Ohio Department of Commerce
Division of Financial Institutions

John R. Kasich, Governer
Jacqueline T. Williams, Director
Kevin R. Allard, Superintendent
Robert Rutkowski, Deputy Superintendent

Credit Union News

Ohio Credit Union Day 2017

By Jaime Heath, Review Examiner

The sixth annual Ohio Credit Union Day was held August 14, 2017, at the Hilton Easton, with opening remarks given by the Division of Financial Institutions' Deputy Superintendent Robert Rutkowski. Over 70 attendees heard from Guy Messick, Partner, Messick Lauer & Smith P.C. on Director and Officer Liability.

Guests also heard from Kevin Kirksey, Principal with Strategic Solutions Group on Interest Rate Risk, and Frank Drake, Partner with Smith Debnam Narron Drake Saintsing & Myers, LLP on the Military Lending Act. Lunch was served with comments from Commerce Director Jacqueline T. Williams. The afternoon concluded with Brian Knight, EVP and General Counsel with NASCUS, speaking to national issues.

Thank you to everyone who attended this year's event. Slide presentations from Ohio Credit Union Day 2017 are available online:

http://nascus.org/education-training/OH%20cu%20day%202017.php

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Examination Focus for 2017

by Ida Neely - Chief Examiner

In the ever changing "hot topics" for examination focus, the following list was compiled to provide you with an idea of some of the areas that will be reviewed and questions that will be asked in 2017. For those of credit unions that received an examination earlier this year, these issues should have been reviewed at that examination and, if not, will continue as a focus point into 2018.

Information Technology/Cybersecurity

During 2016 and year-to-date 2017, there has been a tremendous increase in the number of credit unions that have been affected by vulnerabilities in their Information Technology (IT) system.

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Year-to-date, there have been a number of ransomware takeovers, credit/debit card systems hacked and cases of debit/credit card fraud.

Examiners will continue to focus on helping credit unions ensure they are taking steps to address cybersecurity risks. Your examiner will be asking, "Did the credit union:

- Restrict access to the debit card portal to specific bank-owned IP addresses?
- Implement out-of-wallet challenge questions if access to the portal is not from a routinely used computer?
- Implement secure tokens or other multifactor authentication to access the debit card portal?
- Limit user access on the application to be commensurate with an individual's job function? Was the use of administrator credentials or privileged access limited? Can personnel set up or change users' access without administrative access?
- Restrict the ability to change daily limits on debit cards to the administrator or individuals with privileged access?
- Limit personnel who are authorized to discuss administrative changes with the debit card servicer?
- Ensure email sent and received at the institution has robust monitoring and controls to deter phishing and other malicious software from compromising the financial institution's network?
- Ensure personnel understand reports such as new card reports, changes in card limits or any other activity reports provided by the vendor? This includes ensuring personnel review any bulletins and training material provided by the vendor.
- Ensure all activity reports are reviewed in an independent and timely manner?
- Ensure personnel are instructed to report suspicious activity immediately to senior management, law enforcement and regulators as necessary?
- Review recommended complimentary user entity controls detailed in the vendor's Statement on Standards for Attestation Engagements (SSAE) 16 or any Service Organization Control (SOC) reports?
- Ensure the financial institution provided an after-hours contact to the vendor to alert the institution of any suspected fraudulent activity?

TILA/RESPA Compliance

On October 3, 2015, the Consumer Financial Protection Bureau adopted rules that brought about a change in compliance to the Truth in Lending Act (TILA) and the Real Estate Settlement Procedures Act (RESPA).

As a result, some of the areas your examiner will be reviewing include:

- Loan Estimate Disclosures – this document combines the TILA disclosure and the Good Faith Estimate (GFE), and requires the disclosure be delivered or place in the mail no later than the third business day after receiving a mortgage application.
- Closing Disclosure – this document combines the TILA and the HUD-1 Settlement Statement, and requires the disclosure be provided to the applicant at least three business days before the mortgage loan is consummated.
- Compliance – this includes compliance to records retention, fees being imposed and restriction of providing estimates and requiring the applicant to verify information before providing a loan estimate.

Current Expected Credit Losses (CECL)

While the implementation of CECL is still a few years away, this requirement will have a significant impact on financial institutions.

Your examiner will be asking:

- What consideration has been given to this requirement?
- Has a plan been drafted as to how to implement the requirement?
- Have any "mock" studies been performed to determine the financial impact the requirement will have on the credit union, e.g., ALLL impact?
- Will there be changes to underwriting policies as a result of this requirement?
- Has it been determined how the data processor for the credit union will aid in this requirement?

Bank Secrecy Act Compliance

As the number of credit unions providing Money Service Business (MSB) accounts continues to increase, your examiner will be asking:

- Does the credit union have a board-approved policy for MSB accounts?

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- Did the credit union perform member identification program procedures and ensure the business qualifies for membership?

- Does the credit union have Enhanced Due Diligence (EDD) measures established to monitor MSB accounts?

- Did the credit union ensure each MSB is registered with the Financial Crimes Enforcement Network (FinCEN) and licensed by the State of Ohio?

- Does the credit union have ability/staffing to perform the daily monitoring for MSB accounts?

As indicated earlier, while the examination focus can very quickly change due to a current event, this listing should provide insight into just a few of the areas that are to be reviewed.

Your examiner is here to help you operate safely and within regulations. Remember to reach out to your examiner and ask questions. We all have the same goal--the protection of your members through the safety and soundness of your credit union.

Business Loans and Commercial Lending

by Robert Rutowski - Deputy

The new NCUA rule on Member Business Loans and Commercial Lending took effect January 1, 2017. There has been much commentary on this rule, and many credit unions will want to make changes to their policies and procedures to reflect the new rule. Ohio has had a rule on member business loans since 1993. See Ohio Administrative Code Section 1301:9-2-24.

The two rules are quite different, however, and the question becomes: Which rule applies? NCUA has taken the position that 12 U.S.C.§1757a means that:

- Congress granted the Board the sole authority to interpret the Member Business Loans (MBL) provisions of the FCU Act and to promulgate implementing regulations.
- Both FCUs and federally insured, state-chartered credit unions (FISCUs) alike are subject to them.
- An SSA does not have independent ability to interpret the FCU Act, but under the current rule may make its case to the Board that its proposed state rule is consistent with NCUA's interpretation of the FCU Act and Part 723.

See: Member Business Loans and Commercial Lending Federal Register, Vol. 81, No. 49, Monday, March 14, 2016, Rules and Regulations p. 13550. https://www.ncua.gov/regulation-supervision/Documents/Regulations/FIR2016218member-business-loans.pdf

To this end, NCUA has approved MBL rules for Connecticut, Illinois, Maryland, Oregon, Texas, Washington and Wisconsin. Although Ohio's rule has been on the books for 24 years, it has not been approved by NCUA. Thus, pursuant to the new MBL rule (and indeed under the old rule), both federally chartered and state-chartered, federally insured credit unions would be subject to the new NCUA rule and not subject to OAC 1301:9-2-24. The new rule ignores state chartered, privately insured credit unions. Thus, we can say with some level of certainty that OAC 1301:9-2-24 applies to state-chartered privately insured credit unions.

What Is the Credit Union Council?

by Dina Messina - Corporate

The Credit Union Council (the "Council") is comprised of credit union professionals and serves as the voice for the state-chartered credit union industry in its dealings with the Ohio Division of Financial Institutions (the "Division"). The Council consists of seven members, and the Deputy Superintendent for Credit Unions is also a Council member and serves as the Chairperson. The remaining six members are appointed by the Governor, with the advice and consent of the Senate.

Council members serve in an important advisory role to the Division and the industry as they raise awareness of credit union issues, facilitate the exchange of information and ideas about financial cooperatives, and work with policymakers/regulators to improve the legal and regulatory environments for credit unions. As a member of the Council, persons are required to annually attend Ethics Training as required by Governor Kasich's Executive Order, and they must also file an annual financial disclosure form with the Ohio Ethics Commission.

The current Council Members are:

- **Robert W. Rutkowski,** Deputy Superintendent
- **Phillip R. Buell,** Superior Credit Union, Inc.
- **William Burke,** Day Air Credit Union, Inc.
- **Gregory Kidwell**, Pathways Financial Credit Union, Inc.
- **Michael King,** Ohio Educational Credit Union, Inc.
- **Kristen Scott,** Telhio Credit Union, Inc.
- **Robin Thomas,** Taleris Credit Union

The members are exclusively dedicated to defending a strong state credit union system. If you want your voice to be heard, reach out to your fellow Council members.

How To Contact Us

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The State of Ohio is an equal opportunity employer and provider of services.

Allard Named Superintendent

In March, Commerce Director Jacqueline T. Williams appointed Kevin Allard Superintendent of the Division of Financial Institutions (DFI). He had been serving as Interim Superintendent since December.

Kevin has been involved in the supervision and regulation of state-chartered banks and savings institutions for more than 30 years. His roles have included Deputy Superintendent for Banks and Savings Institutions, Chief Examiner for the Banks and Savings Institutions section, and field examiner. He also has served on various regulatory related committees, and currently is a part the State Liaison Committee representation on the Federal Financial Institutions Examination Council (FFIEC) Task Force on Supervision. He is a past Chairman and trustee for the Institute for Supervisory Education.

Kevin's extensive industry experience will serve all of the Division's stakeholders well.

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