**FINAL REGULATIONS/RULES**

|  |  |  |  |
| --- | --- | --- | --- |
| **Effective Date** | **Regulation** | **Citation** | **Summary** |
| 10/14/2016 | [Visa Product and Service Rules](https://usa.visa.com/content/dam/VCOM/download/about-visa/visa-rules-public.pdf) | | A US Issuer must provide its Cardholders the option to participate in a service that delivers Transaction alerts for Transactions processed on a consumer Card, excluding a Non-Reloadable Card, and routed as follows:   * Visa Transactions routed through VisaNet * Interlink transactions routed through the Interlink Network * Plus transactions routed through the Plus Network   The Issuer may offer this service either itself, through a VisaNet Processor, a third-party service provider, or the Visa Transaction Alerts Service. |
| 04/10/2017 | Department of Labor’s “Fiduciary” definition | [81 FR 20945](https://www.federalregister.gov/articles/2016/04/08/2016-07924/definition-of-the-term-fiduciary-conflict-of-interest-rule-retirement-investment-advice) | The rule expands the definition of a “fiduciary” as a person who receives compensation for providing advice based on the particular needs of the person being advised or if he or she directs that person to a specific plan sponsor, plan participant, or individual retirement account (IRA) owner. The final rule differentiates “education” and “advice.”  “Education” is carved out in four categories of non-fiduciary education information and materials: (1) plan information, (2) general financial, investment, and retirement information, (3) asset allocation models, and (4) interactive investment materials. “Advice” is any individual receiving compensation for making investment recommendations that are individualized or specifically directed to a IRA owner for consideration in making a retirement investment decision. References to specific investment alternatives are not considered as “education” and thus, recommendations about rollovers would be considered investment advice. Education = ☺ Advice = ☹. |
| 01/01/2017 | WA Uniform Power of Attorney Act | SB 5635 | Washington’s Power of Attorney Act is repealed and replaced with a modified version of the Uniform Power of Attorney Act. |

**PROPOSED REGULATIONS**

|  |  |  |  |
| --- | --- | --- | --- |
| **Comments Due** | **Regulation** | **Citation** | **Summary** |
| 06/27/2016 | [Federal Credit Union Fixed Assets Proposal](https://nwcuc.com/federal-credit-union-fixed-assets-proposal/) | [81 FR 24738](https://www.federalregister.gov/articles/2016/04/27/2016-09867/federal-credit-union-occupancy-planning-and-disposal-of-acquired-and-abandoned-premises-incidental?utm_campaign=subscription+mailing+list&utm_medium=email&utm_source=federalregister.gov) | The NCUA proposed an amendment to the fixed-assets regulation that eliminates the requirement that a federal credit union must plan for, and eventually achieve full occupancy of acquired premises.  If passed, the credit union must partially occupy (at least 50% by the federal credit union or the federal credit union and a CUSO) within a reasonable period, but no later than six years after acquisition. (See pages 5-6 for current Washington and Oregon Fixed Assets Rules.) |
| 06/22/2016 | [Proposed Incentive-Based Compensation Arrangements](https://nwcuc.com/proposed-incentive-based-compensation-arrangements/) |  | The credit must not establish or maintain any type of incentive-based compensation arrangement that encourages inappropriate risks by the credit union by providing a covered person with excessive compensation, fees, or benefits; or that could lead to material financial loss to the credit union.  The credit union’s board of directors, or a committee thereof, must conduct oversight of the incentive-based compensation program, approve incentive-based compensation arrangement for senior executive officers, and approve any material exceptions or adjustments to incentive-based compensation policies or arrangements for senior executive officers.  The credit union must annually create, and maintain for seven years, records that document the structure of all its incentive-based compensation arrangements, and disclose the records to the NCUA upon request. The records, at a minimum, must include copies of all incentive-based compensation plans, a record of who is subject to each plan, and a description of how the incentive-based compensation program is compatible with effective risk management and controls. The credit union does not have to report the actual amount of compensation, fees, or benefits to the NCUA. |
|  |  |  |  |

**RESOURCES/GUIDANCE**

|  |  |
| --- | --- |
| **Guidance** | **Summary** |
| [Mobile Financial Services](http://ithandbook.ffiec.gov/it-booklets/retail-payment-systems/appendix-e-mobile-financial-services.aspx) | The FFIEC has issued a new appendix, Mobile Financial Services, to the Retail Payment Systems booklet of the FFIEC Information Technology Handbook. The appendix provides guidance to assist examiners in evaluating the risks associated with mobile financial services. The appendix: emphasizes an enterprise-wide risk management approach for effectively managing and mitigating the risks associated with mobile financial services, discusses the technologies used in the mobile delivery channel, elevated risks that may result, and appropriate controls implemented by institutions or third-party providers, and contains a work program to assist examiners in determining the risks posed by an institution's mobile financial services and assessing the controls that have been implemented to mitigate those risks. |
| [Serving the Credit-Invisible](https://nwcuc.com/quickies-41316/) | “[Serving the Credit-Invisible](https://www.ncua.gov/services/Pages/small-credit-union-learning-center/Documents/serving-credit-invisibles.pdf),” a new report posted by the NCUA, explains how credit unions can build loan programs based on sound underwriting, appropriate risk management, loan monitoring and staff training that can help them reach this underserved population. The report details how to evaluate a loan applicant who is “credit-invisible” and describes best practices for serving those members within the normal boundaries of safety and soundness. Credit-invisible consumers may lack credit scores because they have limited or incomplete credit histories. |
| [FDIC Supervisory Insights](https://nwcuc.com/quickies-41316/) | April’s edition of the FDIC’s [Supervisory Insights](https://www.fdic.gov/regulations/examinations/supervisory/insights/sise16/SI_SE2016.pdf) provides common-sense principles that describe the responsibilities and duties of a bank’s board of directors – a framework for corporate governance that applies to any financial institution.  It is a good resource for understanding the duties of the board. |
| [DCU Bulletin B-16-04](https://nwcuc.com/fair-credit-reporting-act-disclosures-indirect-automobile-lending/) | The Division of Credit Unions released [Bulletin B-16-04](http://www.dfi.wa.gov/sites/default/files/credit-unions/bulletins/b-16-04.pdf) providing guidance for state-chartered credit unions on indirect lending compliance requirements – specifically the Risk Based Pricing Notice required by the Fair Credit Reporting Act. **Credit unions should either retain copies of provided Risk Based Pricing Notices in loan files or perform due diligence on automobile dealers to confirm they are providing the notices in a timely manner to the credit union’s indirect borrowers.** |
| [Online Payday Loan Payments](http://files.consumerfinance.gov/f/201604_cfpb_online-payday-loan-payments.pdf) | The CFPB released a study on payday lending and hidden costs borrowers can face when they use them. The report examines the ways that online lenders attempt to recover their money by debiting a consumer’s checking account. |

The Financial Accounting Standards Board (FASB) is continuing to work out the final issues of its expected credit loss (CECL) proposal. Recent changes to the proposal state that there is no one methodology that has to be used, and that the FASB’s intention is that each institution apply the method that is appropriate for its portfolio based on the knowledge of their businesses and products. The proposal is expected to be published in June. It will be effective for annual periods beginning after December 15, 2020, and interim periods within fiscal years beginning after December 15, 2021.

The CFPB released its student loan [Payback Playbook prototype](http://www.consumerfinance.gov/about-us/newsroom/cfpb-unveils-student-loan-payback-playbook-provide-borrowers-personalized-snapshot-repayment-options/). This is a set of disclosures for borrowers that would be included on monthly bills, emails from servicers, and when logging in online to their accounts. The CFPB is accepting comments on the prototype through June 12, 2016. We should expect requirements for these in the future.

The CFPB also reopened the comment period on a [servicing proposal](https://www.federalregister.gov/articles/2016/04/26/2016-09695/amendments-to-the-2013-mortgage-servicing-rules-under-the-real-estate-settlement-procedures-act) regarding bankruptcy and Regulations X and Z. The 2014 proposal addressed requiring servicers to provide modified periodic statements to borrowers who have filed for bankruptcy. Comments will be accepted until May 26, 2016.

And, the CFPB [plans](http://www.aba.com/press/documents/CFPBLetterKBYO.pdf) on releasing a Notice of Proposed Rulemaking in July incorporating some the their existing informal guidance on the Know Before You Owe mortgage disclosure forms into the regulations’ text.

**Washington Fixed Assets Rule**

**RCW 31.12.438**

**Investment in real property or leasehold interests—Limitations—Future expansion—Rules.**

1. A credit union may invest in real property or leasehold interests primarily for its own use or the use of a credit union service organization in conducting business, including, but not limited to, structures and fixtures attached to real property, subject to the following limitations:
2. The credit union's net worth equals at least five percent of the total of its share and deposit accounts;
3. The board approves the investment; and
4. The aggregate of all such investments does not exceed seven and one-half percent of the total of its share and deposit accounts.
5. If the real property or leasehold interest is acquired for future expansion, the credit union must partially occupy the premises within three years after the credit union makes the investment, if the premises are improved at the time of acquisition, or within six years after the credit union makes the investment, if the premises are unimproved at the time of acquisition.
6. The director may, upon written application, waive any of the limitations listed in subsection (1) or (2) of this section, and the director may adopt rules to interpret this section.

**Oregon Fixed Assets Rule**

**441-710-0240**

**Limitations on Ownership of Fixed Assets**

Under ORS 723.152(4), a credit union has the power to acquire, lease, hold and dispose of property necessary or incidental to its operations. A credit union's ownership of fixed assets is limited as described by OAR 441-710-0240 to 441-710-0270.

**441-710-0260**

**Investment in Fixed Assets**

1. A credit union shall not, without the prior approval of the Director, invest in fixed assets if the aggregate of all such investments exceeds five percent of total assets.
2. A credit union shall submit such statements and reports as the Director may require in support of a request for approval of an investment in fixed assets in excess of the limit specified by section (1) of this rule. Such reports and statements shall include, but need not be limited to:
3. A narrative, describing the proposal in terms of costs, usage, location and method of financing;
4. Current financial data; and
5. A pro forma projected balance sheet and statements of income and expenses for each of the ensuing three years based upon the assumption that the proposal will be approved.
6. If the Director determines that the proposal will not adversely affect the credit union, an aggregate dollar amount or percentage of assets will be approved for investment in fixed assets for that credit union.

**441-710-0270**

**Investment in Premises**

1. When real property is acquired for future expansion, at least partial utilization should be accomplished within a reasonable period, which shall not exceed three years unless otherwise approved in writing by the Director.
2. When a credit union acquires unimproved real property for future expansion, the credit union shall at least partially utilize the property within a reasonable period of time, not to exceed six years unless otherwise approved in writing by the Director.
3. After real property acquired for future expansion under sections (1) or (2) of this rule has been held for one year, a board resolution with definitive plans for utilization must be available for inspection by the Director's examiners.
4. Investments in premises will be recorded on the credit union's books in accordance with generally accepted accounting principles. The cost of land shall be carried on the books of the credit union in an account separate from the cost of improvements thereon.