



Kansas Department of Credit Unions

KDCU Newsletter

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Kansas Department of Credit Unions

109 S.W. 9th Street,
Suite 610
Topeka, KS 66612

Phone: 785-296-3021
Fax: 785-296-6830

Summary of Consumer Protection Laws

Several consumer protection laws apply to federally insured credit unions. These laws or the agency responsible for their content may change with implementation of the Dodd-Frank Wall-Street Reform and Consumer Protection Act. Below is a summary of these laws as they currently exist .

Regulation B - Equal Credit Opportunity

Prohibits discrimination in the extension of credit on the basis of sex, marital status, age, race, color, religion, national origin, receipt of public assistance income, and the good faith exercise of rights under the Consumer Credit Protection Act. Requires lenders to notify applicants of decisions, explain why credit is denied, retain records for set periods after an adverse credit decision, and provide for penalties for failure to comply with the regulation.

BSA - Bank Secrecy Act

Requires financial institutions to file certain currency and monetary instrument reports. This information is used to help government agencies find money laundering activities relating to drug trafficking and white-collar crime.

Regulation C - Home Mortgage Disclosure

Requires depository institu-

tions with assets over a certain amount, who originate or purchase first mortgage loans, and have home or branch offices located in Standard Metropolitan Statistical Areas (SMSAs) to provide the public with information on how the depository institution is serving the housing credit needs of the community it serves.

Regulation CC - Expedited Funds Availability Act

Establishes availability schedules and limit holds that financial institutions can place on personal and business demand deposit or other transaction accounts. It does not apply to savings deposits, time deposits, or money market deposit accounts.

Regulation D - Reserves on Transaction Accounts

Establishes the required amount that a depository institution must reserve based on the level of transaction accounts on deposit. Institutions are required to maintain a certain level of reserves to assist the Federal Reserve Board in implementing monetary policy.

Regulation E—Electronic Funds Transfer Act

Establishes the rights, liabilities and responsibilities of consumers and financial institutions with regard to electronic funds transfers (EFT) and protects consumers using EFT systems. Regulation E applies to any transaction initiated through an electronic terminal, telephone, computer, or magnetic tape that tells a financial institutions to either deposit or withdraw from a member's account at a

financial institution. Prescribes rules for the solicitation and issuance of EFT cards, governs consumer's liability for lost or stolen cards, sets up resolution procedures for errors on EFT accounts, covers the notice of crediting and stoppage of preauthorized payments to and from a customer's account, requires institutions to disclose certain terms and conditions of EFT services, and provides for documentation of electronic transfers.

FCPR—Fair Credit Practice Rule

Is designed to assure fairness of consumer credit, late charge accounting, and cosigner practices of financial institutions. Under the Fair Credit Practice Rule, loan contracts are prohibited from containing confessions of judgment, certain waivers of exemption, assignment of wages, and nonpossession security interest in household goods, unless the goods are purchased with the credit that is extended. This Rule prohibits pyramiding of late charges and the misrepresentation of a cosigner's liability.

FCRA—Fair Credit Reporting Act

Protects information collected by consumer reporting agencies such as credit bureaus. Information in a consumer report cannot be provided to anyone who does not have a purpose specified in the Act. Companies that provide information to consumer reporting agencies have specific legal obligations, including the duty to investigate disputed information. User of this information for credit must notify the consumer when an adverse action is taken on the basis of such reports.

FDCPA—Fair Debt Collection Practices Act

Prohibits third-party debt collectors from employing deceptive or abusive conduct in the collection of consumer debts incurred for personal, family or household purposes. This Act does not pertain to financial institutions that collect debt that they originated. Such collectors may not contact debtors at odd hours, subject them to repeated telephone calls, threaten legal action that is not actually contemplated, or reveal to other persons the existence of debts.

FDPA—Flood Disaster Protections Act

Requires the NCUA to ensure that credit unions do not make loans secured by uninsured real estate or mobile homes located in specific designated flood hazard areas.

FHA—Fair Housing Act

Prohibits financial institutions that make real estate loans from discriminatory lending practices against a person. It is illegal to discriminate in fixing the amount, interest rates, duration, or other terms of the loan based upon (1) Race; (2) Color; (3) Religion; (4) Sex; (5) Handicap; (6) Familial Status (having one or more children under the age of 18) and (7) National origin.

Gramm—Leach—Bliley Act—Privacy of Consumer Financial Information (GLB Act)

Governs the handling of consumer financial information. Under the GLB Act, financial institutions have restrictions on when they may disclose a consumer's personal financial information to non-affiliated third parties. The GLB Act grants consumers the ability to opt-out of the disclosure of their financial information to most non-affiliated third parties. The ability to opt-out is subject to certain exceptions. In addition, the GLB Act requires financial institutions

to provide notices to customers about its privacy practices and policies.

HIDC—Holder in Due Course

Protects consumers who purchase goods or services on credit. The rule only applies to consumer credit and is intended to prevent sellers who deliver poor goods or services from limiting a consumer's remedies by selling the consumer's note or other debt obligation to a creditor.

Regulation M—Consumer Leasing Act

Regulation M implements the consumer leasing portions of the Truth in Lending Act. The purpose of Regulation M is to assure that lessees of personal property are given accurate and meaningful disclosure of the terms and conditions of personal property leases. These disclosures allow consumers to compare various lease terms or to compare lease terms with credit terms.

RESPA—Real Estate Settlement and Procedures Act

RESPA requires disclosure of certain information in the settlement, servicing, and escrow activities associated with real estate lending, such as: (1) Timely information concerning settlement costs; (2) Prohibition of certain abusive practices (such as kickbacks or unearned fees); (3) Limits the use of escrow accounts; and (4) Requires detailed disclosures on the transfer, sale or assignment of servicing. RESPA applies to all real estate loans secured by residential real estate, except: (1) Loans on properties of 25 acres or more; (2) Loans on vacant or unimproved property; (3) Business purpose loans, except if an individual places a lien on a 1–4 dwelling; (4) Temporary financing (i.e. construction or bridge loans); (5) Loan conversions not requiring a new note; (6) Assumptions that do not require lender approval; (7)

Secondary market transactions; and (8) HELOCs subject to Regulation Z.

TISA— Truth in Saving Act

Requires clear and uniform disclosure of share/deposit account rates and fees so that members may compare competing savings and investment options. For each class of account, the corresponding terms must clearly state the APY (annual percentage yield), interest rate, dividend calculation method and any corresponding restrictions, any fees or transaction limits on the account, the compounding frequency, minimum balance requirements, requirements to earn a bonus (if applicable), handling non-cash items and the frequency and changes to the APY. Insufficiently automated financial institutions under \$2 million in assets are exempt from TISA.

Regulation Z—Truth in Lending Act

Prescribes uniform methods of computing the cost of credit, disclosure of credit terms, and procedures for resolving billing errors on certain credit accounts. Regulation Z was written to promote the informed use of consumer credit by consumers, and applies to loans for personal, family or household purposes. The major provisions of the regulation require lenders to:

- Provide borrowers with meaningful, written information on the cost of credit (including financial charges and the annual percentage rate (APR));
- Respond to consumer complaints of billing errors on certain credit accounts within a specific period;
- Identify credit transactions on periodic statements of open-end credit accounts;
- Provide certain rights regarding credit cards;
- Inform customers of the right to rescind certain real property transactions within a specific period of time.

- Comply with special requirements when advertising credit.

Links to the federal agencies responsible for the laws and a description of the laws can be found at <http://www.kansas.gov/kdcu/>.

Bulletins Issued

July 1, 2010 2010 KDCU-CUB-03 Call Report Instructions for Recording Corporate Credit Union Stabilization Assessment

September 8, 2010 KDCU-CUB-04 Second Quarter 2010 Call Report Statistics

September 30 Call Report Cycle

The due date for the 9/30/2010 call report is **Friday, October 22, 2010**. A reminder, each call report cycle, credit unions must go into their Profile on-line and make any changes necessary and certify these changes **before** completing the call report. During the 6/30/2010 call report cycle, there continued to be different information on the Profile for CUSO activities than shown on the call report. Please double check and ensure the information on the call report and the Profile match. After the credit union's 2010 annual meeting, credit unions should go into the Profile and update any changes to the Board of Directors and Committee Members. This replaces the need to complete an electronic copy or paper copy of NCUA's Report of Officials. However, credit unions are still required to furnish the Kansas Department of Credit Unions with a copy of the 2010 Roster of Credit Union Officials and Oath of Directors that was sent to your credit union.

Administrator's Remarks**NCUSIF Insurance Premium Assessment**

On September 16, 2010 the NCUA Board authorized a premium of 0.1242 percent of insured shares. Credit unions will receive an invoice for the premium in late October or early November, 2010. If your credit union has assets of at least \$50 million, the invoice will also include an amount for an adjustment in contributed capital.

Credit unions using the accrual basis of accounting should calculate the amount of the premium and record the premium on the September 2010 Call Report. Report the premium as a Member Insur-

ance expense (Call Report Account Code 310).

Additional information about the NCUSIF premium is found in NCUA LETTER TO CREDIT UNIONS NO: 10-CU-17 at ncua.gov.

NCUA Chairman Debbie Matz will host a Town Hall Webinar Monday, September 27 from 2 to 4 p.m. featuring a detailed discussion of NCUA's initiatives to strengthen the corporate credit union system. A link to register for the webinar is on the NCUA web site at ncua.gov. The corporate credit union final rule will be available shortly before the September Board meeting, scheduled to begin at 1:30 p.m. Central Standard Time.

At the November NCUA Board

meeting, an estimate of the combined range for the NCUSIF premium and the Corporate Stabilization Fund assessment in 2011 will be made. Credit unions should continue to reserve for the NCUSIF premium and the Corporate Stabilization Fund assessment.

Examination Issues

Documentation or absence of a copy of all Suspicious Activity Reports (SARs) filed by the credit union. SARs filed are to be brought to the attention of your board at their monthly meeting.

Lack of submission to this office of a copy of all Suspicious Activity Reports (SARs) filed by the credit union. SARs filed are to be brought to the attention of your board at their monthly meeting.

The annual examination report

and any contact reports are the property of the Kansas Department of Credit Unions and are confidential. If you have need to disclose any part of the report to anyone who is not credit union senior management, a board or committee member, contact the Administrator. If sufficient cause or purpose, the Administrator can authorize release.

Credit unions should contact their assigned financial examiner or the Administrator if they have questions regarding their examination or the examination report.

CREDIT UNION COUNCIL MEETS

The Credit Union Advisory Council met on September 23, 2010. Council members attending were Garth Strand, Gilbert Benton, Denise Bonner, and Jim Holt. Guests were Larry Eisenhauer, and Haley DaVee.

The Administrator updated the Council on the relocation of the office and financial examiner training. Council members toured the new office.

The Council received several reports:

- ◆ KDCU financial reports.
- ◆ Kansas credit union condition report.
- ◆ Changes in credit union bylaws, articles of incorporation, credit union mergers, admin-

istrative actions, number of credit unions on monthly reporting, frequency of examinations, and approval of new branch locations.

KDCU staff outlined the steps involved in preparation of the 2011 and 2012 budget.

The Council discussed the corporate credit union stabilization program and the NCUSIF assessment to credit unions.

The Kansas Credit Union Association reported on recent regulatory issues and legislation.

Kansas Corporate Credit Union reported on recent events in the corporate

credit union system.

The next meeting of the Credit Union Advisory Council is scheduled for Thursday, December 9, 2010 at the KDCU office in Topeka.

Credit union members and officials are invited and encouraged to attend Council meetings. The Council meeting notice and agenda are posted on the department's web site at www.kansas.gov/kdcu/.

Kansas Department of Credit Unions Staff

John P. Smith, Administrator
 Michael Baugh, Financial Examiner Administrator
 James Klausen, Financial Examiner Principal
 Valorie White, Financial Examiner Principal
 Manny Lopez, Financial Examiner Principal
 Christopher Taylor, Financial Examiner Senior

Tana Hoffman, Financial Examiner Senior
 Billy Vardaman, Jr., Financial Examiner Senior
 Jesse Pounds, Financial Examiner
 Lori Miller, Financial Examiner
 Cheryl Bishop, Administrative Specialist
 Jenny Rezac, Administrative Specialist