REGULATORY UPDATE:
WHAT’S AHEAD IN 2016
(AND WHAT WE MAY HAVE MISSED IN 2015)

Jim Vilker, NCCO, VP of Professional Services
CU*Answers
AGENDA

• 2015/16 Significant Letters to Credit Unions
• 2015 Significant Regulatory Changes
• Rules Promulgated by the CFPB
• Supervisory Priorities for 2016
• FFIEC - Cybersecurity and Cybersecurity on Vendor Management
• What’s Hot
  – Changes in Flood Determination
  – DOD and MLA – Military Lending Act
  – CECL
# NCUA REGULATIONS

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# 2014 NCUA LETTERS TO CREDIT UNIONS

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<td>14-CU-10</td>
<td>Identifying and Mitigating Risks of Money Services Businesses</td>
<td>December 2014</td>
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<td>14-CU-09</td>
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<td>14-CU-08</td>
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# 2015 NCUA LETTERS TO CREDIT UNIONS

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<td>15-CU-06</td>
<td>Fixed Assets Limit Removed</td>
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<td>Regulatory Relief on Annual Privacy Notices</td>
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<td>16-CU-02</td>
<td>Online CUSO Registry to Open for Registrations in February</td>
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<td>Supervisory Priorities for 2016</td>
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NOT TO MENTION THE CFPB PROPOSED RULES

1. 2013 Integrated Mortgage Disclosures Rule Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (Regulation Z) and Amendments; Delay of Effective Date
2. Submission of Credit Card Agreements under the Truth In Lending Act (Regulation Z)
3. Amendments Relating to Small Creditors and Rural or Underserved Areas Under the Truth in Lending Act (Regulation Z)
4. Prepaid Accounts Under the Electronic Fund Transfer Act (Regulation E) and the Truth in Lending Act (Regulation Z)
5. Amendments to the 2013 Mortgage Rules under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (Regulation Z)
6. Prepaid Accounts under the Electronic Fund Transfer Act (Regulation E) and the Truth In Lending Act (Regulation Z)
7. Amendments to the 2013 Integrated Mortgage Disclosures Rule under the Real Estate Settlement Procedures Act (Regulation X) and Truth In Lending Act (Regulation Z) and the 2013 Loan Originator Rule under the Truth in Lending Act (Regulation Z).
NOT TO MENTION THE CFPB PROPOSED RULES

8. Defining Larger Participants of the Automobile Financing Market and Defining Certain Automobile Leasing Activity as a Financial Product or Service.
9. Home Mortgage Disclosure (Regulation C)
10. Amendment to the Annual Privacy Notice Requirement Under the Gramm-Leach-Bliley Act (Regulation P); notice of extended comment period
11. Amendments to the 2013 Mortgage Rules under the Truth in Lending Act (Regulation Z)
12. Remittance Rule – Temporary Exception (Regulation E); notice of extended comment period
13. Minimum Requirements for Appraisal Management Companies
14. Defining Larger Participants of the International Money Transfer Market
15. Appraisals for Higher-Priced Mortgage Loans – Supplemental Proposal
16. Amendments to the 2013 Mortgage Rules under the Equal Credit Opportunity Act (Regulation B), Real Estate Settlement Procedures Act (Regulation X), and the Truth in Lending Act (Regulation Z)
NOT TO MENTION THE CFPB PROPOSED RULES

17. Amendments to the 2013 Mortgage Rules under the Real Estate Settlement Procedure Act (Regulation X) and the Truth In Lending Act (Regulation Z)

18. Amendments to the 2013 Escrows Final Rule under the Truth in Lending Act (Regulation Z)

19. Ability to Repay Standards Under the Truth in Lending Act (Regulation Z) » issued concurrent to the January 2013 Ability to Repay and Qualified Mortgage Standards final rule

20. Remittance Rule (Regulation E)


22. 2012 Real Estate Settlement Procedures Act (Regulation X) Mortgage Servicing Proposal

23. Defining Larger Nonbank Participants in Certain Consumer Financial Products and Services Markets

24. Truth in Lending Act (Regulation Z); Loan Originator Compensation
25. **Integrated Mortgage Disclosures** Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth In Lending Act (Regulation Z); [notice of extended comment period](http://www.consumerfinance.gov/regulations/#proposed)

26. **High-Cost Mortgage and Homeownership Counseling Amendments** to the Truth in Lending Act (Regulation Z) and Homeownership Counseling Amendments to the Real Estate Settlement Procedures Act (Regulation X); [notice of extended comment period](http://www.consumerfinance.gov/regulations/#proposed)

27. [http://www.consumerfinance.gov/regulations/#proposed](http://www.consumerfinance.gov/regulations/#proposed)
SUPERVISORY PRIORITIES
SUPERVISORY PRIORITIES

- Cyber Security
- Response programs for breach of member information
  - Minimum requirements for 748
- IRR
- TILA-RESPA
- CUSO Reporting
SUPERVISORY PRIORITIES
CYBERSECURITY

• Encourages credit unions to become familiar and use cyber assessment tool

• Examiners will be incorporating it into the exam process

• NCUA now has entire site on cybersecurity

• But................... The entire financial institution industry is pushing back hard because the tool is seriously flawed

  More in just a bit..........................
SUPERVISORY PRIORITIES
RESPONSE PROGRAMS

• Time to dust off your Information Security Program
  – Appendix B to Part 748 Guidance [http://www.ecfr.gov/cgi-bin/text-idx?SID=69705844f47aa687e3dcfb1a4e457585&mc=true&node=pt12.7.748&rgn=div5#ap12.7.748_12].

• NCUA guidance lists are just the minimum
  – Many states have laws that are much more stringent

• Examiners will be reviewing your response program related to unauthorized access to, or use of, member information

• Document your response programs and report to the Board of Directors
SUPERVISORY PRIORITIES
BANK SECRECY ACT COMPLIANCE

• Primarily related to MSBs
• Increase in MSBs in our own network
• Usually not detected at the time of account opening
• Have we all heard of MSB.Gov?
• NCUA does have a resource page including the examiners guide and AIRES checklist:

SUPERVISORY PRIORITIES

IRR

- For three years running
- $50 million dollar asset minimum related to the existing rule
- Be prepared to provide field staff with documentation supporting your ability manage their IRR through changing market conditions
  - Primarily rising interest rates
- Expect new rules..... Not a letter

Will let Charlie handle this one...
SUPERVISORY GUIDANCE
TILA-RESPA

• Field staff will be reviewing not only the estimates and closing disclosures but also:
  – Records retention policies
  – Restrictions on certain fees
  – Process for providing estimates or requiring verifications prior to providing estimates

• AIRES checklist has been updated .... a must-look: https://www.ncua.gov/regulation-supervision/Pages/regulatory-reporting/aires-exam.aspx

SUPERVISORY GUIDANCE
CUSO REGISTRY

• Rule took effect in 2014
• Registry went live in 2016
• https://www.ncua.gov/regulation-supervision/Pages/regulatory-reporting/cuso-registry.asp
CYBER SECURITY
FFIEC ON CYBER SECURITY
FFIEC Releases Cybersecurity Assessment Observations, Recommends Participation in Financial Services Information Sharing and Analysis Center

The Federal Financial Institutions Examination Council (FFIEC), on behalf of its members, today released observations from the recent cybersecurity assessment and recommended regulated financial institutions participate in the Financial Services Information Sharing and Analysis Center (FS-ISAC).

During the summer of 2014, FFIEC members piloted a cybersecurity assessment at more than 500 community institutions to evaluate the institutions’ preparedness to mitigate cybersecurity risks. The assessment supplemented regularly scheduled exams and built upon key supervisory expectations contained within existing FFIEC information technology handbooks and other regulatory guidance. The “FFIEC Cybersecurity Assessment General Observations,” released today, provides themes from the assessment and suggests questions that chief executive officers and boards of directors may consider when assessing their institutions’ cybersecurity preparedness.

The FFIEC also recommended that financial institutions of all sizes participate in the FS-ISAC as part of their process to identify, respond to, and mitigate cybersecurity threats and vulnerabilities. The FS-ISAC is a non-profit, information-sharing forum established by financial services industry participants to facilitate the public and private sectors’ sharing of physical and cybersecurity threat and vulnerability information. Rapidly evolving cybersecurity risks reinforce the need for all institutions and their critical technology service providers to have appropriate methods for obtaining, monitoring, sharing, and responding to threat and vulnerability information. **Financial institution management is expected to monitor and maintain sufficient awareness of cybersecurity threats and vulnerability information so that they may evaluate risk and respond accordingly.**

Related Links:
- [FFIEC Cybersecurity Assessment General Observations](https://www.ffiec.gov/ffiec_cybersecurity_assessment_general_observations.pdf) (PDF)
- [Cybersecurity Threat and Vulnerability Monitoring and Sharing Statement](https://www.ffiec.gov/cybersecurity_threat_and_vulnerability_monitoring_and_sharing_statement.pdf) (PDF)
**FFIEC MORE ON CYBER SECURITY**

- **November 3, 2015 - Press Release:** The Federal Financial Institutions Examination Council (FFIEC) today issued a statement alerting financial institutions to the increasing frequency and severity of cyber attacks involving extortion.

- **June 30, 2015 - Press Release:** The FFIEC today released a Cybersecurity Assessment Tool to help institutions identify their risks and assess their cybersecurity preparedness.

- **March 30, 2015 - Press Release:** The FFIEC released information regarding the release of two statements about ways that financial institutions can identify and mitigate cyber attacks that compromise user credentials or use destructive software, known as malware.

- **March 17, 2015 - Press Release:** The Federal Financial Institutions Examination Council (FFIEC) today provided an overview of its cybersecurity priorities for the remainder of 2015.

- **November 3, 2014 - Press Release:** FFIEC Releases Cybersecurity Assessment Observations, Recommends Participation in Financial Services Information Sharing and Analysis Center

- **September 26, 2014 - Press Release:** State and Federal Regulators: Financial Institutions Should Move Quickly to Address Shellshock Vulnerability

- **June 24, 2014 - Press Release:** FFIEC Launches Cybersecurity Web Page and Commences Cybersecurity Assessment

- **May 7, 2014 - Press Release:** FFIEC Promotes Cybersecurity Preparedness for Community Financial Institutions
CYBER SECURITY RESOURCES

- FBI InfraGard
- Financial Services Information Sharing and Analysis Center
- National Credit Union Administration’s Cyber Security Resources Page
- U.S. Computer Emergency Readiness Team
- U.S. Secret Service Electronic Crimes Task Force (ECTF)

http://www.cuanswers.com/resources/cybersecurity/
CYBER SECURITY
IMPACT ON VENDOR MANAGEMENT STRATEGIES

• 3 references to vendor management in the General Observations document:

• 8 references to vendor management in the assessment tool including:
  – Audits
  – Due diligence
  – Site visits
  – Assessments of high risk vendors
  – Contract reviews
  – Security and code reviews
VENDOR MANAGEMENT

• 46% percent of bank exams listed vendor management as a deficiency...
  – NCUA’s numbers are probably close or higher

• NCUA mentioned at the years fall NAFCU conference vendor management will become a high priority and stated they will follow the OCC’s recommendation on VM becoming a more dynamic responsibly

• It is estimated that the cost of monitoring a vendor will double in the coming years and be in the thousands...
  – G2Link white paper
VENDOR MANAGEMENT
A NETWORK SOLUTION: “AUDITLINK VM”

• AuditLink is partnering with G2Link and began doing vendor management for CU*Answers in January of 2016
• End to end with a dynamic monitoring process
• In March we will go into beta with 4 in network credit unions (and potentially out of network CUSO)
• Service includes:
  – Assessment of vendor criticality
  – Creating and categorizing them on the monitoring system
  – Creating critical event tables with real time monitoring
  – Daily monitoring including communicating with vendors directly
  – Full contract management platform for credit unions with archival and notification of critical dates
IRR RISK MITIGATION

• First Shot Across the Bow in Early 2012: 12 CFR Part 741 Interest Rate Risk Policy and Program
  – 741 is the regulation regarding the ongoing insurance of member accounts

• Second Shot Across the Bow in May 2012: 12-CU-05 Interest Rate Risk Policy and Program Requirements
  – Outlines the examiner checklist
  – Describes how examiners will use the checklist

• Third Shot Across the Bow in August 2012: 12-CU-11 Interest Rate Risk Policy and Program Frequently Asked Questions
  – Answers the question of “why is this a requirement of my insurance from NCUA perspective?”
  – Reiterates responsibilities of Board, Committees, and Management

• Fourth: 13-CU-01 Supervisory Focus for 2013-15
  – Clearly states that the main focus of the year will be evaluation of interest rate risk and other risks associated with the running of a financial institution
IRR RISK MITIGATION

• Fifth but not final: IRR is mentioned in the RBC rule as well
  “Accordingly, the Board is now proposing to exclude consideration of IRR from the risk-based capital ratio measure, but in the future intends to consider alternative approaches for taking into account the IRR at credit unions.”

• NCUA has added a web page to educate and understand the nuances of what they are expecting every credit union to know and do including:
  - Economic update videos
  - Regulations
  - Letters to credit unions
  [http://www.ncua.gov/Resources/Pages/interest-rate-risk-resources.aspx](http://www.ncua.gov/Resources/Pages/interest-rate-risk-resources.aspx)

Now let’s dig into some recent examination discussions...
LAST WORDS ON INVESTMENT RISK

• This sounds like a lot of work – and it is

• However, credit union management should not underestimate the NCUA’s fear of rising interest rates and the potential impact these increases might have on credit union earnings (and, ultimately, on the Share Insurance Fund)

• Remember, the NCUA under 741 even has the right to remove your share insurance if the NCUA has evidence that the federally insured credit union is inadequately managing interest rate risk

• Your best defense against examiners will be the knowledge you have of your investment portfolio and how it operates, and your written and implemented contingency plans in the event of a rising interest rate environment
HFIAA
Homeowner Flood Insurance Affordability Act

• New requirement to require the escrowing of flood insurance premiums on residential real estate loans

• Effective date January 1, of 2016
  – Impacts loans made, increased, extended or renewed on or after January 1, 2016
  – New disclosures for loans at origination and those in existence prior to 2016

• Review exceptions to both loans and the small lender definition
MILITARY LENDING ACT

• Covers
  – Active duty military
  – Active guard and reserve
  – Dependents of those above

• From APR to MAPR
  – MARP includes credit life, debt protection, and debt suspension
  – 36% maximum limitation
  – Applies to both open- and closed-end lending

• Identification of covered borrower
  – DOD is working with credit reporting agencies
  – DOD MLA data base verification...... direct access sign up extended to February 15

http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=d1bf00486abe92f208ee58e32a4a7bef&mc=true&r=SECTION&n=se32.2.232_11
CECL
CURRENT EXPECTED CREDIT LOSS

• ASU (accounting standards update) to be issued the end of the first half of 2016, but with that said...

• Replaces the existing incurred loss methodology for calculating loan and investment losses
  - Requires CUs to record credit losses over the loan/investments lifetime... allowing for loan loss the second after you put it on the books
  - Based upon managements expectations of cash flows they do not expect to collect and it does incorporate historical losses but also current conditions and forecasts

• Expected implementation date after December 15, 2019

• So what is all the buzz about now?
  - Ambulance chasing?
  - Data collection that can be used for cash flow analysis
  - Correlations and segmentation of loan and investment types
  - What is the network up to?

http://www.fasb.org/cs/ContentServer?c=Page&pagename=FASB%2FPage%2FSectionPage&cid=1176167771938
VILKER’S CRYSTAL BALL

- HMDA
- ARIES
- Courtesy Pay
- Reg Z extensions to other services
- Ability to repay
- IRR
- RESPA
QUESTIONS??