



MOSSADAMS

Regulatory Compliance Update

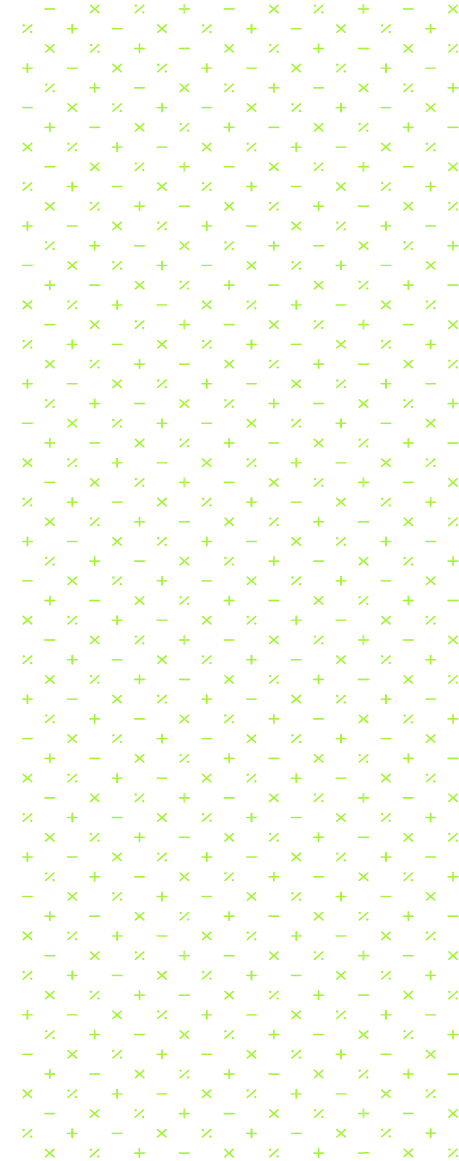
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What are WE Seeing and Hearing?

Supervisory Committee Workshop





Supervisory Letter – SL 17-01

- March 29, 2017
- Evaluating Compliance Risk – Updated Compliance Risk Indicators
- Updated Compliance Risk Indicators builds on the current set of indicators and provides additional guidance in assigning compliance risk rating
- More comprehensive, integrated, and transparent framework in evaluating a credit union's ability to manage its risk of violations and non-compliance with applicable laws and regulations.



Supervisory Letter – SL 17-01 (cont'd)

- Does not create a new compliance rating
- Does not separate consumer compliance from overall compliance
- Does not impose any new or higher supervisory expectations
- NCUA's approach remains *risk-focused* – credit union's size, complexity, and risk profile.



Supervisory Letter – SL 17-01 (cont'd)

*Have you read and discussed this
Supervisory Letter with your
Credit Union Board and
Management Team?*

Three Broad Categories

1. Board and Management Oversight
2. Compliance Programs
3. Violations of Law and Consumer Harm



Board and Management Oversight

- *Commitment* to the Credit Union's Compliance Management System
- Effectiveness of *change management* processes
- *Risk management* associated with products, services, and activities
- *Self-identification* efforts and corrective actions taken



Compliance Program

- The *effectiveness* of the Credit Union's compliance management system
- *Policies and procedures, training, monitoring and audit programs, and complaint resolution.*



Violations of Law and Consumer Harm (if applicable)

- *Pervasiveness* of the violation
- *Root cause* of the violation
- *Severity* of the violation or any consumer harm
- *Duration* of the violation



Snapshot – Appendix A

Appendix A: Compliance Risk Indicators

Factor	Low	Moderate	High
Board and Management Oversight Board and management oversight factors should be evaluated commensurate with the credit union's size, complexity, and risk profile. Compliance expectations below extend to third-party relationships.			
Oversight and Commitment	<p>Board and management fully understand all aspects of compliance risk and exhibit a clear commitment to compliance. Commitment is communicated throughout the credit union. Board and management demonstrate strong commitment and oversight to the credit union's compliance management system.</p> <p>Significant compliance resources are provided, including systems, capital, and human resources. Staff is knowledgeable, empowered and held accountable for compliance with consumer laws and regulations.</p> <p>Management conducts comprehensive and ongoing due diligence and oversight of third parties consistent with NCUA expectations to ensure that the credit union complies with consumer protection laws and regulations. Where appropriate, the credit union exercises strong oversight of third parties' policies, procedures, internal controls and training to ensure consistent oversight of compliance responsibilities.</p>	<p>Board and management reasonably understand the key aspects of compliance risk. Commitment to compliance is reasonable and satisfactorily communicated. Board and management provide satisfactory oversight of the credit union's compliance management system.</p> <p>Compliance resources are adequate and staff is generally able to ensure the credit union is in compliance with consumer laws and regulations.</p> <p>Management conducts adequate and ongoing due diligence and oversight of third parties to ensure that the credit union complies with consumer protection laws and regulations. They adequately oversee third parties' policies, procedures, and internal controls, and training to ensure appropriate oversight of compliance responsibilities.</p>	<p>Board and management does not understand, or has chosen to ignore key aspects of compliance risk. The importance of compliance is not emphasized or communicated throughout the organization. Management has not established or enforced accountability for compliance performance. Board and management oversight, resources, and attention to the credit union's compliance management system are deficient or non-existent.</p> <p>Compliance resources are inadequate or seriously deficient and are ineffective at ensuring the credit union's compliance with consumer laws and regulations.</p> <p>Management does not adequately conduct due diligence and oversight of third parties to ensure that the credit union complies with consumer protection laws and regulations, nor do they adequately oversee third parties' policies, procedures, internal controls, and training to ensure appropriate oversight of compliance responsibilities.</p>
Change Management	<p>Management anticipates and responds promptly to changes in applicable laws and regulations, market conditions and products and services offered by evaluating the change and implementing responses across impacted lines of business.</p>	<p>Management responds timely and adequately to changes in applicable laws and regulations, market conditions, and products and services offered by evaluating the change and implementing responses across impacted lines of business.</p>	<p>Management does not respond adequately or timely or fails to respond to changes in applicable laws and regulations, market conditions, and products and services offered.</p>

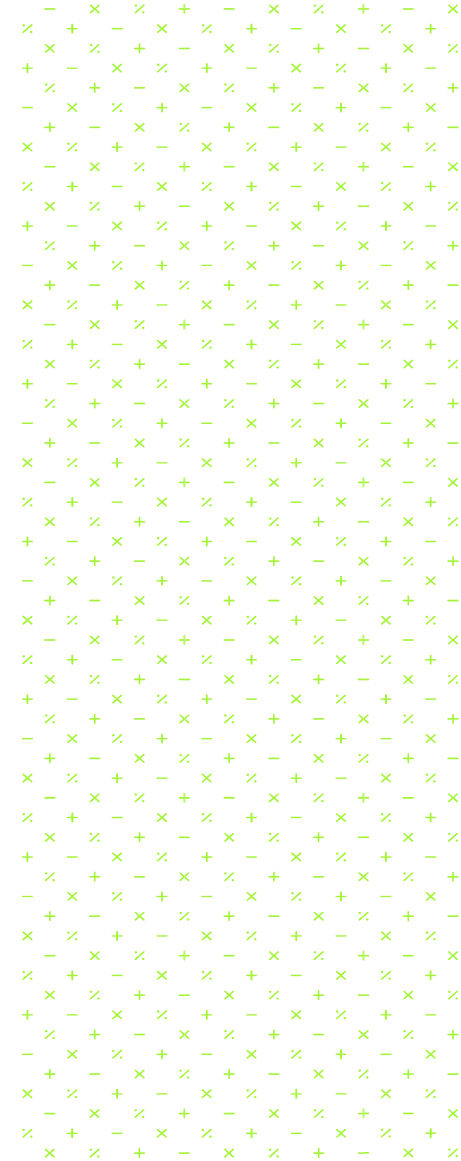


Snapshot – Appendix A

Compliance Program			
Compliance Program factors should be evaluated commensurate with the credit union's size, complexity, and risk profile. Compliance expectations below extend to third-party relationships.			
Policies and Procedures	Compliance policies and procedures and third-party relationship management programs are strong, comprehensive, and provide standards to effectively manage compliance risk in the products, services, and activities of the credit union.	Compliance policies and procedures and third-party relationship management programs are adequate to manage the compliance risk in the products, services, and activities of the credit union.	Compliance policies and procedures and third-party relationship management programs are inadequate (or absent) at managing the compliance risk in the products, services and activities of the credit union.
Training	<p>Compliance training is comprehensive, timely, and specifically tailored to the particular responsibilities of the staff receiving it, including those responsible for product development, marketing, and customer service.</p> <p>The compliance training program is updated proactively in advance of the introduction of new products or new consumer protection laws and regulations to ensure that all staff are aware of compliance responsibilities before roll out.</p>	<p>Compliance training outlining staff responsibilities is adequate and provided timely to appropriate staff.</p> <p>The compliance training program is updated to encompass new products and to comply with changes to consumer protection laws and regulations.</p>	Compliance training is not adequately comprehensive, timely, updated, or appropriately tailored to the particular responsibilities of the staff. Compliance training may be seriously deficient or absent.
Violations of Law and Consumer Harm			
Root Cause	Violations are the result of minor weaknesses, if any, in the compliance risk management system.	Violations are the result of modest weaknesses in the compliance risk management system.	Violations are the result of material weaknesses, or serious or critical deficiencies in the compliance risk management system.
Severity	Type of consumer harm, if any, resulting from the violations would have minimal impact on consumers.	Type of consumer harm resulting from the violations would have limited impact on consumers.	Type of consumer harm resulting from the violations would have considerable or serious impact on consumers.
Duration	Violations and resulting consumer harm, if any, occurred over a brief period of time.	Violations and resulting consumer harm, if any, occurred over a limited period of time.	Violations and resulting consumer harm, if any, occurred over an extended period of time, or have been long-standing or repeated.
Pervasiveness	Violations and resulting consumer harm, if any, are isolated in number.	Violations and resulting consumer harm, if any, are limited in number.	Violations and resulting consumer harm, if any, are numerous, or widespread in multiple products or services.



NCUA – Letter No. 17-CU-01





NCUA – Letter No. 17-CU-01

*Have you reviewed, discussed,
and modified your internal
audit plan, as applicable?*

Supervisory Priorities for 2017

- CYBERSECURITY ASSESSMENT
- **BANK SECRECY ACT COMPLIANCE**
- INTERNAL CONTROLS AND FRAUD PREVENTION
- INTEREST RATE AND LIQUIDITY RISK
- COMMERCIAL LENDING
- **CONSUMER COMPLIANCE – MILITARY LENDING
ACT / SERVICEMEMBERS CIVIL RELIEF ACT**



BANK SECRECY ACT

- ✓ AML Model Validation?
- ✓ Beneficial Ownership?
- ✓ Marijuana (medical / recreational)?
- ✓ Quality of independent testing?
- ✓ Third party risks?
- ✓ Training?

Group Discussion:

- As Supervisory Committee Members, what are your concerns?
- How is the BSA/AML/OFAC Program managed at your credit union?
- For what reason is BSA on the NCUA's Supervisory Priorities List year after year?



Consumer Compliance

- **Military Lending Act**
- **Servicemembers Civil Relief Act**



Military Lending Act

- October 3, 2016
- Was your credit union prepared and ready?
- CFPB released exam procedures on September 30, 2016
- http://files.consumerfinance.gov/f/documents/092016_cfpb_MLAExamManualUpdate.pdf



Military Lending Act

(Quick Recap)

- July 21, 2015 Final Rule issued by Department of Defense
- Effective October 1, 2015 – staggered compliance dates
- To all forms of payday loans, vehicle title loans, refund anticipation loans, deposit advance loans, installment loans, unsecured open-end lines of credit, and credit cards.
- The changes to definitions of credit in the final rule bring any closed or open-end loan within the scope of the regulation, except for loans secured by real estate or a purchase-money loan, including a loan to finance the purchase of a vehicle.



MLA Rule

- 36% APR Cap = Military Annual Percentage Rate or MAPR, covers all interest and fees associated with the loan. INCLUDES charges for most ancillary “add-on” products such as credit default insurance and debt suspension plans
- Prohibits creditors from requiring service members to: submit to mandatory arbitration and onerous legal notice requirements; waive their rights under the Servicemembers’ Civil Relief Act; provide a payroll allotment as a condition of obtaining credit (other than from relief societies); be able to refinance a payday loan; or be able to secure credit using a post-dated check, access to a bank account (other than at an interest rate of less than 36 percent MAPR), or a car title (other than with a bank, savings association or credit union).



MLA vs. SCRA

- Don't confuse the requirements between Military Lending Act with the Servicemembers Civil Relief Act.
- The SCRA protects service members and their dependents (indirectly) on **existing** debts when the service member *becomes* active duty.
- MLA protects service members, their spouses and/or covered dependents at **point of origination** if they are on active duty at that time.



MLA vs. SCRA

- MLA protections apply to all forms of payday loans, vehicle title loans, refund anticipation loans, deposit advance loans, installment loans, unsecured open-end lines of credit, and credit cards (credit cards has been extended to Oct. 3, 2017).
- MLA protections exclude loans secured by real estate and purchase-money loans, including a loan to finance the purchase of a vehicle.



MLA vs. SCRA

- The SCRA caps interest rate charges, including late fees and other transaction fees, at 6 percent.
- The MLA limits interest rates and fees to 36 percent MAPR (Military Annual Percentage Rate).
- The MAPR is not just the interest rate on the loan, but also includes additional fees and charges including:
 - ☐ Credit insurance premiums/fees
 - ☐ Debt cancellation contract fees
 - ☐ Debt suspension agreement fees and
 - ☐ Fees associated with ancillary products.
 - ☐ Although closed-end credit MAPR will be a one-time calculation, open-end credit transactions will need to be calculated for each covered billing cycle to affirm lender compliance with interest rate limitations.

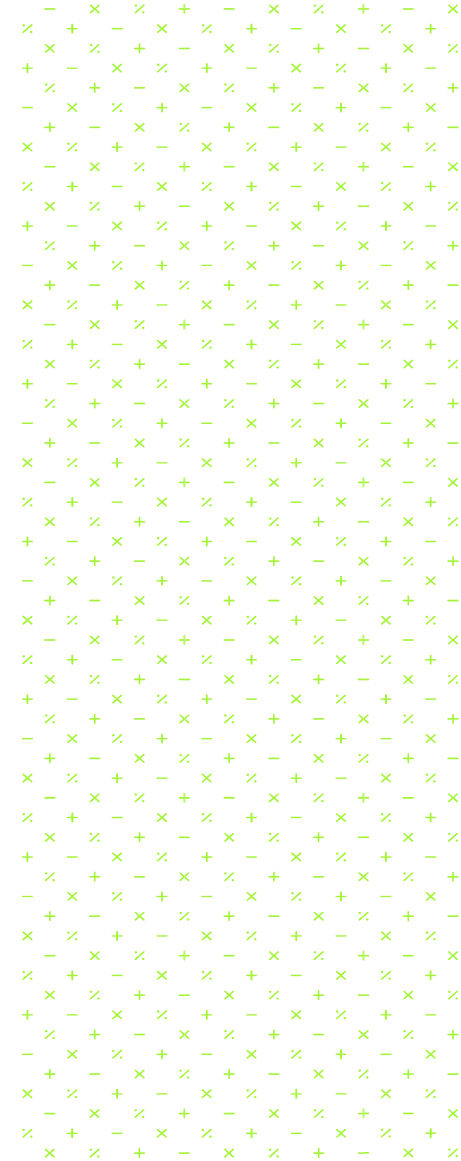


MLA vs. SCRA

- There is only one set of circumstances that triggers SCRA disclosures. HUD requires that SCRA disclosures be provided by mortgage servicers on mortgages at 45 days of delinquency. This disclosure must be provided in written format only.
- For MLA compliance, financial institutions must provide the following disclosures:
 - ☐ MAPR statement
 - ☐ Payment obligation descriptions
 - ☐ Other applicable Regulation Z disclosures.
- For MLA it is also important to note that disclosures are required both orally and in a written format the borrower can keep.



Is YOUR Credit Union Prepared?





Home Mortgage Disclosure Act

January 1, 2018

Expands the scope of information relating to mortgage applications and loans that must be compiled, maintained, and reported under HMDA:

- ☐ Ages of loan applicants
- ☐ Points and fees payable at origination
- ☐ Difference between the annual percentage rate associated with the loan and benchmark rates for all loans
- ☐ Term of any prepayment penalty
- ☐ Value of the property to be pledged as collateral
- ☐ Term of the loan and of any introductory interest rate for the loan
- ☐ Contract terms allowing non-amortizing payments
- ☐ Application channel
- ☐ Credit scores of applicants and mortgagors.
- ☐ Identifiers for loans, parcels, and loan originators



HMDA Rule

Key Dates

Timeline

HMDA Rule Key Dates Timeline

	2016	2017	2018	2019	2020
Effective Dates	No new regulatory requirements go into effect	1/1 Effective date for excluding low volume depository institutions from coverage	1/1 Effective date for most provisions related to institutional and transactional coverage, and data collection, recording, reporting, and disclosure	1/1 Effective date for changes to enforcement provisions and additional amendments to reporting provisions	1/1 Effective date for quarterly reporting provisions
Data Collection	Q1 – Q4 Collect 2016 data as required under the current rule ¹ (for reporting in 2017)	Q1 – Q4 Collect 2017 data as required under the current rule ¹ (for reporting in 2018)	Q1 – Q4 Collect 2018 data as required under the new rule ² (for reporting in 2019)	Q1 – Q4 Collect 2019 data as required under the new rule ² (for reporting in 2020)	Q1 – Q4 Collect 2020 data as required under the new rule ² (for reporting in 2021 and, if FI is quarterly reporter, 2020)
Data Submission	1/1 – 3/1 Submit 2015 data as required under the current rule , ¹ and submit to the Federal Reserve Board	1/1 – 3/1 Submit 2016 data as required under the current rule , ¹ and submit to the Federal Reserve Board	1/1 – 3/1 Submit 2017 data as required under the current rule , ¹ and submit to the CFPB	1/1 – 3/1 Submit 2018 data as required under the new rule , ² and submit to the CFPB	1/1 – 3/1 Submit 2019 data as required under the new rule , ² and submit to the CFPB 4/1 – 5/30 Quarterly FI reporters report Q1, 2020 data as required under the new rule , ² and submit to the CFPB

☐ I do not wish to provide this information



Bank Secrecy Act 5th Pillar

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May 11, 2018

Three core requirements:

- (1) identifying and verifying the identity of the beneficial owners of companies opening accounts;
- (2) understanding the nature and purpose of member relationships to develop member risk profiles; and
- (3) conducting ***ongoing*** monitoring to identify and report suspicious transactions and, on a risk basis, to maintain and update member information.

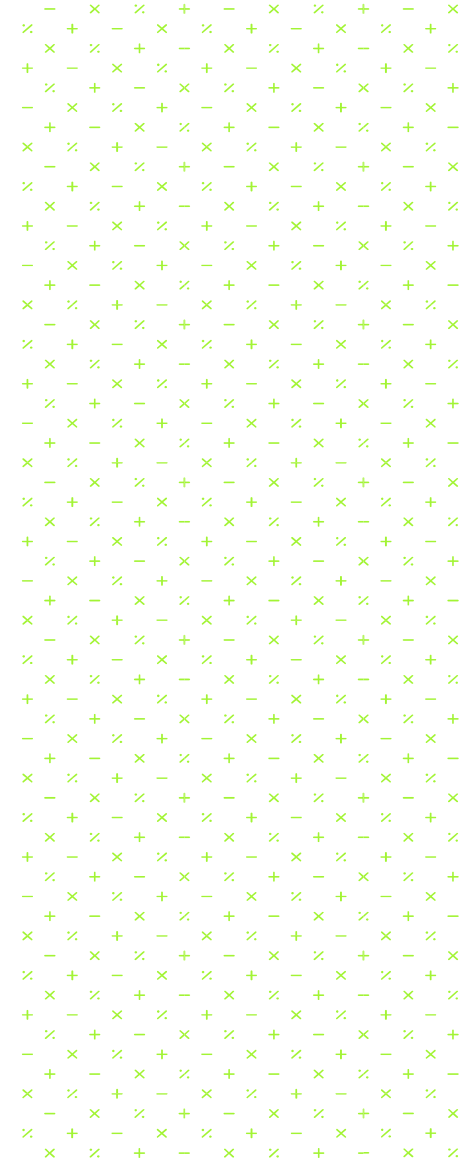
With respect to the new requirement to obtain beneficial ownership information, financial institutions will have to identify and verify the identity of any individual who owns 25 percent or more of a legal entity, and an individual who controls the legal entity.



Questions?

Supervisory Committee Workshop

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