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Compliance eNEWSLETTER
powered by the Georgia Credit Union Affiliates

Compliance News

Week Four Supervisory Priority Highlight:
Current Expected Credit Loss (CECL)
Current Expected Credit Loss (CECL) is an accounting standard that changes how financial institutions account for expected credit losses. This method replaces the current standards for loss accounting commonly known as FAS-5 and FAS-114. The current expected credit loss model (CECL) is the new accounting model FASB has issued for the recognition and measurement of credit losses for loans and debt securities. The new accounting standard applies to all credit unions, regardless of size, that file regulatory reports for which the reporting requirements conform to the U.S. generally accepted accounting principles (GAAP).

Although CECL requirements may evolve more prior to the effective due date of January 1, 2022, examiners will be looking this year to see what efforts your credit union have in place to meet the new accounting standards, and whether there has been an evaluation and preparation for the potential impact to regulatory capital. Examiners also want to know whether your credit union has performed a CECL analysis that may alter the Allowance for Loan and Lease Losses funding needs.

The Financial Accounting Standards Board (FASB) approved a new standard in June 2016. It is meant to limit the impact of potential losses from a future crisis by requiring credit unions to reserve for future losses over the life of the loan at the time of origination. CECL signals a major change in how credit unions need to calculate loan reserves.

The rules, which require credit unions and other financial institutions to record expected losses when they make new loans, do not kick in for credit union call reports until the beginning of 2022. But CECL preparations can easily take years and procrastination can be a costly mistake, according to some in the credit union industry. Below are some best practices credit unions should be doing now or have already done in preparation for CECL.

Review balance sheet concentrations. Do a comprehensive review of

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Compliance Video

Compliance Connection Video

In this video, League InfoSight CEO Glory LeDu talks about the highlights from the 4th Quarter of 2018 and the 1st Quarter of 2019.

When S.2155, the Economic Growth, Regulatory Relief, and Consumer Protection Act, passed in 2018 there was a lot to understand! Glory LeDu, League InfoSight CEO, provides Part 1 in this short video to break it down for you.

Compliance videos can be found on YouTube at the Compliance Connection channel, where they are generally updated quarterly.

loan concentrations by category. This helps determine which model is most appropriate. The type of model impacts the data you are required to collect. For example, a credit union with a significant concentration in member business loans would want to review the risk rating of each individual loan to determine the likelihood of default. If the credit union has a high concentration of used indirect vehicle loans, it would want to select a statistical model that considers such factors as dealer concentrations, credit score and unemployment data.

Collect and validate your data. Begin the process of collecting and storing historical data based on the predictive inputs of the specific loan category to be analyzed. Many credit unions are already accumulating this data, including updating credit scores, residential real estate values and loan-to-value ratios. Once you collect this data, the scrubbing and cleanup process can take months if not longer.

Choose the right model(s). FASB gives financial institutions room to select the analytical models that work best for their organizations. While many credit unions see this flexibility as a positive aspect of the standard, it does create challenges. While having the flexibility to choose your own model may be seen as a bonus by many, evidence suggests it may make it harder for credit unions that struggle with staffing or financing. Consider consulting auditors on your proposed approach to ensure that the method is appropriate.

Create a project plan. CFOs were advised to devise a detailed plan of action early. Involving the right personnel is another critical piece of the puzzle. Consider developing an internal credit analytics committee to act a cross-functional team of leaders from accounting, lending and collections that meets quarterly and looks at changes and trends in the loan portfolio. Some credit unions also have chosen to develop a data analytics division to assist with the management and analysis of the data.

Educate yourself and key stakeholders. Continuous education will help credit union executives stay on top of the latest guidance and best practices. Industry consultants and vendors may offer classes, webinars and online courses to help credit unions to stay up-to-date.

Concerns and challenges. The impact of CECL will depend on the complexity of your balance sheet, as well as the size of the credit union. The impact is harder for credit unions that originate mortgages, auto loans and business loans, but are not be able to afford the analytical power and the talent needed to run CECL.

Future impact. Some industry experts are concerned with the timing of the CECL rollout. For one thing, no one is sure what the economy will

Credit Union Compliance Help

Need a BSA, ACH, SAFE Act or website audit? GCUA has certified Compliance Specialists who can help. For scheduling and pricing information contact compliance@gcua.org.

Compliance Calendar

February 2019

February 18th
Presidents Day

Click here for upcom

Compliance Training

February 12, 2019
Teller Training Series: Risks & Precautions for Endorsements & Other Negotiable Instruments
3:00 pm - 4:30 pm ET

February 13, 2019
Board Reporting Series: Board Secretary Procedural & Compliance Responsibilities
3:00 pm - 4:30 pm ET

February 14, 2019
Prepaid Cards: Your Credit Union's Responsibilities Under the New Rules, Effective April 1, 2019
3:00 pm - 4:30 pm ET

February 19, 2019
Determining Cash Flow from Personal Tax Returns After 2018 Tax Reform Part 2: Schedules D, E & F
3:00 pm - 4:30 pm ET

hold in 2020. The economy is likely to slow right around the time credit unions are implementing CECL. If we are in the middle of or approaching a recession, CECL implementations will be more challenging. When considering this takes place nearly simultaneously with implementation of NCUA's new risk-based capital regulation, a downturn in the economy might cause compliance headaches for many credit unions.

The implementation date for NCUA's risk-based capital rule is Jan. 1, 2020. It is important for credit unions with lower levels of capital to analyze the potential impact of the new requirements and make necessary strategic adjustments to maintain well-capitalized levels.

Resources

Click here for NCUA Letter to CU's NO:16-CU-13
Click here for NCUA Letter to CU's NO: 17-CU-05
Click here for FAQs

Information Sharing
The USA PATRIOT Act, Section 314(b) permits financial institutions (after certain notice provided to the U.S. Department of Treasury), to share information with one another in an effort to identify and report to the federal government activities that may involve money laundering or terrorist activities.

Recently, several credit unions received fictitious "phishing" emails purported to be from another credit union, threatening to report the receiving credit union "for money laundering, under 314(b) of the USA Patriot Act." Additionally, there was an attachment that if opened could cause harm to credit union data. Some of the "red flags" contained in the email were:

- The email address does not reflect a credit union name - the domain name can contain a series of strange letters or a generic domain name.
- Second, the sender name and the name in the email address do not match.
- Third, there are several typos and misspellings in the email, including a "suspicions transfer."

Credit unions should visit the Information Sharing topic under the Bank Secrecy Act channel within InfoSight for more information.

February 20, 2019
Credit Analysis & Underwriting Series: Debt Service Coverage Calculations in Underwriting
3:00 pm - 4:30 pm ET

February 21, 2019
The New NIST Digital Identity Guidelines: Impact on Passwords, Security Questions & Account Lockouts
3:00 pm - 4:30 pm ET

February 25, 2019
Debit Card Chargebacks: Understanding Visa Claims Resolution
3:00 pm - 4:30 pm ET

February 27, 2019
ACH Specialist Series: ACH Dispute Resolution
3:00 pm - 4:30 pm ET

February 28, 2019
Flood Insurance Compliance Update & FAQs
3:00 pm - 4:30 pm ET

BSA Training Opportunities through GCUA
Click here for details

TRID Rule FAQs Posted by CFPB
The CFPB recently published several FAQs on the TRID rule. Below we examine three different questions the Bureau has answered regarding the timing of the Closing Disclosure requirement under the TRID rule:

- The first question asks if a creditor is required to ensure the consumer received a corrected CD at least three days before consummation when there is a change to the disclosed terms after the initial CD is provided. The answer here is "it depends." Most of the time, a creditor is not required to ensure that the consumer receives a corrected Closing Disclosure at least three business days before consummation but is required to ensure that the consumer receives a corrected Closing Disclosure at or before consummation. Only in three situations is a creditor required to ensure the consume receives the corrected disclosure at least three days in advance:
    1. If the change results in the APR becoming inaccurate;
    2. If the loan product information required to be disclosed under the rule becomes inaccurate, and
    3. If a prepayment penalty has been added to the loan.

  Any of the above three changes trigger a new three-business day waiting period.

- The second FAQ asks whether a creditor must ensure that a consumer receives a corrected CD at least three business days before consummation if the APR decreases (such as when the previously disclosed APR was overstated). The answer to this question depends on whether the previously disclosed APR is accurate or inaccurate according to the Reg Z definition. A disclosed APR is accurate under Regulation Z if the difference between the disclosed APR and the actual APR for the loan is within an applicable tolerance in Regulation Z, 12 CFR § 1026.22(a). For transactions secured by real property or a dwelling, Regulation Z includes several tolerances that might apply, including a tolerance whereby the disclosed APR is considered accurate if it results from the disclosed finance charge being overstated. See 12 CFR § 1026.22(a)(4). If the overstated APR is inaccurate under Regulation Z, the creditor must ensure that a consumer receives a corrected Closing Disclosure at least three business days before the loan's consummation.
- The last question is whether section 109(a) of S. 2155 affects the timing for consummating a transaction if a creditor is required to provide a corrected Closing Disclosure under the TRID rule. Section 109(a) of the 2018 Act, which is titled "No Wait for Lower Mortgage Rates," amends Section 129(b) of the Truth in Lending Act (TILA). TILA Section 129(b) governs when certain disclosures must be provided for high-cost mortgages and the waiting periods for consummating a transaction after the creditor has provided those high cost mortgage disclosures. The answer here is no, S.2155 did not change the timing for consummating transactions if the creditor is required to provide a corrected CD. Section 109(a) of the 2018 Act did not create an exception to the waiting period requirement under TILA Section 128, and thus does not affect the timing for consummating transactions after a creditor provides a corrected Closing Disclosure under the TRID Rule.

Your CU Should Know

NCUA Adjusts CMP Caps for Inflation
The NCUA Board has published a final rule at 84 FR 2052 amending its regulations at 12 CFR part 747 to adjust the maximum amount of each civil monetary penalty (CMP) within its jurisdiction to account for inflation. The rule is effective February 6, 2019.

NCUA Regs Update
The NCUA has published a final rule at 84 FR 1601 in the *Federal Register* to make technical amendments to various provisions of the NCUA's regulations to correct minor drafting errors and inaccurate legal citations and remove unnecessary regulatory provisions no longer applicable to federally insured credit unions (FICUs). Affected are 12 CFR parts 700 through 705 and 708. The amendments are effective immediately.

Asset Exemption Threshold for HPML Escrows Increased
The CFPB has published at 84 FR 1356 in the *Federal Register* an amendment to the official commentary that interprets the requirements of the Bureau's Regulation Z (Truth in Lending) to reflect a change in the asset-size threshold for certain creditors to qualify for an exemption to the requirement to establish an escrow account for a higher-priced mortgage loan. Creditors with assets of less than $2.167 billion (including assets of certain affiliates) as of December 31, 2018, are exempt, if other requirements of Regulation Z also are met, from establishing escrow accounts for higher-priced mortgage loans in 2019. The amendment is effective February 4, 2019. It is applicable on January 1, 2019, consistent with relevant statutory or regulatory provisions.

Bureau Updates Credit Bureau List
The Bureau has blogged to announce the 2019 edition of its list of consumer reporting companies and to provide information regarding who can see one's consumer reports, when to check a report, and resources to take action if needed.

Bureau Advice on Fixing Common Credit Report Errors
The CFPB has posted the results of an FTC study reporting one in five people has an error on his or her credit report and suggesting ways to discover and correct them, including how to dispute errors.

Compliance Q&As

Q: We have a member who is disputing a charge on her debit card. The charge is for merchandise that was in the name of and delivered to the address of a co-worker. She is saying she didn't authorize it and the co-worker is saying she didn't make the purchase. All card information, including CVV, was entered when the purchase was made, even though the address didn't match the cardholder's address. Can she dispute this? It appears that someone is trying to "beat the system."

A: Yes, she can dispute it. It will be up to the credit union to determine the validity of the claim. If the co-worker denies making the purchase, she should have no issue with immediately returning the merchandise.

Q: TCPA issues have led to some confusion about CAN-SPAM Act. What is CAN-SPAM and what should we be doing to make sure we comply?

A: The CAN-SPAM Act, a law that sets the rules for commercial email, establishes requirements for commercial messages, gives recipients the right to have you stop emailing them, and spells out tough penalties for violations. It covers all commercial messages, which the law defines as "any electronic mail message the primary purpose of which is the commercial advertisement or promotion of a commercial product or service," including email that promotes content on commercial websites. The law makes no

exception for business-to-business email.

Each separate email in violation of the CAN-SPAM Act is subject to penalties of up to $41,484, so non-compliance can be costly. But following the law isn't complicated.

CAN-SPAM's main requirements:

- Don't use false or misleading header information. Your "From," "To," "Reply-To" and routing information - including the originating domain name and email address - must be accurate and identify the person or business who initiated the message.
- Don't use deceptive subject lines. The subject line must accurately reflect the content of the message.
- Identify the message as an ad. The law allows some leeway in how to do this, but you must disclose clearly and conspicuously that your message is an advertisement.
- Tell recipients where you're located. Your message must include your valid physical postal address. This can be your current street address, a post office box you've registered with the U.S. Postal Service, or a private mailbox you've registered with a commercial mail receiving agency established under Postal Service regulations.
- Tell recipients how to opt out of receiving future email from you. Your message must include a clear and conspicuous explanation of how the recipient can opt out of getting email from you in the future. Craft the notice in a way that's easy for an ordinary person to recognize, read and understand. Creative use of type size, color and location can improve clarity. Give a return email address or another easy Internet-based way to allow people to communicate their choice to you. You may create a menu to allow a recipient to opt out of certain types of messages, but you must include the option to stop all commercial messages from you. Make sure your spam filter doesn't block these opt-out requests.
- Honor opt-out requests promptly. Any opt-out mechanism you offer must be able to process opt-out requests for at least 30 days after you send your message. You must honor a recipient's opt-out request within 10 business days. You can't charge a fee, require the recipient to give you any personally identifying information beyond an email address, or make the recipient take any step other than sending a reply email or visiting a single page on an Internet website as a condition for honoring an opt-out request. Once people have told you they don't want to receive more messages from you, you can't sell or transfer their email addresses, even in the form of a mailing list. The only exception is that you may transfer the addresses to a company you've hired to help you comply with the CAN-SPAM Act.
- Monitor what others are doing on your behalf. The law makes clear that even if you hire another company to handle your email marketing, you can't contract away your legal responsibility to comply with the law. Both the company whose product is promoted in the message and the company that actually sends the message may be held legally responsible.

Q. Does the MIP rule prohibit a minor from opening an account?

A. No, the MIP rule does not bar a minor from opening an account. It merely states that the credit union's "member" is the individual who opens the account for an individual who lacks legal capacity, such as a minor. In other words, if a parent opens an account for a minor, the credit union's member is the parent. If, however, a minor opens the account, then the minor is the credit union's member. For example, where a credit union sends its employees to middle and high schools so that students may open savings accounts as

part of a program to promote financial literacy, a student opening an account is the member. In this situation, as for all members, the credit union should get the name, address, date of birth and taxpayer identification number of the student. Since verification procedures are risk-based, you can use any reasonable documentary or non-documentary method to verify a student's identity.

Pending Regulatory Comment Calls

For more information regarding these proposals, please follow the links below:

Issues	Comment Period Deadline	Agency	CUNA Staff Contact
Policy on No-Action Letters and the BCFP Product Sandbox	Feb. 11, 2019	CFPB	Alexander Monterrubio
Validation and Approval of Credit Score Models	Mar. 21, 2019	CFPB	Mitria Wilson
Consumer Credit Card Market	May 1, 2019	CFPB	Alexander Monterrubio

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The CUNA Advocacy Update keeps you on top of the most important changes in Washington for credit unions - and what CUNA is doing to monitor, analyze, and influence government agencies and federal law. You can view the current report and past reports from the archive.

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