



DCU BULLETIN

Division of Credit Unions

Washington State Department of Financial Institutions

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Summary of Federal Requirements and Requests Relating to Recent Terrorist Attacks; Reporting Required to DCU by January 15, 2002

In response to the recent terrorist attacks, various federal agencies have issued new regulatory requirements and requests. We have summarized below these issuances in order to assist credit unions in understanding and complying with them.

Updates to OFAC List

The federal Office of Foreign Assets Control (OFAC) has long had a Specially Designated Nationals and Blocked Persons List (SDN List). **New names have been added to the SDN List since September 11, 2001.** As you know, credit unions are required to block assets held by the individuals and entities on the SDN List and give immediate notice to the OFAC. When assets are blocked, there are annual reporting requirements and record retention requirements. See NCUA Regulatory Alerts 01-RA-10 and 01-RA-12. These are mandatory requirements.

Resources:

- NCUA Regulatory Alerts: 01-RA-10 and 01-RA-12
- NCUA website at: <http://www.ncua.gov/ref/letters/01-CU-18.pdf>
- OFAC website at: <http://www.treas.gov/ofac>
- OFAC compliance line at 1-800-540-6322
- OFAC rules at: <http://www.treas.gov/ofac/t11facbk.pdf>

- Bridger Systems: <http://www.ofacompliance.com/>
- NASCUS web site at:
<http://www.nascus.org/departments.communications.ofac.pdf>

We expect that the SDN List will be updated frequently, at least for the near term. Under federal law, credit unions and persons that fail to block or report as required are subject to severe financial penalties and imprisonment.

Credit unions should be aware that OFAC requirements apply to all transactions that a credit union might undertake including: safe deposit boxes, ACH, and wire transfers as well as loan payments and deposit accounts.

Insurance does not apply to fines

There are substantial fines or prison penalties that may be imposed upon individuals and credit unions for failure to comply with the OFAC requirements. This is an exposure where loss control and compliance is the only option. One insurance company recently sent a “Scam Alert” on this topic, which stated, in part:

“We do not offer insurance protection for liability related to outgoing funds to people or organizations on the prohibited list by the Office of Foreign Assets Control for monetary transactions. We do not insure the fines and penalties that could be assessed against the credit union. It is considered by many states to be against public policy to insure such an exposure. Fines and penalties are intended to serve as a deterrent to businesses from doing wrong. Also, there is no coverage for the possible forfeiture of funds and property involved in the transaction. These are not insurable exposures.”

Law enforcement requests for information on terrorists

a. FBI list of alleged subjects under investigation.

The FBI has requested that financial institutions, including credit unions, check their records for, and report to the FBI, any relationships or transactions with certain named individuals allegedly involved in the September 11th attacks. See NCUA Letter 01-CU-15. Although the FBI’s request is not mandatory, the Division strongly encourages credit unions to comply with the FBI request.

Credit unions having any relationships or transactions with these individuals should also file a Suspicious Activity Report (SAR) in accordance with NCUA rules at 12 C.F.R. Section 748.1(c).

Resources:

- NCUA Letter 01-CU-15
- FBI website at: www.fbi.gov/pressrel/pressre01/091401hj.htm

b. Joint Agency Request for Information Pertaining to the Terrorist Attacks.

The federal banking agencies, including the NCUA, have issued a letter requesting financial institutions to cooperate with U.S. law enforcement authorities in providing information pertaining to the terrorist attacks. See NCUA Letter 01-CU-18. Law enforcement will from time to time provide a Control List of entities and individuals to institutions, including credit unions. Credit unions should check their records to determine if they have had any relationships or transactions with the entities or individuals on the list, and report as requested.

The NCUA has requested that each credit union notify it of a senior-level employee to receive the Control Lists who appreciates the sensitive nature of the task. This can be done by submitting the contact information by faxing a contact information sheet to (703) 519-4080 or on line at: <http://www.ncua.gov/cuaddress>.

Although the Joint Agency Request is not mandatory, the Division strongly encourages credit unions to comply with the Request.

In addition, the Treasury Department's Financial Crimes Enforcement Network (FinCEN) has established a Financial Institutions Hotline for institutions to voluntarily report to law enforcement authorities suspicious transactions that may relate to the recent terrorist activity. See NCUA Regulatory Alert 01-RA-10.

Resources:

- NCUA Letter 01-CU-18
- NCUA Regulatory Alert 01-RA-10
- Financial Institutions Hotline, at 1-866-556-3974

Compliance Tips

If you have not already done so:

1. The board of directors of each credit union should adopt appropriate policies on carrying out these responsibilities and designate a senior-level individual(s) to be responsible for compliance in these areas.
2. The designated individual should monitor the lists frequently for changes.

3. The credit union should maintain the necessary software (or other methods) to do adequate record checks, and maintain appropriate blocking and reporting processes.

Division of Credit Unions Monitoring

The Division of Credit Unions will be monitoring credit union compliance with these requirements and requests during regular safety and soundness exams. Since that effort will take as much as 18 months before we visit all credit unions, we are also requesting that credit unions complete the attached questionnaire and fax or sent it back to the Division by January 15, 2002. Should you have any questions about the questionnaire please call Doug Lacy-Roberts at (360) 902-0507 or Mike Delimont at (360) 902-8790.

Report to Division of Credit Unions

COMPLIANCE WITH FEDERAL REQUIREMENTS AND REQUESTS RELATING TO RECENT TERRORIST ATTACKS

_____ Credit Union

DIRECTIONS: Complete this report and fax it to 360 704-6901 before January 15, 2002. Attach additional sheets as necessary.

Resources:

- NCUA Regulatory Alerts: 01-RA-10 and 01-RA-12
- NCUA Letters to Credit Unions: 01-CU-15 and 01-CU-18
- NCUA website at: <http://www.ncua.gov>
- OFAC website at: <http://www.treas.gov/ofac>
- OFAC compliance line at: 1-800-540-6322
- OFAC rules at: <http://www.treas.gov/ofac/t11facbk.pdf>
- FBI website at: www.fbi.gov/pressrel/pressre01/091401hj.htm

1) Has your Board of Directors approved a policy to ensure compliance with applicable federal requirements and requests relating to the recent terrorist attacks?	
2) Has your Board of Directors assigned responsibility for compliance to a specific senior officer and has that individual been identified to NCUA (at http://www.ncua.gov/cuaddress) to receive the Control Lists provided by the FBI?	
a) If yes, provide the name and phone number of that officer.	
3) How frequently does your credit union check for revised listings with the Office of Foreign Assets Control (OFAC)?	
4) Since September 11, 2001, have any OFAC listed transactions or accounts been identified that require blocking or rejecting?	
a) If yes, has OFAC been notified within the appropriate 10 days?	
b) If yes, is your credit union in compliance with the annual reporting (due September 30 for accounts or activity blocked as of June 30 each year) and record keeping requirements (five year retention)?	
5) Since September 11, 2001, has your credit union checked your records for, and reported to the FBI, any relationships or transactions with certain named individuals on the FBI's Control Lists?	
6) If any such relationships or transactions were identified, has a Suspicious Activity Report been filed?	
7) Are procedures in place to review your records from time to time for activity or accounts possibly associated with individuals or entities on the Control Lists?	
8) Briefly describe the process or procedures your credit union has or will adopt to ensure that each provider of software or services has adopted adequate measures to ensure that your credit union will remain in compliance with these federal requirements.	

I hereby certify the above information is complete and accurate to the best of my knowledge.

CEO, President, or Manager

Date