NCUL Compliance Conference

Jeremy Smith
Compliance Manager

Erin O’Hern
Director of League Compliance Services
As Compliance Manager, Jeremy Smith oversees compliance services for PolicyWorks' partner Credit Union Leagues. Jeremy provides regulatory compliance guidance and training on current laws and regulations to credit union professionals.

Before coming to PolicyWorks, Jeremy worked in regulatory compliance developing policies, coordinating and communicating with state and federal examiners, developing and monitoring the company’s compliance risk assessment and developing a compliance management system.
Meet the Presenter

As Director of League Compliance Services, Erin O’Hern oversees PolicyWorks' credit union league compliance services managing compliance inquiries, informing credit unions of new compliance requirements and providing a comprehensive resource of federal credit union regulations. Erin previously held the position of Regulatory Counsel at PolicyWorks. Prior to joining PolicyWorks, Erin worked as a staff attorney for Iowa Legal Aid where she handled a variety of civil law cases. Erin received her law degree from University of Iowa College of Law. She is a member of the Iowa State Bar Association.
League Services Team

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Compliance Hotline

Biweekly Newsletter

Town Hall Webinars

Online Resources

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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.
NCUA Updates and Hot Topics
NCUA Supervisory Priorities 2018

- Cybersecurity
- BSA Compliance
- Internal Controls and Fraud Prevention
- Interest Rate Risk and Liquidity Risk
- Automobile Lending
- Commercial Lending
- Consumer Compliance
Automobile Lending

• Additional scrutiny for portfolios with the certain concentrations:
  • Extended loan maturities (over 7 years)
  • High LTV
  • Subprime
  • Indirect lending

• Concentration Risk: 10-CU-03
Indirect Lending

- Establish clear expectations and have regular contact with participating dealers
- Set appropriate growth goals and concentration limits
- Keep the board informed of the portfolios performance and risk-levels
- Take early action to revise the program with adverse performance trends
Recent Rule Changes
Member Business Lending

• It was effective **January 1, 2017** (except changes to personal guarantees, effective **May 13, 2016**)
• Principal based approach
MBL Classification

1-to-4 unit family dwellings do not count towards the member business loan cap.

- Effective June 5, 2018
- Applies to all federally insured credit unions
- Previously only 1-to-4 units that were the primary residence of a member were excluded from the MBL cap
NCUA’s new rule contains several key changes:

- Allows a fourth option to the NCUA’s official advertisement statement
- Expands current exemption on certain radio and television advertisements
- Eliminates the requirement to include the official advertising statement on statements of condition
Advertising Statement Cont.

NCUA’s advertising rule requires a credit union to use an official advertisement statement on most credit union ads.

1. “This credit union is federally insured by the National Credit Union Administration”
2. “Federally insured by NCUA”
3. A reproduction of the NCUA official sign
4. “Insured by NCUA” was added as the fourth option
Advertising Statement cont.

• Radio and television advertisements that do not exceed 30 seconds in duration are exempt from the official advertising statement requirement

• Key details:
  • Effective May 25, 2018
  • Applies to all federally insured credit unions

• Remember to tell your marketing co-workers!
Voluntary Mergers Rule

• Scope and Effective Date
  • Effective **October 1, 2018**
  • Applies to all federally-insured credit unions
  • State- and federally-chartered
  • Key word is “voluntary”
New Requirements

- Increases minimum time to notify members before merger
- Requires merging credit unions to disclose related compensation
- Clarifies content and format of notice to members
- Creates an NCUA webpage to communicate about the merger
Timing of Member Notice

• Merging credit union must mail the notice at least 45 days – but no more than 90 days – before the meeting to vote on a proposed merger

• If a merging credit union’s situation is severe enough to warrant a waiver of the member vote, the 45-day notice requirement would not apply

• No change for mergers where a FICU is proposing to terminate NCUSIF coverage by merging with a non-FICU
Content of Member Notice

• Merger’s affect on locations and services
• Net worth of the merging credit union in relation to the continuing credit union, including info on the distribution of the merging credit union’s net worth, if any
• Significant increases in compensation
• Information about the NCUA website, the ability for members to post comments
Disclosure of Related Compensation

Merging credit union must disclose merger-related compensation increases above $10,000 or 15% of compensation, whichever is greater, for the following:

- CEO/Manager
- Four most highly compensated employees (other than CEO)
- Any member of the board or supervisory committee
Submission of Minutes to NCUA

Both the merging credit union and the continuing credit union must:

• Submit board minutes to the NCUA, if the minutes reference a merger during the 24 months before its approval; and
• Certify that there are no other merger-related financial arrangements, other than those disclosed in the member notice for the merging credit union.
Field of Membership Changes

• Scope and Effective Date
  • Effective September 1, 2018
  • Applies to federal credit unions (FCUs) that are applying, expanding, or converting to a community charter
New Requirements

• Applicants for community charter may submit a narrative, which includes thirteen criteria to prove the common interests or interactions among residents

• NCUA will hold public hearings and solicit public comments for narratives submitted on populations > 2.5 million people

• NCUA CURE will publish info about the hearing in the *Federal Register* at least 30 days prior to the hearing date
Proposed Rules

• Appraisal threshold changes
  • Commercial loan proposal
  • Residential ANPR

• Loans to members
  • Only for FCUs

• PAL 2.0
Agency Activity
President Trump nominated Rodney Hood to serve on the NCUA Board

- If confirmed by the Senate, Hood would replace Rick Metsger whose term expired last August
- Hood is currently a corporate responsibility manager for JPMorgan Chase and previously served as board vice-chairman on the NCUA Board
Extended Exam Cycle

• Risk based examinations (starting year 2 of the transition)
• Federal credit unions:
  • 14-20 months (less than $1 billion and certain criteria)
  • 8-12 months for all other FCUs
• State credit unions:
  • 8-12 months (Greater than $1 billion or certain CAMEL ratings)
  • All others exams conducted on risk and emerging trends
Exam Check-In

- Concerns with recent exams?
- Improvement or streamlined efficiencies with their recent exam?
Board Best Practices
Board Best Practices

• General Duties (NCUA Rules 701.4)
  • Setting the general direction and control of the credit union.
  • Carry out duties in good faith
  • Administer the affairs fairly and impartially
  • At least a working familiarity with basic finance and accounting practices
  • Follow applicable laws and rules
  • May rely on information prepared by employees or consultants if the director reasonably believes them to be reliable and competent
Finance and Accounting

NCUA Letter to credit unions – Basic financial skills required
- Understand the credit union’s balance sheet and income statement
- Base level of financial skills consistent with the size and complexity of the credit union

Basic Skills
- What does this line item mean?
- Why is it important to the credit union?
- Is the value of the line item changing over time?
- Is the change important to the credit union?
Office of Credit Union Resources and Expansion (CURE) Videos

• Understanding key ratios, understanding financial statements, effective board meetings and more

• *NCUA YouTube Channel – Board of Director Video Series
  • [https://www.youtube.com/user/NCUACHannel](https://www.youtube.com/user/NCUACHannel)

• NCUA Letter to Federal Credit Unions 11-FCU-02
Best practices

• Conflicts of interest
  • Have you reviewed and updated your policy?
• Engagement
• Training plan
• Strategic planning
  • External versus internal approach
• Succession planning
Training

• Commensurate with complexity and services of the credit union
  • Example: Commercial lending

• Training for new board members
  • Existing policies of the credit union

• Training for existing board members
  • BSA Training!
BCFP Updates
BCFP Supervisory Highlights

Summer 2018

- Auto servicing
- Credit cards
- Debt collection
- Mortgage servicing
- Payday lending
- Small business lending
Bank Secrecy Act
Everyone's Favorite
What FinCEN Expects From You

• Currency Transaction Reports (CTRs)
• Suspicious Activity Reports (SARs)
• Registration of Money Service Business (RMSB)
• Report of Foreign Bank or Financial Account (FBAR)
• Report of Cash Payments over $10,000 received in a Trade or Business (Form 8300)
• Report of International Transportation of Currency or Monetary Instruments (CMIR)
SAR Stats

✓ 2016 – 357 SARs filed
  ✓ Transactions below CTR Threshold – 56
  ✓ Transaction out of pattern for member – 38
  ✓ Suspicion concerning the source of funds – 37

✓ 2017 – 587 SARs filed
  ✓ Transactions below CTR Threshold – 62
  ✓ Check – 59
  ✓ Suspicion concerning the source of funds – 59

✓ 2018 – 359 SARs filed
  ✓ Transactions below CTR Threshold – 55
  ✓ Transaction out of pattern for member – 51
  ✓ Suspicion concerning the source of funds – 36
BSA/AML Compliance Program

✓ Must be written
✓ Must be BOD approved and reviewed annually
✓ Must provide for:
  1. Internal Controls
  2. Independent Testing
  3. BSA Officer
  4. Training
  5. CIP
Internal Controls

Credit unions should have policies, procedures, and processes that:

- Identify higher-risk operations
- Provide for program continuity despite changes in staffing or structure
- Meet all regulatory requirements for compliance, and provide for timely updates
- Identify reportable transactions and accurately file all required reports
Currency Transaction Report (CTR)

- Single currency transaction over $10,000
- Multiple currency transactions over $10,000 in a single day
  - Multiple persons same account and multiple accounts same person
  - Exchange of denomination
  - Aggregates
- Completed CTR must be electronically filed with FinCEN within 15 calendar days after the date of the transaction.
- Retain copy for 5 years
- You may disclose to the member, but it is not required
CTR Exemptions

• Certain members or business entities can be exempt from CTR filing (government entities, financial institutions, “payroll customers”)

• Not just anyone can be exempt from CTR filing – pawn shops, auto dealers, real estate brokerages, gaming institutions, etc. are ineligible due to risk involved

• Retain record of CTR Exemptions for 5 years
Suspicious Activity Report (SAR)

• Report suspicious activity (internal or external) involving your credit union to the BSA Officer
• No dollar limit
• Can be completed in addition to CTR, if warranted
• Must be filled no later than 30 calendar days from the discovery of the suspicious activity.

DO NOT DISCLOSE OR DISCUSS A SAR FILING
SAR Narrative

- **Why** do you think the activity is suspicious?
- **Who** is conducting the suspicious activity?
- **What** instruments or mechanisms are being used to facilitate the suspect transactions?
- **When** did the suspicious activity take place?
- **Where** did the suspicious activity take place?
- **How** did the suspicious activity occur?
When you **MUST** file a SAR

SAR must be filed within 30 days after:
- Criminal violations involving insider abuse in any amount
- Criminal violations aggregating $5,000 or more when you can identify a suspect
- Criminal violations aggregating $25,000 or more, regardless of a potential suspect.
- Transactions conducted or attempted by, at, or through the credit union and aggregating $5,000 or more, if the credit union knows, suspects, or has reason to suspect the transaction:
  - Might involve potential money laundering or other illegal activity (e.g., terrorism financing).
  - Is designed to evade the BSA or its implementing regulations.
  - Has no business or apparent lawful purpose.
SAR Continuing Activity

Credit unions should report continuing suspicious activity by filing a report after a 90 day review with the filing deadline being 120 calendar days after the date of the previously related SAR filing.

What procedures should be in place?

• Review by senior management and legal staff (e.g. BSA compliance officer or SAR committee).
• Criteria for when analysis of the overall member relationship is necessary.
• Criteria for whether and, if so, when to close the account.
• Criteria for when to notify law enforcement, if appropriate.
Common Reasons to File a SAR

✓ Structuring
✓ Check Fraud/Kiting
✓ Embezzlement
✓ Credit/Debit Card Fraud
✓ Elder Financial Abuse
✓ Identity Theft
✓ Consumer or mortgage loan fraud
✓ Tax Evasion
✓ Wire Transfer Fraud
✓ And more...
Monetary Instrument Log

- Must maintain records for monetary instrument sales in amounts of $3,000 to $10,000
- Periodically review monetary instrument records to identify possible structuring
- Look-back period of 30, 60, and 90 days
- Should focus on, among other things, identification of commonalities, such as common payees and purchasers, or consecutively numbered purchased monetary instruments.
Independent Testing

• An independent audit of the credit unions BSA compliance should be completed annually by qualified independent party.
• Frequency should be every 12 months or commensurate with risk profile
• The BOD should ensure any audit findings are promptly addressed.
BSA Compliance Officer

Responsibilities Include:

- File BSA reports in timely manner
- Ensure account-opening procedures comply with CIP requirements
- Provide appropriate staff training
- Perform annual risk assessment
- Ensure annual independent testing is performed
- Retain records as required by BSA
Training

- Annual and ongoing training for staff that is job-role specific
- Expanded training for BSA Officer
- Annual training and information for BOD
- BOD Accountability (Civil Penalties)
- Must be documented – material, dates, and attendance
Customer Identification Program (CIP)

At minimum, your credit union must obtain:

– Name
– Date of Birth
– Physical Address (and mailing address, if different)
– Identification number

Based on risk assessment, additional verification may be required by your CIP
CIP Due Diligence

Procedures enhanced via a risk assessment should detail:

• Acceptable documentation, or non-documentary methods, for verification of identity

• Situations where “reasonable belief” cannot be formed:
  – When will you refuse to open an account
  – What timeframe will you provide prior to closing an account?
  – Will you allow limited use while you verify identity?
  – When will you file a Suspicious Activity Report (SAR)?
Things to Consider

- Purpose of the account
- Source of funds and wealth
- Beneficial owners of the accounts
- Member’s occupation or type of business
- Banking references
- Domicile (where business is incorporated)
- Proximity of member’s residence or place of business to credit union
- Explanation for changes in account activity
Beneficial Owner Rule
Core Elements

Core Elements of CDD

- Requires financial institutions to establish and verify the identity of beneficial owners of legal entity customers
- Understand the nature and purpose of member relationship to develop a risk profile
- Ongoing monitoring for reporting suspicious transactions and, on a risk basis, maintain and updating member information
Legal Entity Members

Entities formed by a filing with the Secretary of State (or similar office)

• E.g. Corporations, LLCs, Partnerships, etc.
• Does NOT include trusts unless created through a filing with the state
Beneficial Ownership Rule

**Ownership Test**
An individual with a 25% (or greater) ownership interest in the legal entity

**Control Test**
An individual with significant responsibility to control, manage or direct the legal entity (E.g. CEO, CFO, COO, President, Vice President, etc.)

**AND**
Next Steps

STEP 1: Obtain a Certification of Beneficial Owner(s) identifying EACH individual that is a beneficial owner of the legal entity

STEP 2: Verify the identity of each beneficial owner, consistent with its existing CIP practices
FinCEN Advisories
Advisory to Financial Institutions and Real Estate Firms and Professionals

FIN-2017-A003
- Money Laundering Risks in the Real Estate Sector
  - Use of shell companies
  - Wire fraud and money laundering
Advisory to Financial Institutions Regarding Disaster-Related Fraud

FIN-2017-A007
  • Potential Fraud
    • Benefits Fraud
    • Charities Fraud
    • Cyber-Related Fraud
Advisory to Financial Institutions on Cyber-Events and Cyber-Enabled Crime

FIN-2016-A005

- Advisory to explaining cybercriminals targeting financial system to further other illegal activities.
  - SAR Reporting of Cyber Events (mandatory)
  - Including Cyber Related Information in SAR Reporting
  - Collaboration between BSA/AML and Cybersecurity Units
  - Sharing Cyber Related Information between Financial Institution
Activity Time!
Questions?
Advertising
Go Big or Go Home
Key Factors in Loan Advertising
Actual Terms Available

Get Ready for Summer
as low as 2.74% APR*

* APR means Annual Percentage Rate

Limited Time Offer
Know Your Trigger Terms

Closed-End
✓ Amount or percentage of any downpayment
  ✓ Only applies to credit sales
✓ Number of payments or period of repayment
✓ Amount of any payment
✓ Amount of any finance charge

Open-End
✓ APR
✓ Statement of when charges begin to accrue
✓ Method used to determine balance for charges
✓ Description of how finance charges will be determined
✓ Amount of any other charges
✓ Payment terms
  ✓ The draw period or any repayment period, to the length of the plan, to how the minimum payments are determined and to the timing of the payments)
Home Equity Line of Credit

Introductory Rate
Fixed for Two Years!

3.25%
Annual Percentage Rate

Current Variable Rate
4.25%
Annual Percentage Rate

Click for more information

Evans Equity Select Line Home Offer.

The equity in your home is one of the most important assets that you could use to consolidate high-interest debt, make home improvements or provide a cushion in difficult times. Enjoy this home equity line of credit with special introductory rate of 2.95% for the first 12 months.

*Your Annual Percentage Rate (APR) during the Introductory Rate Period will be 2.95% for the first 12 months. After the first 12 months, the rate will increase to Prime + 0.75% for lines of $30,000 - $39,999.99 and Prime + 1.00% for lines of $40,000 or more. The maximum APR will not exceed 16.50%. Prime equals the highest rate identified by The Wall Street Journal as the Prime Rate in its table listed "Money Rates" as of the monthly determination date in the agreement. The Prime Rate in effect on 4/1/15 is 3.25%. Rate subject to change without notice. Contact any branch for further details. If your loan is paid and your home equity mortgage is discharged within 3 years of origination, closing costs must be returned to the bank. Consult a tax advisor regarding deductibility of interest. Promotion period effective from 4/1/15 until 6/30/15. Your payment may be reduced from an interest-only payment and your Rate will be reduced by 0.25%. Fixed rate options available but not subject to discount for auto deduction. For either option, your loan is secured by a mortgage on your home and homeowner's insurance is required.
If an electronic ad states a trigger term, the required disclosures may be accompanied by a link that **directly** takes the member to the disclosures (within one-click away from the trigger term).

Include additional verbiage with the link that directs members to click the link to view the disclosures, such as:

- “Click here for additional information.”
- “Click here to learn more.”
- “Click here to view disclosures.”
As Low as......

“Subject to” Rates
✓ State the rate is “as low as X% APR”
✓ Link to a disclaimer that includes:
  ✓ Creditworthiness
  ✓ Collateral requirements
  ✓ Relationship pricing

Some Examples
✓ “*Annual Percentage Rate (APR) includes a .25% discount for Automatic Payment.”
✓ “1Rates are based on creditworthiness, so your rate may differ and is subject to change.”
✓ “All loans subject to approval based upon creditworthiness, qualifications and collateral conditions.”
No Payment for……

Delayed first payment
✓ “Finance charges begin to accrue immediately and are repaid over the life of the loan. As a result, you may pay higher total finance charges on the loan than if payments began earlier.”
Watch for UDAAP

✓ “Guaranteed Approval!”
  ✓ Can you really?
✓ “Get Preapproved Now!”
  ✓ Will they really?
✓ “No Closing Costs!”
  ✓ But you have to pay for the appraisal
✓ “Lowest Rate In Town!”
  ✓ At least that is what we think
Social Media
Current Environment

✓ Regulations have not kept up with technology
✓ Advertising in social media has **no exemptions** – all standard advertising requirements apply
Things to considered

✓ Consider character limitations for required disclosures
✓ Consider formatting limitations for required disclosures
✓ If a trigger term is advertised, include a link that leads directly to the required disclosures (within one-click away from the social media ad)
What’s the Risk?

✓ Reputational
✓ Privacy
✓ Proprietary
✓ Legal
✓ Third party
✓ Operational
FFIEC Social Media Guidance

✓ A social media governance structure
✓ Policies and procedures
✓ Training program
✓ Monitoring & Audit process
✓ Third-party risk management process
Key Factors in Deposit Advertising
Know Your Triggers

Stating an APY (i.e. 1.60% APY) is a trigger term under Truth in Savings and can require up to 6 additional disclosures.
Website and Marketing Compliance
Our Rates

Auto Loan ................. as low as 2.50% APR
Visa Gold Card ............. as low as 8.99% APR
Superior Checking ........... as high as 0.30% APY

Holiday checking account 1.00% APY

Visit us at our new branch
135 Main Street
Smithson, IA 55555

Learn about rewards at loveyourcreditunion.org
Account Opening for Foreign Nationals
Key Topics

• CIP/BSA discussion
• Quick Note: W-8BEN and 1042-S Forms
• Compliance considerations
• Resources
CIP and Other BSA Considerations
Account Opening Considerations For Undocumented Immigrants

Credit unions will need to discuss:

• What forms of identification can be accepted by the credit union (based on the board approved policy)
• What alternative forms of verifying the identity of the potential member are appropriate for the credit union
CIP Requirements for Citizens of Other Countries (Non-U.S. Persons)

✓ Name
✓ Date of birth
✓ Address
✓ One or more of the following:
  ✓ U.S. Taxpayer identification number
  ✓ Passport number and country of issuance
  ✓ Identification card number
  ✓ Number and country of issuance of any other government-issued document evidencing nationality or residence bearing a photograph
Account Considerations

• BSA
  • Follow credit union policy on what types of identification the credit union will accept from potential members
  • Train staff on when secondary documentation may be needed
    • Form the reasonable belief that the person is who they say they are.
    • Monitor international transactions, understand purpose of account (as you would for all other members)

• Reporting interest/dividends to IRS
ITIN

- IRS issues ITINs to individuals who have tax reporting or filing requirements and do not qualify for a SSN
- With an ITIN, individuals can report interest earned to the IRS
- An ITIN is obtained by completing Form W-7 and accompanying documentation to the IRS or through an approved Acceptance Agent (found on IRS site by state)
- It is a nine-digit number beginning with the number 9, has a 70-88 for the fourth and fifth digits and is formatted like a SSN.
  
  Example: 9XX-70-XXXX
ITIN

• For tax purposes only  
• Does not entitle individual to SS benefits or tax credits  
• Does not authorize an individual to work in the U.S.
Consular Identification Cards

- Matricula Consular

Mexico

Documento Personal de Identificación

Guatemala
Alternative Documents for Credit/Payment History

- Utility bills
- Mobile contract service receipts
- Remittance service receipts
- Medical bills
- English as a Second Language, Citizenship or other school expense receipts
- Direct deposit payroll income
- Federal tax returns
- Paystubs
- Employment letters
Compliance Considerations

- Review and update policies and procedures
- Monitor for policy exceptions
- Proper staff training
- Avoid UDAAP traps
Resources

• CUNA’s flow chart
• CUNA’s E-Guide
  – IRS Non-Resident Reporting – Forms W-8BEN and 1042-S
• Revised W-8BEN Form and IRS Forms and Instructions
• NCUA Legal Opinion Letter 03-0964
TRID 2.0
TRID 2.0

- Effective Date
- Scope and Coverage
- Loan Estimate
- Closing Disclosure
- Escrow Closing Notice
- Construction Loans
- Tolerance Levels
- Implementation Resources
Effective Date

Final rule effective date
• October 10, 2017

Mandatory compliance date
• October 1, 2018
Scope and Coverage

• Cooperative Units
• Housing Assistance Loans
Cooperative Units

All closed-end consumer credit transactions secured by a cooperative unit are subject to TRID, regardless of how the cooperative unit is classified under applicable state law

- Real property
- Personal property
Housing Assistance Loans

Certain housing assistance loans that meet the following criteria are exempt from TRID

- The loan is secured by a subordinate lien
- The purpose of the loan is down payment, closing cost, property rehabilitation, energy efficiency or foreclosure avoidance assistance
- The loan contract does not require the payment of interest
- The loan contract provides that the loan balance will be forgiven incrementally or in whole upon a date certain OR that repayment will be deferred for a minimum of 20 years, until the sale of the property or until the property is no longer the member’s principal dwelling
- Total costs payable by the member are limited to recording fees, transfer taxes and bona fide and reasonable application fees and housing counseling fees
  - Total cost for bona fide and reasonable application fees and housing counseling fees is less than 1% of credit extended
- All other disclosures as required under Regulation Z are provided
Loan Estimate

• Loan Amount
• Expiration Date for Closing Costs
• Total Interest Percentage
Loan Amount

The loan amount as disclosed on page 1 of the Loan Estimate shall reflect the face amount of the note

<table>
<thead>
<tr>
<th>Loan Terms</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Loan Amount</td>
<td>$162,000</td>
</tr>
</tbody>
</table>
Expiration Date for Closing Costs

The expiration date of the Loan Estimate is generally 10 days; however, the credit union may extend this date at its discretion.

If the member has already indicated their intent to proceed with the transaction and a subsequent change requires issuance of a revised Loan Estimate, the closing cost expiration date on page 1 of the revised Loan Estimate shall be left blank.
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The Total Interest Percentage (TIP) as disclosed in the Comparisons section on page 3 of the Loan Estimate shall include any interest prepaid by the borrower.

<table>
<thead>
<tr>
<th>Comparisons</th>
<th>Use these measures to compare this loan with other loans.</th>
</tr>
</thead>
<tbody>
<tr>
<td>In 5 Years</td>
<td>Total you will have paid in principal, interest, mortgage insurance, and loan costs.</td>
</tr>
<tr>
<td></td>
<td>Principal you will have paid off.</td>
</tr>
<tr>
<td>Annual Percentage Rate (APR)</td>
<td>4.274%  Your costs over the loan term expressed as a rate. This is not your interest rate.</td>
</tr>
<tr>
<td>Total Interest Percentage (TIP)</td>
<td>69.45%  The total amount of interest that you will pay over the loan term as a percentage of your loan amount.</td>
</tr>
</tbody>
</table>
Total Interest Percentage

The Total Interest Percentage (TIP) as disclosed in the Comparisons section on page 3 of the Loan Estimate shall include any interest prepaid by the borrower.
Total Interest Percentage

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Closing Disclosure

- Borrowers
- Gift Funds
- Total of Payments
- Revised Closing Disclosure
- Delivery of the Closing Disclosure to the Seller
Borrowers

Page 1 of the Closing Disclosure should only identify as borrowers those to whom credit is offered or extended (the obligors).

- However, remember that a copy of the Closing Disclosure must be provided to ALL property owners.
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Borrowers

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• However, remember that a copy of the Closing Disclosure must be provided to ALL property owners
Practice Point #1

§1026.19(e) Mortgage loans secured by real property – final disclosures

• In a closed-end consumer credit transaction secured by real property, other than a reverse mortgage subject to §1026.33, the creditor shall provide the consumer with the disclosures in §1026.38 reflecting the actual terms of the transaction.
Practice Point #2

§1026.2 Definitions and rules of construction

- Consumer means a cardholder or natural person to whom consumer credit is offered or extended. However, the term also includes a natural person in whose principal dwelling a security interest is or will be retained or acquired, if that person’s ownership interest in the dwelling is or will be subject to the security interest.
Gift Funds

Gift funds paid *AT CLOSING* shall be disclosed on page 3 of the Closing Disclosure in Summaries of Transactions / Section L: Paid Already by or on Behalf of Borrower at Closing

![Table showing gift funds paid at closing]
The Closing Disclosure shall be considered **material** so long as the Total of Payments is

- Greater than the amount required to be disclosed; or
- Understated by no more than the greater of:
  - ½ of 1% of the loan amount; or
  - $100

![Loan Calculations Table]

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total of Payments</td>
<td>$285,803.36</td>
</tr>
<tr>
<td>Finance Charge</td>
<td>$118,830.27</td>
</tr>
<tr>
<td>Amount Financed</td>
<td>$162,000.00</td>
</tr>
<tr>
<td>Annual Percentage Rate (APR)</td>
<td>4.174%</td>
</tr>
<tr>
<td>Total Interest Percentage (TIP)</td>
<td>69.46%</td>
</tr>
</tbody>
</table>
Total of Payments

The Closing Disclosure shall be considered **material** so long as the Total of Payments is

- Greater than the amount required to be disclosed; or
- Understated by no more than the greater of:
  - ½ of 1% of the loan amount; or
  - $100

---

### Loan Calculations

**Total of Payments.** Total you will have paid after you make all payments of principal, interest, mortgage insurance, and loan costs, as scheduled. $285,803.36

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Finance Charge. The dollar amount the loan will cost you.</td>
<td>$118,830.27</td>
</tr>
<tr>
<td>Amount Financed. The loan amount available after paying your upfront finance charge.</td>
<td>$162,000.00</td>
</tr>
<tr>
<td>Annual Percentage Rate (APR). Your costs over the loan term expressed as a rate. This is not your interest rate.</td>
<td>4.174%</td>
</tr>
<tr>
<td>Total Interest Percentage (TIP). The total amount of interest that you will pay over the loan term as a percentage of your loan amount.</td>
<td>69.46%</td>
</tr>
</tbody>
</table>
The Closing Disclosure shall be considered material so long as the Total of Payments is:

✓ Greater than the amount required to be disclosed; or
✓ Understated by no more than the greater of:
  ✓ ½ of 1% of the loan amount; or
  ✓ $100
Total of Payments

Materiality of Closing Disclosure

- The borrower may exercise the right to cancel until midnight of the third business day following the latter of
  - Consummation
  - Delivery of the Notice of Right to Cancel
  - Delivery of all *material* disclosures
Revised Closing Disclosure

A revised Closing Disclosure need not be issued post-closing if the only change is to the amount of per diem interest paid by the borrower.
Delivery of the Closing Disclosure to the Seller

Option #1: Full Closing Disclosure

Option #2: Modified Closing Disclosure
**Delivery of the Closing Disclosure to the Seller**

**Option #1:** Full Closing Disclosure

**Option #2:** Modified Closing Disclosure

---

**Closing Disclosure**

This is a statement of final loan terms and closing costs. Compare this document with your loan Estimate.

<table>
<thead>
<tr>
<th>Loan Terms</th>
<th>Can this amount increase after closing?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Loan Amount</td>
<td>$162,000</td>
</tr>
<tr>
<td>Interest Rate</td>
<td>3.875%</td>
</tr>
<tr>
<td>Monthly Principal &amp; Interest</td>
<td>$761.78</td>
</tr>
<tr>
<td>Prepayment Penalty</td>
<td>YES - As high as $3,240 if you pay off the loan during the first 2 years</td>
</tr>
<tr>
<td>Balloon Payment</td>
<td>NO</td>
</tr>
</tbody>
</table>

**Projected Payments**

<table>
<thead>
<tr>
<th>Payment Calculation</th>
<th>Years 1-7</th>
<th>Years 8-30</th>
</tr>
</thead>
<tbody>
<tr>
<td>Principal &amp; Interest</td>
<td>$761.78</td>
<td>$761.78</td>
</tr>
<tr>
<td>Mortgage Insurance</td>
<td>+ 82.35</td>
<td>+</td>
</tr>
<tr>
<td>Estimated Escrow</td>
<td>+ 206.13</td>
<td>+ 206.13</td>
</tr>
</tbody>
</table>

**Estimated Total Monthly Payment**

- $1,050.26
- $967.91

**Estimated Taxes, Insurance & Assessments**

- $356.13 a month

**Costs at Closing**

- Closing Costs: $9,712.10
- Cash to Close: $14,147.26

**Option #2:** Modified Closing Disclosure
Delivery of the Closing Disclosure to the Seller

Option #1: Full Closing Disclosure

Option #2: Modified Closing Disclosure
Delivery of the Closing Disclosure to the Seller

Option #1: Full Closing Disclosure

Option #2: Modified Closing Disclosure
Delivery of the Closing Disclosure to the Seller

Option #1: Full Closing Disclosure

Option #2: Modified Closing Disclosure
Practice Point

How is delivery of the full Closing Disclosure to the seller not a violation of privacy?

• Gramm-Leach-Bliley Act (GLBA) Exception
  • *When the sharing of non-public personal information is required or is a usual, appropriate or acceptable method of providing the customer or the customer’s agent or broker with a confirmation, statement or other record of the transaction*
Delivery of the Closing Disclosure to the Seller

In a transaction involving subordinate financing (e.g. 80/20), the credit union need only provide the seller with a copy of the Closing Disclosure from the 1st lien loan so long as it reflects the entirety of the seller’s transaction.
Provided when the escrow account associated with a closed-end consumer credit transaction secured by a 1st lien on real property or a dwelling is closed

- Must be provided in connection with all loans, regardless of application date, if the escrow account is closed after October 1, 2018
Escrow Closing Notice

Provided when the escrow account associated with a closed-end consumer credit transaction secured by a 1st lien on real property or a dwelling is closed

• Must be provided in connection with all loans, regardless of application date, if the escrow account is closed after October 1, 2018
Construction Loans

- Estimated property value on the Loan Estimate must be based on best information reasonably available.

- Value on the Closing Disclosure must be based on valuation used for loan approval, e.g. appraisal.
Construction Loans

Construction-to-Permanent Financing

• Single application
  • Credit union provides the Loan Estimate for the construction phase AND the Loan Estimate for the permanent phase within 3 business days of application

• Separate transactions
  • Credit union provides the Loan Estimate for the construction phase within 3 business days of application
  • Credit union provides the Loan Estimate for the permanent phase within 3 business days of application
Construction Loans

Construction-to-Permanent Financing

• If disclosed as a single transaction, the loan term is the combined term of both phases
  • Example
    • 31 years for a loan with a 12-month construction phase and a 30-year permanent phase
Construction Loans

Construction-to-Permanent Financing

- Costs associated with construction-to-permanent financing shall be allocated as follows:
  - All finance charges and points and fees that would not be imposed but for the construction financing shall be allocated to the construction phase
  - All finance charges and points and fees that would not be imposed but for the permanent financing shall be allocated to the permanent loan
  - All other fees and charges not considered to be finance charge or points and fees may be allocated in any manner the credit union chooses
Construction Loans

Construction-to-Permanent Financing

- If the loan contract provides that the credit union may increase the borrower’s interest rate when the loan converts from the construction phase to the permanent phase, the ARM disclosures required by §1026.20 must be provided
  - If the loan is secured by the borrower’s principal residence
Tolerance Levels

Variations Permitted for Certain Charges

- Prepaid interest
- Property insurance premiums
- Amounts placed into escrow
- Charges paid to a third-party service provider not identified on the credit union’s written list
- Charges paid to a third-party service provider for services not required by the credit union
HMDA Refresher
Home Mortgage Disclosure Act

• Institutional Coverage Test
• Transactions Subject to HMDA
• Data Collection Requirements
• Recording HMDA Data
• Reporting HMDA Data
• Public Disclosure
Institutional Coverage Test

✓ Assets in excess of $45 million as of 12/31/2017
✓ Home or branch office in a Metropolitan Statistical Area (MSA)
✓ Originated at least one home purchase or refinance transaction in the preceding calendar year
✓ Federally insured or regulated
✓ For closed-end reporting:
  ✓ Must have originated at least 25 closed-end mortgage loans in each of the two preceding calendar years
✓ For open-end reporting:
  ✓ Must have originated at least 500 open-end mortgage loans in each of the two preceding calendar years
S.2155 Update

• Exempts small volume mortgage lenders from the expanded HMDA data reporting requirements that became effective on January 1, 2018 if certain conditions are met

• Credit unions that originate less than 500 closed-end mortgages or 500 open-end lines of credit in each of the preceding 2 years are not subject to the expanded Dodd-Frank data collection points
Transactions Subject to HMDA

A transaction is reportable only if it is an application for, an origination of, or a purchase of a covered loan secured by a dwelling, now including:

- Home equity lines of credit (HELOCs)
- Business purpose loans secured by a dwelling
- Reverse mortgages
Preapprovals

• Covered institutions will now have to report preapproval requests for home purchase loans that were approved but not accepted.

• Preapproval requests for home purchase open-end lines of credit, home purchase reverse mortgages, and home purchase loans secured by a multifamily dwelling are excluded from the requirement.
Data Collection

✓ Legal Entity Identifier (LEI): identifier issued to the credit union
✓ Universal Loan Identifier (ULI): identifier assigned to identify and retrieve a loan or application
✓ Application date
✓ Loan type: whether the loan or application is insured by the FHA or guaranteed by the VA, RHS or FSA
✓ Loan purpose: home purchase, home improvement, refinancing, cash-out or other
✓ Preapproval: was the application a preapproval request?
✓ Construction method: is the dwelling site-built or a manufactured home?
✓ Occupancy type: principal residence, second residence or investment property
✓ Loan amount
✓ Action taken
Data Collection (cont.)

✓ Date action was taken
✓ Property address
✓ State the property is located in
✓ County the property is located in
✓ Census tract the property is located in
✓ Ethnicity of the applicant or borrower
✓ Race of the applicant or borrower
✓ Sex of the applicant or borrower
✓ Age of the applicant or borrower
✓ Income: gross annual income of the applicant or borrower
Data Collection (cont.)

✓ Purchaser: type of entity that purchased the loan
✓ Rate spread: difference between the APR and the average prime offer rate (APOR)
✓ HOEPA status: is the loan a high-cost mortgage under the Home Ownership and Equity Protection Act?
✓ Lien status: first or subordinate lien
✓ Credit score: credit score and the version of the credit scoring model used
✓ Reason(s) for denial (if applicable)
✓ Total loan costs or total points and fees
✓ Total borrower-paid origination charges
✓ Discount points
✓ Lender credits
Data Collection (cont.)

✓ Interest rate
✓ Prepayment penalty: term of prepayment penalty in months
✓ Debt-to-income ratio
✓ Combined loan-to-value ratio
✓ Loan term: term of the loan in months
✓ Introductory interest rate: number of months that an introductory interest rate is in effect (if applicable)
✓ Non-amortizing features: does the transaction have a balloon payment, interest-only payments or negative amortization?
✓ Property value
✓ Manufactured home secured property type: is the loan secured by a manufactured home AND land or a manufactured home with no land (if applicable)
Data Collection (cont.)

✓ Manufactured home land property interest: information about the applicant or borrower’s ownership or leasehold interest in the land where the manufactured home is located (if applicable)
✓ Number of individual dwelling units in the property
✓ Multifamily affordable housing units: number of individual dwelling units in the property that are income-restricted under a Federal, state or local affordable housing program
✓ Application channel: was the application submitted directly to the credit union?
✓ NMLS identifier for the mortgage loan originator
✓ Name of any automated underwriting system used by the credit union and the result generated by that system (if applicable)
✓ Is the loan a reverse mortgage?
✓ Is the loan an open-end line of credit?
✓ Is the loan primarily for a business or commercial purpose?
GMI Data Collection - Flow Chart

Request the information on ALL applications

- Applicant VOLUNTARILY provides
  - Use disaggregated categories
  - Face-to-Face Application
    - Applicant does NOT voluntarily provide
      - Provide based on visual observation and surname
      - Use aggregated categories
      - Applicants selects "I do not wish to provide this information"
        - No further action required by the credit union
        - Applicant meets with the credit union face to face to complete the application
          - Provide based on visual observation and surname
            - Use aggregated categories
  - Telephone, Mail and Online Applications
    - Applicant does NOT select "I do not wish to provide this information"
      - Applicant meets with the credit union face to face at closing
        - Provide based on visual observation and surname
          - Use aggregated categories

- Applicant does NOT voluntarily provide
  - Provide based on visual observation and surname
  - Use aggregated categories
  - Applicants selects "I do not wish to provide this information"
    - No further action required by the credit union
Recording HMDA Data

Data must be transferred from the application or loan file to the credit union’s Loan Application Register (LAR) within 30 calendar days after the end of the quarter in which final action was taken.

<table>
<thead>
<tr>
<th>Date of Final Action</th>
<th>Application is denied</th>
<th>Application is withdrawn</th>
<th>Application results in an origination</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date of denial</td>
<td>Date of withdrawal</td>
<td>Date of origination</td>
<td></td>
</tr>
</tbody>
</table>
# Reporting HMDA Data

<table>
<thead>
<tr>
<th>Credit unions that report LESS THAN 60,000 HMDA reportable transactions on an annual basis:</th>
<th>Credit unions that report MORE THAN 60,000 HMDA reportable transactions on an annual basis:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Submit the credit union’s Loan Application Register (LAR) no later than March 1(^{st}) of the year following data collection</td>
<td>Beginning in 2020, the credit union must submit its HMDA data on a quarterly basis</td>
</tr>
</tbody>
</table>
The HMDA data about our residential mortgage lending are available online for review. The data show geographic distribution of loans and applications; ethnicity, race, sex, and income of applicants and borrowers; and information about loan approvals and denials. These data are available online at the Consumer Financial Protection Bureau’s Web site (www.consumerfinance.gov/hmda). HMDA data for many other financial institutions are also available at this Web site.
Questions?