



## Compliance eNewsletter

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### InfoSight News

#### Updates in InfoSight: 'Tis the Season

Effective each year, the CFPB, IRS, Federal Reserve and other entities update annual thresholds, which are typically tied to consumer price indexes to account for inflation. To help Credit Unions ensure compliance, InfoSight will be updated with the appropriate changes in the coming weeks. The first such change, **Reserve Requirements – Regulation D**, has been updated in the Accounts Channel.

Watch for additional updates coming soon:

- CFPB – Credit Card Safe Harbor Fees
- CFPB – Qualified Mortgage Points and Fee Limits
- CFPB – High Cost Mortgage Points and Fee Limits
- CFPB – Higher-Priced Mortgage Loan Appraisal Exemption Limit
- CFPB – Asset Size Exemption Threshold (Escrow for HPMLs)
- CFPB – HMDA Asset Size Exemption Threshold
- FRB – Reserve Requirements
- IRS – Health Savings Accounts (HSA) Contribution Limits
- CFPB – Consumer Leasing

### Compliance and Advocacy News & Highlights

#### Bureau Sues Online Lender for MLA violations

The [Consumer Financial Protection Bureau issued a press release](#) that it has filed a lawsuit against LendUp Loans, LLC. The Bureau alleges that LendUp violated the Military Lending Act in connection with its extensions of credit.

LendUp, which has its principal place of business in Oakland, California, is an online lender that offers single-payment and installment loans to consumers. The Bureau's [complaint](#), filed in the U.S. District Court for the Northern District of California, seeks an injunction, as well as damages, redress to consumers, disgorgement of ill-gotten gains, and the imposition of civil money penalties.

The Bureau alleges that since October 2016, LendUp has made over 4,000 single-payment or installment loans to over 1,200 covered borrowers in violation of the MLA. The Bureau claims that LendUp's violations of the MLA include extending loans with an MAPR that exceeds the MLA's 36% cap, extending loans that require borrowers to submit to arbitration, and failing to make certain required loan disclosures, including a statement of the applicable MAPR.

The Bureau said that its action against LendUp is part of a sweep of investigations of multiple lenders that may be violating the Military Lending Act.

*Source: CFPB*

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## Violations of Law and Consumer Harm

Whenever NCUA supervisory staff assesses a credit union for compliance risk it relies on the guidance in [supervisory letter 2017-01](#). Based on the guidance, supervisory staff will use three broad categories of compliance risk indicators to assess how well compliance risk is being managed. It will encompass all the federal consumer financial protection laws and regulations enforced by the agency, as well as other relevant laws and regulations that govern the operation of credit unions. The three broad categories are:

- board and management oversight
- the credit union's compliance program
- violations of law and harm to consumer

This post covers the third and last category, violations of law and consumer harm.

A revisit of NCUA's SL 17-01 is timely because the pandemic has shaken things up a bit. Recently NCUA held a webinar on fair lending and consumer compliance providing a look back into the agency's observations from 2020 exam activities – as well as a look forward into NCUA's consumer compliance exam scope activities (which will focus on fair lending and COVID-19 forbearance and limits on credit reporting) for 2021.

When assessing for compliance risk, examiners will evaluate how well a credit union is adhering to the requirements of various laws and regulations as it relates to the products and services offered by the credit union. In this last category, the focus here is on the root cause of the violation, the severity, the duration, and the pervasiveness of the violation:

- *Root cause:* Were the violations a result of minor weaknesses in the CMS or were the violations more serious?
- *Severity:* How severe were the violations? Were the violations minor? Was the impact to the consumer member(s) limited?
- *Duration:* How long has it been happening? Was it a one-off? Did it happen for an extended period? Did it repeatedly happen?
- *Pervasiveness:* Were the violations isolated? Were the violations more widespread? Did the violation occur across many lines of the credit union's business, product and service offerings?

Violations of law can be a result of unfamiliarity or misunderstanding of laws and regulations and can also be a result of negligence or willful noncompliance. When assessing for apparent

violations of law, examiners will be interested whether there was an actual or potential injury of loss to the consumer or what harm was caused by the infraction to your consumer member(s). Keep in mind that consumer harm may not be limited to monetary loss - - and it may not be caused by the credit union but may be caused by activities through *the credit union's third-party relationships*.

Credit unions can reduce its risk by having appropriate policies and procedures, and training programs in place for board directors, management, and staff, and monitoring for compliance in the day-to-day operations. In addition, when noncompliance is discovered, the credit union's board and management should be notified promptly and any issued identified should be promptly corrected.

*Source: CUNA Compliance Blog*

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## NCUA Releases Q3 2020 Credit Union System Performance Data

Data on the financial performance of federally insured credit unions for the quarter ending Sept. 30 are now available in the [NCUA Quarterly Credit Union Data Summary](#). The reports include an overview of Call Report data and tables showing major credit union performance indicators.

The NCUA's [Quarterly Data Summary Reports](#) include an overview of the quarterly Call Report data as well as tables showing the recent history of major credit union performance indicators.

*Source: NCUA*

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## Consumer Financial Protection Bureau Settles with Debt Collector

Today the [Consumer Financial Protection Bureau \(Bureau\)](#) issued a [consent order](#) against RAB Performance Recoveries, LLC (RAB) for threatening to sue and suing consumers to collect debts where it did not have a legally required license to do so. Through 2012, RAB, a New Jersey company, purchased and collected consumer debts from debt brokers, and through August 2014, it used collections law firms to obtain judgments against consumers. RAB has continued to collect on those judgments against consumers as well as on a handful of payment agreements it obtained from debtors. The Bureau found that during the period that RAB was obtaining judgments against consumers, RAB threatened to sue, sued, and demanded payment from consumers in Connecticut, New Jersey, and Rhode Island even though RAB did not hold the licenses that those states required to sue to collect debts. Thus, RAB was not legally entitled to take the actions that it threatened to take against consumers in those states. The Bureau found that RAB misrepresented that it had a legally enforceable right to recover payments from consumers in these states through the judicial process in violation of the Fair Debt Collection Practices Act (FDCPA) and the Consumer Financial Protection Act of 2010 (CFPA).

The consent order prohibits RAB from collecting on the judgments against, or payment agreements from, consumers it obtained in Connecticut, New Jersey, and Rhode Island when RAB did not hold a required debt-collection license in those states. It also requires RAB to take all necessary steps to vacate those judgments and suspend collection of those judgments and to

notify consumers with payment agreements that they have been satisfied. The consent order also requires RAB to pay a \$204,000 civil money penalty.

*Source: CFPB*

## Articles of Interest

- [SEC Charges the Cheesecake Factory for Misleading COVID-19 Disclosures](#)
- [CU Member Credit Card Spending Falls Sharply Thanksgiving Week](#)
- [CU and Banking Trade Groups Oppose Fintech Bank National Charter](#)

## CUNA's Advocacy Resources:

- [Happenings in Washington](#)
- [CUNA Advocacy Issues - COVID-19](#)

## WOCCU Advocacy Resources:

- [Telegraph](#)
- [Advocate Blog](#)

## Compliance Calendar

- December 25th, 2020: Christmas Day - Federal Holiday
- January 1st, 2021: **Annual Updates**
- January 1st, 2021: **Annual Reg Z Inflation Adjustments - Effective Date**
- January 1st, 2021: **NACHA – Enforcement**
- January 10th, 2021: **CFPB – GSE Qualified Mortgage - Extension of Sunset**