



## July 2014

Dear CU PolicyPro Clients,

We hope you are having a fantastic summer!

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## CFPB Issues Guidance on Same-Sex Married Couples

After the last CU Policy update, the Consumer Financial Protection Bureau (CFPB) issued guidance on ensuring equal treatment for legally married same-sex couples. The new requirements are based on the Supreme Court's decision in *United States v. Windsor*, 133 S. Ct. 2675 (2013). The Supreme Court's decision held unconstitutional Section 3 of the Defense of Marriage Act, which defined the word "marriage" as "a legal union between one man and one woman as husband and wife" and the word "spouse" as referring "only to a person of the opposite sex who is a husband or a wife." The CFPB's guidance states that regardless of a person's state of residency, the CFPB will consider a person who is married under the laws of any jurisdiction to be married nationwide for purposes of enforcing, administering, or interpreting the statutes, regulations, and policies under the Bureau's jurisdiction. The new requirement took immediate effect.

CU PolicyPro is in the process of researching and determining which policies need to include the new equal treatment for legally married same-sex couple requirements and will update the language to reflect protections for same-sex marriage partners as part of the September 2014 content update.

## Technical FAQ

**Question:** How do I print a single policy?

**Answer:** There are multiple ways to print a single policy, depending on what you want to print.

### To print a single policy from the Working Manual:

1. Go to Manual Builder. By default you will be in the Working Manual.
2. Click the plus sign next to the "MANUAL ADMINISTRATION" folder and the "EDIT SECTIONS OF WORKING MANUAL" folder to expand both folders.
3. Expand the chapter folder that contains the policy you need.
4. Select the policy (as if you were going to edit the policy).
5. Click the Preview Working button below the content area and a PRINT button will be available in the Preview Window.

### **To print a single policy from a Published Manual:**

1. Open the Published Manual (this can be a published manual posted on the home page of HR Suite or found in the "View and Post Published Manuals" link under the "PUBLISHING TOOLS" area of the Working Manual in Manual Builder.
2. On your internet browser toolbar, go to File > Print Preview. This may be found in slightly different areas of your browser, depending on what browser (Internet Explorer, Firefox, etc) you are using. If you have trouble finding it, your internet browser toolbar may be hidden. You should contact your IT staff if you are unable to find your internet browser toolbar.
3. The Print Preview will show you exactly how the published manual will look when printed. It will also display the page number for each page of the published manual. Find the first page of the policy you want to print, and note the page number.
4. Find the last page of the policy you want to print, and note the page number.
5. Print the published manual, but use the "Page Range" selection to print only the pages of the policy you wish to print.

### **To print a single model policy from the Master Manual:**

1. Go to Manual Builder and click on the "Master" tab at the top left of the screen to make sure you are in the Master Manual.
2. Click the plus sign next to the "MANUAL ADMINISTRATION" folder and the "MASTER MANUAL" folder to expand both folders and to see the full model policy listing.
3. Click on the model policy you would like to view, and the full text of the policy will appear on the right side of the screen.
4. Click the "Print" button at the top of the model content.

If you need assistance, please contact the CU PolicyPro Support staff at [hrsupport@cusolutionsgroup.com](mailto:hrsupport@cusolutionsgroup.com).

### **Content FAQs**

#### **Question: What federal agencies have fair lending enforcement authority over credit unions?**

**Answer:** NCUA, CFPB, the U.S. Department of Housing and Urban Development, and the U.S. Department of Justice.

#### **Question: What is NCUA doing to improve fair lending compliance?**

**Answer:** In 2013, NCUA initiated a variety of education and supervision activities to assist federal credit unions in complying with fair lending laws and regulations. In January 2013, NCUA hosted a [HMDA webinar](#) that addresses accuracy and timeliness issues. In March 2013, NCUA issued a Letter to Federal Credit Unions 13-FCU-02 announcing development of the [NCUA Fair Lending Guide](#) for download.

#### **Question: What additional federal fair lending compliance resources are available?**

**Answer:** NCUA conducts its fair lending compliance program in accordance with the Federal Financial Institutions Examination Council Interagency Fair Lending Examination Procedures. These procedures and appendix are found at [www.ffiec.gov/PDF/fairlend.pdf](http://www.ffiec.gov/PDF/fairlend.pdf) and [www.ffiec.gov/pdf/fairappx.pdf](http://www.ffiec.gov/pdf/fairappx.pdf).

### **Monthly OPS Notes Release: Fair Lending**

The history of our country has been based on freedom from oppression; from the Boston Tea Party, which led to the American Revolution, to the Statue of Liberty that welcomes immigrants as a symbol of hope and opportunity for all people. Congress and regulators have upheld the ideal of equal opportunities for all in the passage and enforcement of fair lending laws that apply to all credit unions and protect their members.

Fair lending laws are designed to provide fair and equal access to credit, based on individual

creditworthiness. These laws include the Equal Credit Opportunity Act (Regulation B), Home Mortgage Disclosure Act (Regulation C), and Fair Housing Act. The Equal Credit Opportunity Act prohibits discrimination in any aspect of a credit transaction. The Home Mortgage Disclosure Act (HMDA) requires credit unions meet certain reporting requirements to compile and disclose loan application data for home purchase loans, home improvement loans, and refinancing existing real estate loans. The Fair Housing Act prohibits discrimination in all aspects of residential, real-estate related transactions.

Taken as a whole, fair lending laws provide protection from discrimination on the basis of:

- Race
- Color
- Religion
- National Origin
- Sex
- Marital Status
- Age
- Public Assistance Income
- Handicap
- Familial Status
- Legally married same-sex couples

On July 9, 2014, the Consumer Financial Protection Bureau aligned the regulations under its authority with the Supreme Court decision in *U.S. vs. Windsor* and included legally married same-sex couples as a protected class. This expands protections governed by Equal Credit Opportunity Act, Fair Debt Collection Practices Act, and Truth in Lending Act.

It is important to understand how regulators view discrimination when considering the implications of the credit union's policies and practices. There are three types of discrimination:

- **Overt discrimination** exists when a credit union openly and blatantly discriminates on a prohibited basis. (This would occur if a credit union stated that they would not lend to women.)
- **Disparate treatment** occurs when a credit union treats an applicant differently based on one of the prohibited bases. Disparate treatment may more likely occur in the treatment of applicants who are neither clearly well-qualified nor clearly unqualified for a loan. Even when there is an apparently valid explanation for a particular difference in treatment, further investigation may indicate disparate treatment. (This may occur with members who have the same set of circumstances by granting a loan to a member with income from employment and denying a loan to a member with public assistance income.)
- **Disparate impact** occurs when a policy or practice applied equally to all applicants has a disproportionate adverse impact on applicants in a protected group. (This can occur when a credit union's policy does not permit mortgage loans for less than \$60,000. This minimum loan amount can disproportionately exclude potential minority applicants from consideration because of their income levels or the value of the houses in certain areas in which they live.)

Fair lending is always an important topic of considerations for credit unions; but recent regulatory focus on auto lending practices have turned the spotlight on this regulatory hot topic.

In December 2013 the Department of Justice and the Consumer Financial Protection Bureau entered into a consent agreement with Ally Bank because Ally engaged in practices allowing dealers to mark up auto loans which lead to disparate impact credit discrimination. According to the findings of the investigation approximately 235,000 protected class consumers were overcharged by 20 basis points for auto loans when the dealer was given the option to mark-up the loans. In July, CUNA highlighted lending practices by banks servicing the subprime auto market in an article titled "CUs Differ from Banks in Approach to Subprime Auto

Loans”.

As regulators continue to focus on auto lending programs, credit unions may want to review their current practices to ensure they don't cause disparate impact on protected classes of members. Take note of dealer programs and the ability of a dealer to set rates or choose programs for your members. Review subprime lending programs to ensure they are equally available to all members and that programs requirements do not have a disparate impact on protected members. Additionally, if you have a practice of rate matching, make sure that all members are equally eligible and equally take advantage of the programs.

A review of the credit union's fair lending policy is a great place to start a review of fair lending practices. In September, the CFPB's inclusion of legally married same-sex couples will be included in applicable policies as a factor for consideration in fair lending practices.

This edition of OPS NOTES was prepared by the Michigan Credit Union League.

### Questions?

If you have any questions regarding the CU PolicyPro content, or questions on how to use the system, please contact [hrsupport@cusolutionsgroup.com](mailto:hrsupport@cusolutionsgroup.com).

If this information was forwarded to you, and you'd like to be on the distribution list to receive information and updates related to CU PolicyPro, contact [hrsupport@cusolutionsgroup.com](mailto:hrsupport@cusolutionsgroup.com).

Thanks and have a great week!