

InfoSight Highlight

Elder Financial Exploitation

Signs of elder financial abuse

According to the National Center on Elder Abuse (NCEA), signs and symptoms of financial or material exploitation include but are not limited to:

- sudden changes in bank account or banking practice, including an unexplained withdrawal of large sums of money by a person accompanying the elder;
- the inclusion of additional names on an elder's bank signature card;
- unauthorized withdrawal of the elder's funds using the elder's ATM card;
- abrupt changes in a will or other financial documents;
- unexplained disappearance of funds or valuable possessions;
- substandard care being provided or bills unpaid despite the availability of adequate financial resources;
- discovery of an elder's signature being forged for financial transactions or for the titles of his/her possessions;
- sudden appearance of previously uninvolved relatives claiming their rights to an elder's affairs and possessions;
- unexplained sudden transfer of assets to a family member or someone outside the family;
- the provision of services that are not necessary; **and**
- an elder's report of financial exploitation.

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

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

Compliance News

Bona Fide and Reasonable Credit Card Fees

MLA requirements for credit card accounts don't become effective until October 3, 2017 at the earliest. That date is slightly less than eight months away and even though we don't have sufficient guidance from the DoD to fully understand the issues discussed below, credit unions

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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

should begin working with their core processors now in order to be ready by the effective date.

CUNA is preparing to send another letter to the DoD requesting guidance on the issues discussed below as well as a number of other issues left unexplained in the DoD's MLA rule and Official Interpretations issued at the end of August 2016.

Under a safe Harbor in the MLA Rule, a credit union may exclude a reasonable bona fide credit card fee from the MAPR if the fee is considered "reasonable."

This means that the fee must be less than or equal to the average fee for the same or similar product charged by five separate card issuers, each with at least \$3 billion in outstanding credit card balances at any time during the three-year period preceding the time the average is determined.

What happens if a particular fee charged by a credit union is higher than the average fee charged by the five creditors whose fees are reviewed? According to the MLA Rule, the fee may still be considered reasonable depending on other factors relating to the credit card product such as the existence of a rewards program, a cash-back program or other benefits.

However, the DoD's Official Interpretations don't provide any guidance on how special credit card program benefits such as a Rewards Program should be valued when making a determination that a fee that is higher than the average is still considered reasonable.

The MLA rule also states that a bona fide fee charged by a credit union is not unreasonable solely because other creditors do not charge a fee for the same or substantially similar product or service. In this situation, how can a credit union comply with the requirement in the MLA rule that its fees be compared to the fees for similar products offered by five large card issuers in order to be excludable from the MAPR, when the five large card issuers don't charge the same bona fide fee that a credit union wants to charge?

Again, the DoD's Official Interpretations don't provide any guidance to explain this apparent contradiction.

Furthermore, a credit union that imposes any fee that is not a bona fide fee or that is considered unreasonable, must include the total amount of those fees, including any reasonable bona fide fees (which ordinarily would have been excluded) in the calculation of the MAPR. It is very

Member Business Lending rules.

Compliance Calendar

February, 2017

- 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

- 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](#)

likely that this situation could cause the MAPR to exceed the 36% limit and would require the credit union to refund any amount that exceeds 36% to the covered borrower over the entire time period that the unreasonable fee or non-bona fide fee was charged.

This requirement seems to be punitive, particularly when the unreasonable or non-bona fide fee has been unknowingly or unintentionally imposed.

Another issue regarding reasonable and bona fide fees concerns the availability of data necessary to make the determination that a particular fee is "reasonable." The DoD states that commercially compiled sources of information necessary to determine whether a credit card fee is a reasonable bona fide fee are widely available. While some relevant data may be available, it doesn't seem to be available in the format that will enable credit unions to easily comply with this requirement.

There is no doubt that credit unions and other lenders will need additional guidance from the DoD, hopefully by mid-year, on these issues to fully understand how they can comply.

Source: CUNA Compliance Blog

FinCEN proposing SAR data fields revisions

FinCEN has published at [82 FR 9109](#) in the Federal Register a notice and request for comments on a proposed update and revisions to the collection of information filings by financial institutions required to file such reports under the Bank Secrecy Act ("BSA"). This notice does not propose any new regulatory requirements or changes to the requirements related to suspicious activity reporting. The data fields reflect the filing requirement for all filers of SARs under the BSA. Most of the proposed changes would alter the "checklist" of violations in Part II of the filings, including the addition of several fields related to cyber events.

Comments are due by April 3, 2017.

Source: FinCEN

26 Credit Unions Agree to Late-Filing Penalties for Third Quarter of 2016

[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](#)
- 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](#)

Compliance Training

Regulatory Compliance Training

[Cybersecurity](#) – Intrusion threats and vulnerabilities (recorded webinar)

CUNA AND CUNA Webinars

CUNA offers hundreds of online training events that

Twenty-six federally insured credit unions subject to civil monetary penalties for filing late Call Reports in the third quarter of 2016 have consented to penalties totaling \$17,485, the National Credit Union Administration announced today.

In the third quarter of 2015, 22 credit unions consented to penalties.

Individual penalties ranged from \$45 to \$10,000. The median penalty was \$174. The Federal Credit Union Act requires NCUA to send any funds received through civil monetary penalties to the U.S. Treasury.

The assessment of penalties primarily rests on three factors: the credit union's asset size, its recent Call Report filing history and the length of the filing delay. Of the 26 credit unions agreeing to pay penalties for the third quarter of 2016:

- Fourteen had assets of less than \$10 million;
- Nine had assets between \$10 million and \$50 million; and
- Three had assets between \$50 million and \$250 million.

No credit unions with assets of more than \$250 million were subject to civil monetary penalties for filing late Call Reports in the third quarter. Three of the late-filing credit unions had been late in a previous quarter.

A total of 40 credit unions filed Call Reports late for the third quarter of 2016. NCUA consulted regional offices and, when appropriate, state supervisory authorities to review each case. That review determined mitigating circumstances in six cases that led to credit unions not being penalized. Another six credit unions received a requested waiver. Two state-chartered credit unions paid penalties to their state regulators.

NCUA informed the remaining credit unions of the penalties they faced and advised them they could reduce their penalties by signing a consent agreement. NCUA also said it would initiate administrative hearings against credit unions that did not consent.

NCUA sends reminder messages about Call Report filing deadlines that include information on how to receive technical support to handle filing problems. The agency also has created an automated reminder email system that contacts credit unions that have not filed their Call Reports and confirms successful filing.

NCUA's Office of Small Credit Union Initiatives has dedicated an Economic Development Specialist to assist small credit unions in filing Call Reports on time. Credit unions that would like assistance should

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!

send an email to OSCUIConsulting@ncua.gov. NCUA also has produced a [video](#) describing how to file Call Reports.

Source: NCUA

OFAC publishes cyber-related FAQs

OFAC has provided [four frequently asked questions \(FAQS\)](#) related to the recently imposed sanctions on the Russian Federation's Federal Security Service and the issuance of [General License 1](#) authorizing certain transactions otherwise prohibited under Executive Order (E.O.) 13694 of April 1, 2015 ("Blocking the Property of Certain Persons Engaging in Significant Malicious Cyber-Enabled Activities"), as amended by E.O. 13757 of December 28, 2016 ("Taking Additional Steps to Address the National Emergency With Respect to Significant Malicious Cyber-Enabled Activities").

Source: OFAC

Advocacy Highlight

NCUA ANPR on alternative capital

The Board of Directors of the National Credit Union Administration has published [\[82 FR 9691\]](#) in a recent Federal Register an "advanced [sic] notice of proposed rulemaking" (ANPR) to solicit comments on alternative forms of capital federally insured credit unions could use in meeting capital standards required by statute and regulation. ***Comments on the ANPR close on May 9, 2017.***

Source: Federal Register

State Issues – Payments Bills and PACE Legislation

As in past years, payments are a hot topic as Alabama considers a data breach notification bill, an interchange measure was introduced in Nebraska, chip and PIN legislation is under review in New York and an exception to Oklahoma's prohibition of surcharges is pending.

Lawmakers in Alabama are reviewing a measure, S 91, that would require notification to citizens affected by breaches and the Attorney General. The bill further permits civil penalties for violation but not a private cause of action. Alabama, New Mexico, and South Dakota are the last three states without a data breach notification law. A notification bill is also pending in New Mexico, however.

A retailer backed bill, NE L 559, that would prohibit the collection of interchange fees on state and local taxes was introduced in Nebraska. Such a prohibition is not workable and, if enacted, would have a significant impact on the ability of Nebraska consumers to use their payment cards quickly and seamlessly at the point of sale. Further, passage of the bill would impose unreasonable burdens on credit unions, other small financial institutions and the national payments system. Retailers would also face increased administrative costs. Similar bills have been introduced in a number of states in previous years and each time it has been roundly rejected by state lawmakers.

A New York bill, A 4422, would require credit unions and other financial institutions to issue PINs in conjunction with chip-embedded credit and debit cards. CUNA has long held that with or without a PIN, it's the chip that secures the transaction. Chip-embedded cards generate a one-time code for each transaction, thus eliminating the possibility that stolen account numbers can be used to create counterfeit cards. Further, a PIN is a static number that does not change, if a PIN is compromised, it can open a backdoor for criminals to access and drain consumers' bank accounts at an ATM.

In Oklahoma, H 2178 would add nonprofits to the list of organizations that are exempt from the state's prohibition on surcharge fees. Under current Oklahoma law, only private educational institutions and municipalities are exempt from the prohibition.

Recently, Property Assessed Clean Energy (PACE) loans legislation has been introduced in Pennsylvania and Tennessee. PACE loans allow governments, when authorized by state law, to finance loans for energy improvements on commercial and residential properties. PACE loans are troublesome for credit unions in their role as lienholders because they take first priority and must be paid before borrowers can refinance or sell their property.

In Pennsylvania, S 234 would permit municipalities to establish PACE programs. Before homeowners with mortgages can participate in the programs the mortgage lienholder must grant consent. The Tennessee bill, S 794, only requires notice to mortgage lienholder. Both the

Pennsylvania and Tennessee Leagues are fully engaged and are closely monitoring these bills.

Last session, the California league worked successfully to enact PACE legislation that requires truth-in-lending disclosure to be provided to consumers and also provides for a three-day right to cancel. There have been attempts to expand these programs statewide in Alaska, Kansas, Nebraska and Rhode Island.

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!

[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?

[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.