

A close-up photograph of several stacks of US coins, including pennies, nickels, and dimes, resting on a yellow and white financial document or spreadsheet. The background is slightly blurred, emphasizing the coins and the document.

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Overview

- 2019 Regulatory Focus.
- Consumer Compliance Focus
- Adequate Monitoring of Loan Extensions, Skip-A-Payments, and Related Policies/Procedures
- Bank Secrecy Act Program Compliance
- Supervisory Committee Activities



ACUA's Regulatory Focus for 2019

- **Credit Underwriting, Capacity to Repay, Collateral**
 - Credit History, Income, DTI, and Capacity to Repay.
 - New, Used, and Indirect Auto, RV, and Boat Lending.
 - Adequacy of Lien Perfection Process (Titles & UCC-1).
 - Loan Extensions & Skip-A-Payment Activities.
 - Accurate Itemization of the Amount Financed.
 - Loan Charge-Offs in Accordance with NCUA Letter to Credit Unions #03-CU-01.
 - Tracking TDR Loans and Total TDR's in portfolio.
 - Supervisory Committee Involvement.



Overall Consumer Lending Focus

- Underwriting deficiencies – Lack of income verification, income is not adequate to service debt, high loan-to-values (LTV), etc.
- Inadequate quality control reviews of new loan production, concentrations and growth trends.
- Board oversight of growth trends in loan programs.
- Inadequate loan policies – no limits on loan and LOC programs. Monitor first payment default trends.
- Continued monitoring of Indirect Loans – Monitor by dealer, credit score, delinquency trends by dealer, etc.
- Review of file maintenance reports for excessive loan extensions or skip-a-payment promotions.



ACUA Examination Focus – Vehicle and ATV/Boat Lending

- **Indirect Auto Lending Programs – “We make more loans to high risk borrowers because we make more money”**
 - Loan growth above/beyond peers may cause red flags;
 - High Risk lending practices will receive more scrutiny
 - Loan maturities of over 7 years and single pay loans.
 - Excessive loan to value (LTV) and loan add-ons.
 - Members with sub-prime credit borrowing regularly.
 - Review of indirect automobile loans in which double digit losses are recognized.
 - Review of repossession reports for excessive repossessions taking place.
 - Discontinue relationships with dealers where the receipt of titles reflects continuous problems or dealer excuses.



ACUA Examination Focus – Auto Lending

- Ensure that your credit union is properly underwriting auto loans for add-ons such as warranties, insurance products, luxury items, etc. and income of the borrower is verified;
- Ensure that you monitor auto loans by dealer or source, especially delinquency and charge-off ratios by dealers;
- Monitor trends in vehicle first payment defaults and skips – take immediate action to locate collateral and mitigate credit and reputation risk(s);
- If a credit report reflects excessive credit inquiries on new indirect loan requests, double check the credit application to ensure there is not a reason(s) why the other financial institution did not approve or make the loan.
- Exceptions to Board approved lending policies should be limited, especially with rate, LTV, term, score, etc.



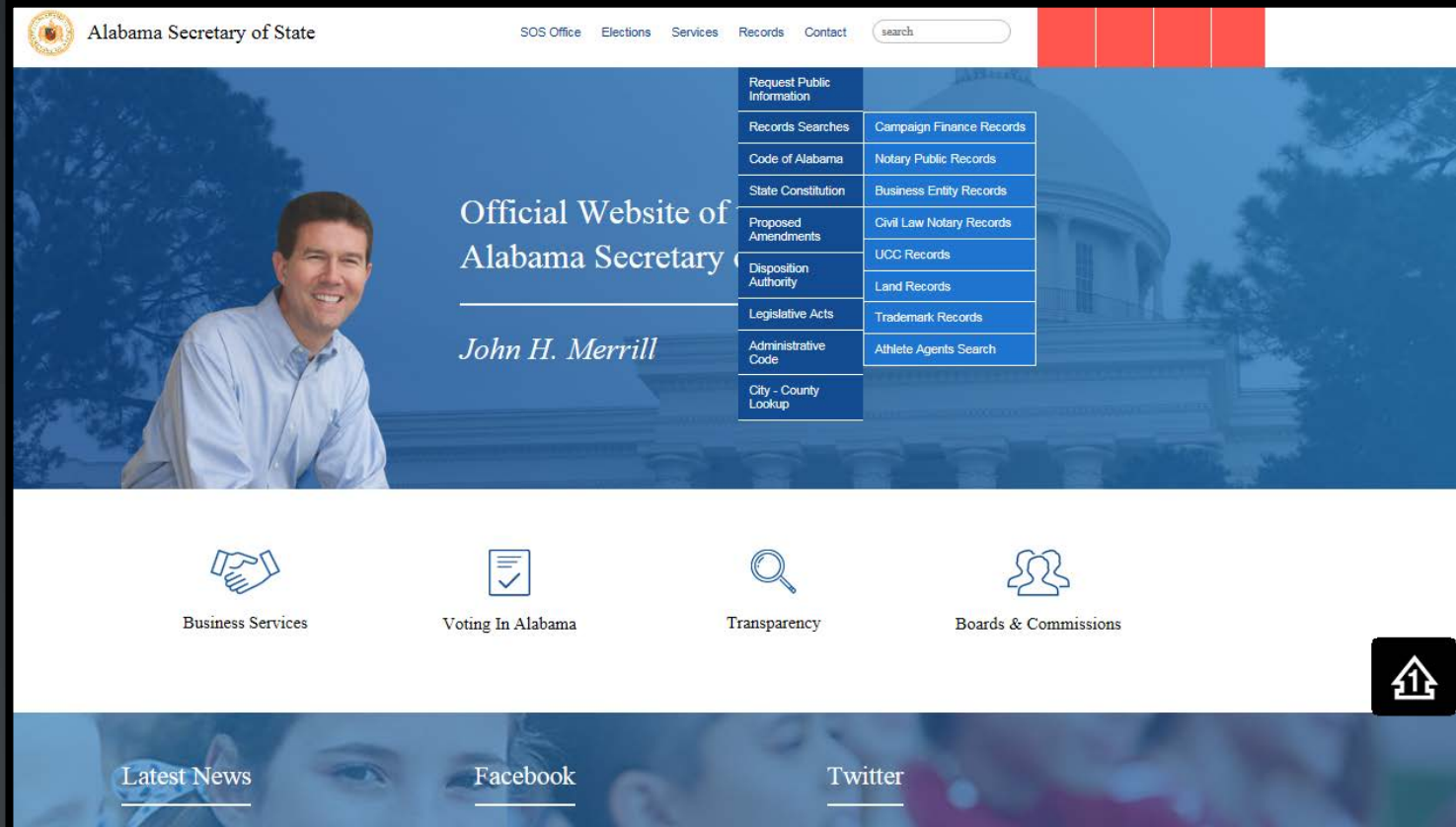
ACUA Examination Focus – Collateral Evaluation & Lien Perfection

- Ensure that your credit union is accurately evaluating the value of collateral securing your loans. Is a visual inspection part of your loan procedure... if not, perhaps it should be;
- Ensure that you validate the identifying VINs, and Serial Numbers of automobiles, boats, ATVs, tractors, and equipment by dealer data or source documents, including a Bill of Sale;
- Monitor UCC – 1 filings of non-titled vehicles for prior registrations of the same collateral by loan applicant;
- Thoroughly document identifying VINs and Serial Numbers in Notes and Security Agreements and throughout your loan file (a photo of the VIN number would be recommended);
- Ensure the presence of a legitimate Bill of Sale for the loan.



ACUA Examination Focus – Collateral Evaluation & Lien Perfection

- UCC – 1 registration searches should be performed through the Alabama Secretary of State site at: <https://sos.alabama.gov>



Loan Extensions/Skip-A-Payments

- Board approved Loan Extension Policy in place including hardship reason(s) for the extension. (Reference United States Code - Title 18);
- Management should monitor data processing loan extension and skip-a-payment reports monthly to ensure compliance with the Board approved Loan Extension and Skip-A-Payment Policies;
- Report monthly loan extensions and skip-a-payment summaries to the Board of Directors and Supervisory Committee;
- The reason(s) for the approval of a loan extension should be a legitimate one (examples include a temporary loss of job, a short term illness, divorce, member is waiting for insurance payoff check, etc.);
- Skip-A-Pays should be treated as a 30 day loan extension and the credit union should not extend a loan more than 60 days annually – unless the loan is a Bankruptcy order from the Trustee or converted to a TDR);
- Past-due loans should not be extended.



Timely recognition of loan charge offs

- Timely and consistent application of a Board approved Charge Off Policy for uncollectible or non-performing loans;
- Ensure the Loan Charge Off Policy meets standards provided in NCUA Letter to Credit Unions #03-CU-01 (January 2003);
- Charge offs should include loans in excess of 6 months delinquent with no payments submitted in the previous 6 or more months;
- Charge off any unsecured loans in which the member filed for Chapter 7 or Chapter 13 Bankruptcy and attorney related accounts;
- Charge off any loans in which the member is deceased with no estate and skip accounts in excess of 90 days with no contact or payment;
- On non-performing delinquent secured loans, where the collateral has been repossessed or foreclosed, management should transfer the loan balance into the Collateral in Process of Liquidation (non-real estate loans) or OREO (real estate) and charge-off any outstanding balance;
- Management is responsible for identifying, monitoring, measuring and controlling the risk in the loan portfolio.



Adequate Allowance for Loan and Lease Loss

- GAAP requires written documentation to support the amount of the Allowance for Loan and Lease Losses (ALLL) account and the Provision for Loan and Lease Losses (PLL) reported in the financial statements
- The credit union's ALLL Methodology should provide an ALLL sufficient to cover necessary charge offs;
- Consider a third party validation of the ALLL periodically;
- The ACUA will perform a loan classification using NCUA Credit Union Letter #03-CU-01 on non-performing loans to ensure accurate financial reporting of net income and loan charge-offs;
- Ensure there is a pooling category for every loan type offered in the credit union, including TDR and work-out loans;
- Plan on the future implementation of Current Expected Credit Losses Methodology (CECL); reporting in CY 2021.





Bank Secrecy Act Compliance

FinCEN's self stated mission is to “safeguard the financial system from illicit use, combat money laundering and promote national security through the collection, analysis, and dissemination of financial intelligence and strategic use of financial authorities.”





Bank Secrecy Act Compliance

How Does FinCEN Get Involved?

FinCEN has the authority to investigate credit unions for compliance with and violation of the Bank Secrecy Act pursuant to 31 C.F.R. § 1010.810, which grants FinCEN “overall authority for enforcement and compliance, including coordination and direction of procedures and activities of all other agencies exercising delegated authority under this chapter.”





Bank Secrecy Act Compliance

Credit unions devote a significant amount of time and resources to the SAR process. We want to assure you that SARs don't just go into a "black hole." BSA reports filed by credit unions..... **provide some of the most important information available to law enforcement and other agencies safeguarding the United States.**

BSA data is **used to confront serious threats**, including terrorist organizations, rogue nations, foreign corruption, and serious cyber threats, as well as transnational criminal organizations. These involve drug trafficking and massive fraud schemes that target U.S. government, business, and personal financial activity.





Bank Secrecy Act Compliance

How Data is Used by FinCEN and Others

BSA reporting aids in expanding the scope of ongoing investigations by pointing to the identities of previously unknown subjects, exposing accounts and hidden relationships, or revealing other information such as common addresses or phone numbers that connect seemingly unrelated participants in a criminal or terrorist organization. In some cases, it can even confirm the location of suspects.





Bank Secrecy Act Compliance

Who is Viewing Credit Union BSA Data?

- Domestically, FinCEN grants more than 10,000 agents, analysts, and investigative personnel from over 350 unique federal, state, and local agencies across the United States direct access to BSA reporting data.
- There are approximately **30,000 searches** of the BSA data taking place **every day**.





Bank Secrecy Act Compliance

Core Components of BSA Program

- BSA Officer, appointed by the Board
- Internal controls
- Independent testing, performed by credit union staff or third-party vendors
- Training of staff, management, & officials
- Member Due Diligence reflecting Risk-based procedures





Bank Secrecy Act Compliance

BSA Compliance Program must be:

- In writing
- Approved by board of directors
- Reflected in the minutes of the meeting





BSA Risk Assessment

- Location
- Membership
- Products and Services
- Types of Accounts





Bank Secrecy Act Officer

- Board designated, BSA officer, proficient in BSA/OFAC/AML rules, credit union products, services, members, and institution geographic locations;
- Manages all aspects of the BSA program;
- Must possess sufficient authority and resources to perform required BSA duties;
- Must regularly report to senior management and board of directors on BSA compliance issues and performance of the program.





BSA – Board Oversight

The Credit Union's board of directors is ultimately responsible for BSA compliance and is responsible for ensuring that the BSA compliance officer has sufficient authority and resources (i.e., monetary, physical and staffing) to effectively administer the institution's compliance program. The board is also expected to be an active participant in the oversight of program performance and not simply a rubber stamp to program reporting.



Supervisory Committee Effectiveness

- **Members elect Supervisory Committee members to perform the following:**
 - A comprehensive annual audit of the books and affairs of the credit union.
 - Verify member accounts no less frequently than every two years.
 - Ensure adequate internal controls are in place.
- **Supervisory Committee may suspend any officer, director or member of any committee and call the members together to act on such suspension**

Code of Alabama Section 5-17-13



Supervisory Committee Responsibilities

- Use of the NCUA Supervisory Committee Guide;
- Follow up on annual audits to ensure the deficiencies have been resolved and corrected;
- Review file maintenance reports and verify that the transactions were conducted in accordance with Board approved policies and were appropriate under the circumstances (ACUA will not only review in-house created loan extension and skip-a-payment reports, but we will also review file maintenance reports to ensure all are reported in the reports (especially any that exceeds 60 days or more);
- Review of any other audit reports that are performed by an outside party (such as a BSA, OFAC, ACH, or IT/DP vendor) audits and if applicable, any audits done by your bonding company;
- Review bank reconciliations for deposits in transit being carried forward or for old outstanding checks not cleared.



Supervisory Committee Responsibilities

(cont'd)

- Review insider activity including credit union credit card statements to ensure charges are for credit union business;
- Review employee expense reports to ensure no abuse in this area;
- Verify activity in dormant accounts and report abandoned accounts (no activity for the loan or share account in 3 years and returned statements to the credit union as “undeliverable”;
- Verify change of addresses;
- Review a sample of new loans for compliance with Board approved lending policies and procedures (including insider loans);
- Periodic cash counts;
- Quarterly review of paid ahead loans in excess of 90 days, loans with excessive accrued interest, loans without activity in 6 or more months, and loans with the same address with different names.



Supervisory Committee Responsibilities

(cont'd)

- Follow up on examination Documents of Resolutions (DOR's), Examiner's Findings, regulatory enforcement orders to verify remediation and/or compliance with orders (such as LUA's or MOU's) and compliance with examination reports;
- Review monthly bank account reconcilements including the supporting documentation, i.e., statements;
- Maintain detailed Supervisory Committee Minutes.





Closing

- ACUA works diligently with credit unions to ensure a sound and healthy state-chartered credit union system that is adaptable to changing members needs;
- ACUA welcomes your comments and feedback on examinations, laws and regulations;
- Questions / Comments?



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