



REGCORNER

December 10th, 2024

In this week's RegCorner: The NCUA publishes LCU 24-CU-03 detailing ODP/NSF practices that harm consumers; joins other regulators in issuing statement on elder financial exploitation. The CFPB issues ANPR tackling financial abuses; proposes rule to restrict data brokers from selling consumer information. The CDFI Fund seeks comments on the Small Dollar Loan Program Application and on CDFI Bond Guarantee Program materials. FinCEN invites nominations for membership on the Bank Secrecy Act Advisory Group.

From the Regulators

NCUA

NCUA CURE Office Seeks Comments on Proof of Concept for New Charter Organizing Groups

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The Office of Credit Union Resources and Expansion (CURE) is responsible for the review and approval of charter applications submitted by organizing groups. CURE has implemented a charter modernization process to improve the quality of charter applications received. This will help ensure organizing groups submit a well-thought out, well-developed charter plan to minimize the back and forth communication and improve overall chartering processing times. CURE management implemented the Proof of Concept (POC) data collection through the CyberGrants system, which documents the four most critical elements for establishing a new charter. The information collection is needed to determine the adequacy of a group's chartering concept and provide guidance, as needed, and would identify the level of understanding an organizing group has before they make a formal charter application submission as prescribed by appendix B to 12 CFR part 701.

Additional information available in the [Open Comment Calls](#) section.

NCUA Board Announces 2025 Meeting Schedule

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The NCUA Board today released its monthly meeting schedule for 2025. Open Board meetings are scheduled to begin at 10 a.m. Eastern on the following dates:

- January 16
- February 27
- March 27
- April 17
- May 22
- June 17
- July 24
- September 18
- October 23
- November 20
- December 18

No meeting is scheduled for August and the meeting schedule is subject to change.

NCUA; Agencies Issue Statement on Elder Financial Exploitation

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The NCUA, CFPB, CSBS, FDIC, OCC, FRB, and FinCEN issued a joint statement to provide supervised institutions with examples of risk management and other practices that may be effective in combatting elder financial exploitation.

Older adults who experience financial exploitation can lose their life savings and financial security and face other harm. A FinCEN financial trend analysis of Bank Secrecy Act reports over a one-year period ending in June 2023 found that about \$27 billion in reported suspicious activity was linked to elder financial exploitation.

The statement provides examples of risk management and other practices that supervised institutions may use to help identify, prevent, and respond to elder financial exploitation, including but not limited to:

- Developing effective governance and oversight, including policies and practices to protect account holders and the institution
- Training employees on recognizing and responding to elder financial exploitation
- Using transaction holds and disbursement delays, as appropriate, and consistent with applicable law
- Establishing a trusted contact designation process for account holders
- Filing suspicious activity reports to FinCEN in a timely manner
- Reporting suspected elder financial exploitation to law enforcement, Adult Protective Services, and other appropriate entities
- Providing financial records to appropriate authorities where consistent with applicable law
- Engaging with elder fraud prevention and response networks
- Increasing awareness through consumer outreach

NCUA Releases Credit Union System Performance Data for the Third Quarter of 2024

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According to the latest financial performance data released today by the National Credit Union Administration, total loans outstanding in federally insured credit unions increased \$41 billion, or 2.6 percent, over the year ending in the third quarter of 2024, to \$1.63 trillion. Total assets rose by \$82 billion, or 3.7 percent, to \$2.31 trillion during the same period.

Also, for the third quarter of 2024, the delinquency rate was 91 basis points, up 19 basis points from one year earlier. Net income for federally insured credit unions in the first three quarters of 2024 totaled \$15.8 billion at an annual rate, down \$0.8 billion, or 4.7 percent, from the first three quarters of 2023.

NCUA Issues Letter to Credit Unions 24-CU-03 on Consumer Harm Stemming from Overdraft/NSF Fee Practices

[Read More](#)

The NCUA has published LCU 24-CU-03, noting that if your credit union assesses overdraft or non-sufficient funds (NSF) fees that your members cannot reasonably anticipate or avoid, the credit union may be exposing itself to heightened reputational, consumer compliance, third-party, and litigation risk. The letter describes the following practices as potentially problematic:

Unanticipated Overdraft Fees

- Authorize Positive, Settle Negative Overdraft Fees: Charging APSN overdraft fees when members would not reasonably anticipate them because they had a sufficient balance at the time the credit union authorized the payment is likely unfair under both the FTC Act and the CFPA.
- Multiple NSF Representment Fees: Inaccurate disclosures have the potential to mislead reasonable customers and are considered deceptive under the FTC Act and the CFPA. Even when member disclosures outline representment practices, a policy of assessing fees on each representment is likely unfair under the FTC Act and the CFPA if the member is unable to reasonably avoid fees from represented transactions.

Returned Deposited Item Fees

Blanket policies of charging a fee to the check depositor for every RDI, irrespective of the circumstances of the transaction or patterns of behavior on the account, are unfair under both the FTC Act and the CFPA. These practices also heighten consumer compliance and reputation risk.

Other Overdraft or NSF Practices

- High or no daily limits on the number of fees assessed.
- Insufficient or inaccurate fee disclosures.
- Ordering transactions to maximize fees.

The NCUA is issuing this letter to highlight the risks associated with certain overdraft and NSF fee practices and outline practices that may assist credit unions in managing and mitigating these risks. Further, the NCUA is describing its supervisory approach to such fees and outlining its expectations that credit unions appropriately act to mitigate the associated risks.

Other NCUA News

- NCUA [Prohibits](#) One Individual from Participating in the Affairs of Any Federally Insured Depository Institution
- Chairman Harper [Speaks](#) at Financial Stability Oversight Council (FSOC) Meeting

CFPB

CFPB Proposes Rule to Restrict Data Brokers from Selling Sensitive Information

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The CFPB has introduced a proposed rule modifying Regulation V aimed at restricting data brokers from selling Americans' sensitive personal and financial data to unauthorized parties, including scammers, stalkers, and foreign entities. By designating data brokers that sell financial or personal identifiers as "consumer reporting agencies" under the Fair Credit Reporting Act (FCRA), the rule would require these entities to meet strict accuracy standards, provide consumers access to their data, and maintain safeguards against misuse. The proposed rule seeks to protect consumers from risks such as identity theft, stalking, and national security threats posed by the sale of detailed personal information to bad actors.

Key measures include prohibiting the unauthorized sale of personal identifiers, mandating clear consumer consent for data sharing, and extending FCRA protections to data brokers selling financial details like income or credit history. The CFPB's action aligns with broader federal efforts to enhance data privacy and security, addressing critical vulnerabilities in the modern data brokerage industry that exploit consumers' sensitive information. This initiative supports Congress's longstanding goal of ensuring privacy and safeguarding Americans from exploitation in an increasingly data-driven economy.

Additional information available in the [Open Comment Calls](#) section.

CFPB Announces Return of \$1.8 Billion in Illegal Junk Fees to 4.3 Million Americans Harmed by Lexington Law and CreditRepair.com

[Read More](#)

The CFPB is distributing \$1.8 billion to 4.3 million consumers harmed by illegal advance fees and deceptive practices by credit repair companies Lexington Law and CreditRepair.com. This marks the largest-ever payout from the CFPB's victims relief fund, financed by civil penalties from companies violating consumer protection laws. A 2023 court ruling found the companies breached the Telemarketing Sales Rule by charging fees without delivering results, leading to their Chapter 11 bankruptcy and closure of most operations. CFPB Director Rohit Chopra emphasized the agency's commitment to holding businesses accountable and compensating affected consumers.

CFPB Sues Comerica Bank for Systematically Failing Disabled and Older Americans

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The CFPB has filed a lawsuit against Comerica Bank, accusing it of systematically harming 3.4 million Direct Express cardholders, primarily unbanked individuals receiving Social Security and other federal benefits. The CFPB alleges that Comerica disconnected over 24 million customer service calls, charged illegal ATM fees to over 1 million users, mishandled fraud complaints, and imposed unlawful terms of service on cardholders. Direct Express, a prepaid debit card program administered by Comerica since 2008, provides a critical financial lifeline to Americans living on fixed incomes. However, the CFPB claims Comerica prioritized profit over service, leaving vulnerable beneficiaries without adequate support and illegally harvesting fees.

The CFPB's investigation revealed multiple violations, including failing to investigate fraud and account errors properly, misleading fraud victims, and forcing cardholders to close accounts—often incurring additional fees to access their funds. CFPB Director Rohit Chopra stated that Comerica's practices exploited disabled and older Americans, many of whom depend on the program for essential expenses like groceries and utilities. The bureau seeks to end these practices, secure refunds for affected customers, and impose civil penalties on Comerica, which reported \$84 billion in assets at the end of 2022. This case underscores the importance of accountability for institutions managing programs that serve some of the nation's most vulnerable populations.

CFPB Kicks Off Rulemaking to Help Mitigate the Financial Consequences of Domestic Violence and Elder Abuse

[Read More](#)

The CFPB has published an advanced notice of proposed rulemaking to address the financial harm caused by coerced debt, which often impacts survivors of domestic violence, elder abuse, and other financial abuses. This effort aims to amend the Fair Credit Reporting Act (FCRA) to expand protections and improve survivors' ability to rebuild their financial lives. Coerced debt—created through threats, manipulation, or violence—has long-lasting financial consequences, often trapping survivors in abusive situations. Public input is being sought to address the extent of these harms, barriers to accessing current protections, and the documentation required to prove coerced debt.

This rulemaking responds to petitions from advocacy organizations and builds on prior CFPB initiatives, such as prohibiting credit bureaus from reporting negative information tied to human trafficking. Studies highlight that resolving coerced debt can significantly improve survivors' credit scores, offering better financial opportunities. Comments are due by March 7, 2025.

Additional information available in the [Open Comment Calls](#) section.

Other CFPB News

- CFPB [Bans](#) Student Loan Pro and Owner for Fee Harvesting Scheme
- CFPB [Takes Action](#) Against Climb Credit and Investment Firm 1/0 for Deceiving Borrowers About Coding Bootcamps and Vocational Programs
- CFPB [Takes Action](#) Against Student Loan Debt Collector Performant Recovery for Illegal Fee Generating Scheme That Cost Borrowers Thousands of Dollars
- CFPB [Orders](#) Federal Supervision of Google Following Contested Designation

CDFI Fund

CDFI Fund Seeks Public Comment on the Small Dollar Loan Program Application

[Read More](#)

The SDL Program provides grants for loan loss reserves and technical assistance to enable award recipients to establish and maintain small dollar loan programs to address the issues of expanding consumer access to mainstream financial institutions and providing alternatives to high-cost small dollar loans. The SDL Program is also intended to enable award recipients to help unbanked and underbanked populations build credit, access affordable capital, and allow greater access into the mainstream financial system.

Comments concerning the Application are invited on:

- (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;
- (b) the accuracy of the agency's estimate of the burden of the collection of information;
- (c) ways to enhance the quality, utility and clarity of the information to be collected;
- (d) ways to minimize the burden of the collection of information on respondents, including through the use of technology;
- (e) estimates of capital or start-up costs and costs of operation, maintenance and purchase of services required to provide information; and
- (f) whether any additional questions or factors should be considered as part of the CMF Application and/or review process.

Additionally, the CDFI Fund specifically requests comments concerning a number of questions related to the Application and are outlined, in detail, in the Request for Public Comment. Comments must be received by February 4, 2025.

Additional information available in the [Open Comment Calls](#) section.

CDFI Fund Seeks Public Comment on CDFI Bond Guarantee Program Materials

[Read More](#)

The CDFI Fund is seeking public feedback on the CDFI Bond Guarantee Program’s information collection process. This program supports economic growth in underserved communities by providing long-term capital to CDFIs for community and economic development projects. Public comments help ensure the program meets regulatory and policy goals effectively while reducing administrative burdens. The CDFI Bond Guarantee Program collects information through various forms, including applications and monitoring reports, to evaluate the impact and compliance of funded initiatives. While no major changes have been made to these forms, minor adjustments aim to enhance clarity.

Comments must be submitted by February 7, 2025, and are invited on all aspects of the information collections, but the CDFI Fund specifically requests comments concerning the following questions:

- 1) Is there any input that the general public would like to share regarding our current information collection?
- 2) Does the proposed TLM report contain the appropriate fields and/or approved asset classes for meeting the requirements?

Additional information available in the [Open Comment Calls](#) section.

CDFI Fund Announces Revised Calendar for CDFI Certification Monthly Conference Calls and Webinars

[Read More](#)

Beginning on December 11, 2024, the CDFI Fund is adding sessions to its monthly conference call/webinar schedule. Additionally, during the first portion of each session CDFI Fund staff will provide a walkthrough demonstration on a specific aspect of the revised CDFI Certification Application. This will provide participants the opportunity to receive detailed instructions and guidance on key aspects of the revised CDFI Certification Application. The revised calendar of CDFI Certification Webinars and topics is provided below. More information on the webinars can be found [here](#).

Updated CDFI Certification Conference Webinar Schedule

Date	Time	Webinar Topic
December 11, 2024	3:00-4:15 PM ET	Early Submission Reapplication Submission
December 19, 2024	3:00-4:15 PM ET	Target Market Assessment Methodologies
January 16, 2025	3:00-4:15 PM ET	CDFI Certification Agreement
January 30, 2025	3:00-4:15 PM ET	Collective Review Process
February 6, 2025	3:00-4:15 PM ET	Primary Mission Requirements
February 20, 2025	3:00-4:15 PM ET	Section Zero Review Process
March 6, 2025	3:00-4:15 PM ET	Mergers and Acquisitions
March 20, 2025	3:00-4:15 PM ET	Entity Spin-Off Provisions

FinCEN

FinCEN Invites Nominations for Membership on the Bank Secrecy Act Advisory Group

[Read More](#)

FinCEN is inviting nominations for membership on the Bank Secrecy Act Advisory Group (BSAAG). BSAAG membership is open to financial institutions subject to the Bank Secrecy Act (BSA), trade groups with members that are subject to the BSA, and federal and non-federal regulators and law enforcement agencies that are located within the United States. Membership is granted to organizations, not to individuals. Nominations must be received by January 6, 2025, and organizational members will be selected to serve a three-year term.

Other Noteworthy News

- [America’s Credit Unions](#): Court blocks implementation of Corporate Transparency Act
- [Treasury](#) Exposes Money Laundering Network Using Digital Assets to Evade Sanctions

Submitted Regulatory Comment Letters

Regulatory Response Letters

- [NCUA 2025-2026 Proposed Budget Justification](#)
 - America’s Credit Unions [Letter](#) and [Article](#)
 - NASCUS [Letter](#)
- [Federal Reserve Request for Information and Comment](#): Operational Aspects of Federal Reserve Bank Extensions of Discount Window and Intraday Credit
 - America’s Credit Unions [Letter](#)

Other Letters to Regulators

- n/a

Open Comment Calls

If you have input on any comment calls below that you would like to provide for consideration, please direct them to Bradley.Willett@mcui.org no later than 3 weeks prior to the comment due date.

NACHA Request for Comment: Same Day ACH

Docket No. N/A

Nacha is proposing two specific amendments to the Nacha Operating Rules.

- Add a fourth daily Same Day ACH processing window aligned with the close of the business day in the Pacific Time Zone.
- Accelerate funds availability for certain non-Same Day ACH credits.

The fourth Same Day ACH window would have an effective date of September 19, 2026.

Additional Relevant Information:

- America’s Credit Unions [Summary](#)

Comments Due:

December 13, 2024

[Agency Announcement](#)

*Federal Register
Regulations.gov*

NACHA Request for Information: Faster ACH Topics

Docket No. N/A

Nacha is requesting industry information and perspectives on other topics that can generally be considered “Faster ACH” but are not specifically Same Day ACH topics. These topics are not proposals to change the Nacha Operating Rules; but industry information and perspectives could lead to Rules proposals.

- 2-day ACH credits
- Encouraging same-day returns

Additional Relevant Information:

- America’s Credit Unions [Summary](#)

Comments Due:

December 13, 2024

[Agency Announcement](#)

*Federal Register
Regulations.gov*

NCUA Notice and Request for Comment: Proof of Concept for New Charter Organizing Groups

OMB No. 3133-0202

Comments Due:

January 28, 2024

Agency Announcement

<p>The Office of Credit Union Resources and Expansion (CURE) is responsible for the review and approval of charter applications submitted by organizing groups. CURE has implemented a charter modernization process to improve the quality of charter applications received. This will help ensure organizing groups submit a well-thought out, well-developed charter plan to minimize the back and forth communication and improve overall chartering processing times. CURE management implemented the Proof of Concept (POC) data collection through the CyberGrants system, which documents the four most critical elements for establishing a new charter. The information collection is needed to determine the adequacy of a group's chartering concept and provide guidance, as needed, and would identify the level of understanding an organizing group has before they make a formal charter application submission as prescribed by appendix B to 12 CFR part 701.</p> <p>The public is invited to submit comments concerning:</p> <ul style="list-style-type: none"> (a) whether the collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of the information on the respondents, including the use of automated collection techniques or other forms of information technology. <p>Interested persons are invited to submit written comments on the information collection to Dacia Rogers, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314, Suite 5067; Fax No. (703) 519-8161; or email at PRAComments@NCUA.gov.</p>	<p>Federal Register Regulations.gov</p>
<p>CDFI Request for Comment: Small Dollar Loan Program Application Docket No. CDFI-2024-0004</p> <p>The SDL Program provides grants for loan loss reserves and technical assistance to enable award recipients to establish and maintain small dollar loan programs to address the issues of expanding consumer access to mainstream financial institutions and providing alternatives to high-cost small dollar loans. The SDL Program is also intended to enable award recipients to help unbanked and underbanked populations build credit, access affordable capital, and allow greater access into the mainstream financial system.</p> <p>Comments concerning the Application are invited on:</p> <ul style="list-style-type: none"> (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of technology; (e) estimates of capital or start-up costs and costs of operation, maintenance and purchase of services required to provide information; and (f) whether any additional questions or factors should be considered as part of the CMF Application and/or review process. <p>Additionally, the CDFI Fund specifically requests comments concerning a number of questions related to the Application and are outlined, in detail, in the Request for Public Comment.</p> <p>Related Materials:</p> <ul style="list-style-type: none"> • For Comment: SDL Program Application 	<p>Comments Due: February 4, 2024</p> <p>Agency Announcement Federal Register Regulations.gov</p>
<p>CDFI Request for Comment: BG Program Information Collections—(1) Qualified Issuer Application, (2) Guarantee Application, (3) Secondary Loan Requirements Certification, (4) Financial Condition Monitoring Report, (5) Pledged Loan Monitoring Report, (6) Tertiary Loan Monitoring Report, (7) Annual Assessment Report, and (8) Secondary Loan Commitment Form. Docket No. CDFI-2024-0005</p> <p>The CDFI Fund is seeking public feedback on the CDFI Bond Guarantee Program's information collection process. This program supports economic growth in underserved communities by providing long-term capital to CDFIs for community and economic development projects. Public comments help ensure the program meets regulatory and policy goals effectively while reducing administrative burdens. The CDFI Bond Guarantee Program collects information through various forms, including applications and monitoring reports, to evaluate the impact and compliance of funded initiatives. While no major changes have been made to these forms, minor adjustments aim to enhance clarity.</p> <p>Comments must be submitted by February 7, 2025, and are invited on all aspects of the information collections, but the CDFI Fund specifically requests comments concerning the following questions:</p> <ol style="list-style-type: none"> 1) Is there any input that the general public would like to share regarding our current information collection? 2) Does the proposed TLM report contain the appropriate fields and/or approved asset classes for meeting the requirements? <p>Related Materials:</p> <ul style="list-style-type: none"> • For Comment: Tertiary Loan Monitoring Report • For Comment: Qualified Issuer Application (including, Appendix QI-2E) • For Comment: Guarantee Application (including, Appendices A-2A, A-2C, and B-ID) • For Comment: Secondary Loan Requirements Certification • For Comment: Financial Condition Monitoring Report • For Comment: Pledged Loan Monitoring Report • For Comment: Annual Assessment Report • For Comment: Secondary Loan Commitment Form 	<p>Comments Due: February 7, 2024</p> <p>Agency Announcement Federal Register Regulations.gov</p>
<p>CFPB Proposed Rule: Protecting Americans from Harmful Data Broker Practices (Regulation V) Docket No. CFPB-2024-0044</p> <p>The CFPB has introduced a proposed rule modifying Regulation V aimed at restricting data brokers from selling Americans' sensitive personal and financial data to unauthorized parties, including scammers, stalkers, and foreign entities. By designating data brokers that sell financial or personal</p>	<p>Comments Due: March 3, 2024</p> <p>Agency Announcement Federal Register Regulations.gov</p>

identifiers as "consumer reporting agencies" under the Fair Credit Reporting Act (FCRA), the rule would require these entities to meet strict accuracy standards, provide consumers access to their data, and maintain safeguards against misuse. The proposed rule seeks to protect consumers from risks such as identity theft, stalking, and national security threats posed by the sale of detailed personal information to bad actors.

Key measures include prohibiting the unauthorized sale of personal identifiers, mandating clear consumer consent for data sharing, and extending FCRA protections to data brokers selling financial details like income or credit history. The CFPB's action aligns with broader federal efforts to enhance data privacy and security, addressing critical vulnerabilities in the modern data brokerage industry that exploit consumers' sensitive information. This initiative supports Congress's longstanding goal of ensuring privacy and safeguarding Americans from exploitation in an increasingly data-driven economy.

Proposed Rule

Related Materials:

- [CFPB Fact Sheet](#): The CFPB's Proposed Rule to Rein in Sprawling Data Broker Industry
- [CFPB Fast Facts](#): FCRA Data Broker Practices Proposed Rule

Additional relevant information:

- [Prepared Remarks](#) of CFPB Director Rohit Chopra on Protecting Americans from Harmful Data Broker Practices

CFPB Advanced Notice of Proposed Rulemaking: Fair Credit Reporting Act (Regulation V); Identity Theft and Coerced Debt

Docket No. CFPB-2024-0057

The Consumer Financial Protection Bureau (CFPB) is seeking information in advance of preparing a proposed rule to address concerns related to information furnished to credit bureaus and other consumer reporting agencies concerning coerced debt. More specifically, this advance notice of proposed rulemaking solicits information on amending the definitions of "identity theft" and "identity theft report" in Regulation V, which implements the Fair Credit Reporting Act, as well as other related amendments to Regulation V, to include information stemming from transactions that occurred without the consumer's effective consent.

Comments Due:
March 7, 2024

[Agency Announcement](#)

Federal Register

Regulations.gov

Relevant Federal Rulemaking Links

Agency	Unified Rulemaking Agenda (Spring 2024 Update)	Agency Rulemaking Tracker	Federal Register	Regulations.gov
NCUA	LINK	LINK	LINK	LINK
CFPB	LINK	LINK	LINK	LINK
Treasury <i>CDFI Fund</i> <i>FinCEN</i>	LINK n/a n/a	n/a LINK LINK	LINK LINK LINK	LINK LINK LINK
Federal Reserve System	LINK	LINK	LINK	LINK
FHFA	LINK	LINK	LINK	LINK
FTC	LINK	n/a	LINK	LINK
HUD	LINK	n/a	LINK	LINK
FCC	n/a	LINK	LINK	LINK