

## **RULEMAKINGS IN DODD-FRANK APPLICABLE TO CREDIT UNIONS**

- For purposes of the rulemaking date column, the “designated transfer date” refers to the date the functions are transferred to the Consumer Financial Protection Bureau (CFPB), which is scheduled for between 6 and 12 months after the July 21, 2010 enactment date of the new law and may be extended until 18 months after enactment.
- Unless otherwise noted in the statute, credit unions and others are subject to statutory provisions as of the effective date of those provisions, even if the rules have not yet been issued. In those instances good faith efforts to comply will be important, if a credit union's compliance with a particular provision is challenged. Also, as with other comprehensive statutes, the agencies often miss regulatory rulemaking deadlines.
- The CFPB has very broad rulemaking authority, and we anticipate the agency will issue additional rules beyond those required under Dodd-Frank.

Regulation	Agency	Rulemaking Date
<b>Interchange</b>		
<u>Interchange: Reasonable and Proportional Fees for Debit Cards: (§ 1075)</u> <ul style="list-style-type: none"> <li>• The Federal Reserve Board (Fed) will write rules on debit interchange fees. Interchange fees for debit cards must be “reasonable and proportional” to the “incremental” cost of the individual transaction.</li> </ul>	Federal Reserve Board	by 4/21/2011 (proposal anticipated in December according to Board staff)
<u>Interchange: Network Fees: (§ 1075)</u> <ul style="list-style-type: none"> <li>• The Fed may issue regulations for network fees, which are any other fees that the payment card networks charge directly and receive, with respect to a debit transaction.</li> </ul>	Federal Reserve Board	by 4/21/2011 (proposal may be issued in December)
<u>Interchange: Exclusivity and Routing: (§ 1075)</u> <ul style="list-style-type: none"> <li>• There is a prohibition on exclusive network arrangements and authority for merchants to determine routing of debit transactions.</li> </ul>	Federal Reserve Board	by 7/21/2011
<b>Executive Compensation</b>		
<u>Disclosure of Executive Compensation to NCUA: (§ 956)</u> <ul style="list-style-type: none"> <li>• Credit unions with more than \$1 billion in assets must report “executive compensation information” to NCUA.</li> </ul>	Federal Reserve Board, FDIC, OCC, NCUA, FHFA, SEC	by 4/21/2011
<b>Consumer Financial Protection Bureau (CFPB) - Title X</b>		
<u>General Authority: (§ 1012)</u> <ul style="list-style-type: none"> <li>• The CFPB has broad general authority to implement consumer financial laws through rules, orders, guidance, interpretations and statements of policy, examinations, and enforcement actions. Eighteen consumer protection laws including Truth in Lending (TILA), Truth in Savings, Equal Credit Opportunity Act, Home Mortgage Disclosure Act (HMDA), and Real Estate Settlement Procedures Act (RESPA) will be transferred. The designated transfer date is scheduled for between 6 and 12 months after the July 21, 2010 enactment date of the new law and may be extended until 18 months after enactment.</li> </ul>	CFPB	no specific date
<u>More information collections about consumer loans: (§ 1022)</u> <ul style="list-style-type: none"> <li>• There are new information collections from a variety of sources, including examination reports concerning covered persons, consumer complaints, and review of available databases. The CFPB may disclose nonconfidential information from credit unions as in the best interest of the public.</li> </ul>	CFPB with other Federal regulatory agencies	no specific date

Regulation	Agency	Rulemaking Date
<u>Financial Stability Oversight Council (FSOC) Review of CFPB Regulations: (§ 1023)</u> <ul style="list-style-type: none"> <li>The FSOC, with a 2/3 affirmative vote, may set aside a final regulation prescribed by the CFPB if the regulation has risks to the safety and soundness and the financial stability.</li> </ul>	FSOC	no specific date
<u>Supervision of Nondepository Covered Persons: (§ 1024)</u> <ul style="list-style-type: none"> <li>The CFPB has exclusive examination and enforcement authority for Federal consumer financial laws of a nondepository covered person that originates or services certain real estate loans, is a “larger participant” of a market for other consumer financial services, has engaged in conduct that poses risks to consumers, or provides private education or payday loans.</li> </ul>	CFPB with FTC	within 1 year of transfer to define covered persons; no specific date for other provisions
<u>CFPB Examination on Credit Unions with over \$10 Billion in Assets: (§ 1025)</u> <ul style="list-style-type: none"> <li>The CFPB will require reports and examinations, and have primary enforcement authority for credit unions with over \$10 billion in assets. NCUA and other prudential regulators will retain such authority for smaller institutions.</li> </ul>	CFPB	no specific date
<u>Prohibition of mandatory arbitration clauses: (§ 1028(b))</u> <ul style="list-style-type: none"> <li>There is a prohibition on mandatory arbitration clauses, which some loan agreements include to limit the borrower’s ability to sue.</li> </ul>	CFPB	no specific date
<u>CFPB Exclusion for Auto Dealers: (§ 1029(d))</u> <ul style="list-style-type: none"> <li>The FTC will prescribe consumer protection regulations for auto dealers.</li> </ul>	FTC	no specific date
<u>Rules on “unfair, deceptive, or abusive” practices: (§ 1031(b))</u> <ul style="list-style-type: none"> <li>There are new rules to prohibit “unfair, deceptive, or abusive” acts or practices.</li> </ul>	CFPB with other Federal agencies	no specific date
<u>Disclosures to consumers about risks of a transaction: (§ 1032(a))</u> <ul style="list-style-type: none"> <li>There will be disclosures regarding the costs, benefits, and risks for every covered financial product or service (such as loans).</li> </ul>	CFPB	no specific date
<u>New TILA and RESPA disclosure: (§ 1032(f))</u> <ul style="list-style-type: none"> <li>There will be new mandatory disclosures that will meet both the Truth in Lending Act (TILA) and Real Estate Settlement Procedures Act (RESPA) requirements.</li> </ul>	CFPB	within 1 year after designated transfer date
<u>Disclosures about existing customer transactions: (§ 1033)</u> <ul style="list-style-type: none"> <li>Credit unions have to provide disclosures about consumer transactions, including costs, charges, and usage data to any customer who asks for it, and standardized formats for such data.</li> </ul>	CFPB with FTC and other Federal banking agencies	no specific date
<u>Timely Response to Consumer Complaints: (§ 1034)</u> <ul style="list-style-type: none"> <li>The regulator should have timely response to consumers, which include response to a complaint, response received from covered persons, and any follow-up action.</li> </ul>	CFPB with other Federal agencies	no specific date
<u>Contracts in violation of CFPB rules: (§ 1036)</u> <ul style="list-style-type: none"> <li>Credit unions may not enforce, or attempt to enforce, any agreement that does not conform to the CFPB rules.</li> </ul>	CFPB	no rulemaking specified
<u>Relation to State Law: (§ 1041)</u> <ul style="list-style-type: none"> <li>The CFPB must issue a notice of proposed rulemaking if a majority of states adopts resolutions asking CFPB to modify existing CFPB rules or establish new regulations.</li> </ul>	CFPB	no specific date

Regulation	Agency	Rulemaking Date
<u>State Law Preemption for National Banks and Federal Thrifts: (§ 1042)</u> <ul style="list-style-type: none"> <li>National banks and federal thrifts will be subject to provisions that limit OCC's ability to preempt state laws.</li> </ul>	CFPB	no specific date
<u>Investigations and Administrative Discovery: (§ 1052)</u> <ul style="list-style-type: none"> <li>The CFPB will prescribe rules for documentary materials and tangible items in a civil investigative demand.</li> </ul>	CFPB	no specific date
<u>Hearings and Adjudication Proceedings: (§ 1053)</u> <ul style="list-style-type: none"> <li>The CFPB will prescribe rules for hearings and adjudication proceedings.</li> </ul>	CFPB	no specific date
<u>Transfer of Financial Protection Functions: (§ 1061)</u> <ul style="list-style-type: none"> <li>The CFPB will assume consumer financial protection functions from the NCUA and other regulators.</li> </ul>	CFPB	no specific date
<u>Transfer of Personnel: (§ 1064)</u> <ul style="list-style-type: none"> <li>The OPM will issue rules related to retirement and benefit plans for transferred personnel.</li> </ul>	OPM	no specific date
<u>Small/Women/Minority Business Loan Data Collection: (§ 1071)</u> <ul style="list-style-type: none"> <li>Credit unions and other lenders will have to gather information regarding loan applications from small businesses, and businesses owned by minorities and women.</li> </ul>	CFPB	no specific date
<u>Remittance transfers: (§ 1073)</u> <ul style="list-style-type: none"> <li>Credit unions that offer remittances will be required to provide consumers with disclosures including the amount of money the consumer will receive (after fees and foreign exchange rates).</li> <li>Exemption: International transfers where "a recipient nation does not legally allow, or the method by which transfers are made in the recipient country do not allow, the amount of currency that will be received . . ."</li> <li>Exemption: Transactions initiated from a deposit account at a federally-insured credit union are exempt from the disclosure requirements for 5 years, with a possible additional 5 year extension.</li> <li>Safe Harbors: There will be rules regarding liability for error resolutions and the "actions of agents."</li> </ul>	Federal Reserve Board	no specific date for the disclosures rule; by 1/21/2012 for the rules for certain countries, errors, and cancellations and refunds; within 5 years for the federally-insured exemption
<u>Reverse Mortgage Integrated Disclosure Standard: (§ 1076)</u> <ul style="list-style-type: none"> <li>There may be integrated and model disclosures for reverse mortgages that meet both TILA and RESPA requirements.</li> </ul>	CFPB	no specific date
<u>Exchange Facilitators Program: (§ 1079(c))</u> <ul style="list-style-type: none"> <li>The CFPB will issue regulations to protect consumers who use exchange facilitator programs.</li> </ul>	CFPB	within 1 year after the designated transfer date
<u>Amendment to Reg CC: (§1086)</u> <ul style="list-style-type: none"> <li>The Expedited Funds Availability Act (Reg CC) will now require the first \$200 (from \$100) of a check deposit to be available by the next business day.</li> </ul>	Federal Reserve Board	no rulemaking specified (however, the Fed is rewriting Reg CC and plans to have a proposed draft in September)
<u>Expanded HMDA disclosures: (§ 1094)</u> <ul style="list-style-type: none"> <li>Credit unions would have to report at least 13 new items under HMDA based on the dollar amount and number of mortgage loans.</li> </ul>	CFPB	no specific date
<b>Mortgage Regulation – Title XIV</b>		

Regulation	Agency	Rulemaking Date
<p><u>Residential Mortgage Loan Origination Standards: (§ 1402)</u></p> <ul style="list-style-type: none"> <li>New TILA § 129B will establish a duty of care for mortgage originators under the SAFE Mortgage Licensing Act and other applicable state and federal laws. Depository institutions shall establish and maintain proper compliance procedures.</li> </ul>	Federal Reserve Board	within 18 months after designated transfer date
<p><u>Prohibition on Steering Incentives: (§ 1403)</u></p> <ul style="list-style-type: none"> <li>New TILA § 129B(c) will prohibit “steering incentives” or “compensation that varies based on the terms of the loan (other than the amount of the principal).” The Fed may waive or exempt the prohibition on upfront discount points, origination points, or fees.</li> </ul>	Federal Reserve Board	within 18 months after designated transfer date
<p><u>Discretionary Regulatory Authority: (§ 1405)</u></p> <ul style="list-style-type: none"> <li>There is discretionary regulatory authority to “prohibit or condition terms, acts or practices” related to mortgage loans which it finds to be “abusive, unfair, deceptive, necessary or proper to ensure that responsible, affordable mortgage credit remains available to consumers.” The Fed may waive or exempt such requirements.</li> </ul>	Federal Reserve Board	within 18 months after designated transfer date
<p><u>Minimum Underwriting Standards for Mortgages: (§ 1411)</u></p> <ul style="list-style-type: none"> <li>TILA § 129C requires mortgage lenders to make “a reasonable and good faith determination, based on verified and documented information” that the consumer has a reasonable ability to repay the loan as well as applicable taxes, insurance (including mortgage guarantee insurance), and assessments. There will be safe harbor standards.</li> </ul>	Federal Reserve Board	within 18 months after designated transfer date
<p><u>Safe Harbor and Rebuttable Presumption: Smaller Loans: (§ 1412)</u></p> <ul style="list-style-type: none"> <li>The Fed has broad rulemaking authority and can provide definitions, and revise, add to, or subtract criteria for mortgage lending. The Departments of HUD, Veterans Affairs, and Agriculture, and the Rural Housing Service should prescribe rules that define the types of loans they insure, guarantee, or administer.</li> </ul>	Federal Reserve Board; HUD, Veterans Affairs, Agriculture, and Rural Housing Service with Fed	within 18 months after designated transfer date
<p><u>High-Cost Mortgages: (§§ 1431 - 1433)</u></p> <ul style="list-style-type: none"> <li>There is a new definition for a “high cost mortgage” (i.e. a subprime mortgage). “Higher-cost” mortgages may not include a “balloon payment” or a scheduled payment that is more than twice as large as the average of earlier scheduled payments. The Fed may modify this definition.</li> <li>The Fed may prescribe additional rules for certain high cost mortgages.</li> </ul>	Federal Reserve Board	no specific date
<p><u>Office of Housing Counseling: (§ 1442)</u></p> <ul style="list-style-type: none"> <li>There will be a new Office of Housing Counseling, which will be headed by a Director who will be appointed by, and shall report to, the Secretary of HUD. HUD certified counselors may offer homeownership and rental counseling.</li> </ul>	Director of Housing Counseling	no specific date
<p><u>Mortgage Servicing: (§ 1461)</u></p> <ul style="list-style-type: none"> <li>A creditor, in connection with the consummation of a consumer credit transaction secured by a first lien on the principal dwelling of a consumer—other than a consumer credit transaction under an open end credit plan or a reverse mortgage—must establish an escrow or impound funds for tax and hazard insurance payments. The Fed may prescribe rules on these criteria.</li> </ul>	Federal Reserve Board	no specific date
<p><u>New Appraisal Activities: (§§ 1471 - 1473)</u></p>	Federal Reserve, OCC, FDIC, NCUA,	interim final rule by 10/19/2010; final rule within

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<ul style="list-style-type: none"> <li>TILA § 129H prohibits a creditor from making a “higher-risk mortgage” to any consumer without first obtaining a written appraisal of the property involving a physical property visit by a licensed or certified appraisal. A second appraisal will be required in some circumstances if the borrower is buying a house that is being resold within 6 months of the seller’s purchase.</li> <li>The Home Valuation Code of Conduct will no longer be in effect, although new rules will address the issues outlined in the Code.</li> <li>The agencies will have joint rulemaking authority to exempt certain loans for these requirements.</li> </ul>	FHFA, CFPB	18 months after designated transfer date
<u>Mortgage Resolution and Modification: (§ 1483)</u> <ul style="list-style-type: none"> <li>Treasury will issue revised guidelines for the public availability of data from the HAMP program.</li> </ul>	Treasury	data tables within 60 days after each deadline for submission; final rule within 18 months after designated transfer date
<b>Miscellaneous Provisions – Credit Unions</b>		
<u>Financial Stability Oversight Council established: (§ 111(e))</u> <ul style="list-style-type: none"> <li>The responsibilities of the FSOC are to identify risks for the financial market stability.</li> </ul>	FSOC	no specific date
<u>Permanent Increase in NCUSIF Share Insurance to \$250k: (§ 335)</u> <ul style="list-style-type: none"> <li>NCUSIF insurance will be permanently increased to \$250,000.</li> </ul>	NCUA	no rulemaking specified
<u>Temporary Unlimited Insurance of Transaction Accounts: (§ 343)</u> <ul style="list-style-type: none"> <li>Non-interest-bearing NCUSIF-insured transaction accounts—e.g., share draft accounts which do not pay dividends are fully insured (i.e. without a maximum amount of deposit insurance) from the date of enactment.</li> </ul>	NCUA, FDIC	no rulemaking specified
<u>Limits on Securitizations: (§ 941)</u> <ul style="list-style-type: none"> <li>Securitizers and originators, including credit unions, have to retain at least 5% of the credit risk of any asset that is transferred through an asset-backed security. Many credit union originated mortgages will fall under the “qualified residential mortgage” risk-retention exemption.</li> </ul>	Federal Reserve Board, FDIC, OCC, HUD, FHFA, SEC	by 4/17/2011
<ul style="list-style-type: none"> <li></li> </ul>		
<u>NCUSIF Material and nonmaterial loss for Inspector General reviews: (§ 988)</u> <ul style="list-style-type: none"> <li>The amendment raises one of the two prongs for the “material loss review” threshold under the Federal Credit Union Act, from \$10 million to \$25 million.</li> <li>If a NCUSIF loss is “material,” the NCUA Inspector General (IG) must perform a “material loss review” and submit it to the NCUA Board.</li> <li>The NCUA Inspector General has a new requirement to review any losses (material or non-material) to the NCUSIF and issue a semi-annual report to Congress and GAO.</li> </ul>	NCUA Inspector General	no rulemaking specified
<b>Payment, Clearing, and Settlement – Title VIII</b>		
<u>Systemically Important Payment System Institutions: (§§ 802 - 805)</u> <ul style="list-style-type: none"> <li>The Fed will prescribe enhanced supervision and risk management rules for systemically important financial market utilities and payment, clearing, or settlement activities.</li> </ul>	Federal Reserve Board	no specific date
<b>Other Provisions – Other Financial Institutions</b>		

Regulation	Agency	Rulemaking Date
<p><u>15-to-1 Leverage Ratio for Systemically Important Institutions (6.67% Net Worth Ratio):</u> (§ 165(j)(3))</p> <ul style="list-style-type: none"> <li>For systemically-risky BHCs with assets over \$50 billion and nonbank financial companies, their leverage cannot be greater than a 15 to 1 debt to equity ratio (approximately 6.67% net worth ratio).</li> </ul>	Federal Reserve Board with FSOC	no specific date
<p><u>Orderly Liquidation Authority:</u> (§ 209)</p> <ul style="list-style-type: none"> <li>The FDIC has new authority to liquidate systemically-risky financial companies.</li> </ul>	FDIC	no specific date
<p><u>Functions of OTS Transferred to OCC:</u> (§§ 311 - 319)</p> <ul style="list-style-type: none"> <li>The functions of the Office of Thrift Supervision (OTS) will be transferred to the Office of the Comptroller of the Currency (OCC). The existing rights of the OTS will not be affected and will be transferred to the OCC.</li> </ul>	OCC, Federal Reserve Board	no specific date
<p><u>Permanent Increase in Deposit and Share Insurance:</u> (§ 335)</p> <ul style="list-style-type: none"> <li>Bank and thrift deposit insurance will be permanently increased to \$250,000, with retroactive application for institutions under FDIC receivership or conservatorship from 1/1/2008 – 10/3/2008.</li> </ul>	FDIC	no rulemaking specified
<p><u>Temporary Unlimited Insurance of Transaction Accounts:</u> (§ 343)</p> <ul style="list-style-type: none"> <li>The FDIC provisions for the temporary unlimited insurance of transaction accounts will be in effect from 12/31/2010 to 1/1/2013.</li> </ul>	FDIC	no rulemaking specified
<p><u>Enhanced Bank and Thrift Holding Company Supervision:</u> (§ 604)</p> <ul style="list-style-type: none"> <li>The Fed will have authority to regulate functionally regulated subsidiaries of BHCs and thrift holding companies, likely meaning subsidiaries which provide lending or other financial services (such as a mortgage company subsidiary of a bank holding company).</li> </ul>	Federal Reserve Board with FSOC	no specific date
<p><u>10% Concentration Limit:</u> (§ 622 )</p> <ul style="list-style-type: none"> <li>A financial company may not control more than 10% of the aggregate liabilities of the U.S. financial sector.</li> </ul>	Federal Reserve Board with FSOC	within 9 months after the date of completion of the study
<p><u>Credit Ratings Agency Regulation:</u> (§§ 932, 933, 939A(b))</p> <ul style="list-style-type: none"> <li>There will be a new Office of Credit Ratings within the SEC to administer the Nationally Recognized Statistical Rating Organization (NRSRO) rules for determining accurate ratings and to minimize conflicts of interests.</li> <li>There is a civil liability standard for lawsuits against NRSROs by investors.</li> <li>Federal agencies, including NCUA, will also need to replace references to NRSRO ratings in their regulations with an alternative system devised by those agencies.</li> </ul>	SEC; Each federal agency for their own regulations	by 7/21/2011
<p><u>Federal Reserve Discount Window:</u> (§ 1101(a)(6))</p> <ul style="list-style-type: none"> <li>The Fed will not have broad authority to open its discount window emergency lending facility to any “individuals, partnerships or corporations” in an “unusual or exigent circumstance” unless such lending occurs with a program with “broad-based” eligibility.</li> </ul>	Federal Reserve Board with Treasury Secretary	as soon as is practicable