November 11th, 2022 | Volume 16 | Issue 44

Highlights

If creating a Business Continuity Plan (BCP) is on your radar for 2023, we have an opportunity you don't want to miss! Please join us on December 8 at 2:00 pm Eastern for a FREE online webinar: RecoveryPro Content Overview. This session will walk through RecoveryPro's model content and the recommended process for building the core elements of a BCP. This is a great session for credit unions interested in learning about the RecoveryPro system, what model content and resources are available, and to find out if RecoveryPro is right for your credit union! Current and prospective RecoveryPro users are welcome. Click here to register!

Compliance and Advocacy News & Highlights

Advance Notice of Proposed Rulemaking; Request for Public Comment.

The Federal Trade Commission ("Commission") proposes to commence a rulemaking proceeding to address certain deceptive or unfair acts or practices relating to fees. The Commission is soliciting written comment, data, and argument concerning the need for such a rulemaking to prevent persons, entities, and organizations from imposing such fees on consumers.

American consumers, workers, and small businesses today are swamped with junk fees that frustrate consumers, erode trust, impair comparison shopping, and facilitate inflation. For this ANPR, the term "junk fees" refers to unfair or deceptive fees that are charged for goods or services that have little or no added value to the consumer, including goods or services that consumers would reasonably assume to be included within the overall advertised price; the term also encompasses "hidden fees," which are fees for goods or services that are deceptive or unfair, including because they are disclosed only at a later stage in the consumer's purchasing process or not at all, whether or not the fees are described as corresponding to goods or services that have independent value to the consumer. These terms may overlap—a junk fee can be a hidden fee, but not all junk fees are hidden fees.

Frequently, these unfair or deceptive fees are bundled as "ancillary products" in conjunction with loans, auto financing, or some other complicated or expensive transaction, ending up on the final bill without the consumer's awareness or express and informed consent. Junk fees are especially likely to cause consumer harm when they arise "without real notice, unconnected to any additional service, in an industry where advertising is essential." Junk fees manifest in markets ranging from auto financing to international calling cards and payday loans. A 2019 poll conducted by Consumer Reports found eighty-two percent of those surveyed had spent money on hidden fees in the previous year. The respondents cited telecommunications and live entertainment as sources of hidden fees more than any other industries.

Junk fees not only are widespread but also are growing. In various industries, fees are increasing at higher rates than the base prices of the goods or services to which they are added. For example, in higher education and hospitality, fees are increasing faster than tuition or posted room rates. After first emerging in the late 1990s, hotel "resort fees" accounted for $2 billion, or one-sixth of total hotel revenue, by 2015. With rising prices, fees are becoming more prevalent, allowing some businesses to raise effective prices without appearing to do so.

[Visit the Federal Register today, to learn more.]

Source: FTC

NACHA Reminds Third-Party Senders to Conduct a Risk Assessment by March 31, 2023

Nacha believes that risk management is central to maintaining a high-quality ACH Network that relies on the trust of each participant. Financial Institutions' obligations include conducting a risk assessment and implementing a risk management program based on this assessment. This obligation extended to Third-Party Senders when the Third-Party Sender took on the role of the Originating Depository Financial Institution (ODFI), although it wasn't expressly stated.

The new Third-Party Sender Roles and Responsibilities Rule became effective Sept. 30, 2022. This rule explicitly states that Third-Party Senders must complete a risk assessment of their activities and implement a risk management program based on that assessment. Third-Party Senders have a six-month grace period ending on March 31, 2023, to conduct a risk assessment and implement a risk management program.

Each Third-Party Sender operates in a different space, with challenges, risks, and controls that are different than the challenges, risks, and controls faced by another Third-Party Sender. Like the ACH Rules Compliance Audit, a specific format for the risk assessment is not prescribed. Risk assessments should be risk based and cover the ACH activities that the Third-Party Sender is involved in. Broadly, the risk assessment should include operational risk, return risk, credit risk, fraud risk, compliance risk, and reputational risk.

To read the full article, please visit NACHA.

Source: NACHA

NCUA's Hood: Addressing Inequality is An Urgent Priority

National Credit Union Administration Board Member Rodney E. Hood said that as federally insured credit unions embrace diversity and inclusion, they should go further and bridge society's divides to better serve their members and communities and foster greater financial inclusion.
"We live in a highly diverse and changing society, and historical inequities and inequalities persist among far too many American communities," Board Member Hood said. "Addressing those inequities and inequalities, make it possible for everyone to participate more fully in the workplace and in society, is simply the right thing to do."

Board Member Hood delivered these remarks at the start of his panel discussion, "The Benefits of Equity and Equality," at the NCUA's 2022 DEI ACCESS Summit. The panel featured leading experts that discussed the benefits of equity and equality in building an inclusive society with a focus on spurring financial inclusion, digital literacy, minority procurement, diversity hiring and retention, and economic development.

The panelists that took part in the discussion were:

- Chantalle Couba, Partner, Korn Ferry
- Tawanda Sibanda, Partner, McKinsey & Company
- Tom Ferree, Chairman & CEO, Connected Nation

"The compelling need for a commitment to DEI isn't simply a moral imperative. It is also good for business, as we've seen from any number of high-quality studies," Hood said. "All of that adds up to stronger, more effective organizations that are better suited to the challenge of meeting their mission goals in a competitive marketplace and a changing world. And this lesson doesn't apply only in the for-profit private sector. While credit unions are non-profit cooperative institutions, they still need to compete in the marketplace when it comes to recruiting workforce talent and appealing to the next generation of credit union members."

For more information on these updates, visit NCUA.

Source: NCUA

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Articles of Interest:

- *CFPB Kicks Off Personal Financial Data Rights Rulemaking*
- *Federal Reserve – Consumer Compliance Outlook – Third Issue 2022*
- *ACH Network Moves 7.6 Billion Payments in Third Quarter of 2022; Strong Growth Continues for Same Day ACH*

Advocacy Resources:

- *Happenings in Washington (Removing Barriers Blog)*

WOCCU (World Council of Credit Unions Advocacy) Advocacy Resources:

- *Telegraph – Current advocacy news world-wide.*
- *Advocate Blog – Check out recent updates!*

Compliance Calendar

- *November 11th, 2022: Veterans Day - Federal Holiday*
- *November 24th, 2022: Thanksgiving Day - Federal Holiday*
- *December 26th, 2022: Christmas Day - Federal Holiday (observed)*
- *January 1st, 2023:* ***Annual Updates***
- *January 1st, 2023:* ***Current Expected Credit Losses (FASB/NCUA)***