



REGCORNER

April 30th, 2024

In this week's RegCorner, the NCUA Board issued an ANPR on record retention; the CFPB targets junk fees in mortgage servicing; MI Treasury sends reminder to file unclaimed property reports; CFPB and DOT schedule joint hearing on airlines and credit card reward programs.

From the Regulators

NCUA

NCUA will be opening the 2024 CDRLF Grant Round on May 1st

[Read More](#)

Low-income-designated credit unions can apply for 2024 Community Development Revolving Loan Fund grants between May 1 and July 1. The 2024 CDRLF grant round is open to credit unions with a low-income designation. Minority depository institution credit unions are not eligible for funding in this year's grant round if they do not have the low-income designation. The agency will administer more than \$3.4 million in CDRLF grants to the most-qualified applicants, subject to the availability of funds, and will host a webinar in May to explain the grants process.

WEBINAR: Applying for the CDRLF Grant

Date: May 2, 2024

Time: 2:00pm EST

[REGISTER HERE](#)

4/3/24

NCUA Board Meeting: Approves ANPR on Record Retention

[Read More](#)

During the NCUA Board meeting, the Board approved an advance notice of proposed rulemaking on NCUA Regulation Part 749, the records preservation program, asking if the program rules should be updated and, if so, how. Specifically:

"The Board seeks comment on all aspects of Part 749 and the Appendices, including how they can be modernized, streamlined, and clarified, and other provisions in the NCUA's regulations that contain record retention requirements. The Board also encourages credit unions and other stakeholders that have developed well-functioning records preservation programs to comment on what works for them and share their best practices in response to this notice."

In addition, the Board also seeks responses to 20 questions across areas such as the regulatory definitions, current record retention practices, what should be included in additional guidance, and on Part 749's overlap with other regulations.

Review the ANPR here: <https://ncua.gov/files/agenda-items/records-preservation-program-anpr-20240418.pdf>

4/18/24

CFPB

The Bureau publishes two Consumer Financial Protection Circulars

[Consumer Financial Protection Circular 2023-03](#): Adverse Action Notification Requirements and Proper Use of Sample Forms

In this circular, the CFPB responds to the question, "When using artificial intelligence or complex credit models, may creditors rely on the checklist of reasons provided in CFPB sample forms for adverse action notices even when those sample reasons do not accurately or specifically identify the reasons for the adverse action?"

[Consumer Financial Protection Circular 2024-02](#): Deceptive Marketing Practices About the Speed or Cost of Sending a Remittance Transfer

In this circular, the Bureau responds to the question, "When do remittance transfer providers violate the prohibition on deceptive acts or practices in the Consumer Financial Protection Act (CFPA) in their marketing about the speed and cost of sending a remittance transfer?"

4/16/24

House Committee Approves Resolution to Nullify CFPB Credit Card Rule

[Read More](#)

The House Financial Services Committee on Wednesday approved a resolution that would nullify the Consumer Financial Protection Bureau's final rule capping most credit card late fees at \$8 for card issuers with more than one million open accounts.

The resolution, [H.J. Res. 122](#), was approved, 28-22, with Republicans supporting it and Democrats opposing it.

The effort most likely is an exercise in futility. Even if it is adopted by the House and Senate, President Biden can be expected to veto it. He has endorsed agency efforts to eliminate so-called "junk fees." The administration has placed credit card late fees in that category.

4/19/24

CFPB publishes newest Supervisory Highlight, targeting junk fees in mortgage servicing

[Read More](#)

The CFPB published [Issue 33](#) of their Supervisory Highlights, focusing on mortgage servicing. Within the issue, the Bureau makes note of several trends:

Unfair Late Fee Charges

Findings fell into two categories:

- Late fees that exceeded the amount allowed in the loan agreement
- Late fees charged while consumers had loss mitigation agreements, which should have prevented late fees

The Bureau commented that these fees were unauthorized and caused substantial harm to consumers.

Inadequate Fee Descriptions on Periodic Statements

Findings noted a generic "service fee" label that was used to describe 18 different fee types, instead of the brief description required by [1026.41\(d\)\(4\)](#)

Untimely Escrow Account Disbursements

Examiners found that, in some instances, disbursements were sent near the end of the payment window, but did not reach the payees, and subsequent payment attempts were not made in a timely manner, resulting in late fees and other service fees. More, fees were only refunded when the consumers complained.

Loss Mitigation Violations

Examiners found that responses to loss mitigation applications:

- Did not specify application [im]completeness
- Did not note the servicers' determination of loss mitigation options, or include a deadline for the consumer to respond with their offer acceptance/rejection
- Were not reviewed under appropriate policies and/or procedures, such as submitting applications to investors for review

Record Retention Violations

Examiners found that servicers failed to document certain actions, such as the establishment of live contact.

Other findings included:

- Unfair property inspection charges
- Failing to waive fees following loan modification (COVID-19)
- Deceptive loss mitigation eligibility notices
- Deceptive delinquency notices
- Live contact and early intervention violations

Review the full Issue [HERE](#).

To add insult to injury, the Bureau summarized their findings in their [press release](#) as follows:

- Illegally charging and obscuring fees
- Keeping homeowners on the hook for fees during COVID-19
- Missing deadlines to pay property tax and home insurance
- Deceiving homeowners and failing to properly evaluate them for repayment options

Additional relevant information

- [America's Credit Unions](#): CFPB tackles fees from mortgage servicers

4/24/24

Bureau publishes Data Spotlight on ODP/NSF Income

[Read More](#)

Overdraft and nonsufficient fund fee revenue at the nation's banks dropped 24% between 2022 and 2023, the Consumer Financial Protection Bureau reported, noting that income from those fees has decreased by \$6.1 billion since before the pandemic, saving the average household that overdrafts \$185 each year, the agency said in a Data Spotlight.

Credit unions and banks have said that they will have to increase other fees to offset the decrease in overdraft and NSF fees. That has not occurred, the CFPB reported. "Evidence continues to suggest that financial institutions are generally not increasing other checking account fees to compensate for reduced overdraft/NSF revenue," the agency said. "Across all reporting banks, combined account maintenance and ATM fees remained flat from 2019 to 2023."

Credit unions were not included in the report, since credit unions have not been required to report their overdraft and NSF income. Banks with more than \$1 billion in assets have been required to report their overdraft and NSF fees since 2015.

4/25/24

CFPB and DOT to Hold Joint Hearing on Airline and Credit Card Rewards Programs

[Read More](#)

Date: May 9, 2024

Time: 10:00 AM EST

Registration not needed. Live stream will be available on the site.

Members of the public will hear from CFPB Director Rohit Chopra and Secretary of Transportation Pete Buttigieg, who will moderate a discussion with industry representatives, labor leaders, and consumer advocates about competition issues and challenges that consumers are experiencing with airline and credit card rewards programs.

4/25/24

CDFI Fund

CDFI ERP Compliance FAQs Now Available

[Read More](#)

The CDFI Fund has published a Compliance Frequently Asked Questions (FAQs) document for the CDFI Equitable Recovery Program (CDFI ERP). This document helps to answer commonly asked compliance questions regarding the CDFI ERP Assistance Agreement. The CDFI ERP Compliance FAQ also incorporates the previously released CDFI ERP Demographic Data Guidance. Recipients are strongly encouraged to review their respective CDFI ERP Assistance Agreement for specific details.

[Community Development Financial Institutions Fund Equitable Recovery Program Compliance Monitoring Frequently Asked Questions](#)

4/24/24

CDFI Fund Opens the FY 2024 Bank Enterprise Award Program Funding Round

[Read More](#)

Application materials are now available on the BEA Program page of the CDFI Fund's website in anticipation of the publication of the FY 2024 Notice of Funds Availability (NOFA) in the Federal Register on April 29, 2024. The FY 2024 BEA Program NOFA states that up to \$40 million is available in awards to eligible Federal Deposit Insurance Corporation (FDIC)-insured depository institutions.

4/26/24

FinCEN

FinCEN Issues Analysis on Elder Financial Exploitation

[Read More](#)

issued a Financial Trend Analysis focusing on patterns and trends identified in Bank Secrecy Act (BSA) data linked to Elder Financial Exploitation (EFE), or the illegal or improper use of an older adult's funds, property, or assets. FinCEN examined BSA reports filed between June 15, 2022 and June 15, 2023 that either used the key term referenced in FinCEN's June 2022 EFE Advisory or checked "Elder Financial Exploitation" as a suspicious activity type. This amounted to 155,415 filings over this period indicating roughly \$27 billion in EFE-related suspicious activity.

[Financial Trend Analysis](#)

4/18/24

FHFA

Registration Available: FHFA to Host FHLBank and CDFI Symposium

[Read More](#)

The Federal Housing Finance Agency (FHFA) is hosting a one-day Symposium on June 20, 2024 to bring together CDFIs and representatives of the FHLBank System.

The Symposium follows a recommendation in FHFA's *FHLBank System at 100: Focusing on the Future* report that calls for increased FHLBank engagement with mission-oriented members, and will feature representatives from both CDFIs and the FHLBanks discussing topics that include:

- FHLBank membership and programs
- Appropriately measuring risk in CDFI lending
- Innovative FHLBank and CDFI products and partnerships

This in-person event will be hosted in person, with an option to attend virtually.

4/16/24

HUD

HUD issues final rule on minimum property standards for flood zone exposure

[Read More](#)

The Department of Housing and Urban Development (HUD) published a final rule Tuesday revising regulations governing floodplain management and the protection of wetlands to implement the Federal Flood Risk Management Standard (FFRMS).

Among other revisions, the rule:

- Provides a process for determining the extent of the FFRMS floodplain, with a preference for a “climate-informed science approach” to make this determination;
- Revises HUD’s floodplain and wetland regulations;
- Revises HUD’s Minimum Property Standards for one-to-four-unit housing under HUD’s mortgage insurance and low-rent public housing programs to require the lowest floor in newly constructed structures located within the 1-percent-annual-chance (100-year) floodplain be built at least 2 feet above the base flood elevation as determined by best available information; and
- Revises a categorical exclusion when HUD performs environmental reviews and updates various HUD environmental regulations to permit online posting of public notices.

The [final rule](#) will go into effect May 23.

4/23/24

Michigan

MI Treasury

MI Treasury Reminds Property Holders of Annual Unclaimed Property Reporting Requirements

Due Date: July 1, 2024

What do I need to do?

The [Manual for Reporting Unclaimed Property](#) (Manual) contains general instructions, a summary of new reporting requirements, a detailed list of all reportable types of property, associated dormancy periods, and other important information.

What if I forget to report previous years?

If you have properties that should have been previously reported, Treasury offers an opportunity to avoid penalty and interest charges through its [Voluntary Disclosure Program](#).

What if I have nothing to report?

Credit Unions with no unclaimed property to report in 2024 are strongly encouraged to create a Zero/Negative Report. This will establish a filing history and document your compliance with Michigan's Unclaimed Property Act. Those meeting the parameters described above should file a negative report using the [online process](#); do not submit a NAUPA file. Detailed instructions for submitting a negative report can be found on page 15 of the manual.

4/16/24

Other Points of Interest

- America’s Credit Union’s Hunt pens [op-ed](#) on CFPB’s war on fees
- [Washington CU Daily](#): Biden Administration Still Wants D.C. Judge to Decide Credit Card Late Fee Lawsuit

Relevant Blog Pages/Posts

- [America’s Credit Unions Compliance Blog](#)
 - [4/16/24](#) – Disaster Preparedness: Can Your Credit Union Weather the Next Big Storm?
 - [4/18/24](#) – Changing Lanes: Bylaw Amendments
 - [4/23/24](#) – Call Report Deadline Looms
 - [4/25/24](#) – The Bank Bribery Act

Submitted Regulatory Comment Letters

Regulatory Response Letters

- n/a

Other Letters to Regulators

- America’s Credit Unions [Letter](#) to NCUA on Nondisclosure of Call Report Fee Data

Open Comment Calls

If you have input on any comment calls below that you would like to provide for consideration, please direct them to Bradley.Willett@mcui.org no later than 3 weeks prior to the comment due date.

Federal Reserve Board Proposed Rule: Debit Card Interchange Fees and Routing

Docket No. R-1818

This proposed rule would make significant revisions to Regulation II’s interchange fee cap. Specifically, the proposed revisions would update all three components of the interchange fee cap based on the latest data reported to the Board by covered issuers regarding debit card transactions performed in 2021. Under the proposal:

- The base component would be 14.4 cents (down from 21.0 cents)
- The ad valorem component would be 4.0 basis points (down from 5.0 basis points)
- The fraud-prevention adjustment would be 1.3 cents (up from 1.0 cents)

Additionally, the proposal would codify in Reg II an approach for updating the three components of the interchange fee cap every other year going forward based on the latest data reported to the Board by covered issuers, without opportunity for public comment.

Related Materials: [2021 Interchange Fee Revenue Report](#)

Additional relevant information:

- [Governor Bowman Dissent](#)
- NAFCU, CUNA and other trades have submitted a [letter](#) to the FRB requesting an extension of an additional 90 days to comment.
- FRB [approves](#) comment extension to May 12, 2024.
- 2/6/24 – ACU met with the Board of Governors’ Vice Chair to discuss the impact of this NPRM.
- [3/5/24](#) – America’s Credit Unions: Debit interchange proposal fails to account for potential impact
- [3/7/24](#) – America’s Credit Unions: Debit interchange proposal would cause economic harm
- [3/7/24](#) – America’s Credit Unions: Bipartisan letter questions impact of Fed interchange proposal
- [3/20/24](#) – America’s Credit Unions: Hunt outlines credit union fight against interchange proposals
- [3/20/24](#) – America’s Credit Unions: One-pager educates lawmakers, consumers on interchange facts
- [3/21/24](#) – America’s Credit Unions: Hunt: Interchange attacks hurt everyone
- [4/5/24](#) – America’s Credit Unions: Credit unions meet with Fed staff on interchange proposal concerns
- [4/9/24](#) – America’s Credit Unions, Fed Vice Chair discuss interchange proposal concerns

Comments Due:
May 12, 2024

[Agency Announcement](#)

[Federal Register](#)

[Regulations.gov](#)

<p>FinCEN Notice and Request for Information and Comment: Customer Identification Program Rule Taxpayer Identification Number Collection Requirement</p> <p>Docket No. FINCEN-2024-0009</p> <p>FinCEN, in consultation with staff at the OCC, the FDIC, the NCUA, and the Board of Governors of the Federal Reserve System seeks information and comment from interested parties regarding the Customer Identification Program (CIP) Rule requirement for banks to collect a taxpayer identification number (TIN), among other information, from a customer who is a U.S. person, prior to opening an account. Generally, for a customer who is an individual and a U.S. person, the TIN is a Social Security number (SSN). In this request for information (RFI), FinCEN specifically seeks information to understand the potential risks and benefits, as well as safeguards that could be established, if banks were permitted to collect partial SSN information directly from the customer for U.S. individuals and subsequently use reputable third-party sources to obtain the full SSN prior to account opening.</p> <p>Additional Relevant Information</p> <ul style="list-style-type: none"> NASCUS Summary 	<p>Comments Due: May 28, 2024</p> <p>Agency Announcement</p> <p>Federal Register</p> <p>Regulations.gov</p>
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<p>CISA Notice of Proposed Rulemaking: Cyber Incident Reporting for Critical Infrastructure Act</p> <p>Docket No. CISA-2022-0010</p> <p>The Cyber Incident Reporting for Critical Infrastructure Act of 2022 (CIRCA) requires the Cybersecurity and Infrastructure Security Agency (CISA) to promulgate regulations implementing the statute’s covered cyber incident and ransom payment reporting requirements for covered entities. CISA seeks comment on the proposed rule to implement CIRCA’s requirements and on several practical and policy issues related to the implementation of these new reporting requirements.</p> <p>The regulation is a requirement of the Cyber Incident Reporting for Critical Infrastructure Act of 2022 (CIRCA), which requires CISA to develop and implement regulations requiring covered entities – including federally insured credit unions “regulated by the NCUA” – to report covered cyber incidents and ransomware payments.</p> <p>Credit unions would have to submit a Covered Cyber Incident Report to CISA no later than 72 hours after the covered entity reasonably believes the covered cyber incident occurred. The NCUA’s current cyber incident notification standard in Part 748 of its rules requires notice of a cyber incident within the same timeframe.</p> <p><u>Additional Relevant Information</u></p> <ul style="list-style-type: none"> NASCUS Summary 	<p>Comments Due: June 3, 2024</p> <p>Agency Announcement</p> <p>Federal Register</p> <p>Regulations.gov</p>
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<p>NCUA Advance Notice of Proposed Rulemaking: Records Preservation Program and Appendices-Record Retention Guidelines; Catastrophic Act Preparedness Guidelines</p> <p>Docket No. NCUA-2024-0026</p> <p>The NCUA Board is issuing this ANPR to solicit comments on ways the agency can improve and update its records preservation program regulation and accompanying guidelines in the NCUA regulations. The Board is particularly interested in obtaining stakeholder input on the content of the regulation, which has not been updated in 15 years and may be outdated or at odds with current best practices. The Board is also interested in feedback on the structure of the part which may be confusing as it currently contains a combination of regulatory requirements and guidance.</p> <p><u>Additional Relevant Information</u></p> <ul style="list-style-type: none"> America’s Credit Unions: NCUA looks to improve records retention program 	<p>Comments Due: June 24, 2024</p> <p>Agency Announcement</p> <p>Federal Register</p> <p>Regulations.gov</p>
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Relevant Federal Rulemaking Links

Agency	Unified Rulemaking Agenda (Fall 2023 Update)	Agency Rulemaking Tracker	Federal Register	Regulations.gov
NCUA	LINK	LINK	LINK	LINK
CFPB	LINK	LINK	LINK	LINK
Treasury <i>CDFI Fund</i> <i>FinCEN</i>	LINK n/a n/a	n/a LINK LINK	LINK LINK LINK	LINK LINK LINK
Federal Reserve System	LINK	LINK	LINK	LINK
FHFA	LINK	LINK	LINK	LINK
FTC	LINK	n/a	LINK	LINK
HUD	LINK	n/a	LINK	LINK
FCC	n/a	LINK	LINK	LINK