

LET'S TACKLE
COMPLIANCE
TOGETHER

InfoSight



A FREE Resource for
Affiliated Credit Unions

Business Continuity means asking "What if?"
questions and creating plans to address them.



Like, What if your member data becomes compromised?
Are you prepared? **RecoveryPro** can help!



CORNERSTONE

Navigating the Compliance Landscape

Hot Topics for Credit Unions!

Glory LeDu

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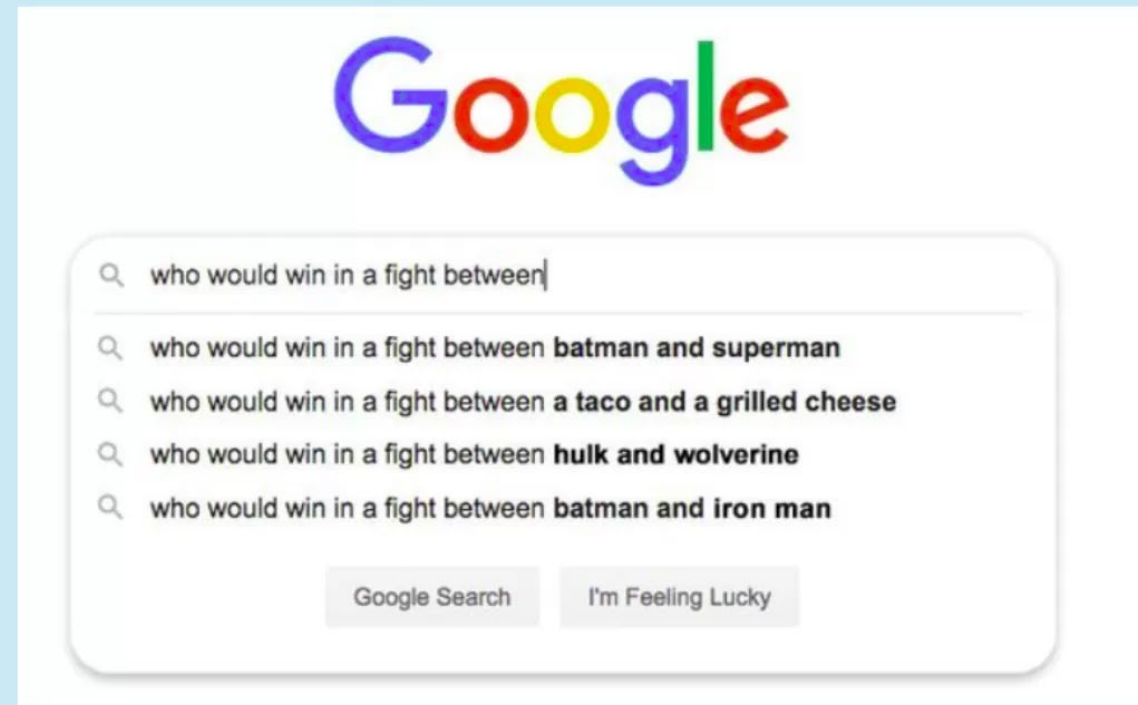
CU RISK
INTELLIGENCE

LeagueInfoSight

Agenda

- **Annual Updates**
- **Final Rules**
 - FinCEN – Reporting Rule
 - FinCEN – Access Rule
 - CFPB – Adverse Action Notice (Address Update)
 - CFPB – Credit Card Penalty Fees
 - CFPB Small Business Lending Final Rule
 - NCUA - Charitable Donation Accounts
 - FCC - TCPA
- **Guidance/Interpretations**
 - Reconsiderations of Value
 - Valuation Discrimination and Bias
 - Immigration Status
 - CFPB Circulars
 - CFPB Blog
 - CFPB Advisory Opinions
- **Hot topics – Proposed Rules**
 - Personal Financial Data Rights
 - Overdraft Rules
 - NSF Fees
- **Tools and Resources**

Google is good for some things....



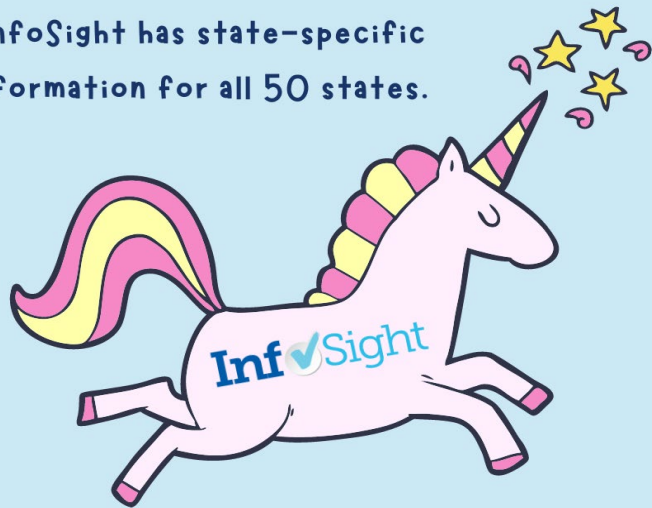
But for the best help in finding up-to-date model policies and auditing tools developed *especially* for credit unions, the winner is undoubtedly,

CUPolicyPro ✓

FINDING A UNICORN IS PRETTY RARE.

SO IS FINDING STATE-SPECIFIC
COMPLIANCE CONTENT.

InfoSight has state-specific
information for all 50 states.



Annual Updates!

Annual Updates

Effective on January 1, 2024

CFPB – High-Cost Mortgage Points and Fees

- A transaction is high-cost if its points and fees exceed:
 - 5% of the total loan amount for a loan greater than or equal to **\$26,092**.
 - 8% of the total loan amount or **\$1,305** (whichever is less) for a loan amount less than **\$26,092**.
- What is included in points and fees calculation?
 - Closed-end – same as for QM/ATR rule.
 - Open-end – same as closed-end, but also include participation fees, and fees you may charge for draws (assuming at least 1 draw).

Annual Updates

Effective on January 1, 2024

CFPB – Higher-Priced Mortgage Loan (HPML) Appraisal

- Higher-Priced Mortgage Loan (HPML) – **Appraisal Exemption**
- Certain HPMLs are not covered under the rule, including loans that are less than **\$32,400** (indexed for inflation each year).
- Requirements include:
 - Disclose within 3 days after receiving an application that the applicant is entitled to a free copy of any appraisal the credit union orders and can also hire their own appraiser at their own expense, for their own use.
 - Written appraisal on the property performed by a certified or licensed appraiser.
 - Interior inspection of the property included in the written report.
 - The appraisal must be provided to the applicants no later than 3 business days before consummation.

Annual Updates

Effective on January 1, 2024

CFPB – Higher-Priced Mortgage Loan (HPML) Escrow

- Higher-Priced Mortgage Loan (HPML) – **Escrow Exemption**:
 - Asset Size threshold: Adjusted to **\$2.640 billion** from \$2.537 billion.
- The credit union also has to meet these criteria to qualify for the exemption:
 - Originate at least one covered transaction in the preceding calendar year secured by a first lien on a property located in a rural or underserved area;
 - Cannot originate more than 2,000 first-lien covered transactions during the preceding calendar year (with affiliates).
 - The credit union cannot maintain escrow accounts for loans serviced (few exceptions).

CFPB – QM Points and Fees

Effective January 1, 2024

- For a loan to be a QM, the points and fees cannot exceed:

Loan Amount	Points and Fees Limit
\$130,461 or more	3%
\$78,277 – \$130,461	\$3,914
\$26,092 - \$78,277	5%
\$16,308 - \$26,092	\$1,305
Less than \$16,308	8%

CFPB – General QM

Effective January 1, 2024

General Qualified Mortgage Criteria (not for small creditors)

- Loan's APR can't exceed the Average Prime Offer Rate (APOR) for a comparable transaction as of the date by which the interest rate is set:
 - 2.25% or more for a first-lien loan with an amount greater than or equal to **\$130,461**;
 - 3.5% or more for a first-lien loan with an amount equal to **\$78,277** but less than **\$130,461**;
 - 6.5% or more for a first-lien loan with an amount less than **\$78,277**;
 - 6.5% or more for a first-lien loan secured by a manufactured home with a loan amount less than **\$130,461**;
 - 3.5% or more for a subordinate-lien loan with an amount greater than or equal to **\$78,277**;
 - or
 - 6.5% or more for a subordinate-lien loan with an amount less than **\$78,277**.
- Points and fees cap also applies!

CFPB – Small Creditor QM

Effective January 1, 2024

- **Asset Size threshold:** Adjusted to **\$2.640 billion** from \$2.537 billion.
- The credit union qualifies as a small creditor if:
 - The credit union and its affiliates had assets below **\$2.640 billion** at the end of the last calendar year; and
 - The credit union extended no more than 2,000 closed-end covered residential mortgage transactions secured by first-lien that were sold, assigned or otherwise transferred to another person (non-portfolio loans). *Not counting in-portfolio loans.*
- **Small Creditors have two additional qualified mortgage (QM) options including: Balloon-payment QMs and Small Creditor Portfolio QMs**

CFPB – HMDA

Effective January 1, 2024 to determine HMDA reporting/data collection for 2023

“**Financial Institution**” means a depository financial institution where:

- On the preceding December 31st, had assets in excess of **the threshold established and published annually (\$56 million for 2024)**, had a home or branch office in a metropolitan statistical area (MSA), originated at least one home purchase loan (excluding temporary refinancing such as a construction loan) or refinancing of a home purchase loan, secured by a first lien on a one-to-four-family dwelling in the preceding calendar year;
- Is federally insured or regulated (or sold a loan on the secondary market); AND
- *In each of the two preceding years, originated at least **25** closed-end mortgage loans that are not otherwise excluded OR originated at least **200** open-end lines of credit (secured by a lien on a dwelling) that are not otherwise excluded.*

IRS – HSA Limits

Effective January 1, 2024

- Annual change in contribution limits to **health savings accounts (HSAs)** for individuals and families.
- Contributions must be **no more than**:
 - **\$4,150** for an individual plan; and
 - **\$8,300** for a family plan.

Members over the age of 55 can make an additional “catch-up” contribution of \$1,000.

Resources: 1--CU PolicyPro System Resources/Content-Update-Archives/84--January-2024

Back to "1--CU PolicyPro System Resources/Content-Update-Archives"

- [January 2024 Overview.docx](#)
- [2110 BSA AML Program \(REDLINED\).docx](#)
- [Beneficial Ownership Information Procedures \(NEW\).docx](#)
- [2145 OFAC \(REDLINED\).docx](#)
- [2210.14 Health Savings Accounts \(REDLINED\).docx](#)
- [2400 Funds Availability \(REDLINED\).docx](#)
- [6300 Charitable Donation Accounts \(REDLINED\).docx](#)
- [7120 Fair Lending \(REDLINED\).docx](#)
- [7302 Real Estate Appraisals \(REDLINED\).docx](#)
- [Reconsideration of Value Procedure \(NEW\).docx](#)
- [7330 Residential Real Estate Loans \(REDLINED\).docx](#)
- [7350 Ability to Repay \(REDLINED\).docx](#)
- [7351 Small Creditor Ability to Repay \(REDLINED\).docx](#)
- [7370 HOEPA Rule \(REDLINED\).docx](#)
- [9200 Regulation C Home Mortgage Disclosure Act \(REDLINED\).docx](#)
- [9220 Home Ownership and Equity Protection Act \(REDLINED\).docx](#)
- [9420 Regulation D Monetary Control Act \(REDLINED\).docx](#)
- [10010 Security Records \(REDLINED\).docx](#)



Viewing CU PolicyPro Model Policy: "Ability to Repay" (Policy 7350)

Print

Return to Model Policy List

Switch to Admin View

Policy 7350: Ability to Repay

Revised Date: 1/3/2024

Model Policy Revised Date: 01/03/2024

[Note: CU PolicyPro contains two "Ability to Repay" Policies - Policy 7350, Ability to Repay and Policy 7351, Small Creditor Ability to Repay. The credit union should use only one of these policies, based on whether the credit union meets the Sm

General Policy Statement:

[[CUname]] (Credit Union) will comply with the Ability Protection Act. The Ability to Repay Rule requires the repay the loan, considering such factors as the mem ability to repay test or by making one or more types

1. COVERED TRANSACTIONS.

2024 Compliance Calendar

- January 1st, 2024: **CFPB, FRB, IRS - Annual Thresholds**
- January 1st, 2024: **FinCEN - Beneficial Ownership Information Reporting**
- January 1st, 2024: New Years Day
- January 15th, 2024: Birthday of Martin Luther King, Jr. - Federal Holiday
- February 20th, 2024: **FinCEN - Beneficial Ownership Information Access and Safeguards**
- May 27th, 2024: Memorial Day - Federal Holiday
- June 19th, 2024: Juneteenth National Independence Day - Federal Holiday
- July 4th, 2024: Independence Day - Federal Holiday
- September 2nd, 2024: Labor Day - Federal Holiday
- October 1st, 2024: **CFPB - Small Business Lending - ECOA**
- November 28th, 2024 - November 29th, 2024: Thanksgiving Day - Federal Holiday
- December 25th, 2024: Christmas Day - Federal Holiday

Model Policy Updates

• 2024-1 (January 2024)

Ability to Repay – January 2024 Redlined Version

This policy was revised to comply with the annual changes made to the **points and fee thresholds** to determine Price Index. These changes become effective on January 1, 2024. Changes were also made to reflect the price-ba 2024. **(Required)**

• 2022-4 (December 2022)

Ability to Repay – December 2022 Redlined Version

This policy was revised to comply with the annual changes made to the **points and fee thresholds** to determine Price Index. These changes become effective on January 1, 2023. Changes were also made to reflect the price-ba 2023. In addition, the temporary qualified mortgage option (or GSE patch) was also removed, that option expire



FinCEN – Reporting Rule

FinCEN – Reporting Rule

FinCEN – Beneficial Ownership Information Reporting Requirements

- **Effective Date: January 1, 2024**
- FinCEN’s “Reporting Rule” requires **certain companies to report beneficial ownership information to FinCEN** within a certain period of time.
- Reporting companies are generally **corporations, LLCs or companies created in the US by filing a document with a secretary of state or any similar office under the law of a state or Indian tribe**; or a foreign company and was registered to do business in any U.S. state or Indian tribe by such a filing.
- Reporting companies will **report beneficial ownership information electronically to FinCEN** through their website: www.fincen.gov/boi
- Companies created or registered prior to January 1, 2024, will have until **January 1, 2025** to report BOI.
- Companies created or registered **on or after January 1, 2024 and before January 1, 2025**, must report BOI within **90 calendar days** after receiving actual or public notice that the company’s creation or registration is effective, whichever is earlier.
- Companies created or registered on or **after January 1, 2025** will have **30 calendar days** from actual or public notice that its creation or registration is effective to file its BOI report.

FinCEN – Reporting Rule

- **Reporting company information to be reported:** full legal name, trade name or DBA, complete current address, State, and IRS TIN (including employer identification number – EIN).
- Reporting companies must report the **beneficial owners of the legal entity** (exercises substantial control OR owns or controls at least 25% of the ownership interests). **Including:** full legal name, date of birth, complete current address, unique identifying number, issuing jurisdiction, image, one of the following non-expired documents:
 - US passport
 - State driver’s license
 - Identification document issued by a state, local government, or tribe
 - Foreign passport (if an individual does not have any of the previous documents)



FinCEN – Reporting Rule

- A **FinCEN identifier** is a unique identifying number that FinCEN will issue to an individual or reporting company upon request after certain information is provided to FinCEN.
- Although not required, the **FinCEN identifier can be used in lieu of providing certain information in BOI reports.**
- This can be requested by reporting companies when it submits a BOI report by checking a box on the reporting form.
- Reporting companies are required to report changes to an information reported by filing an updated BOI report no later **than 30 days after the date on which the change occurred.**

Resources

Beneficial Ownership Information Reporting

Frequently Asked Questions

FinCEN has prepared the following Frequently Asked Questions (FAQs) in response to inquiries received relating to the Beneficial Ownership Information Reporting Rule.

These FAQs are explanatory only and do not supplement or modify any obligations imposed by statute or regulation. Please refer to the Beneficial Ownership Information Reporting Rule, available at www.fincen.gov/boi, for details on specific provisions. FinCEN expects to publish additional guidance in the future. Questions may be submitted on FinCEN's Contact web page.

PDF versions of the FAQs in English and other languages are available [here](#).

A. General Questions

- A. 1. What is beneficial ownership information?
- A. 2. Why do companies have to report beneficial ownership information to the U.S. Department of the Treasury?
- A. 3. Under the Corporate Transparency Act, who can access beneficial ownership information?
- A. 4. How will companies become aware of the BOI reporting requirements?

B. Reporting Process

- B. 1. Should my company report beneficial ownership information now?
- B. 2. When do I need to report my company's beneficial ownership information to FinCEN?
- B. 3. When will FinCEN accept beneficial ownership information reports?
- B. 4. Will there be a fee for submitting a beneficial ownership information report to FinCEN?
- B. 5. How will I report my company's beneficial ownership information?
- B. 6. Where can I find the form to report?
- B. 7. Is a reporting company required to use an attorney or a certified public accountant (CPA) to submit beneficial ownership information to FinCEN?
- B. 8. Who can file a BOI report on behalf of a reporting company, and what information will be collected on filers?

C. Reporting Company

- C. 1. What companies will be required to report beneficial ownership information to FinCEN?
- C. 2. Are some companies exempt from the reporting requirement?
- C. 3. Are certain corporate entities, such as statutory trusts, business trusts, or foundations, reporting companies?



BENEFICIAL OWNERSHIP INFORMATION

Small Business Resources



Small Entity Compliance Guide



Frequently Asked Questions



Quick Reference



Short Introductory Video



Need More Information? Chat With Us Here.



Stayed Informed. Subscribe to FinCEN Updates.

U.S. Beneficial Ownership Information Registry Now Accepting Reports

Immediate Release: January 01, 2024

Existing Companies Have One Year to File; New Companies Must File Within 90 Days of Creation or Registration

WASHINGTON — Today, the U.S. Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) began accepting beneficial ownership information reports. The bipartisan Corporate Transparency Act, enacted in 2021 to curb illicit finance, requires many companies doing business in the United States to report information about the individuals who ultimately own or control them.

Filing is simple, secure, and free of charge. Companies that are required to comply ("reporting companies") must file their initial reports by the following deadlines:

- **Existing companies:** Reporting companies created or registered to do business in the United States before January 1, 2024 must file by January 1, 2025.
- **Newly created or registered companies:** Reporting companies created or registered to do business in the United States in 2024 have 90 calendar days to file after receiving actual or public notice that their company's creation or registration is effective.

Beneficial ownership information reporting is not an annual requirement. A report only needs to be submitted once, unless the filer needs to update or correct information. Generally, reporting companies must provide four pieces of information about each beneficial owner:

- name;
- date of birth;
- address; and
- the identifying number and issuer from either a non-expired U.S. driver's license, a non-expired U.S. passport, or a non-expired identification document issued by a State (including a U.S. territory or possession), local government, or Indian tribe. If none of those documents exist, a non-expired foreign passport can be used. An image of the document must also be submitted.

The company must also submit certain information about itself, such as its name(s) and address. In addition, reporting companies created on or after January 1, 2024, are required to submit information about the individuals who formed the company ("company applicants").

FinCEN is committed to providing America's small businesses with the resources and information they need to make filing as quick and easy as possible. FinCEN's Small Entity Compliance Guide walks small businesses through the requirements in plain language. Filers can also view informational videos and webinars, find answers to frequently asked questions, connect to the contact center, and learn more about how to report at www.fincen.gov/boi.



FinCEN – Access Rule

FinCEN – Access Rule

FinCEN – Beneficial Ownership Information Access and Safeguards

- **Effective Date: February 20, 2024**
- FinCEN’s “**Access Rule**” allows the disclosure of information to a financial institution who is subject to customer due diligence requirements.
- **FinCEN may disclose the information for that use, provided that the reporting company that reported information consents to such disclosure.**
- Any person who receives this information shall not further disclose such information and **shall use the information only for the particular purpose or activity for which the information was disclosed.**
- Any director, officer, employee, contractor, or agent of a financial institution who receives information disclosed by FinCEN may disclose to another director, officer, employee, contractor, or agent of the same financial institution **if for the same purpose or activity for the initial request.**
- The Credit Union can also disclose information to their Federal functional regulator, provided they are authorized to supervise, using information purely for supervision purposes and have entered into an agreement with FinCEN for information safekeeping.

FinCEN – Access Rule

Security and Confidentiality Requirements

- **Geographic restrictions** – the Credit Union **shall not make information to persons physically located in any of the following jurisdictions:** The People’s Republic of China, Russian Federation, or a jurisdiction that is:
 - State sponsor of terrorism determined by US. Department of State;
 - Subject of a comprehensive financial and economic sanctions imposed by the Federal Government; or
 - To which the secretary has determined that allowing information would undermine the enforcement of requirements of Gramm-Leach-Bliley or national security of the US.
- The Credit Union will **develop and implement administrative, technical, and physical safeguards to protect the security, confidentiality, and integrity of information.**



FinCEN – Access Rule

Consent from Reporting Company

- The Credit Union **will obtain affirmative consent** from the legal entity member/client (“reporting company”) before accessing any information from FinCEN’s BOI database. Consent can be electronic.

Recordkeeping

- **Documentation of the reporting company’s consent** for accessing their information from the BOI database will be maintained for **5 years after it is last relied upon** in connection with the request for information by the Credit Union.

FinCEN – Access Rule

Privacy of Confidential Information

- The Credit Union will treat BOI information as confidential and **will protect the information** consistent with Policy 1615 – Privacy and Confidential Information, as required by Gramm-Leach-Bliley and implementing Regulation P.
 - The Credit Union will use the information **only for the particular purpose or activity for which the information was disclosed.**
 - Any director, officer, employee, contractor, or agent of a financial institution who receives information disclosed by FinCEN within the BOI database **may disclose to another director, officer, employee, contractor, or agent of the same financial institution** if for the **same purpose or activity for the initial request.**
- The Credit Union can also disclose information to their **Federal functional regulator**, provided they are authorized to supervise, using information purely for supervision purposes and have entered into an agreement with FinCEN for information safekeeping.

FinCEN – Access Rule

Certification

- For each request for information from the BOI database, the Credit Union **will make a certification to FinCEN** in a form and manner dictated by FinCEN, that the Credit Union is:
 - Requesting information to **facilitate compliance with customer/member due diligence requirements;**
 - Obtaining and documenting the **consent of the reporting company** to request the information from FinCEN; and
 - **Fulfilling all other requirements** for information procedures, reporting, and recordkeeping.

FinCEN – Access Rule

Access Rule and CDD Rule?

- What about the Customer Due Diligence Rule from 2016?
 - Credit unions are required to collect information from their legal entity members to identify and verify beneficial owners.
 - Appendix A to 1010.230 (Certification Regarding Beneficial Owners of Legal Entity Customers)
- **Credit unions will still need to comply with the CDD rule and collect beneficial ownership information on their legal entity members as they do now.**
- FinCEN is required to revise the 2016 CDD rule **within a year of the effective date of the final Reporting Rule.** This will be the third and final rule as part of the Corporate Transparency Act.

2110.20: Beneficial Ownership Information Access

Revised Date: 1/3/2024

Model Content Published Date: 01/03/2024

As part of the Corporate Transparency Act, FinCEN prescribed rules that establish the framework for the Credit Union's access to an protection of beneficial ownership information (BOI) from the FinCEN created database ("BOI database").

FinCEN allows access to financial institutions who are subject to customer/member due diligence requirements. In order to access the information, the Credit Union will develop and implement administrative, technical, and physical safeguards to protect the security, confidentiality, and integrity of information accessed.

The Credit Union acknowledges that FinCEN may permanently debar or temporarily suspend (for any period of time) any individual requester or requesting entity from receiving or accessing information if there is a failure to meet the requirements of the rule, requests are made for unlawful purposes, or other cause exists.

- 1. Consent from Reporting Company.** The Credit Union will obtain affirmative consent from the legal entity member/client ("reporting company") before accessing any information from FinCEN's BOI database. Consent can be electronic.
- 2. Recordkeeping.** Documentation of the reporting company's consent for accessing their information from the BOI database will be maintained for 5 years after it is last relied upon in connection with the request for information by the Credit Union.
- 3. Privacy of Confidential Information.** The Credit Union will treat BOI information as confidential required by Gramm-Leach-Bliley and implementing Regulation P.
 - a. The Credit Union will use the information only for the particular purpose or activity for which it was provided.
 - b. Any director, officer, employee, contractor, or agent of a financial institution who receives information from the BOI database will not disclose that information to any other person, contractor, or agent of the same financial institution if for the same purpose or activity.
 - c. The Credit Union can also disclose information to their Federal functional regulator, provided that the Credit Union has entered into an agreement with FinCEN for information safekeeping.
- 4. Certification.** For each request for information from the BOI database, the Credit Union will require the requester to certify:
 - a. Requesting information to facilitate compliance with customer/member due diligence requirements.
 - b. Has obtained and documented the consent of the reporting company to request the information.
 - c. Has fulfilled all other requirements for information procedures, reporting and recordkeeping.

Policy 2110: Bank Secrecy Act/Anti-Money Laundering Program

Revised Date: 1/3/2024

Model Policy Revised Date: 01/03/2024

General Policy Statement:

[[CUName]]'s (Credit Union) comprehensive Bank Secrecy Act (BSA) / Anti-Money Laundering (AML) Program will include internal policies, procedures, and controls designed to comply with the USA PATRIOT Act of 2001 (PATRIOT Act), the BSA, the Currency and Foreign Transactions Reporting Act, OFAC rules, the Anti-Money Laundering Act of 2020, and all related laws and regulations in order to combat money laundering, terrorist financing, tax evasion and other financial crimes.

Definitions:

- 1. Money Laundering.** Money laundering is the criminal practice of processing "dirty" money through a series of transactions in order to "clean" the funds so that they appear to be proceeds from legal activities. It may not involve currency (cash) at every stage of the laundering process, and generally involves three independent steps (that can occur at the same time):
 - A. Placement:** Structuring currency deposits in amounts to evade reporting requirements, or commingling currency deposits of legal and illegal activities. Examples:
 - i. Large number of deposits below the reporting threshold.
 - ii. Depositing a refund check from a canceled vacation package or insurance policy.
 - iii. Buying a series of monetary instruments that are collected and deposited at another location.



CFPB – Technical Corrections - Adverse Action Notices and FCRA Summary of Consumer Rights

CFPB – Technical Corrections

CFPB – Technical Corrections to Adverse Action Notices and FCRA Summary of Consumer Rights

- **Effective Date: Compliance Mandatory on March 20, 2024**
- Corrections to Federal agency contact information within multiple Regulations. **Credit union deliverables impacted:**
- **Regulation B – Appendix A (Adverse Action notices):**
 - **Credit unions over \$10 billion:** Bureau of Consumer Financial Protection, 1700 G Street NW, Washington, DC 20552
 - **Federal credit unions (under \$10 billion):** National Credit Union Administration, Office of Consumer Financial Protection (OCFP), 1775 Duke St., Alexandria, VA 22314
 - **State-chartered credit unions (under \$10 billion):** Federal Trade Commission, Consumer Response Center, 600 Pennsylvania Avenue NW, Washington, DC 20580
- **Regulation V – Appendix K (Summary of Consumer Rights)** to be provided when the credit union uses a credit report for **employment purposes** and before providing any adverse action based on the report.



CFPB - Credit Card Penalty Fees

CFPB – Credit Card Penalty Fees

CFPB – Credit Card Penalty Fees (Regulation Z)

- **Effective Date: May 14, 2024**
- Applies to card issuers that have **one million or more** open credit card accounts (“**Larger Card Issuers**”).
- Adopts a **late fee safe harbor threshold of \$8** (annual adjustments related to the Consumer Price Index do not apply), for subsequent violations as well.
 - Regulation Z (1026.52(b)) previously set forth a safe harbor fee of \$30 generally for penalty fees, with a safe harbor of \$41 for each subsequent violation of the same type.
 - Revisions to safe harbor threshold amounts for Large Card Issuers will apply to penalty fees, except late fees!
- For “**Smaller Card Issuers**” the final rule revises the safe harbor threshold amounts to **\$32** and **\$43** for subsequent violations of the same type that occurs during the same billing cycle or in one of the next six billing cycles. These safe harbor fee thresholds also apply to late fees for Smaller Card Issuers.



What if your member data becomes compromised? **RecoveryPro** ✓ can help you plan for that.



CFPB - Small Business Lending Rule

CFPB – Small Business Lending Rule

[CFPB Small Business Lending Rule](#)

- **Effective Date: Currently - ON HOLD**

What is the Small Business Lending Rule:

The Equal Credit Opportunity Act (ECOA) was amended to require that financial institutions compile and report data regarding certain business credit applications to the Consumer Financial Protection Bureau (CFPB) and to meet other requirements.

The small business lending rule requires covered financial institutions to collect and report to the CFPB data on applications for credit for small businesses. The final rule also addresses the CFPB's approach to privacy interests and the publication of data.

Purpose: Facilitate the enforcement of fair lending laws and enable the identification of business and community development needs and opportunities by increasing transparency in the lending marketplace.



CFPB – Small Business Lending Rule

- **Who is covered?** A financial institution is a **covered financial institution** for a calendar year if it satisfies the **origination threshold** in each of the two immediately preceding calendar years.
- **What is the origination threshold?** A financial institution satisfies the **origination threshold** if it originated 100 or more **covered credit transactions** to **small businesses** in each of the two immediately preceding calendar years.
- **What is considered a small business?** A **small business** is one that had **gross annual revenue of \$5 million or less** in the preceding fiscal year. A small business must be a for-profit business, but it can take various forms; with a place of business located in the United States, and which operates primarily within the U.S., or which makes a significant contribution to the U.S. economy through payment of taxes or use of American products, materials, or labor.

Compliance Effective Date

Origination threshold for the compliance effective date	Date that a covered financial institution begins collecting data and otherwise complying with the final rule	Deadline for a covered financial institution to report first year of data to the CFPB
At least 2,500 covered originations in both 2022 and 2023	October 1, 2024	June 1, 2025
At least 500 covered originations in both 2022 and 2023 but not 2,500 or more covered originations in both 2022 and 2023	April 1, 2025	June 1, 2026
At least 100 covered originations in both 2022 and 2023 but not 500 or more covered originations in both 2022 and 2023	January 1, 2026	June 1, 2027

Additionally, even if the credit union originated fewer than 100 covered originations in 2022 or 2023, if it originates at least 100 covered originations in 2024 and 2025, it must collect data and otherwise comply with the final rule beginning January 1, 2026.

CFPB – Small Business Lending Rule

How to determine if you satisfy the origination threshold and the applicable compliance effective date:

Count **the covered credit transactions** that were originated to a small business in each of the two immediately preceding calendar years.

- If the credit union **was collecting** relevant information related to gross annual revenue on business credit, they can count the actual number of covered transactions in 2022 and 2023.
- If the credit union **wasn't collecting** that data, they can use any reasonable method to estimate covered originations (for either or both years), including:
 - Asking applicants of an approved credit transaction (prior to close) from October 1, 2023 – December 31, 2023, to self-report if it had gross annual revenue for its preceding fiscal year of \$5 million or less and then annualize the number of covered credit transactions originated for both calendar years 2022 and 2023;
 - Assume every covered credit transaction originated for business members in calendar years 2022 and 2023 is a small business; or
 - Use another method provided that such methodology is reasonable and documented in writing.
- **Small Business** if gross annual revenue for its preceding fiscal year is **\$5 million or less**.



CFPB – Small Business Lending Rule

- **Data points to be collected and reported:**

- Unique Identifier
- Application Date
- Application Method
- Application Recipient
- Credit Type
- Credit Purpose
- Amount applied for
- Amount approved or originated
- Action taken
- Action taken date
- Denial reasons
- Pricing information
- Census tract
- Gross annual revenue
- NAICS code
- Number of workers
- Time in Business
- Minority-owned business status, women-owned business status, and LGBTQI+-owned business status
- Principal owners' ethnicity, race, and sex
- Number of principal owners



CFPB – Small Business Lending Rule

- HMDA reportable transactions are not required to be reported again under this rule.
- Loan officers will not be required to make their own determination of an applicant's race, ethnic, or any other demographic information as was originally proposed. They can rely on the information provided by those small businesses. **Procedures are required.**
- **“Covered credit transactions”** include loans, lines of credit, credit cards, refinancings, and credit products used for agricultural, business, and commercial purposes.
- **Firewall requirements!** Final rule prohibits certain employees from accessing certain demographic information obtain from small business applicants if they are involved in making any determination concerning a reportable application.
- Small Business Lending Data Notice **posting** is required on the availability of data.
- **Record Retention Requirements.**
- **Annual reporting** to the CFPB.

CFPB – Small Business Lending Rule

- Website Disclosure:

Small Business Lending Data Notice

Data about our small business lending are available online for review at the Consumer Financial Protection Bureau's (CFPB's) website at <https://www.consumerfinance.gov/data-research/small-business-lending/>. The data show the geographic distribution of our small business lending applications; information about our loan approvals and denials; and demographic information about the principal owners of our small business applicants. The CFPB may delete or modify portions of our data prior to posting it if doing so would advance a privacy interest. Small business lending data for many other financial institutions are also available at this website.

CFPB – Small Business Lending Rule

Sample data collection form

Federal law requires that we request the following information to help ensure that all small businesses applying for loans and other kinds of credit are treated fairly and that communities' small business credit needs are met.

One or more employees or officers involved in making a determination concerning your application may have access to the information provided on this form. However, **FEDERAL LAW PROHIBITS DISCRIMINATION** on the basis of your answers on this form. Additionally, we cannot discriminate on the basis of whether you provide this information.

While you are not required to provide this information, we encourage you to do so. Importantly, our staff are not permitted to discourage you in any way from responding to these questions. **Filling out this form will help to ensure that ALL small business owners are treated fairly.**

Business ownership status

Please indicate the business ownership status of your small business. For the purposes of this form, your business is a minority-owned, women-owned, or LGBTQI+-owned business if one or more minorities,* women, or LGBTQI+ individuals (i) directly or indirectly own or control more than 50 percent of the business AND (ii) receive more than 50 percent of the net profits/losses of the business.

What is your business ownership status?

(Check one or more of the options below)

- Minority-owned business**
- Women-owned business**
- LGBTQI+-owned business**
- or –
- None of these apply**

Number of principal owners

For purposes of this form, a principal owner is any individual who owns 25 percent or more of the equity interest of a business. A business might not have any principal owners if, for example, it is not directly owned by any individuals (i.e., if it is owned by another entity or entities) or if no individual directly owns at least 25 percent of the business.

How many principal owners does your business have? (Check one)

- 0**
- 1**
- 2**
- 3**
- 4**

Demographic information about principal owners

As a reminder, applicants are not required to provide this information but are encouraged to do so. We cannot discriminate on the basis of any person's ethnicity, race, or sex/gender. Additionally, we cannot discriminate on the basis of whether you provide this information.

Please fill out one sheet for each principal owner.

1 Are you Hispanic or Latino?
i.e., What's your ethnicity? (Check one or more)

- Hispanic or Latino**
 - Cuban
 - Mexican
 - Puerto Rican
 - Other Hispanic or Latino *(Please specify your origin, for example, Argentinean, Colombian, Dominican, Nicaraguan, Salvadoran, Spaniard, and so on):*

Not Hispanic or Latino
– or –

I do not wish to provide my ethnicity

2 What is your sex/gender?
(Please specify):

– or –

I do not wish to provide my sex/gender

3 What is your race?
(Check one or more)

American Indian or Alaska Native *(Please specify the name of your enrolled or principal tribe):*

Asian

- Asian Indian
- Chinese
- Filipino
- Japanese
- Korean
- Vietnamese
- Other Asian *(Please specify your race, for example, Cambodian, Hmong, Laotian, Pakistani, Thai, and so on):*

Black or African American

- African American
- Ethiopian
- Haitian
- Jamaican
- Nigerian
- Somali
- Other Black or African American *(Please specify your race, for example, Barbadian, Ghanaian, South African, and so on):*

Native Hawaiian or Other Pacific Islander

- Guamanian or Chamorro
- Native Hawaiian
- Samoan
- Other Pacific Islander *(Please specify your race, for example, Fijian, Tongan, and so on):*

Resources

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Compliance Videos

Stay on top of federal regulatory changes with our quick video overviews!

The quarterly videos provide information on:

- Deposit Account Updates
- Lending Updates
- Credit Union Operation Updates
- Resources available in InfoSight and from other sources to help you keep in compliance with these changes and updates!

2023 Q2 Compliance Update

Disclaimer

- Information provided in this presentation, including all materials, should not be construed as legal services, legal advice, or in any way establishing an attorney-client relationship. Credit unions should contact their own legal counsel for advice. Information may have changed since this presentation was prepared. This information is intended to only be a summary and is not all inclusive.

Resources

- [Small business lending collection and reporting requirements](#)
- [Interactive Bureau Regulations: 12 CFR Part 1002 - Equal Credit Opportunity Act \(Regulation B\)](#)
- [Small Business Lending Rule FAQs](#)
- [Executive summary of the small business lending rule](#)
- [Small Business Lending Rule: Compliance Date Info Sheet](#)
- [Small Business Lending Rule: Data Points Chart](#)
- [Small business lending rulemaking](#)
- [Small business lending resources](#)
- [Filing instructions guide for small business lending data collected in 2024](#)
- [Small Business Lending Database](#)
- [Small Business Lending Data Updates](#)
- [Determining institutional coverage pursuant to the small business lending rule](#)
- [Small Business Lending Rule Sample Form](#)
- [Small Business Lending Rule: Small Entity Compliance Guide](#)



NCUA – Charitable Donation Accounts

Charitable Donation Accounts

Charitable Donation Accounts

Effective Date: December 19, 2013

- **Qualified charity** – charitable organization or other non-profit entity recognized as exempt from taxation under section 501(c)(3) of the Internal Revenue Code.
 - New definition was able to add “war veterans’ organizations” to the definition of a qualified charity that a federal credit union may contribute using a charitable donation account.
- **Maximum aggregate funding** – limited to 5% of the credit union’s net worth (at all times) for the duration of the accounts.
- **Minimum distribution to charities** – one or more qualified charities at least every 5 years, and upon termination of a CDA (regardless of the length of its term), a minimum of 51% of the account’s total return on assets over a period of up to 5 years.



Policy 6300: Charitable Donation Accounts

Model Policy Published Date: 01/03/2024

General Policy Statement

In order to help facilitate its charitable activities, [[CUName]] (Credit Union) may create and fund a Charitable Donation Account (CDA) in compliance with NCUA regulatory soundness.

Definitions

- **Charitable Donation Account (CDA)** – When done in compliance with regulatory requirements, a CDA is a hybrid charitable and investment vehicle that is per contributions or donations to qualified charities that are otherwise impermissible under the Federal Credit Union Act.
- **Distribution in Kind** – Credit Union's acceptance of remaining CDA assets, upon termination of the account, in their original investment form instead of cash r
- **Qualified Charity** – A charitable organization or other non-profit entity recognized as exempt from taxation under section 501(c)(3) or 501(c)(19) of the Interna
- **Total return** - Actual rate of return on all investments in a CDA over a given period of up to 5 years, including realized interest, capital gains, dividends, and dis expenses (provided they were not paid to the Credit Union or to any of its affiliates).

[Home](#) > [Compliance Topics](#) > [Accounts](#) > [Charitable Donation Accounts](#)

[View/Print All](#)

Charitable Donation Accounts

Last Reviewed: August 2023

A charitable donation account (CDA) is a hybrid charitable and investment vehicle that federal credit unions may fund as a means to provide charitable contributions and donations to qualified charities. A qualified charity is a charitable organization or other non-profit entity recognized as exempt from taxation under section 501(c)(3) of the Internal Revenue Code.

Summary

[Print Summary](#)

Charitable Donation Accounts: Summary

A federal credit union may fund a CDA free from the investment limitations of the Federal Credit Union Act and part 703, if it funds a CDA that satisfies all of the following conditions:

- **Maximum aggregate funding.** The book value of the credit union's investments in all CDAs, in the aggregate, as carried on its statement of financial condition prepared in accordance with generally accepted accounting principles, must be limited to 5 percent of the credit union's net worth at all times for the duration of the accounts, as measured every quarterly Call Report cycle. This means that regardless of how many CDAs in which the credit union invests, the combined book value of all such investments must not exceed 5 percent of the credit union's net worth. The credit union must bring its aggregate accounts into compliance with the maximum aggregate funding limit within 30 days of any breach of this limit.
- **Segregated account.** The assets of a CDA must be held in a segregated custodial account or special purpose entity and must be specifically identified as a CDA.
- **Regulatory oversight.** If the credit union establishes a CDA using a trust vehicle, the trustee must be regulated by the Office of the Comptroller of the Currency (OCC), the U.S. Securities and Exchange Commission (SEC), another federal regulatory agency, or a state financial regulatory agency. A regulated trustee or other person or entity that is authorized to make investment decisions for a CDA (manager), other than the credit union itself, must be either a Registered Investment Adviser or regulated by the OCC.



Telephone Consumer Protection Act

Telephone Consumer Protection Act (TCPA)

- [New Rules Adopted by the Federal Communications Commission \(FCC\) December 13, 2023](#)
- **Effective Date: January 27, 2025**
- **Prior express written consent** requirements have been amended. Prior to this rule, obtaining the member's express written consent (*an agreement in writing with the member's signature that clearly authorized the credit union to deliver advertisements or telemarketing messages, including the applicable telephone number*) covers calls or texts to a called party using certain technology and **may include credit union affiliated entities.**
- Under the new rules, **prior express written consent must** “authorize no more than **one identified seller to**” deliver advertising or marketing messages to the member.
- Additionally, marketing messages must be “**logically and topically associated** with the interaction that prompted the consent.”
 - Example from the FCC: “A consumer giving consent on a car loan comparison shopping website does not consent to get robotexts or robocalls about loan consolidation.”
- Credit unions obtaining “**prior express written consent**” at account opening for account services, should not use the same consent for marketing loan products or other products and services not related to their share/checking account.

Telephone Consumer Protection Act (TCPA)

- **Prior express written consent** means an agreement **in writing** that bears the signature of the person called/texted that **clearly and conspicuously** authorizes **no more than one identified seller** to deliver or cause to be delivered to the person called/texted advertisements or telemarketing messages using an automatic telephone dialing system or an artificial or prerecorded voice.
- Calls and texts must be **logically and topically associated with the interaction** that promoted the consent and the agreement **must identify the telephone number** to which the signatory authorizes such advertisements or telemarketing messages to be delivered.
- **Clear and conspicuous disclosure** must include that:
 - By executing the agreement, **the person authorizes the seller** to deliver or cause to be delivered to the signatory telemarketing calls or texts using an automated telephone dialing system or an artificial or prerecorded voice; and
 - The **person is not required to sign the agreement** or agree to enter into the agreement as a **condition of purchasing any property, goods, or services.**



Telephone Consumer Protection Act (TCPA)

- [Final Rule – Strengthen the Ability of Consumers to Stop Robocalls](#)
- **Effective Date: April 4, 2024**
- For **robocalls and robotexts**, revocation of consent can be made **in any reasonable manner**.
 - **“Stop”** or similar message in reply to a text message.
 - Via website or telephone number by the caller to process opt-out request.
- **Revocations of consent should be processed within a reasonable time.**
 - Not to exceed **10 business days** after receipt of the request.
- One-time message to confirm the consumer’s request that no further text messages be sent does not violate the spirit of the rule.

FCC – TCPA



Home > Compliance Topics > Advertising > Telephone Consumer Protection Act

Telephone Consumer Protection Act

RISK Alert! Now available from CUNA Mutual Group [\(Credentials required for access\)](#):

- [TCPA Relief for Credit Unions? \(5/4/2021\)](#)

Last Reviewed: February 2023

What is the Telephone Consumer Protection Act?

The Telephone Consumer Protection Act of 1991 (TCPA) places certain restrictions on telemarketing calls, text messages, and faxes. This regulation was designed to protect consumers from unwanted autodialed or pre-recorded telemarketing calls, also known as "telemarketing robocalls" and requires prior express written consent of the called party for autodialed or prerecorded telemarketing calls to wireless numbers and prerecorded calls to residential landlines. An established business relationship with a member does not serve to exempt prerecorded telemarketing calls to residential landlines. Accordingly, such calls require prior express written consent.

Summary +

FAQs +

Laws & Regulations +

Additional Resources +

Model Policies +

Policy 9600: TCPA, JFPA and CAN-SPAM

Revised Date: 4/14/2023

Model Policy Revised Date: 04/14/2023

General Policy Statement:

[[CUnion]] (Credit Union) will ensure that all covered phone calls/texts, email communications and covered faxes comply with the requirements of the Telephone Consumer Protection Act (TCPA) (including revisions as a result of the Pallone-Thune Telephone Robocall Abuse Criminal and Deterrence Act (TRACED Act), the Junk Fax Prevention Act (JFPA), and the Controlling the Assault of Non-Solicited Pornography and Marketing Act (CAN-SPAM)). The Board delegates to management the responsibility for developing procedures in accordance with this policy.

Definitions:

- AUTOMATIC TELEPHONE DIALING SYSTEM (AUTODIALER).** The TCPA's definition is any technology which has the capacity to store or produce telephone numbers to be called using a random or sequential number generator to dial such numbers. Even if the Credit Union's system does not currently have the capacity or capability at this time to make these calls, the system would still be considered an "autodialer" if it had the capacity to be upgraded in the future to make these calls.
- COMMERCIAL MESSAGE.** Defined by CAN-SPAM as those having the primary purpose of advertisement or promotion of a product or service (including email that promotes content on commercial websites). "Transactional" or "relationship" messages are not considered commercial emails.
- TELEMARKETING.** The initiation of a telephone call or message for the purpose of encouraging the purchase or rental of, investment in, property, goods, or services, which is transmitted to any person.
- TRANSACTIONAL OR RELATIONSHIP MESSAGE.** CAN-SPAM defines this to mean an email message with the primary purpose to:
 - Facilitate, complete, or confirm a commercial transaction that the recipient has previously agreed to enter into with the Credit Union (sender);
 - Provide warranty information, product recall information or safety or security information with respect to a commercial product or service used or purchased by the recipient;
 - Provide notification concerning a change in terms or features, recipient's standing or status, or at regular periodic intervals: account balance information or other type of account statement for a subscription, membership account, loan or comparable ongoing commercial relationship involving the ongoing purchase or use by the recipient of products or services offered by the Credit Union (sender);
 - Provide information directly related to an employment relationship or related benefit plan in which the recipient is currently involved, participating or enrolled; or
 - Deliver goods or services, including product updates or upgrades, that the recipient is entitled to receive under the terms of a transaction that the recipient has previously agreed to enter into with the Credit Union (sender).

Procedure 9600.10: TCPA Procedures

Revised Date: 4/14/2023

Model Revised Date: 04/14/2023

The Telephone Consumer Protection Act (TCPA) places restrictions on telemarketing calls, text messages and faxes. Generally speaking, the law requires prior express written consent of the called party for autodialed or prerecorded telemarketing calls to wireless numbers and residential land lines.

DEFINITIONS

Coverage and Automatic Dialing System - the TCPA defines an Automatic Telephone Dialing System and Autodialer as equipment which has the capacity to store or produce telephone numbers to be called using a random or sequential number generator to dial such numbers.

In determining coverage of the TCPA, the credit union must determine if their phone system has the capacity or capability either currently, or at some point in the future (i.e., after an upgrade) to dial random and sequential numbers. **EVEN IF THEY DON'T USE IT.**

Prior Express Written Consent - an agreement, in writing, bearing the signature of the person called that clearly authorizes the seller to deliver or cause to be delivered to the person called advertisements or telemarketing messages using an automatic telephone dialing system or an artificial or prerecorded voice, and the telephone number to which the signatory authorizes such advertisements or telemarketing messages to be delivered. The written agreement shall include a clear and conspicuous disclosure informing the person signing that:

- By executing the agreement, such person authorizes the seller to deliver or cause to be delivered to the signatory telemarketing calls using an automatic telephone dialing system or an artificial or prerecorded voice; and
- The person is not required to sign the agreement (directly or indirectly) or agrees to enter into such an agreement as a condition of purchasing any property, goods, or services.

PROCEDURES

- Prior Express Written Consent.** While there are details and exemptions based on certain call types, certain calls to residential vs. wireless, to most effectively protect the Credit Union an effort will be made to get Express Written Consent from a member to make calls to them on a phone number they provide.

A. The **written agreement** bearing the signature of the person called (your member) that clearly authorizes the Credit Union to deliver or cause to be delivered to the person called advertisements or telemarketing messages using an automatic telephone dialing system or an artificial or prerecorded voice, and the telephone number to which the signatory authorizes such advertisements or telemarketing messages to be delivered.

B. The agreement shall also include a clear and conspicuous disclosure informing the member signing that:





Reconsiderations of Value (ROVs)

Reconsideration of Value

Interagency Guidance on Reconsiderations of Value of Residential Real Estate Transactions

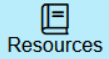
- A **Reconsideration of Value (ROV)** is a request from the financial institution to the appraiser or other preparer of the valuation report to re-assess the report based upon potential deficiencies or other information that may affect the value conclusion.
- Collateral valuations may be deficient due to **prohibited discrimination, errors or omissions, valuation methods, assumptions, data sources, or conclusions that are otherwise unreasonable, unsupported, unrealistic or inappropriate.**
- Appraisals are required to be reviewed by the Credit Union to ensure compliance with USPAP (Uniform Standards of Professional Appraisal Practice), the guidance suggests **an additional review may be warranted**, especially if the consumer provides information that could affect the value conclusion or if deficiencies are identified in the original appraisal.

Reconsideration of Value

- The credit union should have **risk-based ROV policies, procedures, control systems, and complaint processes** that mitigate the risk of deficient valuations and include the following:
 - Consideration of ROVs as a possible **resolution for consumer complaints** related to residential property valuations.
 - Ensuring the credit union's process to allow for an ROV **doesn't have unreasonable barriers** or discourage consumer from requesting an ROV.
 - Establishing a process that provides for **identification, management, analysis, escalation, and resolution of valuation related complaints.**
 - Establishing a process to **inform consumers** of how to raise concerns about valuations early in the underwriting process so errors or issues can be **resolved before a credit decision is made.**
 - **Identifying relevant employees** and their roles and responsibilities for processing ROV requests and creating procedures to route the request the right department/employee.
 - Establishing **standardized processes** to increase the consistency of consideration of requests for ROVs.
 - Using **clear and plain language for consumer notices** and internally for dealing with consumers, appraisers, and internal stakeholders, along with **responsibility for consumer communications.**
 - Creating guidelines for **initiating an ROV** and **timelines for responses.**
 - Addressing when a **second appraisal** will be requested and **who will assume the expense.**
 - Providing **relevant training** for handling ROV requests and for the review of the valuation.

Resources

Logged in as: Glory LeDu (Staff) Access Level: Admin Change Password



Viewing CU PolicyPro Model Policy: "Reconsideration of Value" (7302.10)

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Switch to Admin View

7302.10: Reconsideration of Value

Revised Date: 1/3/2024

Model Content Published Date: 01/03/2024

(This procedure is intended to serve as a model guide for credit unions. More detailed disclosures and procedures are also important to note that the Credit Union's procedures related to members request for ROVs cannot be provided.)

Home buyers and homeowners can ask a lender to reconsider a home valuation the consumer believes to be inaccurate or too low. This may include errors in the original report, failure to properly consider all comparable properties, etc. This procedure may also identify potential issues with a valuation as part of an internal review process.



Viewing CU PolicyPro Model Policy: "Real Estate Appraisals" (Policy 7302)

Print

Return to Model Policy List

Switch to Admin View

Policy 7302: Real Estate Appraisals

Revised Date: 1/3/2024

Model Policy Revised Date: 01/03/2024

General Policy Statement:

This real estate appraisal policy will assist [[CUName]] (Credit Union) in maintaining an effective and compliant real estate appraisal and evaluation program. The policy is derived, in part, from the Interagency Appraisal and Evaluation Guidelines adopted pursuant to Title XI of the Federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as well as NCUA Part 722 (Appraisals) and the appraisal and valuation provisions of Regulation Z including the Higher-Priced Mortgage Loans (HPML) Appraisal Rule Issued by the Joint Agencies. The Credit Union also adheres to applicable Fair Lending Laws in all aspects of a credit transaction, including home appraisals.

This policy applies to all real estate lending functions and real estate-related financial transactions originated or purchased by the Credit Union for its own portfolio or for assets held for sale.

While borrowers' ability to repay their real estate loans according to reasonable terms remains the primary consideration in the lending decision, the Credit Union also must consider the value of the underlying real estate collateral in accordance with the NCUA's appraisal regulation (NCUA Part 722).

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Appraisals

Last Reviewed: January 2024

Credit unions are required to comply with multiple regulations when it comes to appraisal requirements. In general, NCUA rules Part 722 addresses the requirements for real estate appraisals in connection with federally related transactions. The rules identify specifically which real estate-related transactions require the services of an appraiser, prescribe which categories of transactions need to be conducted by a state-certified versus a state-licensed appraiser and the minimum standards for the performance of real estate appraisals in connection with the transaction under the jurisdiction of the NCUA.

Credit unions also have to consider the Truth in Lending Act (TILA), implemented by Regulation Z, which impacts certain appraisal requirements for Higher Priced Mortgage Loans (HPMLs) and the Equal Credit Opportunity Act (ECOA), implemented by Regulation B that also has rules for appraisals and valuations along with certain delivery requirements to the borrower.

Last, but not least, there is also Interagency Guidance that credit unions need to consider when it comes to an independent appraisal program.

HPMLs - Truth in Lending Act (Regulation Z - 1026.35) +

Equal Credit Opportunity Act (Regulation B - 1002.14) +

NCUA Rules Part 722 +

Interagency Appraisal and Evaluation Guidelines Detailed Analysis -

Print Interagency Appraisal and Evaluation Guidelines Detailed Analysis

Appraisals: Interagency Appraisal and Evaluation Guidelines: Detailed Analysis

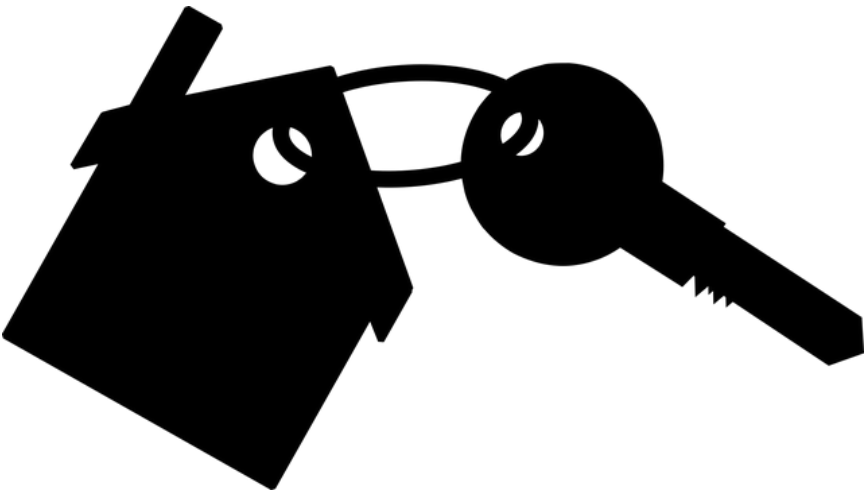


Valuation Discrimination and Bias

Valuation Discrimination

Interagency Statement on Examination Principles Related to Valuation Discrimination and Bias in Residential Lending

- Examiners will assess institutions' **compliance management systems** and **risk management practices** for **identifying and mitigating discrimination or bias** in residential property valuation practices.
- Credit unions should expect a review of risk management processes for residential lending activity whether it's a specific consumer compliance exam or safety and soundness exam.
- **Consumer Compliance Exam**
 - Board and Management Oversight
 - Third-party risk management
 - Consumer Compliance Program
- **Safety and Soundness Exam**
 - Review of collateral valuation programs – are risk management practices for valuations appropriate to identify and address valuation discrimination or bias and promote credible valuations.
 - Review of consumer protection issues, risk assessments, governance, collateral valuation program, third-party risk management, valuation review function, credit risk review function and the credit union's training program.



CFPB/DOJ -Immigration Status

Immigration Status – Equal Credit Opportunity Act

- [Joint Statement – Financial Institutions may not use Immigration Status to Illegally Discriminate](#)
- **Issued October 12, 2023**
- **Equal Credit Opportunity Act**, which is implemented by **Regulation B** and provides that creditors cannot consider race, color, religion, national origin, or sex in any aspect of a credit transaction.
 - Does not expressly prohibit consideration of immigration status;
 - **Does prohibit creditors from using immigration status to discriminate on the basis of national origin, race, or any other protected characteristic.**
- A Credit Union may **only consider** an applicant’s immigration status or status as a permanent resident of the United States, and any additional information that may be necessary **to ascertain the credit union’s rights and remedies regarding repayment.**
- Examples:
 - Blanket policy of refusing to consider applicants from certain groups of noncitizens regardless of credit qualifications of individual borrowers within that group.
 - Overbroad consideration of certain criteria – such as how long a consumer has had a social security number may implicate or serve as a proxy for citizenship or immigration status, which may in turn, implicate a protected characteristic under ECOA like national origin or race.



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CFPB - Circulars

CFPB Circular 2023-03

- Adverse Action Notification Requirements and proper use of Regulation B Forms
- *Question: When using artificial intelligence or complex credit union models, may creditors rely on the checklist of reasons provided in CFPB sample forms for adverse action notices even when those sample reasons do not accurately identify the reasons for the adverse action?*
- **CFPB Response: NO!**
- Creditors may not rely on the checklist of reasons provided in the sample forms (currently codified in Regulation B) to satisfy their obligations under ECOA if **those reasons do not specifically and accurately indicate the principal reason(s) for the adverse action**. Nor, as a general matter, may creditors rely on overly broad or vague reasons to the extent that they obscure the specific and accurate reasons relied upon.

CFPB Circular 2024-01

- Preferencing and steering practices by digital intermediaries for consumer financial products or services
- *Question: Can operators of digital comparison-shopping tools or lead generators violate the Consumer Financial Protection Act (CFPA) by preferencing products or services based on financial or other benefits to the operator?*
- **CFPB Response: Yes!**
- Operators of digital comparison-shopping tools can violate the prohibition on abusive acts or practices if they distort the shopping experience by **steering consumers to certain products or services based on remuneration to the operator.**
- Lead generators can violate the prohibition on abusive practices if they **steer consumers to one participating financial services provider instead of another** based on compensation received.



CFPB – Blog

- **Unlawful Fees in the Mortgage Market**
- The CFPB is focused on how these costs (mortgage fees and other costs) affect the affordability of home ownership as well as household balance sheets.
- Mortgage servicers often act as debt collectors and must follow the same rules.
 - FDCPA prohibits debt collectors from charging fees that borrowers didn't agree to upfront.
- **Junk fees are driving up housing costs. The CFPB wants to hear from you.**
- Closing costs are the fees you pay on the day you finalize the purchase of your home, and include things like title insurance, credit report and appraisal fees, origination fees, and more.
- Fees can take away from money towards down payments. Sometimes added to the loan, which is more expensive for consumers. Many don't fluctuate with interest rate changes or based on the size of the loan.
- Increase in the purchase of discount points.



CFPB – Advisory Opinions

CFPB Advisory Opinion

January 11, 2024 – Fair Credit Reporting; Background Screening

- Requirement within the Fair Credit Reporting Act (FCRA) for Credit Reporting Agencies (CRAs) to follow reasonable procedures to assure maximum possible accuracy in reports.
 - Prevent reporting information that is duplicative or has been expunged, sealed, or otherwise legally restricted from public access; and
 - Include any existing disposition information if it reports arrests, criminal charges, eviction proceedings, or other court filings.
- Non-conviction disposition of a criminal charge can't be reported beyond 7 years

January 11, 2024 – Fair Credit Reporting; File Disclosure

- A consumer does not need to use specific language such as “complete file” or “file” to trigger a CRA’s file disclosure requirement under the Fair Credit Reporting Act (FCRA).
 - Consumers are entitled to receive free file disclosures, one at least annually.
 - Also in certain circumstances, such as in connection with adverse action notices and fraud alerts.

Fair Credit Reporting Act



Last Reviewed: December 2022

The purpose of the Fair Credit Reporting Act ("FCRA" or "Act") is to ensure fair and accurate reporting of consumer credit information by "consumer reporting agencies," including credit bureaus; restricts the use of consumer reports to their legitimate purposes; prohibits the disclosure of credit information; and requires disclosure to consumers and employees when adverse action is taken as the result of credit reports.

The FCRA applies any time a credit report is used as a factor in establishing a member's eligibility for or in making charges on a share or deposit accounts and other services. It also applies when credit reports are used in hiring or other employment decisions.

The FCRA does **not** apply to reports about business, commercial or professional entities, reports about a credit union's members, or reports by anyone based solely on their own experience with a consumer.

- [Policy 11001: Fair Credit Reporting Act](#)
- [Policy 11003: Accuracy and Integrity of Information Reported](#)
- [Policy 11004: Pre-Screened Offers of Credit or Insurance](#)
- [Policy 11005: Fair Credit Reporting Act: Adverse Action Requirements](#)
- [Policy 11006: Receipt of Notice of Dispute of Accuracy of Information](#)
- [Policy 11009: Identity Theft Red Flag Guidelines](#)
- [Policy 11010: Risk-Based Pricing](#)
- [Policy 11012: Disclosure of Information to Victims of Identity Theft](#)
- [Policy 11015: Obtaining and Using Medical Information](#)
- [Policy 11016: Affiliate Marketing Rules](#)

[Summary](#) +

[Checklist](#) +

[FAQs](#) +

[Laws & Regulations](#) +

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CFPB Advisory Opinion

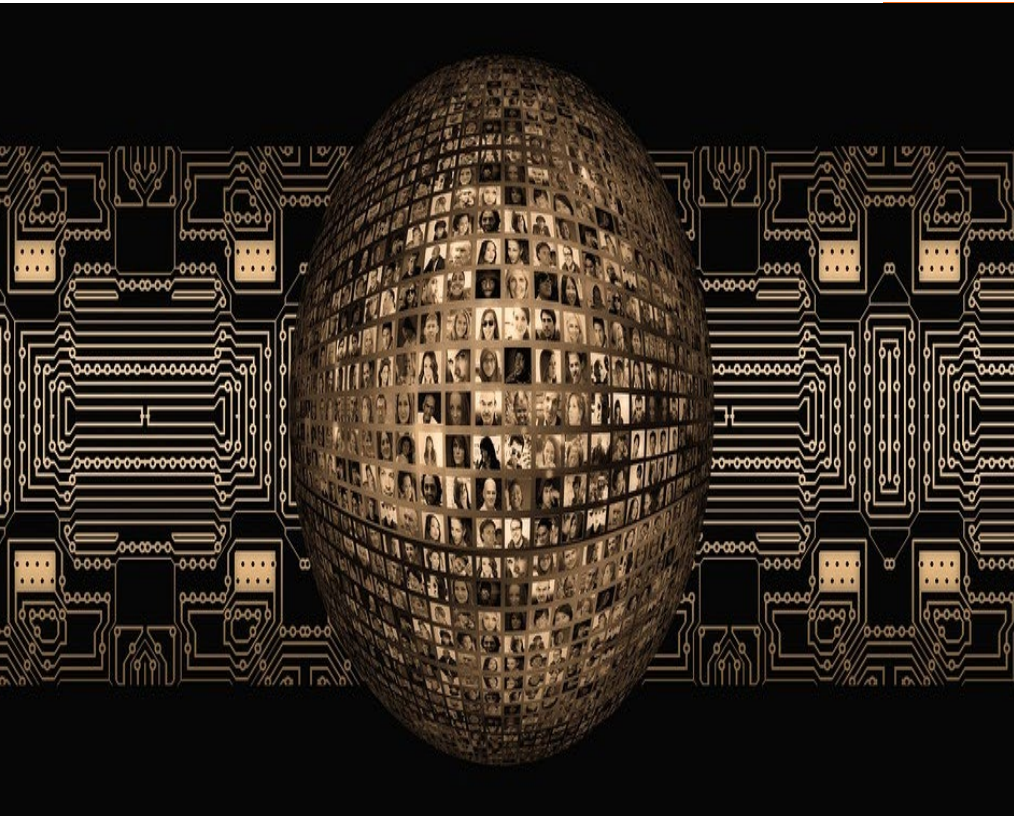
October 11, 2023 – Consumer Information Requests to Large Banks and Credit Unions

- The Consumer Financial Protection Act (CFPA) requires credit unions to **comply with consumer request for information concerning their accounts in a timely manner.**
- Credit unions need to **provide information to members in a timely manner** for information requests. Examples include:
 - Information included in periodic statements or online account portals, bill payment, terms and conditions, schedule of fees, status of a lien on real property that should have been released, etc.)
 - Should also include **supporting documentation** – written documentation that substantiates the information provided or assist in understanding/verifying information related to the request.
- Generally, “**requiring a consumer to pay a fee or charge to request account information**, is likely to **unreasonably impede the consumer’s ability to exercise the member’s rights** and violate the provision.” Likely includes charging fees:
 - To respond to inquiries regarding deposit account balances;
 - Respond to inquiries seeking amount necessary to pay a loan balance;
 - Request for supporting document, such as a check image or original account agreement; and
 - Time spent on inquiries seeking information and supporting documents regarding an account.

CFPB Advisory Opinion

October 11, 2023 – Consumer Information Requests to Large Banks and Credit Unions

- A credit union **may also violate the CFPA by imposing other conditions or obstacles that unreasonably impede the consumers’ ability to make an information request.** These could include:
 - Forcing consumers to endure excessively long wait times to make a request to a customer service representative;
 - Requiring the same request to be submitted multiple times;
 - Requiring customers to interact with a chatbot that does not understand or adequately respond to requests;
 - Directing consumers to obtain information that the credit union possesses from a third party instead.
- Responses should be in a “timely manner.” **Compliance with RESPA and other timing requirements in federal regulations would likely meet the requirements of being “timely” under the CFPA.**
- May violate the CFPA if technologies that do not properly recognize consumer information requests or provide inaccurate or incomplete information to requests.



CFPB – Personal Financial Data Rights

Personal Financial Data Rights

Proposed Rule

Effective date: for credit unions under \$850 million in total assets, **4 years after the effective date of publication in the federal register.** More than \$850 million, but less than \$50 billion, **2.5 years after publication in the federal register.** We have time!

- Implementation of Consumer Financial Protection Act of 2010 – section 1033 of the Dodd Frank Act.
- Requires data providers (credit unions) to make available to consumers and authorized third parties, **covered data in the credit union’s control or possession regarding a covered product or service**, in an electronic form (usable by the consumer or the third party).
 - **Examples:** transaction history, account balance, upcoming bill payment information etc.
- Standards to promote the development and use of **standardized formats for covered data.**
- **Obligations of third parties** that would access covered data, including limitations.
- Framework to ensure third parties are acting on behalf of consumers when accessing data, including with respect to **consumers’ privacy interests.**
- **Applying a consistent set of security standards across the market for security.**
- Requiring **accurate and consistent transmission of data by consumers and authorized third parties.**

Personal Financial Data Rights

- Obligation for credit union (as data providers) to **make the most recently updated covered data available.**
- **Covered data** would include:
 - Transaction information, including historical transaction information
 - Account balance
 - Information to initiate payment to or from a Regulation E account
 - Terms and conditions (APY, APR, rewards, opted into overdraft coverage, entered into an arbitration agreement)
 - Upcoming billing information
 - Basic account verification information, limited to: name, address, email address, phone number associated with the product or service.
- The credit union is required to **maintain a consumer interface and developer interface**, for consumer requests for information and third-party requests, respectively. This interface must also be able to provide information back to the consumer/third-party.
 - Information must be able to be **maintained/retained by the consumer**, including being **transferrable to a separate information system** in control of the consumer or authorized third party.
- The credit union **cannot charge fees** in connection with establishing or maintaining an interface or making available covered data in response to a request.

Personal Financial Data Rights

- **Developer interface** – make covered data available in a standardized format.
 - **Performance specifications:** commercially reasonable performance, no restrictions on frequency which it receives or responds to requests for covered data.
 - **Security specifications:** the credit union must not allow third-party access to the interface by using any credentials that a consumer uses to access the consumer interface.
 - **Information security program** that satisfies privacy laws and regulations.
 - **Interface access** – risk management related access. Ability to deny access for reasons such as a third-party not having adequate data security standards or lack of information.
- **Consumer requests for information** – must authenticate the consumer's identity and identify the scope of the data requested.
- The credit union (as the data provider) must make information readily available about themselves, such as identifying information, developer interface documentation, performance specifications, etc.
- **Policies and Procedures** required for compliance with the rules.



What if extreme weather makes it impossible to reach your branch? **RecoveryPro** can help you plan for that.



CFPB – Proposed Overdraft Rule

CFPB Proposed Rule – Overdraft Lending

Proposed Rule

Effective Date: CFPB expects the effective date to be **October 1, 2025**.

- **Covered:** Financial institutions with more than **\$10 billion** in assets.
- **Overdraft credit** would be defined as *any consumer credit extended by a financial institution to pay a transaction from a checking or other transaction account (other than prepaid) held at the financial institution when the consumer has insufficient or unavailable funds in that account.*
 - The CFPB believes that virtually all overdraft credit provided today, such as through negative balances on checking accounts, would meet the definition of **open-end credit** under Regulation Z. Therefore, **overdraft fees need to be considered finance charges.**
- **Covered Overdraft Credit** – *means overdraft credit that is subject to a finance charge or is payable by written agreement in more than four installments.*
- **Non-Covered Overdraft Credit** – *overdraft credit that is not subject to a finance charge and is not payable by written agreement in more than four installments.*

CFPB Proposed Rule – Overdraft Lending

- **Courtesy Overdraft Service would still be permitted**, if the financial institution **only charges** a fee that it has calculated to be **“break even”** or they can use the benchmark fee established by the CFPB, which could be as low as \$3 (current proposal is asking for feedback on the following fees \$3, \$6, \$7, or \$14).
 - This program would be exempt from the Truth in Lending Act (TILA)/Regulation Z. Opt-in requirements would still apply.
- **Any greater fee** would require a separate credit account and would be **subject to Regulation Z consumer credit disclosure requirements**. (“The protections that apply to traditional credit cards would apply to covered overdraft credit that is accessed by debit cards or routing/checking account numbers.”) Allow consumers to shop, as they do now for credit.
- **Don’t get comfortable!** CFPB will monitor the market’s response to this rule before determining whether to apply this to financial institutions less than \$10 billion.



CFPB – Nonsufficient Funds Fees

CFPB Proposed Rule – Nonsufficient Funds Fees

Proposed Rule

Effective Date: 30 days after publication in the Federal Register

- **Covered:** Financial institutions as defined in Regulation E (no exemption for asset size).
- **Account:** Same definition as Regulation E (checking, savings, established primarily for personal, family, or household purposes).
- **Covered Transaction:** means an attempt by a consumer to withdraw, debit, pay, or transfer funds from their account that is declined instantaneously or near-instantaneously by a covered financial institutions due to insufficient funds.
 - **Covered examples: One-time debit card transactions** that are not pre-authorized, **ATM transactions, certain P2P transactions** (those authorized in real time).
 - **Not Covered:** Transactions declined or rejected due to insufficient funds hours or days after the consumer's attempt would not be covered by the proposal. Checks and ACH transactions are not covered.
- **Nonsufficient Funds Fee (NSF Fee):** a charge that is assessed by a covered financial institution for declining an attempt by a consumer to withdraw, debit, pay, or transfer funds from the account due to insufficient funds.

CFPB Proposed Rule – Nonsufficient Funds Fees

12 CFR Part 1042

- It is an **abusive practice** for a covered financial institution **to charge a nonsufficient funds fee in connection with a covered transaction.**
- A covered financial institution **must not assess a nonsufficient funds fee in connection with any covered transaction.**



Tools and Resources

RESOURCES

<https://www.cornerstoneleague.coop>



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InfoSight Manual

InfoSight is an online, dues-supported compliance manual for member credit unions. The extensive InfoSight database comprises detailed federal and state-specific content on a wide range of topics and issues. The content is frequently updated in keeping with changing regulations. Bookmark InfoSight as your first stop when searching for compliance answers.

Access InfoSight

The compliance manual is a member benefit, and therefore requires logging in to access it. You must use the same email and password used for the Cornerstone website.

[Log In to InfoSight](#)

InfoSight Newsletter

As part of InfoSight's League member benefits, Cornerstone sends out a weekly Newsletter highlighting the latest regulatory changes, hot topics, and calls to action on important comment calls.

Not a Member?

This service is a Cornerstone League member benefit. If your credit union is not currently a member and you would like to learn more, visit the [Member Services](#) page.

RESOURCES



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Compliance Videos

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Resources



Welcome, Glory

Log Out

Topics of Interest



- Bankruptcy and Collections
- Foreclosure (Michigan)
- Garnishment (Michigan)
- Investment
- Loans and Leasing

Recently Visited Pages

- Vendor Due Diligence
- Board Responsibilities
- InfoSight Listing by State
- Home Mortgage Disclosure Act
- Loans and Leasing
- RecoveryPro
- Business Continuity Planning

Compliance Calendar

May, 2024

- May 14th, 2024: CFPB – Credit Card Penalty Fees
- May 27th, 2024: Memorial Day - Federal Holiday

June, 2024

- June 19th, 2024: Juneteenth National Independence Day - Federal Holiday

Compliance Training

- Required Compliance Training
- CUNA's free Webinars
- CUNA training, education and professional development
- NCUA's Learning Management Service

Credit Union Tools

The **2023 Q4 Compliance Update Video** is now available.



Cybersecurity Resources

InfoSight has compiled a **list of resources** to provide general insights on cybersecurity incidents and guidance on preventive measures for the future.

Recently Updated



January 2024 - Bank Secrecy Act

Resources



A - Z Listing

Account Insurance Estimator

Check Deposit Notice Generator

Collaborative Tool

Compliance Calendar

CUNA e-Guide

FAQs

Federal Regulations List

InfoSight Listing by State

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Required Compliance Training

RISK Alerts

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2023 Q1 Compli

- Deposit Account Updat
- Lending Updates
- Credit Union Operatic
- Compliance Calendar

RESOURCES



League InfoSight Credit Union Manual

View Model Policies

[Expand All](#) | [Collapse All](#)

[Chapter 1000: Administrative](#) ▶

[Chapter 2000: Operations](#) ▶

[Chapter 3000: Accounting](#) ▶

[Chapter 4000: Security](#) ▶

[Chapter 5000: Asset/Liability Management](#) ▶

[Chapter 6000: Investments](#) ▶

[Chapter 7000: Lending](#) ▶

[Chapter 8000: Other Real Estate Owned \(OREO\)](#) ▶

[Chapter 9000: Federal Regulations](#) ▶

[Chapter 10000: Records Retention](#) ▶

[Chapter 11000: Fair Credit Reporting Act](#) ▶

Each credit union has their own
CU PolicyPro site!

<https://www.leagueinfosight.com/cu-policypro-client-listing>

RESOURCES



LeagueInfoSight

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RecoveryPro

Super heroes are great in a crisis.
RecoveryPro is the next best thing.

RecoveryPro Overview

Your credit union may not be able to prevent a disaster from occurring, but you can be ready when it happens. Security, data recovery, and peace of mind are priceless when faced with a catastrophic loss. RecoveryPro can get your credit union's Business Continuity Plan (BCP) in place!



Analyze & Assess

Identify and prioritize business processes and assess risks and impacts of a variety of event types



Plan & Prepare

Develop plans, prepare to manage incidents, and recover your business when disaster strikes



Validate & Maintain

Ensure your plans are effective and your teams are ready through testing, content reviews, and updates



Program & Policy



Validation & Maintenance



Incident Response

Asset Size	Annual Affiliated Credit Union Pricing	Annual Non-Affiliated Credit Union Pricing
Under \$50 million	\$249	\$599
\$50 million - \$150 million	\$549	\$1,399
\$150 million - \$350 million	\$1,049	\$2,599
\$350 million - \$1 billion	\$2,549	\$6,199
Over \$1 billion	\$4,549	\$10,999

<https://www.leagueinfosight.com/recoverypro>

Compliance Management



Policy 1230: Regulatory Compliance

Model Policy Revised Date: 03/14/2022

Revised Date: 3/14/2022

General Policy Statement:

[[CUName]] (Credit Union) is committed to understanding and complying with the laws and regulations that govern its operation. The purpose of this policy is to formalize that commitment, assign responsibility, and authorize general compliance activities. In order to assist with this formalized commitment, the Credit Union has a compliance management system in place, inclusive of a compliance program addressing the guidelines within policy, along with processes and procedures to manage consumer compliance risk, support compliance and ultimately prevent any harm to the Credit Union's members, and consumers generally.

Guidelines:

1. RESPONSIBILITY.

- A. While the Board of Directors is responsible for the overall performance of the Credit Union, authority to design and administer the compliance program is granted to the CEO/President.
- B. The CEO/President is assigned the role of Compliance Officer, unless this role is formally assigned by the CEO/President to another member of the management team.
- C. Effective compliance requires the contribution of each employee at each stage of the product lifecycle, from product creation, implementation and service/administration. All employees are responsible to learn, understand and comply with the laws and regulations that affect their area of responsibility.

- 2. **COMPLIANCE EXPERTISE.** The CEO/President is responsible to ensure they or the assigned Compliance Officer has knowledge of consumer compliance laws and regulations, including emerging risks that may impact the Credit Union's products and services. The Compliance Officer will continue to build the compliance expertise of the entire Credit Union with authorized activities including internal staff training, attendance at compliance schools and webinars, subscription to compliance update services, etc. Funding for such compliance activities that exceeds management's spending authority must be approved as part of the annual budget or through separate action by the Board.

COMPLYSIGHT

CU Risk Intelligence's compliance management solution, **ComplySight**, provides visibility, tracking, measuring and reporting of compliance activities through a single, simplified application.

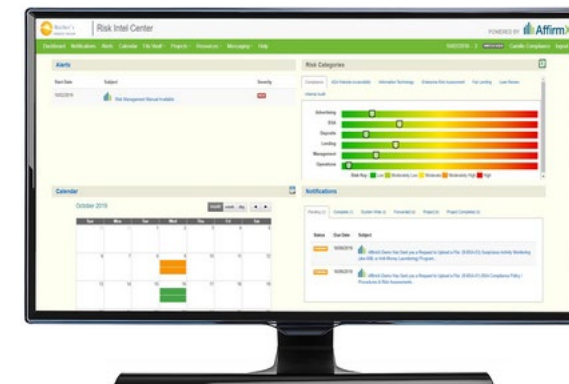
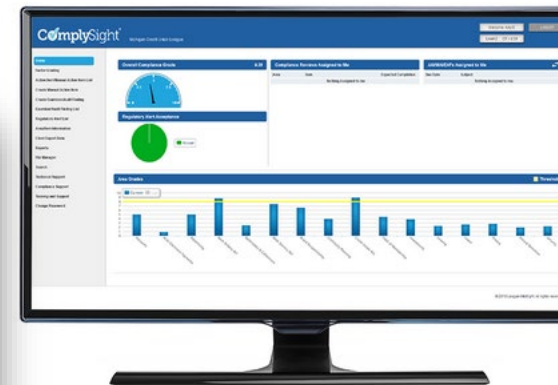
The system provides a conduit to strengthen a credit union's overall communication, supporting a state of continual readiness for audits, and providing regulatory updates essential to maintaining compliance.

AFFIRMX

CU Risk Intelligence's industry-leading risk management automation provider, **AffirmX**, delivers mitigation resources for credit unions that reduce the costs, workloads and angst associated with regulatory compliance.

Serving more than 230 credit union clients and scores of association partnerships nationwide, the system prioritizes risk management tasks and remediation by utilizing relevant and timely data that improves performance throughout the enterprise.

<https://www.curiskintelligence.com/>



Vendor Management

<https://cuvvm.org>



HOME SERVICES & SOLUTIONS REQUEST DEMO REQUEST A SPEAKER ABOUT US CONTACT US



VENDOR MANAGEMENT THAT SIMPLIFIES YOUR LIFE!

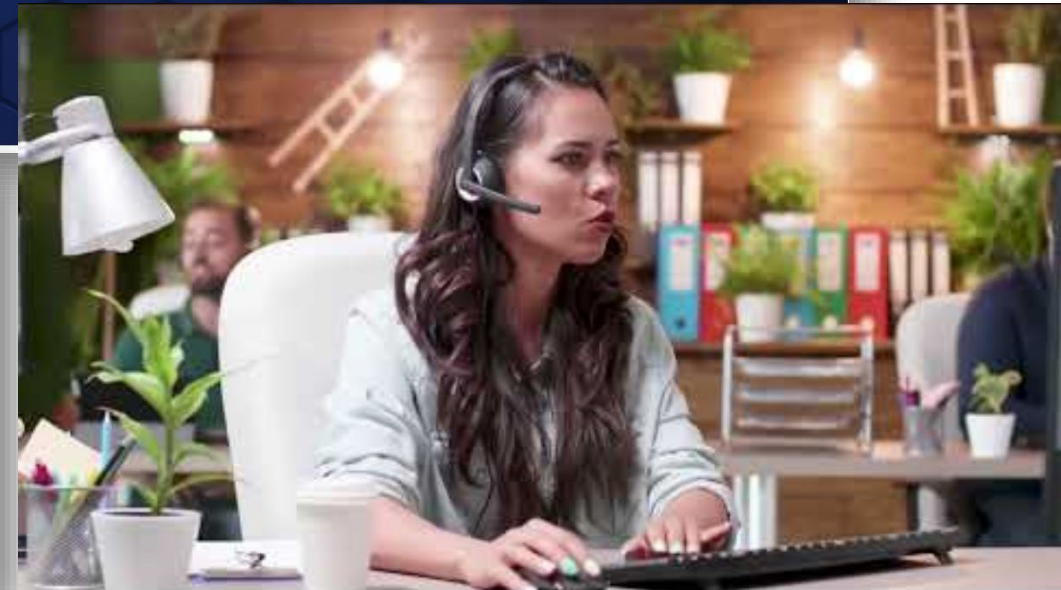
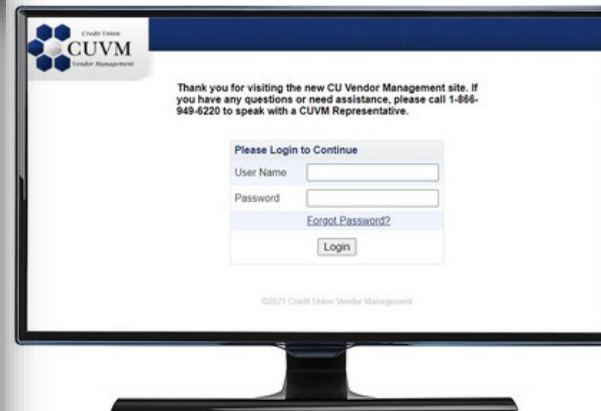
Managing vendors can feel like a juggling act that never stops. At CUVM, we believe in simple – a simple solution that will save you time, help you avoid costly mistakes, and keep you organized.

[Find out how we can help you!](#)



A simple solution for a complicated task

- Streamlines the vendor management process
- Saves you time and money and lowers operational expenses
- Centralizes storage and retrieval of contracts and due diligence
- Offers personalized service with dedicated analyst and support staff
- Ensures all contracts are compliance-friendly
- Meets NCUA requirements
- Cloud-based technology that is available 24/7



**Rather eat your vegetables than try to
sort through complex federal
and state laws and regulations?**



InfoSight breaks them down into
easy-to-understand summaries!

Questions?

Glory LeDu

CEO of League InfoSight

CEO of CU Risk Intelligence

Glory.LeDu@LeagueInfoSight.com

League**InfoSight**

CU RISK
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