



# NAFCU Credit Union Compliance

# ADVERTISING GUIDE



National Association of Federally-Insured Credit Unions

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## Welcome to NAFCU's Credit Union Advertising Compliance Guide

Creating compliant advertisements that communicate a credit union's products and services in a way that appeals to consumers can be challenging. To help credit unions, NAFCU's Regulatory Compliance team developed this resource for navigating the complex federal regulatory framework that applies to advertising products like share accounts and consumer loans.

This resource provides an overview of the rules that apply to the various products that credit unions offer. It also provides an in-depth look at the specific disclosure requirements for advertisements that state particular terms or account features. While this resource does provide an explanation of the federal laws and regulations governing advertisements, credit unions may still need to review other applicable laws, such as state laws.

We have written the guide to be useful for those in marketing creating advertisements and those in compliance reviewing advertisements, and it may also help with training new staff in these areas. It can also be used as a research tool for seasoned marketing and compliance staff to answer questions that may come up. Each chapter is designed to be used independently of the other chapters, so some information may seem repetitive.

This is an electronic resource, so we have included links to applicable federal laws, regulations and other guidance. There is also an appendix with helpful charts, including a summary of trigger terms and media exceptions.

Finally, if you have any suggestions on how we can improve the guide, just let us know. NAFCU members can also reach out to [compliance@nafcu.org](mailto:compliance@nafcu.org) for direct assistance with federal regulatory compliance issues.

Sincerely,

A handwritten signature in black ink, appearing to read "Brandy Bruyere". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

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## KEY ABBREVIATIONS AND ACRONYMS

<b>APR</b>	Annual Percentage Rate, used for credit products
<b>APY</b>	Annual Percentage Yield, used for deposit products
<b>CFPB</b>	Consumer Financial Protection Bureau
<b>CAN-SPAM</b>	Controlling the Assault of Non-Solicited Pornography And Marketing
<b>ECOA</b>	Equal Credit Opportunity Act
<b>FCC</b>	Federal Communications Commission
<b>FCRA</b>	Fair Credit Reporting Act
<b>FCU Act</b>	Federal Credit Union Act
<b>FDIC</b>	Federal Deposit Insurance Corporation
<b>FFIEC</b>	Federal Financial Institutions Examination Council
<b>FTC</b>	Federal Trade Commission
<b>GLBA</b>	Gramm-Leach-Bliley Act
<b>HUD</b>	Department of Housing and Urban Development
<b>NCUA</b>	National Credit Union Administration
<b>NMLS</b>	Nationwide Multistate Licensing System
<b>RESPA</b>	Real Estate Settlement Procedures Act
<b>TCPA</b>	Telephone Consumer Protection Act
<b>TILA</b>	Truth in Lending Act
<b>TISA</b>	Truth in Savings Act
<b>TSR</b>	Telemarketing Sales Rule
<b>UDAAP</b>	Unfair, Deceptive or Abusive Acts or Practices

# Table of Contents

## Chapter 1: Marketing and Compliance—The Importance of Working Together

Introduction .....	<a href="#">11</a>
From Creative to Compliance .....	<a href="#">11</a>
Have an Audit Trail .....	<a href="#">13</a>
Trust, but Verify .....	<a href="#">13</a>
Communication is Key .....	<a href="#">14</a>
Overcoming the Obstacles .....	<a href="#">15</a>
Mitigating the Risks .....	<a href="#">16</a>

## Chapter 2: The Basics

### Section 1: NCUA Regulations

NCUA's Advertising Rule. ....	<a href="#">18</a>
What is an advertisement? .....	<a href="#">18</a>
The Accuracy Standard .....	<a href="#">18</a>
Trade Names. ....	<a href="#">19</a>
The Official Sign .....	<a href="#">19</a>
Advertising Excess Insurance .....	<a href="#">20</a>
The Official Advertising Statement .....	<a href="#">21</a>
Advertising Field of Membership .....	<a href="#">22</a>
Preemption Considerations .....	<a href="#">23</a>

### Section 2: Unfair, Deceptive or Abusive Acts or Practices

Overview .....	<a href="#">24</a>
Assessing the Options. ....	<a href="#">25</a>
Unfair, Deceptive or Abusive Acts or Practices (UDAAP) .....	<a href="#">26</a>
Unfair Acts or Practices. ....	<a href="#">26</a>
Deceptive Acts or Practices .....	<a href="#">27</a>
Abusive Acts or Practices .....	<a href="#">28</a>
Enforcement .....	<a href="#">28</a>
Regulation N .....	<a href="#">30</a>
Comparison Advertisements .....	<a href="#">31</a>
Risk-Based Pricing .....	<a href="#">31</a>

## Chapter 3: Share Accounts

Overview .....	<a href="#">32</a>
Key Terms .....	<a href="#">32</a>
Account .....	<a href="#">33</a>
Advertisement .....	<a href="#">33</a>

Annual Percentage Yield .....	<a href="#">33</a>
Bonus .....	<a href="#">34</a>
Terminology .....	<a href="#">35</a>
Advertising the Annual Percentage Yield .....	<a href="#">35</a>
Trigger Terms .....	<a href="#">37</a>
Annual Percentage Yield .....	<a href="#">37</a>
Bonuses .....	<a href="#">38</a>
Special Rules for Certain Media .....	<a href="#">39</a>
Indoor Signs and Newsletters .....	<a href="#">39</a>
Television, Radio and Outdoor Advertisements .....	<a href="#">40</a>
Electronic Advertisements .....	<a href="#">41</a>
Misleading or Inaccurate Advertisements .....	<a href="#">43</a>
Advertising “Free” Accounts .....	<a href="#">43</a>
Overdraft Services .....	<a href="#">45</a>
Advertising Overdraft Services .....	<a href="#">45</a>
Additional Disclosure Requirements .....	<a href="#">47</a>
Media Exemptions .....	<a href="#">47</a>

## Chapter 4: Real Estate Products

### Section 1: The Essentials—Scope and Nondiscrimination

Overview .....	<a href="#">49</a>
What is an Advertisement? .....	<a href="#">49</a>
Third Party Advertising .....	<a href="#">50</a>
Fair Lending in Advertising .....	<a href="#">50</a>
NCUA's Nondiscrimination in Advertising Rule .....	<a href="#">52</a>
Real Estate-Related Loans .....	<a href="#">52</a>
Nondiscrimination in Real Estate Advertising .....	<a href="#">52</a>
HUD Guidance on Advertising .....	<a href="#">54</a>

### Section 2: Home Equity Lines of Credit

Overview .....	<a href="#">56</a>
Actually Available Terms .....	<a href="#">57</a>
Trigger Terms .....	<a href="#">57</a>
Finance Charges .....	<a href="#">57</a>
Other Charges .....	<a href="#">58</a>
Payment Terms .....	<a href="#">59</a>
Additional Disclosure Requirements .....	<a href="#">59</a>
Special Rules for Certain Media .....	<a href="#">62</a>
Multi-Page and Electronic Advertisements .....	<a href="#">62</a>
Television and Radio Advertisements .....	<a href="#">63</a>
Advertising Special Account Features .....	<a href="#">65</a>
Discounted and Premium Rates .....	<a href="#">65</a>
Promotional Rates and Payments .....	<a href="#">66</a>



Balloon Payments . . . . .	<a href="#">68</a>
Tax Implications . . . . .	<a href="#">68</a>
Prohibition on Misleading Terms . . . . .	<a href="#">69</a>

### Section 3: Closed-End Mortgages

Overview . . . . .	<a href="#">70</a>
Actually Available Terms . . . . .	<a href="#">71</a>
Trigger Terms . . . . .	<a href="#">71</a>
Downpayment . . . . .	<a href="#">71</a>
Payment Features . . . . .	<a href="#">72</a>
Finance Charges . . . . .	<a href="#">73</a>
Additional Disclosure Requirements . . . . .	<a href="#">73</a>
Special Rules for Certain Media . . . . .	<a href="#">77</a>
Multi-Page and Electronic Advertisements . . . . .	<a href="#">77</a>
Television and Radio Advertisements . . . . .	<a href="#">77</a>
Advertising Special Account Features . . . . .	<a href="#">80</a>
Rates . . . . .	<a href="#">80</a>
Tax Implications . . . . .	<a href="#">81</a>
Prohibited Practices . . . . .	<a href="#">81</a>
Advertising “Fixed” Rates and Payments . . . . .	<a href="#">82</a>
Comparison Advertisements . . . . .	<a href="#">82</a>
Other Prohibitions . . . . .	<a href="#">83</a>

### Section 4: Real Estate Settlement Procedures Act

Overview . . . . .	<a href="#">85</a>
Referrals and Kickbacks . . . . .	<a href="#">85</a>
Exceptions . . . . .	<a href="#">86</a>
Preferred Partner Arrangements . . . . .	<a href="#">87</a>
Affiliated Business Arrangements . . . . .	<a href="#">88</a>

## Chapter 5: Non-Real Estate Products

### Section 1: The Essentials—Scope and Nondiscrimination

Overview . . . . .	<a href="#">89</a>
What is an Advertisement? . . . . .	<a href="#">89</a>
Third Party Advertising . . . . .	<a href="#">90</a>
Fair Lending in Advertising . . . . .	<a href="#">90</a>

### Section 2: Open-End Credit Plans

Overview . . . . .	<a href="#">93</a>
Actually Available Terms . . . . .	<a href="#">94</a>
Trigger Terms . . . . .	<a href="#">94</a>
Charges Imposed as Part of the Plan . . . . .	<a href="#">94</a>
Additional Disclosure Requirements . . . . .	<a href="#">96</a>
Special Rules for Certain Media . . . . .	<a href="#">97</a>

Multi-Page and Electronic Advertisements . . . . .	<a href="#">97</a>
Television and Radio Advertisements . . . . .	<a href="#">98</a>
Advertising Special Account Features . . . . .	<a href="#">99</a>
Promotional Rates and Fees . . . . .	<a href="#">99</a>
Written and Electronic Advertisements . . . . .	<a href="#">101</a>
Deferred Interest . . . . .	<a href="#">101</a>
Written and Electronic Advertisements . . . . .	<a href="#">102</a>
Prohibition on Misleading Terms . . . . .	<a href="#">103</a>
Credit Card Solicitations . . . . .	<a href="#">103</a>
Required Disclosures . . . . .	<a href="#">103</a>
Model Form G-10(A) . . . . .	<a href="#">105</a>
Model Form G-10(B) . . . . .	<a href="#">106</a>

### Section 3: Closed-End Credit Plans

Overview . . . . .	<a href="#">107</a>
Actually Available Terms . . . . .	<a href="#">107</a>
Trigger Terms . . . . .	<a href="#">108</a>
Downpayment . . . . .	<a href="#">108</a>
Payment Features . . . . .	<a href="#">108</a>
Finance Charges . . . . .	<a href="#">109</a>
Additional Disclosure Requirements . . . . .	<a href="#">110</a>
Special Rules for Certain Media . . . . .	<a href="#">112</a>
Multi-Page and Electronic Advertisements . . . . .	<a href="#">112</a>
Television and Radio Advertisements . . . . .	<a href="#">112</a>
Advertising Rates . . . . .	<a href="#">114</a>

## Chapter 6: Marketing to Your Members

Overview . . . . .	<a href="#">115</a>
Telephone Calls and Text Messages . . . . .	<a href="#">116</a>
TCPA . . . . .	<a href="#">116</a>
Company-Specific Do-Not-Call Registry . . . . .	<a href="#">117</a>
Consent . . . . .	<a href="#">117</a>
Telephone Solicitations . . . . .	<a href="#">119</a>
Faxes . . . . .	<a href="#">120</a>
TSR . . . . .	<a href="#">120</a>
Do-Not-Call Registries . . . . .	<a href="#">121</a>
Calling Restrictions and Requirements . . . . .	<a href="#">122</a>
Prerecorded Messages . . . . .	<a href="#">122</a>
Email . . . . .	<a href="#">123</a>
Prescreen Offers . . . . .	<a href="#">125</a>
Permissible Purpose . . . . .	<a href="#">126</a>
Opt-Out Notice . . . . .	<a href="#">126</a>
Social Media . . . . .	<a href="#">128</a>
Sweepstakes and Giveaways . . . . .	<a href="#">129</a>

The Federal Sweepstakes Law .....	<a href="#">129</a>
State Law Considerations .....	<a href="#">130</a>
Marketing on College Campuses .....	<a href="#">131</a>

## Chapter 7: Miscellaneous Laws and Regulations

Other Laws and Regulations .....	<a href="#">133</a>
Privacy .....	<a href="#">133</a>
Privacy Issues in Marketing Campaigns .....	<a href="#">133</a>
Marketing Partnerships with Third Parties .....	<a href="#">134</a>
Affiliate Marketing .....	<a href="#">135</a>
Key Terms .....	<a href="#">135</a>
Disclosure and Opt Out .....	<a href="#">137</a>
Exceptions .....	<a href="#">139</a>
Constructive Sharing .....	<a href="#">139</a>
Third Party Relationships .....	<a href="#">141</a>
Finder Activities .....	<a href="#">141</a>
Nondeposit Investment Products .....	<a href="#">141</a>
Weblinking .....	<a href="#">142</a>

## Appendices

Appendix A: Key NCUA Letters .....	<a href="#">144</a>
Appendix B: NAFCU Resources .....	<a href="#">148</a>
Appendix C: Trigger Terms Tables .....	<a href="#">151</a>
Appendix D: Media Reference Charts .....	<a href="#">156</a>
Appendix E: State Sweepstakes Laws .....	<a href="#">163</a>
Appendix F: Primary State Financial Institution Regulators .....	<a href="#">168</a>

<b>About NAFCU .....</b>	<b><a href="#">177</a></b>
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# CHAPTER 1: MARKETING AND COMPLIANCE

## The Importance of Working Together

Introduction . . . . .	<a href="#">11</a>
From Creative to Compliance . . . . .	<a href="#">11</a>
Have an Audit Trail . . . . .	<a href="#">13</a>
Trust, but Verify . . . . .	<a href="#">13</a>
Communication is Key . . . . .	<a href="#">14</a>
Overcoming the Obstacles . . . . .	<a href="#">15</a>
Mitigating the Risks . . . . .	<a href="#">16</a>

## INTRODUCTION

Just like any other organization that sells goods and services, credit unions must advertise their products to let members and potential members know what accounts and loans are available. Advertising these products brings in new members, increases the number of products and services offered to existing members and allows the credit union to grow. These advertisements can range from postcards sent in the mail informing members of a limited time increase in certificate rates to a television spot highlighting the credit union's mortgages to a post on social media offering a credit card. Whatever product a credit union chooses to advertise and whichever type of media it uses, the advertisement must be attractive enough to garner attention but it must also be compliant with the applicable regulations. It is these two objectives that often make advertising such a challenge.

To better understand how credit unions are tackling this challenge, NAFCU reached out to its members. We spoke with a variety of credit unions – both large and small and both federal and state-chartered. We asked how their marketing and compliance departments were organized, the process for creating and reviewing advertisements and the obstacles they faced in this process. But, more importantly, we asked about how credit unions facilitate collaboration between marketing and compliance to ensure all advertisements are attractive and compliant.

In the end, we found there is no one size fits all approach that will work for every credit union. The approach each credit union takes will ultimately depend on a number factors, namely costs and staffing. This chapter highlights the key points from our discussions that may give your credit union some useful tips to implement.

## FROM CREATIVE TO COMPLIANCE

While most credit unions use the same general process for creating advertisements to reviewing and approving them, many credit unions have their own unique elements. Sometimes, this was due to

necessity because of staffing limitations. Other times, this was due to the software credit unions use to assist them in the process. This section covers how some credit unions staff their marketing and compliance teams and how an advertisement gets from creation to publication.

On the marketing side, departments range from a few people to a small crowd, generally depending on the size of the credit union. Smaller credit unions are more likely to partner with multiple vendors while larger credit unions tend to have more marketing staff in-house and fewer to no vendor partnerships. Those credit unions that partner with vendors do so mainly for tasks such as graphic and digital design, managing website content and getting advertisements to market. The responsibility for writing copy nearly always remains in-house as this allows credit unions to have more control over the content.

On the compliance side, at least one member of the compliance staff is typically required to review each advertisement. For some larger credit unions with more compliance staff, this responsibility rotates among a small group while at smaller credit unions advertisement review generally falls to one person. At most credit unions, compliance review focuses on the words in the advertisement rather than the “look and feel” of the advertisement. While things like typos and font size are looked at as part of compliance review, most compliance staff shies away from commenting on things like color, design and other aesthetics. This ensures both marketing and compliance staff stick to their strengths and do not unnecessarily interfere with the other’s responsibilities.

For the most part, creation of advertisements tends to follow the same general process. First, the marketing staff either works in concert with the business unit on developing a new advertising campaign or they get a request from the business unit to design a campaign for a particular product. Next, the marketing staff gets to work on writing copy and designing the content for various media, such as television, social media and the credit union’s website. The final drafts of each advertisement for the campaign are sent to the business unit and compliance for review. If either requests changes, the advertisement is sent back to marketing to make those changes. Then, depending on the changes, the advertisement may be sent back to the business unit or compliance for final review. After each advertisement has been approved, it is ready for publication.

This general process differs a bit for each credit union. Some compliance departments request drafts of the copy for certain advertisements to ensure marketing is on the right track. At other credit unions, compliance is involved in the initial step of developing a new advertising campaign to highlight the potential compliance challenges with the campaign. Some compliance departments inform the marketing staff whether the advertisement needs a second look if changes are made while at other credit unions the marketing staff knows which changes would require a second look from years of working with their compliance staff. For credit unions that use vendors to finalize the design of advertisements, compliance often does not see the final product again before it goes to publication. This is often because the vendor does not make changes to the content of the advertisement. These credit unions also tend to rely on contractual provisions that the vendor will not make certain changes without approval or that the vendor otherwise certifies compliance with the applicable rules.

## ***Have an Audit Trail***

Most credit unions rely on workflow programs or email to complete the review and approval process. Depending on the workflow program's capabilities, marketing staff is generally able to upload their final drafts into the program, triggering a notification to the appropriate business unit or compliance staff. Edits are made within the program directly on the drafts and comments can be added. Some programs include an instant message feature where the staff reviewing the advertisement can message the marketing staff directly to discuss any questions or comments. Some programs also allow marketing staff to set a deadline for review and notify the reviewers at certain intervals that work still needs to be reviewed, such as 48 hours before the deadline. Other credit unions use a combination of email and shared files to complete advertising review. Marketing staff at these credit unions sometimes use calendar invites to set deadlines for review and notify reviewers of an upcoming deadline.

Whichever method for review the credit union uses, many credit unions mentioned that it was important to be able to document the review process in the unlikely event something goes wrong. Workflow programs often have this feature built in, where all edits, comments and chats are saved for later viewing. Those credit unions that use email and shared files generally archive any relevant emails and ensure all redlines are saved in the files.

## ***Trust, but Verify***

All compliance staff we spoke with had the utmost confidence in their marketing staff that the right version of the advertisement gets published. However, mistakes happen and sometimes vendors go rogue. As a result, reviewing the advertisement after it goes live can be just as important as reviewing it beforehand.

For example, when advertisements are rushed through the process to meet a print deadline or as part of a last minute holiday campaign, it is easy for things to get overlooked. Reviewing these advertisements can be important to verify everything is compliant. Publishing these advertisements via a medium the credit union controls, such as its own website or social media page, can also be a beneficial way to ensure any mistake gets fixed right away.

One credit union we spoke with described a time when a vendor changed one thing in the advertisement that made it noncompliant. The credit union had designed a television campaign that went all the way through the review process and compliance approved the final version. The advertisement was then sent to the vendor to get it out to market. The vendor, who did not realize the requirements for the NCUA's official sign were different from the FDIC's requirements, changed "Federally Insured by NCUA" to "NCUA Insured." It was not until someone saw the advertisement while watching television a time later that the change was noticed. Needless to say, the credit union scrambled to get the advertisement fixed right away.

These examples illustrate the importance of not only ensuring all advertisements go through the review process but that they are also looked at as soon as they are live. Most credit unions regularly review the advertisements on their websites and social media pages but other mediums, such as radio,



*Whichever method for review the credit union uses, many credit unions mentioned that it was important to be able to document the review process in the unlikely event something goes wrong.*

billboards or bus advertisements, are often not reviewed as diligently. As the credit union can be liable for noncompliance by third parties advertising its products, it is important to ensure vendors and partners understand the applicable rules.

## COMMUNICATION IS KEY

It is not much of a surprise that every credit union we spoke with mentioned the importance of communication. Whether it was through joint meetings, internal newsletters or via a point person from each department, open and constant communication is the number one way that credit unions facilitate collaboration and ensure a smooth review process.

For most credit unions, the level of communication depends on the particular advertising campaign involved. For those campaigns that are run frequently or are a refresh of a previous campaign, little communication is necessary. However, when it comes to creating a new product or a brand new campaign, credit unions employ a variety of strategies for engaging the marketing and compliance staff.

Marketing staff is nearly always involved from the beginning but the level of involvement of the compliance staff varies. For some credit unions, the compliance department is heavily involved throughout the process, consistently meeting with marketing and the business unit to ensure the product and all advertisements are compliant. For other

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***Open and constant communication is the number one way that credit unions facilitate collaboration and ensure a smooth review process***



credit unions, compliance weighs in at the beginning, is available for questions throughout and reviews only the final advertisements. The rest of the credit unions are somewhere in the middle, compliance may be involved in the initial stages of developing the product or giving input on the new campaign, they may review draft advertisements, they may weigh in on changes to the campaign but they always review the final advertisements.

Communication also proves essential to setting expectations. Throughout the review process, many different staff may be involved, each with their own priorities and other assignments. Many credit unions ensure that expectations are set up front so everyone is on the same page. Many compliance departments have a general two-day turnaround for advertising review. This is generally communicated through internal procedures, the department managers or a service level agreement. Even with this general review timeline, the marketing staff at these credit unions sets a specific deadline for each advertisement. If a deadline is not sent in the initial communication to the compliance staff, the compliance staff generally asks for one. These deadlines help set everyone's expectations upfront and the compliance staff at these credit unions are more likely to go above and beyond in the event marketing needs something immediately.

Finally, open communication ensures the review process goes as smooth as possible. Compliance staff we spoke with explained that when the marketing staff informs them in advance when a new campaign will launch helps the staff plan ahead to accommodate the increased work. The marketing staff explained how setting review deadlines in advance helps ensure all their external deadlines will be met. Many credit unions also mentioned that picking up the phone or walking down the hall often helps get questions answered and issues resolved quicker.

We did find that smaller credit unions tend to have fewer struggles in keeping the lines of communication open between marketing and compliance. The smaller number of staff generally provides more opportunities for multiple persons from each department to work together more frequently. To mitigate the challenges of having a greater number of staff, larger credit unions use a variety of different methods. Most have at least one main contact person for each department – the point person for all incoming inquiries or issues. Some credit unions send a representative from the compliance department to attended marketing's meetings. Depending on the credit union, the representative was either the designated point person or the role of representative rotates among compliance staff to help the departments get to know each other better. Other credit unions use internal newsletters to keep the various departments informed.

## OVERCOMING THE OBSTACLES

Credit unions identified two main obstacles to a smooth review process: time and understanding. For both marketing and compliance staff, properly managing the time it takes to create new advertisements or review materials is an ongoing issue. For the marketing staff, time constraints usually come from a business unit wanting to roll out a new product quickly or from the need to meet a print or similar deadline. These time constraints imposed on marketing staff often get passed down the line to compliance staff. This



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generally occurs when marketing would request a rather quick turnaround for review and approval, such as needing a response within a few hours.

Here too, credit unions stressed the importance of communication in dealing with these time constraints. While setting expectations and providing deadlines upfront are important, it can also be just as important to understand the reasons for a particular request. For example, say the business unit changes the terms of a new product that is set to be rolled out in a week. This change prompts marketing staff to need to rewrite some of the copy for advertisements. Suddenly, things need to move very quickly to ensure the roll out happens on time. Explaining this situation to the compliance staff when asking for the advertisements to be reviewed by the end of the day can help the compliance staff understand that the rush is not due to the fact that, for example, marketing forgot about a deadline and is now rushing to fix their own mistake. Getting everyone on the same page can help ensure everyone is working together to meet the end goal.

A lack of understanding each other's departments and operations is also a challenge for many credit unions. In our discussions with credit unions, both marketing and compliance staff mentioned how they did not completely understand how work is assigned and completed in the other's department. This makes it challenging to understand why things work the way they do or why certain processes cannot be changed. Both marketing and compliance staff expressed an interest in learning more about the other's department but acknowledged that workloads and other assignments often prevent them from having an opportunity to take the time to really learn what the other does. For both marketing and compliance staff, it may be helpful to incorporate time with the other's department when onboarding a new staff member or as part of ongoing training.

## MITIGATING THE RISKS

When marketing and compliance are not working together as efficiently as possible, this can create issues for the credit union, especially when it affects members. A proper review process that ensures all appropriate staff have reviewed and approved an advertisement can help mitigate the compliance and reputation risks an incorrect advertisement can have.

Once an error has been identified, it is important to correct it as soon as possible and take the necessary steps to ensure the same error does not occur again. One credit union mentioned a time when an advertisement for a mortgage got published stating terms for the loan that the credit union did not actually offer. When a member came in asking for the advertised terms, the credit union honored them for the member but also promptly removed the advertisement to avoid any further regulatory and UDAAP violations.

Another credit union described a time when a news story was shared through the credit union's social media page that advertised a number of holiday gifts. Unfortunately, the marketing staff had not read the entire story before posting it and one of the credit union's religious-based affinity groups was offended by one of the advertised products. After becoming aware of the issue, the credit union removed the post from its social media page and now ensures all stories are fully vetted before they are shared. While this may not have been a regulatory violation, it certainly raised some potential reputational risks for the credit union.

A few credit unions explained how the advertising medium can drive the content of the advertisement. Time-sensitive advertisements or those that state specific terms are frequently done only via those mediums the credit union can control, such as its website or a lobby sign. On the other hand, broader or more general advertisements are saved for mediums such as bus advertisements and billboards. Credit unions mentioned how these types of advertisements are not always taken down in a timely manner (though free advertising is always a plus) so they are not optimal medium for advertisements such as limited time offers or those stating a particular rate.

It is also important to be aware of materials published by departments other than marketing that could be considered advertisements. For example, credit unions may have a department or group responsible for attending community events and the like, such as tabling at a community fair. Often, they may take pamphlets, flyers or other items that promote the credit union to the event. It is easy for these events and items to get overlooked, especially when they happen at the last minute. For example, if someone received a free T-shirt with the credit union's name on it for becoming a member and opening a share account, that may trigger the bonus rules under Truth in Savings. Credit unions that participate in these types of events may want to ensure that the staff responsible for managing the event understand when their actions may trigger a potential marketing or compliance issue.

Overall, there is no right or wrong way for a credit union to organize its marketing and compliance departments. Regardless of a credit union's approach, it is important to ensure all processes are working properly and efficiently. While tasks and processes may vary according to the size and expertise of your staff, ensuring advertisements are properly reviewed and approved is essential. Keeping the lines of communication open is vital to ensuring this is done in a timely manner.



## NATIONAL ASSOCIATION OF FEDERALLY-INSURED CREDIT UNIONS

Founded in 1967, the National Association of Federally-Insured Credit Unions (NAFCU) advocates for all federally-insured not-for-profit credit unions that, in turn, serve over 117 million consumers with personal and small business financial service products. The association's specific, overriding focus is to directly shape the laws and regulations under which federally-insured credit unions operate.

NAFCU provides regulatory compliance assistance to its member-credit unions through a multi-faceted program, including direct access to the association's compliance and regulatory affairs divisions. For more information on NAFCU's compliance resources, please visit [our compliance homepage](#).