



Compliance eNewsletter

December 18, 2020 Vol. 14, Issue 48

InfoSight News

HAPPY HOLIDAYS!

This is the final issue of the InfoSight Newsletter for 2020, and we would like to wish our entire credit union community a happy holiday season. Whether you safely gather as a family or celebrate the holidays virtually, may we all look forward to 2021 with hope.

Compliance and Advocacy News & Highlights

Grandma Got A Scam Call from A Reindeer

When it comes to unwanted calls, there are a few universal truths. First, you can't trust caller ID. Second, nobody likes a robocall. And third, it's all about call blocking. If you watch *The Mandalorian*, here's where you say, "This is the Way." (If you don't watch it, this just means: call blocking...it's good.)

On the 7th day of Consumer Protection, [watch this video from the FTC](#) to find out how to block scam calls — from scammy reindeer and others — on your mobile phone.

And visit ftc.gov/calls to learn to block calls on home phones, whether they're landlines or VoIP. Even better, share the call-blocking news with grandma and anybody else who might have complained to you about those annoying calls they're getting. And tell them happy holidays from the FTC.

Source: FTC

FinCEN Issues New 314(b) Fact Sheet

FinCEN issued a new [Section 314\(b\) Fact Sheet](#) on December 10, 2020. Section 314(b) of the USA PATRIOT Act provides financial institutions with the ability to voluntarily share information with

one another, under a safe harbor that offers protections from liability, in order to better identify and report activities that may involve money laundering or terrorist activities.

The new fact sheet:

- replaces the previous 314(b) fact sheet (issued in November 2016);
- rescinds the agency's 2009 guidance (FIN-2009-G002) on the scope of permissible 314(b) information sharing activities;
- and reaffirms and expands on a 2012 administrative ruling (FIN-2012-R006) concerning the definition of “associations of financial institutions.”

Under Section 314(b), a financial institution may share information relating to activities that it suspects may involve possible terrorist financing or money laundering. This may include circumstances in which a financial institution has information about activities it suspects involve the proceeds of a “specified unlawful activity” (SUA). The revised guidance clarifies that:

- Financial institutions don't need to have specific information that these activities directly relate to proceeds of an SUA, or to have identified specific laundered proceeds of an SUA. *SUAs include an array of fraudulent and other criminal activities, including fraud against individuals, organizations, or governments, computer fraud and abuse, and other crimes. (18 USC 1956)*
- Financial institutions don't need to have made a conclusive determination that the activity is suspicious in order to benefit from the statutory safe harbor.
- Financial institutions may share information about activities as described, even if they don't constitute a “transaction” (e.g., attempted transaction, or an attempt to induce others to engage in such a transaction). This allows institutions to utilize 314(b) information sharing to address incidents of fraud or cybercrime, as well as other unlawful activities, where appropriate.
- There is no limitation under Section 314(b) on the sharing of personally identifiable information, or the type or medium of information shared, to include sharing information verbally.

The fact sheet also clarifies that entities that are not “financial institutions” under the Bank Secrecy Act may form and operate an “association of financial institutions” whose members share information under Section 314(b). This would include compliance service providers.

For additional questions related to 314(b) information sharing, contact FinCEN at 866-326-8314 or sys314a@fincen.gov.

Source: FinCEN

Frosty the Con Man: Avoiding Family Emergency Scams

“Hello? It's me — Frosty. Look it's a long story but without my top hat, I'm melting. Please, I need your help — send money now or I'll be nothing but a puddle!”

OK, so that's a silly example and real imposters aren't funny. But, on the 8th day of Consumer Protection, it's definitely worth remembering that scammers can be really convincing. And they don't take a break, even at this time of year. It's surprisingly easy for a scammer to impersonate

someone to snow you. Networking sites make it easier than ever to sleuth out personal and family information. And they play on your emotions. Scammers are banking on your love and concern to outweigh your skepticism.

You might get a call or message supposedly from an out-of-town family member or friend claiming to be in an accident, arrested, or hospitalized. To make their story seem legitimate, they may involve another crook who claims to be an authority figure, like a lawyer or police officer.

What do you do if you get a message like this?

- Stop – and check it out. Resist the urge to act immediately, no matter how dramatic the story is.
- Call a phone number for your family member or friend that you know to be genuine. Or reach out to another family member or friend to check out whether what the message claims is true.
- **Don't wire money – or send a check, money order, or gift card by overnight delivery or courier.**

And then tell the Federal Trade Commission: [ReportFraud.ftc.gov](https://www.ftc.gov/whistleblower).

Source: FTC

CFPB Issues Two Final Rules to Promote Access to Responsible, Affordable Mortgage Credit

The CFPB finalized its [General Qualified Mortgage \(QM\)](#) definition, and the [new Seasoned QM](#) regulations under the Truth in Lending Act (Regulation Z).

General QM

The final General QM rule amends Regulation Z to, among other things, replace the 43% debt-to-income (DTI) requirements and Appendix Q DTI calculation requirements with a more streamlined price-based approach. As expected, the new rule retains the same product-feature and underwriting requirements and limits on points and fees as the old definition but replaces the DTI test for first lien QM loans with a price threshold that caps the annual percentage rate (APR) on these loans to an amount that does not exceed the average prime offer rate (APOR) for a comparable transaction by more than 2.25 percentage points as of the date the interest rate is set. This spread is 0.25% higher than the 2% that the CFPB proposed initially, in recognition that “a 2.25-percentage-point pricing threshold strikes the best balance between ensuring consumers’ ability to repay and ensuring continued access to responsible, affordable mortgage credit.”

In a separate rulemaking finalized in October, the CFPB extended the sunset date for the related Temporary GSE QMs until the “mandatory compliance date” for this new General QM definition. This final General QM rule establishes that mandatory compliance date as July 1, 2021, meaning that lending pursuant to an application received from a member after July 1, 2021 must meet the new General QM requirements to qualify for the regulation’s liability protections. Interestingly, applications received after the effective date of the regulation (60 days after publication in the Federal Register, estimated to be Friday, February 12, 2021) but before the July 1, 2021 mandatory compliance date can receive protections by meeting either the Temporary GSE QM or

new General QM definitions. The final rule incorporates higher QM thresholds for loans with smaller loan amounts and for subordinate-lien transactions, allowing, for example, General QM protections for first lien loans with up to a 6.5% spread if the loan is for an amount between \$66,156 (indexed for inflation) and \$110,260 (indexed for inflation).

No changes were made to the safe harbor thresholds, which provide safe harbor protections for QM loans that do not exceed an APOR for a comparable transaction by 1.5 percentage points or more as of the date the interest rate is set (or by 3.5 percentage points or more for subordinate lien transactions).

Seasoned QM

In addition to the changes made to the General QM definition the Bureau also finalized the creation of a new “Seasoned QM” category. The final rule defines Seasoned QMs as first-lien, fixed-rate covered transactions that meet certain performance requirements over a seasoning period of at least 36 months, are held in portfolio until the end of the seasoning period, comply with general restrictions on product features and points and fees, and meet certain underwriting requirements.

Specifically, a covered transaction must meet the following product restrictions to be eligible to become a Seasoned QM:

- The loan is secured by a first lien;
- The loan has a fixed rate, with regular, substantially equal periodic payments that are fully amortizing and no balloon payments;
- The loan term does not exceed 30 years; and
- The loan is not a high-cost mortgage as defined in § 1026.32(a).

The rule also requires that the creditor consider the consumer’s DTI ratio or residual income, income or assets other than the value of the dwelling and debts, and verify that information using the same “consider and verify” requirements established for General QMs in the General QM Final Rule.

Regarding the rule’s performance requirement, seasoning is available only for covered transactions that have no more than two delinquencies of 30 or more days and no delinquencies of 60 or more days at the end of the seasoning period.

This Seasoned QM rule will take effect 60 days after publication in the Federal Register, which aligns with the effective date for the General QM Final Rule.

Source: CFPB

Articles of Interest

- [CFPB Issues Fall 2020 Rulemaking Agenda](#)
- [CU Trades Say COVID-19 Savings Hides NCUA Spending Boost](#)
- [Indiana Credit Union Completes Bank Acquisition](#)

- [CFPB Bureau Releases Report on Implementing the Dodd-Frank Act's Small Business Lending Data Collection Requirement](#)

CUNA's Advocacy Resources:

- [Happenings in Washington](#)
- [CUNA Advocacy Issues - COVID-19](#)

WOCCU Advocacy Resources:

- [Telegraph](#)
- [Advocate Blog](#)

Compliance Calendar

- December 25th, 2020: Christmas Day - Federal Holiday
- January 1st, 2021: **Annual Updates**
- January 1st, 2021: **Annual Reg Z Inflation Adjustments - Effective Date**
- January 1st, 2021: **NACHA – Enforcement**
- January 10th, 2021: **CFPB – GSE Qualified Mortgage - Extension of Sunset**