MCUL

REGCORNER

May 14th, 2024

In this weeks' RegCorner, Reg CC dollar amounts adjusted; agencies re-issue proposed rule on incentive-based compensation; CFPB publish two Issue Spotlights; FinCEN proposes rule on CIP requirements for registered investment advisors; and HUD issues guidance on appraisal reconsiderations.

MCUL Compliance

SAS Compliance Office Hours

Join us each month where we'll work through your most pressing challenges in a group setting. Open to all small asset size credit unions.

WHEN: 1st Friday of every month
TIME: 9:00 am

Join us for the next session, scheduled for **Friday, June 7th**.

REGISTER HERE

Cheers! to Compliance

Our first Cheers! of the year was held LIVE during the **Marketing, Compliance, YOU and Lending Conference,** with compliance trivia and Cheers! prizes. Details are being finalized for Q2 Cheers. Register below and watch for updates!

Date: June 28th
Time: 3:30pm

REGISTER HERE

MCUL Submits Comments to Federal Reserve Board on Proposed Debit Interchange Fee Rule

On Friday, MCUL submitted comments to the Board of Governors of the Federal Reserve System opposing their proposed rule on Debit Card Interchange Fees and Routing. In our opposition, we strongly urged for the withdrawal of the proposed rule, citing decades of research showing the adverse effects of the Durbin Amendment and the current regulation and detailing how additional price controls would impact credit unions who are technically exempt from the proposed rule. Although the proposal maintains the established threshold of $10B in assets for an institution to be covered, we discuss how smaller institutions have fared under the current regulation and how a further reduction in interchange fees will effect the operations that are funded by these revenue streams. In particular, we detail how:

- **The proposal will negatively impact small, exempt issuers.** The Board's own data shows that, under the current regulation, exempt issuers experienced over a 19% revenue loss on debit card interchange transactions processed on single-message networks, highlighting how a majority of technically exempt credit unions are not insulated from the regulation's reach and how additional fee reductions will result in additional revenue losses.
- **The proposal fails to adequately consider the costs of fraud.** The Board's methodology for assessing fraud losses and calculating fee components did not consider the costs at smaller institutions who are not able to rely on economies of scale, as well as how additional revenue constraints at technically exempt institutions will impact fraud recovery and mitigation efforts.
- **The proposal will negatively impact consumers.** Studies on the impact of the Durbin amendment show that the reduced interchange revenue resulted in fewer free checking accounts, further resulting in hundreds of thousands of households exiting the banking system. Further, while it was promised under the Durbin amendment that retailers would pass interchange savings onto consumers, studies show that not only was that not the case, but that some retailers even increased their prices. The fee reductions under the proposed rule are anticipated to have similar results.

Given these, we joined the industry-wide call to immediately withdraw the proposed rule.

Read the full comments HERE.

From the Regulators

NCUA

NCUA Diversity, Equity and Inclusion Summit – Dates and Registration Now Available

Read More

Registration is now open for the National Credit Union Administration's fifth summit focused on diversity, equity, and inclusion. The in-person event will take place July 9–11, 2024, at the Hilton Minneapolis in Minneapolis, Minn.

5/1/24

Webinar: Federal Funding Resources

Credit unions interested in potential sources of federal funding, including the Community Development Revolving Loan Fund, can get valuable information from this webinar. Staff from the NCUA's grants team will cover the following topics:

- The purpose of SAM.gov and getting started with registration, which is required before applying to the CDRLF.
- SAM.gov registration status review.
- Resources and tools available for utilizing SAM.gov.
- How to utilize Grants.gov to find a funding opportunity.
- How to submit a complete application package in Grants.gov.
- Registration information in Grants.gov.

Date: May 22, 2024

Time: 2-3pm

REGISTER

Agencies Re-Issue Proposal on Incentive-Based Compensation; NCUA Yet to Sign On

Read More

The Federal Deposit Insurance Corporation (FDIC), the Office of the Comptroller of the Currency (OCC), and the Federal Housing Finance Agency (FHFA), have adopted a Notice of Proposed Rulemaking (NPR) to address incentive-based compensation arrangements, as required under section 956 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (section 956). The National Credit Union Administration (NCUA) is expected to take action on the NPR in the near future. The U.S. Securities and Exchange Commission (SEC) has included a rulemaking to implement section 956 on its rulemaking agenda. This NPR is intended to advance stakeholder engagement needed to develop a final incentive-based compensation rule.

The NPR re-proposes the regulatory text previously proposed in June 2016, and seeks public comment in the preamble on certain alternatives and questions. Once the NCUA signs on, the proposal will be published in the Federal Register.

Related Articles:

- America's Credit Unions – Agencies issue proposal on incentive-based compensation

- Washington Credit Union Daily – Financial Regulators Again Propose Incentive-Based Compensation Rule
- Washington Credit Union Daily – Bankers Call on Regulators to Withdraw Compensation Rule Until Agencies Agree

5/6/24

CFPB

CFPB Publishes Research Finding Higher Price Complexity Leads Consumers to Pay More

Read More

The CFPB has published a report on their findings on Price Complexity in Laboratory Markets, examining how intricate pricing systems and heightened competition impact consumer decisions. According to the findings, consumers tend to opt for pricier products when faced with complex pricing models, such as when they encounter multiple fees separately during a transaction rather than a straightforward, inclusive price upfront.

To conduct the research, the CFPB engaged participants in simulated market interactions, assuming roles as buyers and sellers across multiple transactions. All sellers offered identical or similar products, creating a singular distinction between transactions – the product's price. In some scenarios, sellers presented their products with one, all-inclusive price, while in others, they utilized up to 16 "sub-prices" (i.e., multiple prices added together to reach a total price). The CFPB's experiment yielded the following insights:

- **Complex pricing structures drive consumers to pay higher costs:** Markets featuring 16 sub-prices witnessed sellers quoting prices 60% higher on average compared to those with a single price. Consequently, buyers ended up paying more overall.
- **Buyers encounter challenges in price comparison amidst intricate pricing models:** The study highlighted that buyers were 15 times more inclined to opt for higher-priced products in markets with 16 sub-prices compared to those with a single price.
- **Enhanced competition fails to alleviate complexities associated with intricate pricing:** Despite an uptick in the number of sellers, which generally mitigated the adverse impacts of pricing intricacies, the CFPB observed that these effects persisted rather than being eliminated.

4/30/24

CFPB Publishes Issue Spotlight on Health Savings Accounts

Read More

The Bureau published a report exposing the costs and fees associated with health savings accounts (HSAs), highlighting "hidden" fees. While HSAs offer tax benefits to offset high deductible health plan expenses, consumers may face additional charges such as maintenance fees and transfer fees, significantly diminishing the benefits. CFPB Director Rohit Chopra highlighted certain costs often overlooked by consumers. Despite the exponential growth of HSAs, the Bureau notes that concerns persist regarding high fees, lack of fund portability, and low-interest yields. They note that these challenges directly impact individuals' ability to afford medical expenses, particularly for those with chronic illnesses. The CFPB aims to address these issues through ongoing efforts to mitigate financial risks associated with healthcare financing, including regulatory initiatives to remove medical bills from credit reports and inquiries into costly credit options for healthcare expenses.

5/1/24

CFPB Takes Action Against Pennsylvania Student Loan Servicer

Read More

The Consumer Financial Protection Bureau (CFPB) has taken action against the National Collegiate Student Loan Trusts and Pennsylvania Higher Education Assistance Agency (PHEAA) for years of servicing failures, including during the COVID-19 pandemic. The CFPB alleges that the defendants failed to respond to borrowers seeking relief from student loan payments and mishandled thousands of requests. Proposed stipulated final judgments, if approved, would require the defendants to pay penalties totaling $2.15 million and nearly $3 million in redress to affected borrowers. This enforcement action follows previous legal proceedings against the National Collegiate Student Loan Trusts for improper debt collection practices. The CFPB aims to rectify the harm caused by ensuring responses to borrower requests, providing accurate information, and correcting outstanding requests, while imposing financial penalties for the violations.

5/6/24

CFPB Takes Action Against Chime Financial for Illegally Delaying Consumer Refunds

Read More

The CFPB has taken action against Chime Financial for failing to promptly refund consumers when their accounts were closed, causing significant financial harm. Chime, a nonbank company headquartered in San Francisco, partners with banks to offer financial products like checking accounts and credit cards, serving approximately seven million consumers. The CFPB found that Chime failed to issue refunds within the promised timeframe, with thousands of consumers waiting for refunds for up to 90 days or more, leading to financial strain and reliance on expensive credit alternatives. The enforcement order requires Chime to provide at least $1.3 million in redress to affected consumers and pay a $3.25 million penalty to the CFPB's victims relief fund, while also mandating compliance with timely refund policies.

5/7/24

CFPB Publishes Issue Spotlight on Credit Card Rewards Programs

Read More

The Consumer Financial Protection Bureau (CFPB) released a report revealing numerous challenges consumers face with credit card rewards programs. Consumers report issues such as devalued or denied rewards, complex terms hidden in fine print, and changes to rewards values after enrollment. The focus on rewards marketing by credit card companies often overshadows information on interest rates and fees, leading consumers who carry balances to pay more in fees than they gain in rewards. Co-brand credit cards and rewards programs further complicate matters. CFPB Director Rohit Chopra emphasized the need to protect consumers from bait-and-switch tactics and ensure a fair market for credit card rewards. The report highlights complaints about vague conditions, reward devaluations, redemption difficulties, and revocation of earned rewards. While federal laws apply to rewards programs, the CFPB continues to monitor and address issues in this area, having previously taken action against issuers for unfair practices.

5/9/24

CFPB and Federal Reserve Adjust Reg CC Inflation Dollar Amounts

Read More

The Consumer Financial Protection Bureau and the Federal Reserve Board jointly announced adjustments for inflation to dollar amounts affecting the availability of customer funds, as outlined in Regulation CC. These changes include the minimum funds banks must make available for withdrawal by the next business day for certain check deposits and the amount of funds from certain checks deposited into new accounts subject to next-day availability. Mandated by law, these adjustments are made every five years based on the annual increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers. The compliance date for implementing these adjustments is set for July 1, 2025, allowing depository institutions sufficient time for implementation.

The adjusted amounts are as follows:

Section	Threshold
Minimum Amount, 12 CFR 229.10(c)(1)(vii).	$275
Cash Withdrawal Amount, 12 CFR 229.12(d).	$550
New-Account Amount, 12 CFR 229.13(a)(1)(ii).	$6,725

Large-Deposit Threshold, 12 CFR 229.13(b).	$6,725
Repeatedly Overdrawn Threshold, 12 CFR 229.13(d)(2).	$6,725
Civil Liability Minimum and Maximum for Individual Action, 12 CFR 229.21(a)(2)(i).	$125 $1,350
Civil Liability Maximum for Class Action, 12 CFR 229.21(a)(2)(ii)(B).	$672,950

5/13/24

FinCEN

FinCEN Issues Advisory on Iran-Backed Terrorist Organizations

Read More

In light of intensified terrorist activity in the Middle East, the U.S. Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) issued an Advisory to assist financial institutions in detecting potentially illicit transactions related to Islamic Republic of Iran-backed terrorist organizations. The Advisory highlights the means by which certain terrorist organizations receive support from Iran and describes several typologies these terrorist organizations use to illicitly access or circumvent the international financial system to raise, move, and spend funds. These terrorist organizations include Lebanese Hizballah, Hamas, the Palestinian Islamic Jihad, the Houthis, and several Iran-aligned militia groups in Iraq and Syria. It also provides red flags that may assist financial institutions in identifying related suspicious activity.

FinCEN requests that financial institutions reference this advisory in SAR field 2 ("Filing Institution Note to FinCEN") and the narrative by including the key term "**IRANTF-2024-A001**" and select SAR field 33(a) (Terrorist Financing-Known or suspected terrorist/terrorist organization).

FIN-2024-A001

5/8/24

FinCEN, SEC Propose Customer Identification Program Requirements for Registered Investment Advisers and Exempt Reporting Advisers

Read More

The two agencies jointly proposed a new rule that would require SEC-registered investment advisers and exempt reporting advisers to establish, document, and maintain written customer identification programs. The proposal is designed to prevent illicit finance activity involving the customers of investment advisers by strengthening the anti-money laundering and countering the financing of terrorism framework for the investment adviser sector.

The public comment period will remain open for 60 days after publication of the proposed rule in the Federal Register.

See the **Open Comments Section** for more.

5/13/24

HUD

HUD Issues New Guidance on Appraisal Reviews

Read More

The Department of Housing and Urban Development announced that lenders in its Single Family program must clearly explain how borrowers can request a reconsideration of a property appraisal. The guidance requires that lenders participating in the program must provide a mechanism for borrowers to request a re-assessment of the appraised value of their property if they believe that the appraisal was inaccurate or biased (Reconsideration of Value). For lenders, the new policy includes:

- A requirement that underwriters be trained to identify and remedy appraisal deficiencies, including racial and ethnic bias;
- Requirements for lenders when receiving, processing, and communicating the status of the reconsideration of value requests initiated by a borrower;
- Standards for lender quality control of appraisal reviews and reconsiderations of value; and
- Standards for appraisers to respond to requests from lenders for a reconsideration of value review.

Mortgagee Letter 2023-07

5/1/24

Federal Reserve Board

The Federal Reserve publication, Consumer Compliance Outlook, published its newest issue.

Read More

The first issue of 2024 of Consumer Compliance Outlook (CCO) is now available on the CCO website. This issue includes the following articles and features:

- Overview of Private Flood Insurance Compliance Requirements
- Consumer Compliance Requirements for Commercial Products and Services
- Recent Supervisory Data for Institutions the Federal Reserve Supervises
- Compliance Spotlight: Resources to Combat Increased Check Fraud
- Regulatory Calendar
- Calendar of Events

4/30/24

Federal Reserve Board requests comment on proposal to expand the operating days of the Federal Reserve Banks' two large-value payments services, Fedwire Funds Service and the National Settlement Service, to include weekends and holidays

Read More

The Federal Reserve Board is seeking feedback on a proposal to extend the operating days of the Federal Reserve Banks' two large-value payments services to include weekends and holidays, effectively making them available every day of the year. Currently, both the Fedwire Funds Service and the National Settlement Service operate Monday through Friday, excluding holidays. The proposal suggests maintaining the same operating hours each day, with participation being voluntary for banks and credit unions. This expansion aims to enhance the safety and efficiency of the U.S. payment system and prepare the nation's payment infrastructure for future demands, potentially improving credit risk management and operational efficiency for financial institutions, encouraging innovation in payment solutions, and facilitating more efficient cross-border payments. The proposal invites feedback on the benefits, potential costs, and risks associated with this initiative, with comments being accepted through July 8th.

See the **Open Comments Section** for more.

5/3/24

Federal Trade Commission

FTC Issues Final Rule Bans Non-Competes for Workers Who Are Not Senior Executives

Read More

Under the FTC's new rule, existing non-competes for the vast majority of workers will no longer be enforceable after the rule's effective date. Existing non-competes for senior executives - who represent less than 0.75% of workers - can remain in force under the FTC's final rule, but employers are banned from entering into or attempting to enforce any new non-competes, even if they involve senior executives. Employers will be required to provide notice to workers other than senior executives who are bound by an existing noncompete that they will not be enforcing any non-competes against them. The rule goes into effect on September 4th, 2024.

Federal Register

Michigan

MI Treasury

MI Treasury Reminds Property Holders of Annual Unclaimed Property Reporting Requirements

Due Date: July 1, 2024

What do I need to do?

The Manual for Reporting Unclaimed Property (Manual) contains general instructions, a summary of new reporting requirements, a detailed list of all reportable types of property, associated dormancy periods, and other important information.

What if I forget to report previous years?

If you have properties that should have been previously reported, Treasury offers an opportunity to avoid penalty and interest charges through its Voluntary Disclosure Program.

What if I have nothing to report?

Credit Unions with no unclaimed property to report in 2024 are strongly encouraged to create a Zero/Negative Report. This will establish a filing history and document your compliance with Michigan's Unclaimed Property Act. Those meeting the parameters described above should file a negative report using the online process; do not submit a NAUPA file. Detailed instructions for submitting a negative report can be found on page 15 of the manual.

Other Points of Interest

- Washington Credit Union Daily – Financial Trades: Rescheduling Marijuana Won't Solve Banking Issues
- America's Credit Unions – Court Stops CFPB's Credit Card Late Fees Rule
  - Also see: Washington Credit Union Daily
- Washington Credit Union Daily – Congressional Research Service: Credit Unions Vulnerable Since NCUA Doesn't Have Vendor Authority
  - CRS: Technology Service Providers and Credit Unions

Relevant Blog Pages/Posts

- America's Credit Unions Compliance Blog
  - 4/30/24 – Spring 2024 Supervisory Highlights: Consumer Reporting Companies and Furnishers
  - 5/2/24 – NCUA Issues ANPR Soliciting Comments on Improving and Updating the Records Preservation Program and Appendices
  - 5/7/24 – Consider Immigration Status Carefully
  - 5/9/24 – RESPA's Anti-Kickback Provisions

Submitted Regulatory Comment Letters

Regulatory Response Letters

- Federal Reserve Proposed Rule: Debit Card Interchange Fees and Routing
  - America's Credit Unions Letter
  - America's Credit Unions Joint Letter
  - MCUL Letter
- CFPB Request for Comment: Agency Information and Collection Activities: Consumer Complaints
  - America's Credit Unions Letter

Other Letters to Regulators

- America's Credit Unions Letter to the NCUA on Permitting Reimbursement of Childcare Expenses for Federal Credit Union Board Members

Open Comment Calls

If you have input on any comment calls below that you would like to provide for consideration, please direct them to **Bradley.Willett@mcul.org** no later than 3 weeks prior to the comment due date.

FinCEN Notice and Request for Information and Comment: Customer Identification Program Rule Taxpayer Identification Number Collection Requirement **Docket No.** FINCEN-2024-0009 FinCEN, in consultation with staff at the OCC, the FDIC, the NCUA, and the Board of Governors of the Federal Reserve System seeks information and comment from interested parties regarding the Customer Identification Program (CIP) Rule requirement for banks to collect a taxpayer identification number (TIN), among other information, from a customer who is a U.S. person, prior to opening an account. Generally, for a customer who is an individual and a U.S. person, the TIN is a Social Security number (SSN). In this request for information (RFI), FinCEN specifically seeks information to understand the potential risks and benefits, as well as safeguards that could be established, if banks were permitted to collect partial SSN information directly from the customer for U.S. individuals and subsequently use reputable third-party sources to obtain the full SSN prior to account opening. Additional Relevant Information • NASCUS Summary	**Comments Due:** May 28, 2024 Agency Announcement Federal Register Regulations.gov
CISA Notice of Proposed Rulemaking: Cyber Incident Reporting for Critical Infrastructure Act **Docket No.** CISA-2022-0010 The Cyber Incident Reporting for Critical Infrastructure Act of 2022 (CIRCIA) requires the Cybersecurity and Infrastructure Security Agency (CISA) to promulgate regulations implementing the statute's covered cyber incident and ransom payment reporting requirements for covered entities. CISA seeks comment on the proposed rule to implement CIRCIA's requirements and on several practical and policy issues related to the implementation of these new reporting requirements. The regulation is a requirement of the Cyber Incident Reporting for Critical Infrastructure Act of 2022 (CIRCIA), which requires CISA to develop and implement regulations requiring covered entities – including federally insured credit unions "regulated by the NCUA" – to report covered cyber incidents and ransomware payments. Credit unions would have to submit a Covered Cyber Incident Report to CISA no later than 72 hours after the covered entity reasonably believes the covered cyber incident occurred. The NCUA's current cyber incident notification standard in Part 748 of its rules requires notice of a cyber incident within the same timeframe. Additional Relevant Information • NASCUS Summary	**Comments Due:** June 3, 2024 Agency Announcement Federal Register Regulations.gov

NCUA Advance Notice of Proposed Rulemaking: Records Preservation Program and Appendices-Record Retention Guidelines; Catastrophic Act Preparedness Guidelines **Docket No.** NCUA-2024-0026 The NCUA Board is issuing this ANPR to solicit comments on ways the agency can improve and update its records preservation program regulation and accompanying guidelines in the NCUA regulations. The Board is particularly interested in obtaining stakeholder input on the content of the regulation, which has not been updated in 15 years and may be outdated or at odds with current best practices. The Board is also interested in feedback on the structure of the part which may be confusing as it currently contains a combination of regulatory requirements and guidance. Additional Relevant Information • America's Credit Unions: NCUA looks to improve records retention program	**Comments Due:** June 24, 2024 Agency Announcement Federal Register Regulations.gov
Request for Comment: Expansion of Fedwire Funds Service and National Settlement Service Operating Hours **Docket No.** OP-1831 The Federal Reserve Board is seeking feedback on a proposal to extend the operating days of the Federal Reserve Banks' two large-value payments services to include weekends and holidays, effectively making them available every day of the year. Currently, both the Fedwire Funds Service and the National Settlement Service operate Monday through Friday, excluding holidays. The proposal suggests maintaining the same operating hours each day, with participation being voluntary for banks and credit unions. This expansion aims to enhance the safety and efficiency of the U.S. payment system and prepare the nation's payment infrastructure for future demands, potentially improving credit risk management and operational efficiency for financial institutions, encouraging innovation in payment solutions, and facilitating more efficient cross-border payments.	**Comments Due:** July 8, 2024 Agency Announcement Federal Register Regulations.gov
Joint Proposed Rule: Customer Identification Programs for Registered Investment Advisers and Exempt Reporting Advisers **Docket No.** The jointly issued proposed rulemaking implements section 326 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 with regard to certain investment advisers. If, as proposed in a separate rulemaking, certain investment advisers are included in the definition of "financial institution" under the Bank Secrecy Act, section 326 will require the Secretary of the Treasury and the SEC to jointly prescribe a regulation that, among other things, requires investment advisers to implement reasonable procedures to verify the identities of their customers. Proposed Rule **Related Materials:** • Fact Sheet	**Comments Due:** 60 Days After Published In Federal Register Agency Announcement Federal Register Regulations.gov

Relevant Federal Rulemaking Links

Agency	Unified Rulemaking Agenda (Fall 2023 Update)	Agency Rulemaking Tracker	Federal Register	Regulations.gov
NCUA	LINK	LINK	LINK	LINK
CFPB	LINK	LINK	LINK	LINK
Treasury	LINK	n/a	LINK	LINK
CDFI Fund	n/a	LINK	LINK	LINK
FinCEN	n/a	LINK	LINK	LINK
Federal Reserve System	LINK	LINK	LINK	LINK
FHFA	LINK	LINK	LINK	LINK
FTC	LINK	n/a	LINK	LINK
HUD	LINK	n/a	LINK	LINK
FCC	n/a	LINK	LINK	LINK