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Compliance Updates

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Compliance Update

Beneficial Ownership Rule – May 2018

Military Lending Act – October 2017

MLA Interpretation December 2017

NCUA Letters of Opinion

Real Estate Appraisals

Temporary Suspension of Foreclosures

Beneficial Ownership Rule

A new Treasury rule, issued last year, comes into force May 2018. It requires banks to collect information about the true, of “beneficial,” owners behind legal entity accounts. The goal is to lift the corporate veil that can allow criminals to launder ill-gotten gains under the guise of legitimate financial activity

Beneficial Ownership Rule

“beneficial owner” includes individuals who fit within at least one of the following “prongs”:

(i) Any individual who, directly or indirectly, owns 25 percent or more of the legal entity customer (the “Ownership Prong”);

and

(ii) One individual who has “significant responsibility to control, manage, or direct the legal entity.” (the “Control Prong”).

- corporations
- limited liability companies
- limited partnerships
- general partnerships
- business trusts
- any other entity created by a filing with a state office
- any similar entities formed under the laws of a non-US jurisdiction

Beneficial Ownership Rule

Under the Final Rule, covered financial institutions will be required to have written procedures to identify and verify beneficial owners of legal entity customers who open new accounts on or after May 11, 2018.

You may rely on the certification submitted by the customer unless something alerts you that the customer is providing information that may be false.

Beneficial Ownership Rule

Traditionally, four pillars were considered fundamental to an effective AML program:

- (i) a system of internal controls;
- (ii) designation of an AML/BSA Compliance Officer;
- (iii) training; and
- (iv) testing and auditing.

The Final Rule added a fifth pillar which requires covered institutions to understand the nature and purpose of relationships to develop a customer risk profile, conduct ongoing monitoring for reporting suspicious transactions, and, using a risk-based approach, maintain and update customer information.

Military Lending Act

The new rule interprets the MLA as requiring that creditors comply with disclosure requirements and restrictions on the maximum Military APR that may be charged ***if a vehicle financing transaction involving active duty military members, spouses, and other dependents (as defined by the MLA and implementing federal regulations) finances a credit-related product or service (GAP, Credit Life/Accident/Health/Disability, etc.) or provides cash out financing.***

The new rule was effective immediately 12/14/17

Military Lending Act

Ensure the credit transaction does not exceed a Military Annual Percentage Rate of 36%; and

Provide MAPR disclosures to the consumer (both written and oral), required Regulation Z disclosures, and a clear description of the payment obligation.

The MLA though applies only to an individual who, at the time he or she becomes obligated on a consumer credit transaction, is an active duty member of the armed forces or a dependent of an active duty member.

NCUA Letter of Opinion

NCUA Letter 17-CU-06

On October 17, 2017, the NCUA, along with other federal financial institution regulatory agencies, issued an exception from the appraisal requirements for all real estate-related financial transactions that require the services of an appraiser in the areas President Trump has designated as major disaster areas. These areas qualify for special consideration as a result of recent severe storms and flooding. The exception expires three years from the date of the disaster declaration for the affected area.

NCUA Letter of Opinion

The exception provides flexibility to credit unions with loans secured by real estate located in the affected areas relative to appraisal requirements under [Part 722](#) of NCUA rules and regulations. Whether or not a credit union elects to take advantage of this exception is a business decision that should be determined by the credit union on a case-by-case basis. The credit union may only take advantage of the exception if they meet the requirements of the order. The order requires:

- the property involved was located in the major disaster area;
- there is a binding commitment to fund the transaction that was entered into on or within 36 months of the date that the area was declared a major disaster; and
- the value of the real property supports the institution's decision to enter into the transaction.
- the transaction must continue to be subject to review by management and by the agencies in the course of examinations of the institution."

Temporary Suspension

Lender Letter LL-2017-11

In continued support of the victims of Hurricanes Irma and Maria, effective immediately, servicers must suspend any foreclosure sale on a property located within a FEMA-declared disaster area eligible for Individual Assistance in Puerto Rico and the U.S. Virgin Islands until March 31, 2018. The temporary suspension does not apply to properties in any other jurisdiction similarly designated as a result of the 2017 hurricanes.

NCUA Letter 09-CU-13

- Previous disasters have provided many “lessons learned” in working through a disaster. Following are the principle “lessons learned”:
 - Implement pre-disaster actions to ensure a constant state of readiness and take steps to safeguard assets and vital records if an early warning is received;
 - Communicate disaster preparedness and response efforts before, during, and after an emergency to keep members, volunteers, employees, and regulators fully aware of the situation;
 - Utilize a cross-section of people to develop, test, and implement disaster preparedness and response plans;
 - Ensure back-ups are available for not only data but also personnel, worksites, equipment, vendors, and other resources; and
 - Treat disaster preparedness and response plans as “living documents” to be updated as circumstance change.

Compliance Update

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