

NCUA Advertising Regulations

April 19, 2017

Kaufman & Canoles, P.C.

Overview and Agenda

- Advertising Rules and Regulations
 - CFPB, NCUA, FTC, FCC
- Advertising Avenues
 - Website, Email, TV, Radio, Print
- Products
 - Examples
 - Loans, Savings, Safe Deposit Boxes, Night Drop, Promotions & Drawings
- Checklist
- Best Practices/Key Takeaways

Regulations

- CFPB
 - UDAAP
- Regulation Z
 - Truth in Lending
- National Credit Union Administration
 - §701.31 – Fair Housing Rules and Equal Credit Opportunity
 - §740 – NCUA Official Advertising Sign/Statement
 - §707– Truth in Savings
 - FTC

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- Primary areas of Supervisory and Examination focus by NCUA in 2017/2018
 - Cybersecurity Risk
 - Bank Secrecy Act Compliance
 - Internal Controls and Fraud Prevention
 - Interest Rate and Liquidity Risk
 - Commercial Lending
 - Consumer Compliance
 - Military Lending Act
 - SCRA

CFPB

- UDAAP

Regulation Z – Truth in Lending

- An "advertisement" under Truth in Lending - Regulation Z is any commercial message that promotes consumer credit
- "Advertisements" may appear:
 - In newspapers, magazines, leaflets, flyers, catalogs, direct mail literature, or other printed material
 - On radio, television, or a public address system
 - On an inside or outside sign or display, or a window display
 - In point-of-sale literature, price tags, signs, and billboards

Regulation Z – Truth in Lending

- Clear and Conspicuous Requirement
 - No font size requirement
 - Legible and easily understood
- Actual Availability of Terms
 - Never advertise credit terms not available
 - If conditions exist, state in the advertisement

Regulation Z – Truth in Lending

- Annual Percentage Rate (APR)
 - Yes, use of either is acceptable
- Trigger Terms
 - Additional disclosures are mentioned in ad
- “Unsecured” and “Signature”
 - Avoid use of these terms
- Alternative Disclosure Rule for TV/Radio Ads
 - State APR and include toll free number
- Special Disclosure Rule for Website Ads
 - Fall under same rules as catalogs and multi-pages ad

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§701.31 & Equal Credit Opportunity

- When advertising loans for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, the advertisement must prominently indicate in a manner appropriate to the advertising medium and format that the Credit Union makes such loans without regard to race, religion, or other discriminatory factors

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§701.31 & Equal Credit Opportunity

- The Credit Union must:
 - Include the Equal Housing logo and slogan in all written and visual advertisements
 - Include a statement in oral advertisements that the Credit Union is an “Equal Housing Lender”
 - Use either of the two methods described above when an oral advertisement is used in conjunction with a written one
 - Not include in any advertisement words, symbols, models, or other forms of communication that express, imply, or suggest a discriminatory preference or policy of exclusion

NCUA Fair Lending

- Prohibition against credit discrimination based on:
 - Race
 - Color
 - Religion
 - National Origin
 - Sex
 - Marital Status
 - Age
 - Income
 - Derived from Public Assistance
 - Exercise of Rights Under Consumer Credit Protection Act

NCUA Fair Lending

- No advertisement that indicates discrimination on any prohibited basis
- No advertisement that suggests a preference or exclusion on a prohibited basis
- Written/visual advertisement requires Equal Housing Lender/Equal Housing Opportunity logotype
- Oral advertisement requires Equal Housing Lender/Equal Housing Opportunity statement
- Lobby notice clearly visible to public required in each location where loans are made

NCUA Fair Lending

- Fair Lending – Other Laws
 - Servicemember's Civil Relief Act
 - Unfair Deceptive Acts or Practices
 - Fair Debt Collection Practices Act
 - Fair Credit Reporting Act

Equal Housing Slogan and Logo



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Fair Housing Poster

- Must display the Fair Housing Poster
 - Public Lobby
 - Areas/Offices where loans are made
- Websites that accept loan applications online may be considered a “lobby” for Fair Housing compliance purposes

FTC “4 P’S”

- Is the statement *Prominent* enough for a consumer to notice?
- Is the information *Presented* in an easy to understand format that does not contradict other information in the package or at a time when the consumer’s attention is not elsewhere?
- Is the *Placement* of the information and the location where the consumer can be expected to look or hear?
- Is the information in close *Proximity* to the claim it qualifies?

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Share Insurance Advertising

- Share Insurance Brochure
- <https://www.ncua.gov/Legal/GuidesEtc/GuidesManuals/NCUAHowYourAcctInsured.pdf>
- Lobby

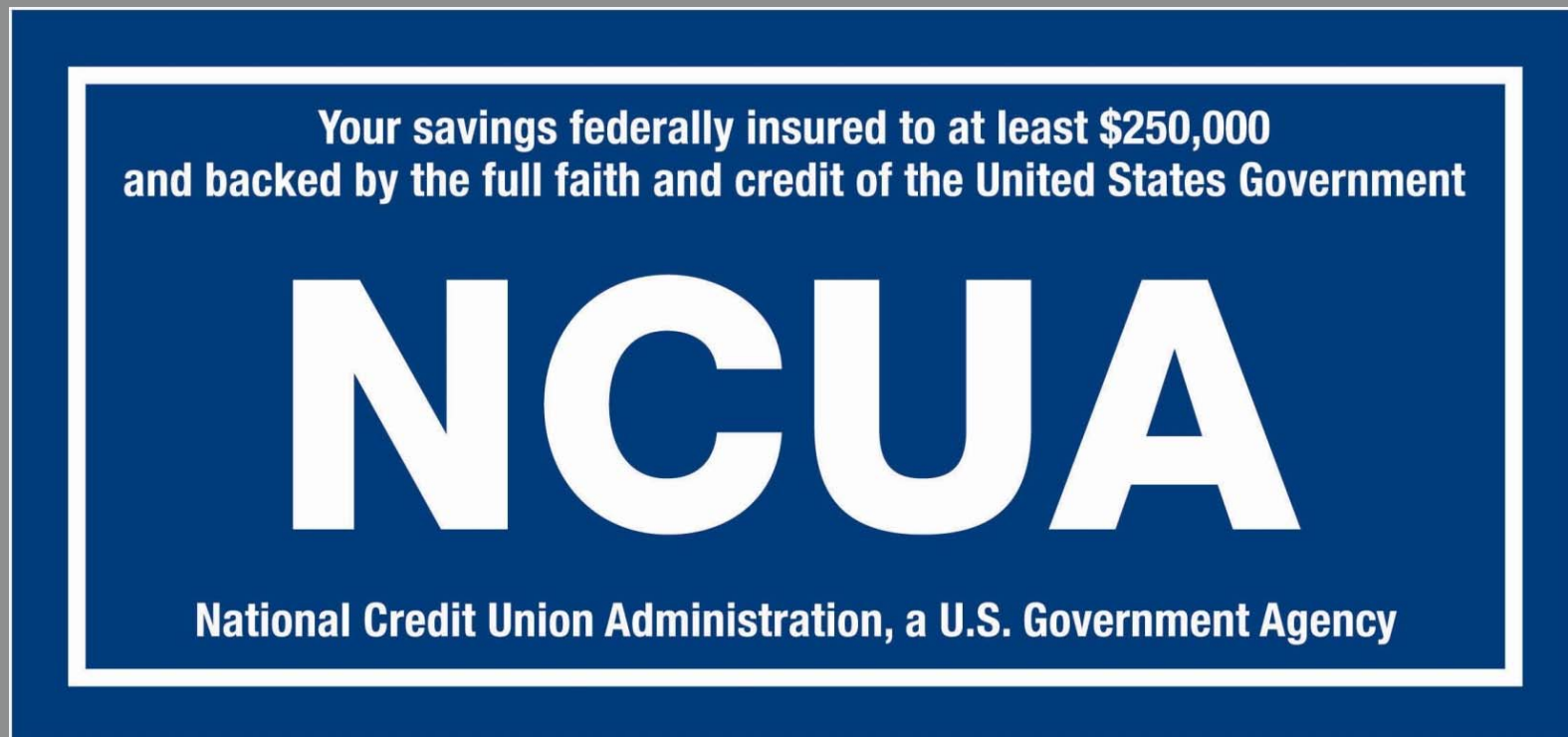
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§740 – Advertising Sign/Statement

- A federally insured Credit Union must display the NCUA advertising sign:
 - At all teller stations and offices that accept deposits
 - On the homepage of websites
 - On all advertisements for share accounts
 - On the first page of posted financial statements
 - On the first page of Annual Reports

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§740 – Advertising Sign/Statement



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§740 – Advertising Sign/Statement

- Three Options...”This Credit Union is federally insured by the National Credit Union Administration.”
- Short Title. “Federally Insured by NCUA.”
- Use of the Official NCUA Share Insurance Logo.
- The Question – When?

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§740 – Advertising Sign/Statement

- Advertisement as defined by NCUA
 - Advertisement according to NCUA means a commercial message, in any medium, that is designed to attract public attention or patronage to a product or business.

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§740 – Advertising Sign/Statement

- Font Size
 - For advertising purposes, the text in the NCUA logo or the “federally insured by NCUA text” must be in a size and print that is clearly legible and may be no smaller than the smallest font size used in other portions of the advertisement

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§740 – Advertising Sign/Statement

- Downloadable Data, Images, and Software for Signage
 - Check NCUA website

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§740 – Advertising Sign/Statement

- The official sign must be posted at each teller station.
- Any exceptions?
 - Credit Union supplies such as stationery, envelopes, deposit slips, checks, drafts, signature cards, passbooks.
 - Plates in the Credit Union office are attached to the building where the offices are located
 - Listings and Directories

SHARE INSURANCE SIGNS AND DOWNLOADABLE GRAPHICS – BY NCUA

- NCUA has some downloadable Share Insurance graphics
<https://www.ncua.gov/PublishingImages/NCUAGraphics/EnCUSBsign.pdf>
- NCUA has an online order form for Share Insurance Funds signs
<https://www.ncua.gov/Legal/Documents/available-ncua-publications-order-form.pdf>

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§740 – Advertising Sign/Statement

Exceptions (continued)

- Advertisements that do not include the name of the Credit Union
- Video advertisements that do not exceed 15 seconds in length
- Television advertisements other than display advertisements that do not exceed 15 seconds in length
- Advertisements of the type or character making it impractical to include the official advertising statement including such items as calendars, matchbooks, pens, pencils, key chains, and golf balls

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§740 – Advertising Sign/Statement

- Advertisements when the internet/webpage of the Credit Union is an ad

Checklist

WHAT IS IN YOUR LOBBY?

- Customer/Member Identification Program Notice
- NCUA Official Sign
- NCUA Official Advertising Statement
- Lender/Equal Housing Opportunity Provider Poster
- Nondiscrimination in Advertising
- Home Mortgage Disclosure Act Notice
- Funds Availability Notice
- Financial Statement
- Americans With Disability Act
- “APR” and “APY” Requirements under Truth in Lending and Truth in Savings

Batesville-WRBI-FIN



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Radio Disclaimer



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CITY LOAN 180 TURN AROUND LOAN



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Survey

Have you used a vendor to do your marketing designs or promotions?

- Yes
- No

Survey

After this program, will you or the Marketing Department be using the checklist provided to verify that your Credit Union is in compliance with the NCUA advertising regulations?

- Yes
- No

Survey

Does your Credit Union advertise on TV?

- Yes
- No

Survey

Does your Credit Union advertise on the Internet?

- Yes
- No

Key Takeaways

- NCUA advertising requirements can impact safety and soundness
- Marketing + Compliance + Management
- Check and double check advertising avenues – website, email, TV, radio, and print
- Follow FTC 4 P'S! -- Prominent; Presented; Placement; Proximity
- Don't follow the crowd!

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