintain and store complaints, ComplySight allows credit unions to attach and store documents that evidence compliance, assign potential deficiencies or compliance reviews to relevant employees and receive alerts for new or revised regulations. The cost for ComplySight is based on a credit union's asset size.

“ComplySight was designed to be versatile with multiple access levels and consulting so credit unions can customize, utilize and create the system based on their individual needs and relevant products/services,” added LeDu.

ComplySight consulting is available for credit unions who are interested in a full-service model, want a third-party review or who don't have the resources or capacity to conduct regulatory reviews in-house.

Credit unions interested in learning more about ComplySight, or would like to take advantage of a 30-day free trial, should contact their league or visit the ComplySight page on the League InfoSight website at [LeagueInfoSight.com/ComplySight](http://LeagueInfoSight.com/ComplySight).

*Source: League InfoSight*

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### **CFPB Issues Proposed Policy Guidance on the Disclosure of Loan-Level HMDA Data**

On September 8th, the Consumer Financial Protection Bureau (CFPB) issued proposed policy guidance regarding the disclosure of loan-level HMDA data.

#### *Background*

In 2015, the CFPB finalized several amendments to Regulation C

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

May, 2018

- May 11th, 2018: Customer Due Diligence – CDD

(HMDA) that take effect January 1, 2018. Among these, institutions subject to HMDA will begin collecting and reporting several new data points next year. Because HMDA generally requires this data to be made publicly available, the Dodd-Frank Act of 2010 required the CFPB to engage in a balancing test to determine what data should be modified and/or excluded prior to disclosure to protect applicant/borrower privacy.

#### *Proposed Policy Guidance*

The CFPB proposes to EXCLUDE the following loan-level HMDA data from public availability:

- Universal Loan Identifier (ULI);
- Application date;
- Data action was taken on the application/loan;
- Property address;
- Credit score of the applicant;
- NMLSR unique identifier of the mortgage loan originator;
- Any result generated by an automated underwriting system used by the credit union; and
- The following free-form text fields:
  - The name of any automated underwriting system used by the credit union;
  - The applicant's race and ethnicity;
  - The name of any scoring model used by the credit union to generate a credit score used in connection with the application; and
  - Denial reasons.

The CFPB proposed to MODIFY the following loan-level HMDA data prior to public disclosure:

- Loan amount
  - Disclosed as the midpoint of the \$10,000 interval in which the loan falls
    - Example - the applicant submits an application for \$117,834. The loan amount is disclosed as \$115,000 (the midpoint between \$110,000 and \$120,000)
- Age
  - First, the CFPB will disclose whether the applicant is 62 or older
  - Second, the applicant's age will be disclosed by range
    - Under 25
    - 25 to 34

(FinCEN) – Effective date

#### 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 environment that engages a

- 35 to 44
- 45 to 54
- 55 to 64
- 65 to 74
- Over 74
- Debt-to-income ratio
  - Disclosed by range
    - Less than 20%
    - 20% to 30%
    - 30% to 40%
    - 40% to 50%
      - In this range, the debt-to-income ratio will be disclosed as a specific numerical value, e.g. 43%
    - 50% to 60%
    - Over 60%
- Property value
  - Disclosed as the midpoint of the \$10,000 interval in which the property value falls
    - Example - the property value is \$227,900. The property value is disclosed as \$225,000 (the midpoint between \$220,000 and \$230,000)

Comments on the CFPB's proposed policy guidance must be received on or before November 24, 2017. If you have any questions about the proposed policy guidance, please don't hesitate to contact CUNA's Compliance Team at [cucomply@cuna.coop](mailto:cucomply@cuna.coop).

*Source: CUNA Compliance Blog*

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!

### **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!

### **Advocacy Highlight**

#### **CUNA Staff and Credit Unions Attend SBA Office of Advocacy Roundtable on Small Business Lending**

Credit unions traveled from throughout the country to discuss the CFPB's request for information (RFI) about collecting additional data on small business lending at a Small Business Administration (SBA) Office of Advocacy Roundtable.

The CFPB's RFI stems from Section 1071 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) which amends the Equal Credit Opportunity Act (ECOA) to require financial institutions to compile, maintain, and report information concerning

credit applications made by women-owned, minority-owned, and small businesses.

CUNA has [previously weighed](#) in on this RFI with the CFPB and the SBA Office of Advocacy noting that they support the intent of this potential rule but have serious concerns that unintended consequences of overly burdensome regulations in this area could have the effect of limiting access to small business loans for credit union members.

The group reiterated many of these concerns to CFPB staff, SBA staff, and SBA Office of Advocacy staff. Specifically, the representatives urged the CFPB to exempt credit unions from any additional data collection requirements for small business loan data since credit unions are serving unique fields of membership in an already consumer friendly way. Additionally, they reiterated concerns that any data collected for this effort would be a very small percentage of the market, and would largely be useless when compared to the large Wall Street banks for the purpose of drawing any policy conclusions because of credit unions different rules for business lending.

The credit union representatives at the meeting included Jason L. Herlitzke from Summit Credit Union, Steve Hazan from State Employees Credit Union of Maryland, Stephanie Sievers from ANECA Federal Credit Union, and Mira Ness from New York University FCU, as well as Leah Dempsey CUNA's Senior Director of Advocacy and Counsel.

CUNA plans to continue to engage with the CFPB, the SBA, and the SBA Office of Advocacy about this potential rule and will continue to push for Congressional efforts which modify Section 1071 of the Dodd-Frank Act.

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### **Home Depot Data Breach Lawsuit Settlement Approved**

Judge Thomas W. Thrash Jr. approved a settlement last week between Home Depot and financial institutions in a lawsuit brought in the wake of a 2014 data breach. CUNA, state leagues and a number of credit unions are among the plaintiffs.

“Credit unions and their members have borne numerous costs due to data breaches such as the one that occurred at Home Depot, and this settlement is a step toward making them whole again,” said CUNA President/CEO Jim Nussle. “CUNA will continue to pursue a legislative

solution to achieve stricter merchant data security standards, and we hope to see more victories in ongoing data breach lawsuits.”

The settlement includes creation of a \$25 million fund by Home Depot for distribution through a claims process, and an agreement from Home Depot to strengthen its future data security measures. Home Depot will now be required to fund the settlement and the payout of claims made should commence in the next 90 days.

CUNA will soon hold a member call with the counsel that represented CUNA in the Home Depot litigation to discuss credit union’s legal remedies against Equifax in the credit reporting agency’s massive data breach.

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### **CUNA Files Comment on Request for Information about DOL Overtime Rule**

CUNA filed a comment letter with the Department of Labor (DOL) this week concerning its finalized rule on overtime pay. The rule amended the Fair Labor Standards Act (FLSA) to increase the threshold salary level for overtime pay to the 40th percentile of weekly earnings for full-time salaried workers. Specifically, the final rule increases the standard salary level from \$455 per week (\$23,660 for a full-year worker) to \$913 per week (\$47,476 for a full-year worker).

In the comment, CUNA expressed concerns that the overtime rule raises the threshold by nearly double and establishes requirements for having to come into compliance with automatically updating salary and compensation levels occurring every three years.

In the comments, CUNA wrote that credit unions support the intent of the overtime rule. However, they have concerns that it sweeps in a disproportionate number of credit unions and that there are recurring compliance burdens associated with it. It further notes that a substantial percentage of credit union employees, specifically employees of smaller credit unions and those in rural or underserved areas, fall under the salary threshold to be eligible for overtime pay under the new rules.

As CUNA has [blogged](#) about in the past, litigation challenging the 2016 Final Rule is currently pending before the Fifth Circuit Court of Appeals and in the U.S. District Court for the Eastern District of Texas. By district

court order, the Department is enjoined from implementing and enforcing the final rule as currently written.

CUNA notes in its comments that as this litigation continues, we appreciate the DOL's analysis of the rule to determine whether it is having unintended consequences for employees and employers and causing unreasonable compliance burdens on a recurring basis.

*Source: CUNA Removing Barriers Blog*

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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 – COMPLAINT MANAGEMENT SYSTEM**

ComplySight's newest enhancement, Complaint Management System, allows credit unions to enter, track, assign, resolve and report on member and non-member complaints that are submitted to the credit union.

Although part of ComplySight, it is a separate and distinct system, sharing only the Administrative user access. To view an overview of this wonderful enhancement, visit the [ComplySight Training Webinars](#) page on our website! There you will also find additional videos related to the Complaint Management System and its use.

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.](#)