



S. 2155 Analysis of Regulatory Relief for Credit Unions

July 2019

SECTION	KEY PROVISIONS	EFFECTIVE DATE	AGENCY
Minimum Standards for Residential Mortgage Loans (Section 101)	<p>Adds a new safe harbor category of Qualified Mortgages (QMs) to Section 129C(b)(2) of the Truth in Lending Act (TILA) for mortgages originated and retained in portfolio by insured credit unions with less than \$10 billion in assets that meet certain criteria. This section also notes that compliance with Appendix Q of Regulation Z may not be required and "multiple methods of documentation" shall be permitted. This section codifies a version of the Small Creditor Portfolio QM category and allows credit unions expanded flexibility with respect to making QM loans.</p> <p>NOTE: In August 2018, NAFCU met with the CFPB to advocate for further clarity on this section. The Bureau has since noted that it is not required to issue a rulemaking for this provision but may pursue such rulemaking.</p>	May 24, 2018; Conforming Regulations Expected	Bureau of Consumer Financial Protection (CFPB or Bureau)
Safeguarding Access to Habitat for Humanity Homes (Section 102)	<p>Amends Section 129E(i)(2) of TILA to make it easier for appraisers to donate their services to charitable organizations by clarifying that this does not violate the customary-and-reasonable fee requirement in TILA. For credit unions partnering with charitable organizations such as Habitat for Humanity, this is important to note as you work to provide affordable mortgage financing to your communities.</p>	May 24, 2018; Conforming Regulations May Be Necessary	Bureau of Consumer Financial Protection

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<p>Exemption from Appraisals of Real Property Located in Rural Areas (Section 103)</p>	<p>Amends Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 to waive the independent home appraisals requirement for federally related mortgages under \$400,000 in rural areas where the lender has contacted three state-licensed or state-certified appraisers who could not complete an appraisal in "a reasonable amount of time." This reduces a significant regulatory hurdle for credit unions in rural areas where appraisers can sometimes be hard to find or work with within the timeframe for closing on the mortgage.</p> <p>NOTE: On October 3, 2018 the NCUA issued a notice of proposed rulemaking and request for comment to amend the agency's regulations requiring real estate appraisals for certain transactions. The NCUA approved a final rule at its July Board meeting. On July 24, 2019, a final rule was published in the Federal Register.</p>	<p>May 24, 2018; Conforming Regulations May Be Necessary</p> <p>Status: Completed</p>	<p>Bureau of Consumer Financial Protection</p>
<p>Home Mortgage Disclosure Act Adjustment and Study (Section 104)</p>	<p>Exempts credit unions that have originated less than 500 closed-end mortgage loans or less than 500 open-end lines of credit in each of the two preceding calendar years from certain disclosure requirements under the <i>Home Mortgage Disclosure Act</i> (HMDA). This does not completely eliminate all HMDA reporting obligations - it only applies to certain reportable items that were added by the <i>Dodd-Frank Wall Street Reform and Consumer Financial Protection Act</i> (Dodd-Frank Act). Credit unions that qualify for this exemption—but are considered financial institutions under Regulation C—may still need to report non-excluded HMDA items (i.e., the data that was required prior to January 1, 2018).</p> <p>NOTE: On September 7, 2018, the CFPB published an interpretive and procedural rule to implement and clarify the requirements of this section, noting that credit unions</p>	<p>May 24, 2018; Conforming Regulations Issued September 1, 2018</p> <p>Status: Completed</p>	<p>Bureau of Consumer Financial Protection</p>

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	<p>have the option to “report exempt data fields as long as they report all data fields within any exempt data point for which they report data.” In August 2018, NAFCU met with the CFPB to advocate for further clarity on this section. On May 13, 2019, the CFPB published a notice of proposed rulemaking to implement the partial exemptions added by section 104.</p>		
<p>Credit Union Residential Loans (Section 105)</p>	<p>Amends the <i>Federal Credit Union Act</i> (FCU Act) to provide that a 1- to 4-family dwelling that is not the primary residence of a member will not be considered a member business loan (MBL) for purposes of the MBL cap. On June 1, 2018, the NCUA approved a final rule to amend its definition of a member business loan to conform to S. 2155’s language. Although section 105 and the NCUA’s final rule do not address maturities on such loans, NAFCU continues to advocate for and support increased statutory flexibility for maturity limits.</p>	<p>June 6, 2018 Status: Completed</p>	<p>National Credit Union Administration (NCUA)</p>
<p>Eliminating Barriers to Jobs for Loan Originators (Section 106)</p>	<p>Amends the S.A.F.E. Mortgage Licensing Act of 2008 (S.A.F.E. Act) and describes an individual’s temporary authority to originate loans for a state-licensed loan originator, such as a credit union that is licensed or registered under state law to engage in residential mortgage loan originations and processing activities. This section applies indirectly to credit unions to the extent that it provides additional flexibility when hiring mortgage loan originators.</p>	<p>November 24, 2019 (18 Months After May 24, 2018 Enactment of S. 2155)</p>	<p>Bureau of Consumer Financial Protection</p>

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<p>Escrow Requirements Relating to Certain Consumer Credit Transactions (Section 108)</p>	<p>Amends Section 129D of TILA to exempt qualifying credit unions from the escrow requirements contained in subsection (a). As amended, (c)(2) provides that loans made by an insured credit union, which are secured by a first lien on a principal dwelling, are exempt from the requirement, subject to certain conditions.</p> <p>NOTE: In the CFPB’s Spring Rulemaking Agenda, “prerule stage” implementation of this section is expected in November 2019.</p>	<p>May 24, 2018; Conforming Regulations Expected</p>	<p>Bureau of Consumer Financial Protection</p>
<p>No Wait for Lower Mortgage Rates (Section 109)</p>	<p>Adds a new subsection to Section 129(b) of TILA to provide an exception to the required three-day waiting period for disclosures if a creditor extends a second offer with a lower annual percentage rate (APR). Congress presumably intended to eliminate the TRID Rule’s three business-day waiting period for closing a mortgage loan when the APR has decreased by more than the applicable tolerance after issuance of the initial Closing Disclosure; however, this provision actually amends the waiting period requirements for only high-cost mortgage loans. If Congress intended this change to apply to all mortgage disclosures, then it must adopt amendments to S. 2155 to fix this.</p> <p>NOTE: In August 2018, NAFCU met with the CFPB to advocate for further clarity on this section. The Bureau has since noted that it is not required to issue a rulemaking for this provision but may pursue such rulemaking.</p>	<p>May 24, 2018; Conforming Regulations Expected</p>	<p>Bureau of Consumer Financial Protection</p>

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Budget Transparency for the NCUA (Section 212)	Amends Section 209(b) of the FCU Act to require the NCUA to publish a draft of its annual "detailed business-type budget" in the <i>Federal Register</i> , hold a public hearing on the draft, and address comments submitted by the public. This does not change regulatory requirements for credit unions.	May 24, 2018	NCUA
Making Online Banking Initiation Legal and Easy (Section 213)	Permits credit unions to record personal information from and make a copy of a driver's license or personal identification card for purposes of opening an account or obtaining a financial product or service through an online service. Also requires credit unions to permanently delete copies or images of a driver's license or personal identification card after using the image for the purposes described in this section, including Customer Identification Program requirements.	May 24, 2018; Conforming Regulations Expected	NCUA and Financial Crimes Enforcement Network (FinCEN)
Reducing Identity Fraud (Section 215)	Directs the Social Security Administration (SSA) to establish and maintain a database that allows certain financial institutions to receive consumers' consent by electronic signature to verify their name, date of birth, and Social Security number. Such a database will make it significantly easier and more efficient for credit unions to receive confirmation of fraud protection from the SSA. NOTE: On August 21, 2018, NAFCU sent a letter to the SSA asking the agency to adopt a procedure that allows credit unions to self-certify their compliance with the Gramm-Leach-Bliley Act in order to start using the database, as required by this section. On June 7, 2019, the SSA published a notice of initial enrollment period for its Consent Based Social Security Number Verification (eCBSV) service. The enrollment period opened on July 17 and ends on July 30, 2019.	May 24, 2018; Conforming Regulations Expected Status: Completed	Social Security Administration

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<p>Treasury Report on Risks of Cyber Threats (Section 216)</p>	<p>Requires the Secretary of the Treasury to submit to Congress a report on the risks of cyber threats to financial institutions and capital markets in the United States, including an assessment of the material risks of cyber threats to financial institutions, the impact and potential effects of material cyberattacks, an analysis of how federal banking agencies are addressing these material risks, and a recommendation of whether any agency needs additional legal authorities or resources to adequately address such risks.</p>	<p>May 24, 2018; Conforming Regulations May Be Necessary</p>	<p>Treasury and NCUA</p>
<p>Protecting Consumers' Credit (Section 301)</p>	<p>Amends the <i>Fair Credit Reporting Act</i> (FCRA) to require credit reporting agencies (CRAs) to provide fraud alerts for consumer files for at least one year when a consumer notifies a CRA that he or she has been or may become a victim of fraud or identity theft. Consumers are also afforded unlimited free security freezes and removals of security freezes. Although this does not directly affect credit union operations, it is important to be aware of these changes to inform members of their rights in the event of a data security breach or fraudulent activity on their account(s).</p> <p>NOTE: On September 12, 2018, the CFPB issued an interim final rule to amend the model forms in Appendices I and K of Regulation V to, among other things, incorporate a new required notice of rights under FCRA section 609.</p>	<p>September 21, 2018 (120 Days After May 24, 2018 Enactment of S. 2155); Conforming Regulations May Be Necessary</p> <p>Status: Completed</p>	<p>Bureau of Consumer Financial Protection and Federal Trade Commission (FTC)</p>

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<p>Protecting Veterans' Credit (Section 302)</p>	<p>Amends the FCRA to require that certain information related to medical debt incurred by a veteran be excluded from the veteran's credit report for one year after the date the medical service was provided. Additionally, this requires any information related to medical debt that is characterized as delinquent, charged off, or in collection be removed once the debt is fully paid or settled. Also creates a dispute process for veterans to request the removal of information related to such debt and requires CRAs to offer free credit monitoring to active duty military members. Although this does not directly affect credit union operations, it can help credit unions provide loans to their veteran members by informing the member that they may improve their credit score if they request the removal of medical debt from their credit report.</p> <p>NOTE: On November 16, 2018, the FTC published a proposed rule, titled Military Credit Monitoring Rule, to implement this section (RIN 3084-AB54). On July 1, 2019, the FTC published a final rule with an effective date of July 31, 2019 and a compliance date of October 31, 2019.</p>	<p>May 24, 2019 (One Year After May 24, 2018 Enactment of S. 2155); Conforming Regulations May Be Necessary</p> <p>Status: Completed</p>	<p>Bureau of Consumer Financial Protection and FTC</p>
<p>Immunity from Suit for Disclosure of Financial Exploitation of Senior Citizens (Section 303)</p>	<p>Protects credit unions and certain credit union employees that report suspected exploitation of senior citizens by providing whistleblower protections. Specifically, section 303 protects employees who have received appropriate training, such as <i>Bank Secrecy Act</i> officers, from liability for disclosing—in good faith and with reasonable care—suspected exploitation of a senior citizen by another individual, such as a caregiver or fiduciary. Credit unions will need to develop an appropriate training program in order to ensure that relevant employees—along with the credit union itself—qualify for civil liability protections when reporting suspected exploitation of senior citizens.</p>	<p>May 24, 2018; Conforming Regulations Expected</p>	<p>Bureau of Consumer Financial Protection, FinCEN, and NCUA</p>

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	<p>NOTE: On September 27, 2018, NAFCU met with the CFPB’s Office of Financial Protection for Older Americans to discuss implementation of this section. Although the CFPB indicated it does not plan to issue a rulemaking, NAFCU continues to engage the Bureau to obtain clarification of this section’s training requirement. NAFCU also met with the NCUA’s Office of Consumer Financial Protection in December 2018 to request guidance from the agency.</p>		
<p>Restoration of the Protecting Tenants at Foreclosure Act of 2009 (Section 304)</p>	<p>Permanently restores the <i>Protecting Tenants at Foreclosure Act of 2009</i> (PTFA), which contains protections intended to ensure that tenants facing eviction from a foreclosed property have adequate time to find alternative housing. Under the PTFA, the immediate successor in interest of a dwelling or residential real property must provide at least 90-days advance notice to tenants who are asked to vacate. Subject to certain exceptions, tenants also must be permitted to stay in the residence until the end of their leases. Credit unions who are successors in interest to foreclosed properties will need to develop appropriate compliance mechanisms to ensure that tenants receive required notices and that eviction is not undertaken prematurely.</p>	<p>June 23, 2018 (30 Days After May 24, 2018 Enactment of S. 2155)</p>	<p>U.S. Department of Housing and Urban Development</p>
<p>Property Assessed Clean Energy Financing (Section 307)</p>	<p>Amends TILA to require creditors to verify a borrower’s ability to repay home improvement loans that are financed through Property Assessed Clean Energy (PACE) programs. Section 307 also grants the Bureau the authority to collect such information and data that the Bureau determines is necessary to implement regulations. Accordingly, credit unions should anticipate future</p>	<p>May 24, 2018; Conforming Regulations Expected; RFI or ANPR Expected February 2019</p>	<p>Bureau of Consumer Financial Protection</p>

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	<p>regulation that will extend ability to repay requirements to PACE loans.</p> <p>NOTE: On March 8, 2019, the CFPB published an advance notice of proposed rulemaking implementing section 307 of S. 2155. NAFCU submitted a comment letter.</p>		
<p>Protecting Veterans from Predatory Lending (Section 309)</p>	<p>Establishes additional consumer protections for veterans who are refinancing home loans. This Section applies to credit unions that refinance VA loans and provides that the VA may only insure or guarantee refinancing under certain conditions.</p> <p>NOTE: On December 17, 2018, the VA published an interim final rule with an effective date of February 15, 2019 amending regulations regarding VA-guaranteed or insured cash-out home refinance loans.</p>	<p>November 20, 2018 (180 Days After May 24, 2018 Enactment of S. 2155); Interim Final Rule Effective February 15</p> <p>Status: Completed</p>	<p>U.S. Department of Veterans Affairs</p>
<p>Credit Score Competition (Section 310)</p>	<p>Amends the <i>Federal National Mortgage Association Charter Act</i> by adding new provisions requiring the FHFA to create a process for new credit scoring models to be validated and approved for use by Fannie Mae and Freddie Mac in the purchase of residential mortgages. FHFA must also publicly disclose its validation and approval process.</p> <p>NOTE: On July 23, 2018, the FHFA announced it would no longer pursue its own credit score initiative and instead focus on implementing this section of S. 2155. In December 2018, the FHFA published a notice of proposed rulemaking. Comments were due March 21, 2019 and NAFCU submitted a comment letter. The FHFA has yet to finalize the rule but its Spring Rulemaking agenda projects a final rule in September 2019.</p>	<p>November 20, 2018 (180 Days After May 24, 2018 Enactment of S. 2155); Conforming Regulations Expected</p>	<p>Federal Housing Finance Agency (FHFA)</p>

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Foreclosure Relief and Extension for Servicemembers (Section 313)	<p>Makes permanent a one year protection period for any pending enforcement action against the servicemember under the <i>Servicemembers Civil Relief Act</i>. Credit unions must now wait the duration of the protection period before enforcing legal action against the servicemember. This applies to credit unions to the extent that they lend to servicemembers on active duty and need to take legal action to enforce a real estate debt against the servicemember.</p>	May 24, 2018	U.S. Department of Veterans Affairs
Protections in the Event of Death or Bankruptcy (Section 601)	<p>Amends TILA to prohibit private student lenders from declaring a default or accelerating a debt against a student borrower on the sole basis of bankruptcy or death of a co-signer, and releases co-signers of private student loans from their obligations following the death of a student borrower. The amendments to TILA also specify new notice requirements for lenders to follow in the event of a student borrower's death. Credit unions will want to review cosigner agreements to ensure that provisions related to cosigner release and notice requirements are not in conflict with the amendments to TILA.</p> <p>NOTE: NAFCU has asked the CFPB for model forms to help credit unions comply with this section.</p>	Applies to loan agreements entered into on or after November 20, 2018 (180 Days After May 24, 2018 Enactment of S. 2155); Conforming Regulations May Be Needed	Bureau of Consumer Financial Protection