



Single-Factor Authentication and Online Banking

With the close of 2006, credit unions were to have completed an initial risk assessment for their Internet-based services and the enhancement of methodologies and technologies to authenticate member access for all high-risk transactions. Online transactions that involve access to members' personal information or the movement of funds to other parties are considered high-risk transactions and require that something other than single-factor authentication (such as a member keying in an account number or long-on ID along with a password) would need to be used for these transactions. Though the guidance did not offer a template for this risk assessment it did indicate high risk transactions must utilize some form of multifactor authentication, layered security, or other reasonable control to protect members.

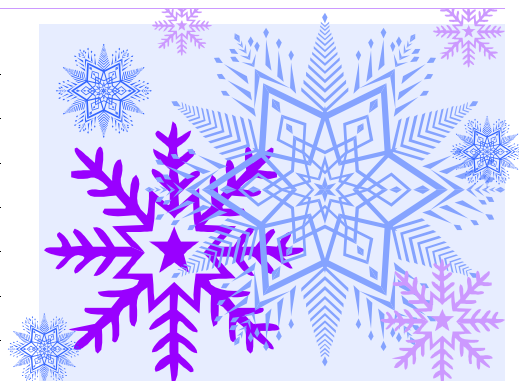
Three other requirements also needed to be completed by year end 2006: (1) a means of monitoring systems to determine if unauthorized access to credit union systems and member accounts has occurred; (2) policies and procedures on reporting unauthorized access to local law enforcement agencies, the NCUA regional director, and members, if warranted; and (3) programs to educate members about protecting themselves from fraud and identity theft.

Non-Dividend Bearing Accounts

A recent NCUA letter addresses the issue of whether federal credit unions are permitted to provide non-dividend bearing accounts for members who do not have a SSN or TIN. The official opinion of the NCUA is that the Federal Credit Union Act does not require dividends to be paid on every type of account, and therefore providing non-dividend bearing accounts for members without a SSN or TIN would be allowable under the Act. They caution federal credit unions to remember that all disclosures under the TISA must still be met and "federally insured credit unions must also ensure their customer identification program adequately addresses the documentation required for compliance with requirements of the Bank Secrecy Act."

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Health Savings Account Updates

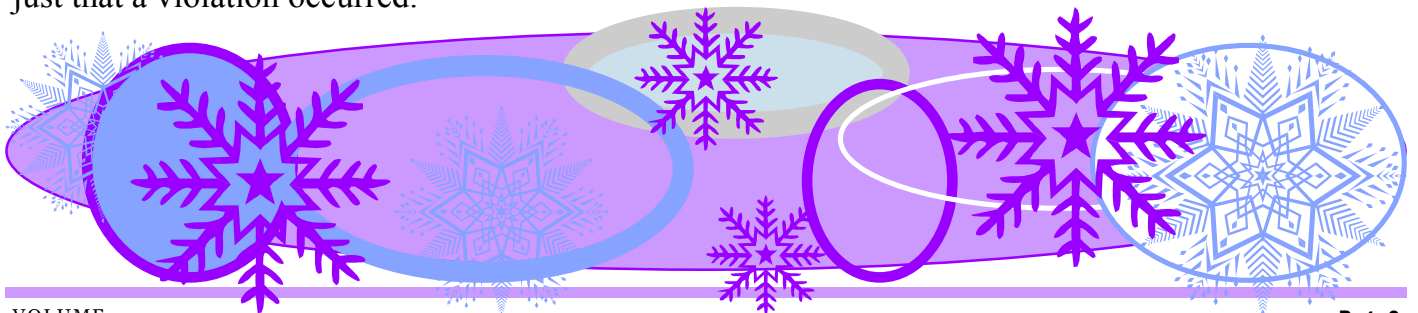
In December 2006, President Bush signed the Tax Relief and Health Care Act of 2006 into law. The Act contained changes to existing Health Savings Account (HSA) provisions that make the accounts more attractive. In particular, the Act repealed a provision that limited HSA contributions to the amount of the plan deductible under the high deductible health plan (HDHP). This substantially increases the amount most individuals can contribute to an HSA. For 2007, the maximum HSA contribution for a single coverage HDHP is \$2850 and \$5650 for family coverage HDHP, regardless of the deductible.

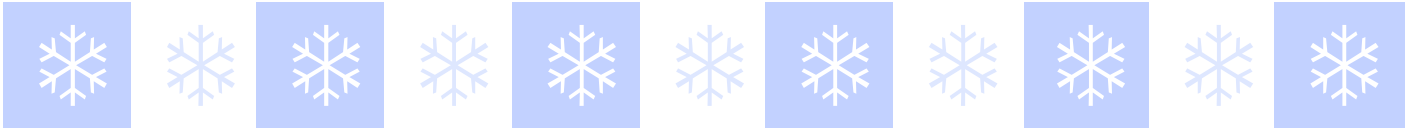
Also, beginning in 2007, a person who is eligible to make contributions for the last month of the year will be eligible to make contributions for the entire year; employers can make larger contributions on behalf of employees that are not highly compensated (versus those contributions made for higher compensated employees) and an HSAs can now be funded through a one-time direct rollover from an Individual Retirement Account (IRA).

Fair Credit Reporting Act and Adverse Action Notices

The Fair Credit Reporting Act requires creditors and insurers to send notices when adverse action is taken based on information in a consumer's credit report. Unlike the Equal Credit Opportunity Act and Regulation B, which allow credit unions to not have to send an adverse action notice to a member if a counteroffer that the member accepts is made, the FCRA does not include the counteroffer provision. Because of this, credit unions should be sending an adverse action notice if their members are not getting the best rate available based on information in a credit report.

Though there is no precedent set for a member to bring suit against a credit union about not receiving an adverse action report when not given the best rate, the supreme court is set to hear suits brought up against insurance companies for similar violations. The issue in the cases now before the Supreme Court is whether use of a credit report that results in an initial insurance premium that is not the best possible rate requires an adverse action notice. Insurers were generally surprised that it held up through the court of appeals that if a consumer gets less than the best rate possible, based on information included in the credit report, an adverse action notice must be given. In most federal courts, consumers who allege violations of the disclosure requirements must prove that the business knew they had broken the law. However, the 9th U.S. Circuit Court of Appeals has stated that consumers do not need to demonstrate that the insurers KNEW they were violating the law—just that a violation occurred.





New Mortgage Letter Requirement When a Member Defaults

On November 20, the Department of Housing and Urban Development issued Mortgagee Letter No. 2006-28 which provides information on a new legal requirement to notify homeowners in default of a mortgage of the foreclosure rights of servicemembers and their dependents under the Servicemembers Civil Relief Act (SCRA). The letter also provides useful guidance regarding the implementation of SCRA requirements in servicing FHA-insured mortgages.

Section 688 of the National Defense Authorization Act for Fiscal Year 2006 directed the Department of Housing and Urban Development's to develop and disseminate a revised homeownership counseling notification to include information regarding the foreclosure rights of servicemembers and their dependents under the SCRA. Since the notice requirement amends HUD's counseling notification provisions rather than the SCRA, it appears that all homeowners in default must receive the revised notice.

HUD developed the notice in consultation with the Departments of Defense and Treasury. The form for the required notice is attached to Mortgagee Letter 2006-28 (see "Resource Links" below). All mortgage loans, including conventional mortgages and mortgages insured by HUD, are subject to the notification requirement. The notice must:

- Be sent to all homeowners who are in default on a residential mortgage (HUD's counseling notification requirement only applies to a loan that is secured by the principal residence of the homeowner);
- Include the toll-free military one-source number to call if servicemembers or their dependents require further assistance (1-800-342-9647); and
- Be made within 45 days from the date a missed payment was due, unless the homeowner pays the overdue amount before the expiration of the 45-day period.

The statutory requirement became effective on June 5, 2006. However, since the model notice was just issued on November 20, 2006, credit unions should consider the requirement effective as of November 20, 2006. So your credit union needs to change its forms as quickly as possible.

Resource Links:

Mortgagee Letter: http://www.cuna.org/compliance/member/download/hud_ltr2006-28.pdf



2007 Compliance Training Schedule

	Monday	Tuesday	Wednesday	Thursday	Friday
January	15— Offices Closed	16	17— RTFPA	18—RTFPA	19
	22	23	24	25—HOEPA	26
January/February	29	30	31—UCC 3 & 4	1—UCC 3 & 4	2
	5	6	7	8	9
	12	13	14—E-Sign	15—E-Sign	16
	19—Offices Closed	20	21—UCC 9	22	23
February/March	26	27	28	1	2
	5	6	7—Lending regs.	8	9
	12	13	14	15	16
	19	20	21—Fair Housing	22	23
	26—TISA/TILA advertising	27—TISA/TILA advertising	28	29	30
April	2	3	4	5	6
<i>Key:</i>	9	10	11	12	13
<i>Everyone Loan Dept.</i>	16	17	18—RESPA	19	20
<i>Front Line Loan and Front Line</i>	23— Post Testing (during day)	24—Post Testing (during day)	25	26	27

Compliance Kudos!

We are more than 1/2 through all of the initial compliance training! Great job, guys! As you will see post testing will take place on April 23rd and April 24th. Remember, if you would like to review any of your past tests before that, just come back to my office!

This newsletter will be archived on the ISPCU intranet!

Thoughts for the Month:

"A positive attitude may not solve all your problems, but it will annoy enough people to make it worth the effort."
—Herm Albright

Work is either fun or drudgery. It depends on your attitude. I like fun.
—Colleen C. Barrett

The remarkable thing is that we really love our neighbor as ourselves: we do unto others as we do unto ourselves. We hate others when we hate ourselves. We are tolerant toward others when we tolerate ourselves. We forgive others when we forgive ourselves. We are prone to sacrifice others when we are ready to sacrifice ourselves.
—Eric Hoffer