

# REGULATORY UPDATE: WHAT'S AHEAD IN 2016

(AND WHAT WE MAY HAVE MISSED IN 2015)

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

**AuditLink**

# 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
- Top 10 <https://auditlink.cuanswers.com/category/2015-top-ten/>

# NCUA REGULATIONS

<a href="#"><u>12 CFR Part 703</u></a>	Investment and Deposit Activities - Bank Notes	Final Action	3/24/2016
<a href="#"><u>12 CFR Part 723</u></a>	Member Business Loans; Commercial Lending	Final Action	2/18/2016
<a href="#"><u>12 CFR Part 790</u></a>	Technical Amendments	Final Action	01/21/2016
<a href="#"><u>12 CFR Part 745</u></a>	Pass-Through Share Insurance for Interest on Lawyers Trust Accounts	Final Action	12/17/2015
<a href="#"><u>12 CFR Parts 700, 701, 702, 703, 713, 723, and 747</u></a>	Risk-Based Capital	Final Action	10/15/2015
<a href="#"><u>12 CFR Part 791</u></a>	Regulatory Flexibility Act Threshold	Final Action	9/17/2015
<a href="#"><u>12 CFR Part 704</u></a>	Corporate Credit Unions	Final Action	09/17/2015
<a href="#"><u>12 CFR Parts 740, 741, 747, and 796</u></a>	Civil Monetary Penalty Inflation Adjustment	Final Action	07/23/2015
<a href="#"><u>12 CFR Part 702</u></a>	Capital Planning and Stress Testing – Schedule Shift	Final Action	07/23/2015
<a href="#"><u>12 CFR Part 701</u></a>	Federal Credit Union Ownership of Fixed Assets	Final Action	07/23/2015
<a href="#"><u>12 CFR Part 760</u></a>	Loans in Areas Having Special Flood Hazards	Final Action	06/18/2015
<a href="#"><u>IRPS 13-1</u></a>	Minority Depository Institution Preservation Program	Final Action	06/18/2015
<a href="#"><u>12 CFR Part 704</u></a>	Corporate Credit Unions	Final Action	04/30/2015
<a href="#"><u>12 CFR Part 704</u></a>	Corporate Credit Unions	Final Action	04/30/2015

# 2015 NCUA LETTERS TO CREDIT UNIONS

Number	Subject	Date	Status
<a href="#"><u>15-CU-06</u></a>	Fixed Assets Limit Removed	October 2015	Active
<a href="#"><u>15-CU-05</u></a>	Standards for Assessing Diversity Policies and Practices	June 2015	Active
<a href="#"><u>15-CU-04</u></a>	<a href="#"><u>Improving the Process for Consumer Complaints</u></a>	June 2015	Active
<a href="#"><u>15-CU-03</u></a>	Taxi Medallion Lending Questions and Answers	May 2015	Active
<a href="#"><u>15-CU-02</u></a>	Private Student Loans with Graduated Repayment Terms at Loan Origination	January 2015	Active
<a href="#"><u>15-CU-01</u></a>	Supervisory Priorities for 2015	January 2015	Active

# 2016 NCUA LETTERS TO CREDIT UNIONS

Number	Subject	Date	Status
<a href="#"><u>16-CU-03</u></a>	<a href="#"><u>Regulatory Relief on Annual Privacy Notices</u></a>	January 2016	Active
<a href="#"><u>16-CU-02</u></a>	Online CUSO Registry to Open for Registrations in February	January 2016	Active
<a href="#"><u>16-CU-01</u></a>	<a href="#"><u>Supervisory Priorities for 2016</u></a>	January 2016	Active

# NOT TO MENTION THE CFPB PROPOSED RULES - YOUR INDEX

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)
21. 2012 Truth in Lending Act (Regulation Z) Mortgage Servicing Proposal
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



# NOT TO MENTION THE CFPB PROPOSED RULES

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
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
27. <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
  - [https://www.ffiec.gov/pdf/cybersecurity/FFIEC CAT June 2015 PDF2.pdf](https://www.ffiec.gov/pdf/cybersecurity/FFIEC_CAT_June_2015_PDF2.pdf)
- 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
  - <http://www.bankinfosecurity.com/banks-demand-ffiec-overhaul-cyber-assessment-tool-a-8823/op-1>

*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:

<https://www.ncua.gov/regulation-supervision/Pages/bank-secrecy-act.aspx>

## 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>
- CFPB also issued an exam guide last September:  
[http://files.consumerfinance.gov/f/201509\\_cfpb\\_truth-in-lending-act-exam-procedures.pdf](http://files.consumerfinance.gov/f/201509_cfpb_truth-in-lending-act-exam-procedures.pdf)



# 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 \(PDF\)](#)
- [Cybersecurity Threat and Vulnerability Monitoring and Sharing Statement \(PDF\)](#)

# 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:
  - [http://www.ffiec.gov/press/PDF/FFIEC\\_Cybersecurity\\_Assessment\\_Observations.pdf](http://www.ffiec.gov/press/PDF/FFIEC_Cybersecurity_Assessment_Observations.pdf)
- 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
  - [https://www.ffiec.gov/pdf/cybersecurity/FFIEC\\_CAT\\_June\\_2015\\_PDF2.pdf](https://www.ffiec.gov/pdf/cybersecurity/FFIEC_CAT_June_2015_PDF2.pdf)

# 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



**G2Link**



# 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
  - MAPR 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](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 in 2021
- 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??

