

# Compliance Hot Topics: What to Know before Your Exam and How to Prepare Strategically

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# Agenda

- Background:
  - How did we get here?
- Strategic Planning for Compliance:
  - Board of Director and Senior Management roles and responsibilities
  - Strategic Planning Considerations
- Takeaways:
  - New proposed and final rules and how they impact a credit union's strategic plan
  - Compliance resources provided by the Idaho Credit Union League

# Background

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- Mortgage Crisis
- “September and October of 2008 was the worst financial crisis in global history, including the Great Depression.”
  - Ben Bernanke

# Consumer Financial Protection Bureau

- 2010 – Dodd Frank Act
- 2011 – CFPB
- 2012 – Recess Appt. of  
Director Cordray



Consumer Financial  
Protection Bureau

# As of April 2016 over 23,000 pages of guidance and proposed and final rules have been issued in relation to the Dodd-Frank Act



\*Source ABA Dodd-Frank Tracker

# Strategic Planning for Compliance

# Board of Directors and Senior Management Role

- The board ultimately has the responsibility for oversight of the compliance program at the credit union
  - The board and senior management are responsible for monitoring the safety and soundness of the credit union and setting its risk level
  - The board and senior management are responsible for reviewing audit reports and ensuring that steps are taken to resolve any findings
  - Reviewing applicable policies and procedures



# Budget and Strategic Planning Session Talking Points

- Is our credit union meeting the current compliance requirements?
  - Review internal and external audit reports, BSA annual review reports
- Have we reviewed our member complaints?
  - Ensure member complaints and their cause are addressed. Monitor for patterns.
- Are there new rules or guidance that apply to our credit union in the next budget cycle?
  - Review effective date of the rule and implementation plan

# What's Ahead: Compliance Changes and Resources to Help

# NCUA: Member Business Loan Rule

# MBL Final Rule

- Majority of the rule is effective **January 1, 2017**
- One provision - removing the personal guarantee requirement is effective **May 13, 2016**
- Change from a prescriptive rule to a principal based rule.
  - The rule eliminates many of the regulatory requirements and threshold limits.

# Personal Guarantee Change

- Effective May 13, 2016 a credit union is not required to obtain the personal guarantee of the borrower
- However, without the guarantee, the credit union must determine and document in the loan file that mitigating factors sufficiently offset the relevant risk
  - Policies and procedures will need to be updated to reflect the change in requirements to the personal guarantee by May

# MBL Final Rule

- The final rule reorganized NCUA Rules and Regulations Part 723
- Be sure to note:

723.3	Board of directors and management responsibilities
723.4	Commercial loan policy
723.5	Collateral and security
723.8	Aggregate member business loan limits; exclusions and exceptions

# Board of Director Responsibilities

- Establish a commercial loan policy and review it annually and before any changes are made to the commercial lending program
- Ensure there is appropriate staff for the credit unions commercial lending program
- Be regularly informed about the level of risk in the portfolio

# CFPB: Home Mortgage Disclosure Act (HMDA)



# HMDA Effective Date

- January 1, 2018
  - Begin collecting additional data in 2018 for reporting in 2019

# Institutions Subject to HMDA

- Assets in excess of \$XX million as of 12/31/2017
- Home or branch office in an MSA
- In the preceding year, it originated at least one purchase (or refinance)
- Federally insured or regulated; AND
- \*Originate at least 25 closed-end loans or 100 open-end loans

# Loans Subject to HMDA

- Applications, originations and purchases of all loans secured by a dwelling, now including:
  - Reverse mortgages
  - HELOCs
  - Business purpose loans secured by a dwelling

# Data Collection

- Universal loan identifier
- Whether the loan is insured or guaranteed
- Construction method (if applicable)
- Property address
- For ARMs, the number of months before the first rate adjustment
- Does the transaction have:
  - A balloon payment?
  - Interest only payments?
  - Negative amortization?
- The value of the subject property

# Data Collection

- Credit score(s) and scoring model used
- Denial reasons
- Total loan costs and total points and fees
- Total discount points
- Total amount of lender credits
- Interest rate
- Term of any pre-payment penalty
- Debt-to-income ratio
- Cumulative loan-to-value ratio
- Term of the transaction

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# Implementation Challenges

- Additional Compliance Burden
- Significant Cost Increases
- Legal Challenges
- Privacy Concerns
- Increased Potential for Error
- Additional Fair Lending Responsibilities

# FinCEN: Enhanced Due Diligence Requirements (FINAL RULE ISSUED THIS WEEK)



# Beneficial Owners

- Ownership Test; **AND**
  - An individual with a 25% (or greater) ownership interest in the legal entity
- Control Test
  - An individual with significant responsibility to control, manage or direct the legal entity
    - E.g. CEO, CFO, COO, President, Vice President, etc.

# Legal Entity Members

- Entities formed by a filing with the Secretary of State (or similar office)
  - E.g. Corporations, LLCs, Partnerships, etc.
  - Does NOT include trusts unless created through a filing with the state

# Requirements

- Step One
  - Obtain a [Certification of Beneficial Owner\(s\)](#) identifying each individual that is a beneficial owner of the legal entity. (The form provided by FinCEN is recommended but a credit union may choose to collect the required information by another means)
- Step Two
  - Verify the identity of each beneficial owner, consistent with CIP practices

# CIP Reminder

- Must collect:
  - Name, date of birth, address and identification number (e.g. SSN)
- Must verify identity within a reasonable period of time
- Verification through documentation; OR
  - Driver's license, passport, etc.
- Verification through non-documentary methods
  - E.g. checking references with other financial institutions

# Potential Implementation Challenges

- Extensive training for staff
- Educating members
- Time and resource
  - It is estimated that opening a covered account under this rule will take an additional 30 minutes per account
- ~~Remember this rule is still in a proposed form and has not been finalized~~
- Credit unions must comply by **May 11, 2018**

# Takeaways

# Board of Directors and Senior Management Checklist

- ✓ The Board is regularly informed about compliance issues
- ✓ Budget and strategic planning sessions account for compliance needs
- ✓ Regular staff trainings incorporate compliance
- ✓ Compliance evaluation when developing a new product or service
- ✓ New rules and guidance from regulators trigger an implementation plan

# Board and Senior Management Resources to Take Back

- NCUA Letter to all federally insured credit unions regarding consumer complaints
  - Letter 15-CU-04 <https://www.ncua.gov/regulation-supervision/Pages/policy-compliance/communications/letters-to-credit-unions/2015/04.aspx>
- FinCEN – Culture of Compliance
  - [https://www.fincen.gov/statutes\\_regs/guidance/pdf/FIN-2014-A007.pdf](https://www.fincen.gov/statutes_regs/guidance/pdf/FIN-2014-A007.pdf)



# League Compliance Resources:

- On-demand compliance support via phone and email
- Regulatory newsletters
- Compliance communications/alerts
- Compliance Calendar
- Monthly Q&As
- [TheWorksBlog.com](http://TheWorksBlog.com)

# Members' Only Website

- [www.policyworksllc.com](http://www.policyworksllc.com)
- Things to know:
  - Administrators (2 at each credit union) can add an unlimited number of employees
  - New users can be added with; name, email, username and password
  - At log in screen you can click “Forgot my Username” or “Forgot my Password” for help.

# Questions?

**Thank you!**

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