



Compliance eNewsletter

August 23, 2019 Vol. 13, Issue 32

InfoSight News

Board of Director Liability

A credit union director (or officer) is referred to as a fiduciary by law. This means a director holds a position of trust. A director has an affirmative duty to care for the property of others and can be held liable for failing to perform that duty. Because the members of a credit union are too numerous to handle any but the most basic decisions for the credit union, the law provides for them to elect directors/fiduciaries to act on their behalf. You may want to review your **Board Responsibilities channel** today to be sure you are compliant!

Compliance News

NCUA guidance for CUs servicing hemp businesses

Federally insured credit unions may provide certain financial services to legally operating hemp businesses under new guidance published today by the National Credit Union Administration.

The [guidance](#) will be revised and updated once the United States Department of Agriculture finalizes forthcoming regulations and guidelines. Credit unions will be able to provide the customary range of financial services for business accounts, including loans, to hemp businesses within their fields of membership.

“Lawful hemp businesses provide exciting new opportunities for rural communities,” NCUA Chairman Rodney E. Hood said. “I believe today’s interim guidance keeps with the mission of the nation’s cooperative credit system to serve people who have been overlooked and underserved. Many credit unions have a long and successful history of providing services to the agriculture sector. My expectation is that credit unions will thoughtfully consider whether they are able to safely and properly serve lawfully operating hemp-related businesses within their fields of membership.”

[View the press release](#)

Source: NCUA

CFPB posts consumer mortgage loan guides

The Bureau has posted [English](#) and [Spanish](#) loan estimate and closing disclosure guides to help consumers choose the right home loan.

Source: CFPB

Federal Appeals Court Upholds Huge Portion of FOM Rule

A federal appeals court on Tuesday dismissed virtually all of the [American Bankers Association's challenge to the NCUA's Field of Membership](#) updates, saying that Congress gave the agency wide discretion to make those decisions.

“The NCUA possesses vast discretion to define terms because Congress expressly has given it such power,” the U.S. Appeals Court for the District of Columbia said, in its decision. “But the authority is not boundless. The agency must craft a reasonable definition consistent with the Act’s text and purposes.”

NCUA Chairman Rodney Hood said he was pleased with the ruling and credit union trade groups said in a joint statement that the ruling represents a major victory. The appeals court overturned parts of a lower court’s decision that found that the agency overstepped its bounds in amending the FOM rules. However, the appeals court sent once section of the rules, one dealing with the elimination of the urban-core requirement for local communities based on Core Based Statistical Areas, back to the lower court. The appeals court said that the NCUA should be given an opportunity to better explain that part of the rule.

The appeals court deemed that requirement to be “arbitrary and capricious.”

The ABA and other bankers’ groups had challenged the overhaul of the agency’s Field of Membership rule, saying that it obliterated the difference between banks and credit unions. Congress intended credit unions to serve limited Fields of Membership in exchange for their tax-exempt status, they argued. The appeals court did not buy that argument. “In this facial challenge, we review the rule not as armchair bankers or geographers, but rather as lay judges cognizant that Congress expressly delegated certain policy choices to the NCUA,” Judge Robert Wilkins said, in writing for the appeals court.

The appeals court upheld a portion of the rule that increases to one million people the population limits for rural districts. U.S. District Judge Dabney Friedrich had ruled against the NCUA in that rule change. The appeals court also upheld a portion of the rule that allowed Combined Statistical Areas as local communities. Friedrich also had

voided that section of the rule. The court said that credit unions should not be required to have “exceedingly” close ties with its members.

“A credit union with exceedingly close ties among its members is unlikely to have a large enough customer base to thrive economically,” Wilkins wrote. “To the extent that such tension exists, the Act leaves to the NCUA to strike a reasonable balance. Congress was well aware that a viable credit union might serve a relatively large geographical area.” Hood said the agency is still reviewing the ruling and will provide guidance to affected credit unions in the near future.

However, CUNA, NAFCU and the CUNA Mutual Group called the decision a major victory for credit unions.

“This will have a positive impact for the industry’s 117 million members and American consumers who now have better access to member-owned not-for-profit credit unions,” the groups said, in a joint statement. “For the one aspect of the rule that the court asked for more explanation, we are confident the agency will provide additional support.”

Source: CU Times

[NCUA Responds to Appeals Court Decision](#)

Source: NCUA

Advocacy Highlight

[FASB Seeks Comment on Delay of CECL Effective Date](#)

The FASB Board issued an [exposure draft](#) for [public comment regarding the effective dates](#) of several different standards as they apply to each type of reporting entity. Under the proposal, as it applies to credit unions, the plan would:

- Delay CECL until 1/2023
- Delay leasing until 1/2021
- Delay hedging until 1/2021

In addition, the proposal would change the current three bucket effective date structure of CECL to a two bucket structure. Currently, the standard differentiates between public business entities that are SEC filers, public business entities that are not SEC filers, and non-public business entities (which includes credit unions).

[CFPB Appoints Student Loan Ombudsman](#)

The CFPB announced the appointment of Robert Cameron to serve as the Bureau's private education loan ombudsman. He fills a role that has been vacant since August 2018.

The Dodd-Frank Act created a private education loan ombudsman position within the Bureau. The ombudsman is responsible for investigating and resolving complaints from private student loan borrowers, compiling and analyzing complaint data on private education loans, and making appropriate recommendations to policy makers.

Mr. Cameron is a Colonel and Staff Judge Advocate for the Pennsylvania Army National Guard. He joins the Bureau from the Pennsylvania Higher Education Assistance Agency where he was responsible for litigation, compliance, and risk mitigation.

CUNA's Advocacy Resources

- [CUNA's 2019 Advocacy Agenda](#)
- [Input to lawmakers and regulators](#)
- [CUNA Advocacy page](#)
- [CUNA's Removing Barriers blog](#)
- [CUNA's Priorities](#)
- [Actions You Can Take](#)

Compliance Calendar

- September 2nd, 2019: Labor Day - Federal Holiday
- September 20th, 2019: Providing Faster Funds Availability (Effective Date)
- October 14th, 2019: Columbus Day - Federal Holiday
- October 22nd, 2019: Appraisals (NCUA)
- October 22nd, 2019: Fidelity Bonds (NCUA)

Created in partnership with

