

A starfish is positioned in the upper left quadrant of the slide, set against a background of clear, rippling blue water. The starfish is a light orange-brown color with a textured surface. The water background is a vibrant blue with white highlights from light reflecting off the surface, creating a shimmering effect. The overall composition is clean and professional.

# **Volunteer Leadership Institute - Hawaii**

## **LEGAL LANDMINES: FAIRY TALES AND WAR STORIES**

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### **Learning Objectives**

1. Recognize current regulatory and litigation threats to credit unions.
2. Consider appropriate changes to current policies and practices to mitigate such threats.
3. Develop a plan for ongoing monitoring and mitigation of such threats.



WilliamsGautier

# Legal Landmines – Fairy Tales & War Stories

**Rochdale + VLI Hawaii**

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# Disclaimer – No Legal Advice

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# Legal Landmines

- NCUA Final Rule AVM Standards.
  - Effective October 1, 2025.
- NCUA/FDIC/FHFA/OCC Proposed Rule for Incentive Compensation.
  - Implementation of Dodd-Frank Act rule originally scheduled for 2016.
  - Applies to institutions greater than \$1B.
  - What about the revision of the NCUA-only incentive compensation rule (NCUA Regulations Section 701.21(c)(8))?



# Legal Landmines

- NCUA Proposed Succession Planning Rule.
  - Will apply to both FCUs and FISCUs.
  - Senior management and volunteers.
- NCUA/FDIC/FRB/OCC Proposed BSA/AML Rule Changes.
  - Incorporate AML/CFT Priorities and risk assessment changes per 2020 law change.
  - What about the Corporate Transparency Act regulatory implementation?



# Legal Landmines

- Repossession notices & procedures.
- Loan checks & restrictive endorsements.
- Credit card setoff/security interest rights.
- Reg E requirements for unauthorized/erroneous electronic fund transfers.

# Legal Landmines

- Reg CC exception hold requirements.
- Account-related class action suits.
- Web posting of all member-facing agreements.

# Legal Landmines

- Mobile deposit/RDC agreements & disclosures (including funds availability & endorsement requirements).
- Arbitration clauses.
  - Mass arbitrations.
  - Mandatory mediation clauses.
- Harassment/discrimination/whistleblower training for employees & volunteers.





# Legal Landmines

- Recording of telephone calls/remote meetings (outbound, inbound & internal).
  - 13 states currently require two-party consent.
- Biometric data capture.
- Pay-on-death errors.
- Electronically signed agreements (ESIGN & UETA) – what about wire transfers?



# Legal Landmines

- Web/app compliance, rules/agreement & links (including COPPA).
- Business banking agreements & disclosures (including ACH, wire & positive pay).
- FCRA/ECOA adverse action notices & credit reporting accuracy.



# Legal Landmines

- Indirect loans (statutory & contractual requirements).
  - NCUA Letter 10-CU-15.
- Boat/vessel loans.
- PAL/consumer finance loans.
- Out-of-state/out-of-country branching, ATMs, loans, accounts, services & marketing.
  - Lack of preemption for FISCUs.
  - Limits of FCU loan preemptions.



# Legal Landmines

- NLRB/FTC Changes.
  - Non-compete.
  - Non-solicitation.
  - Current court injunction.
- DOL Exempt Employee Changes.
  - \$43,888 effective July 1, 2024.
  - \$58,656 effective January 1, 2025.
  - November 2024 court vacation of rule.



# Legal Landmines

- CFPB Activism.
  - Large credit card issuers late fee rule (& new lawsuit).
  - CFPB/DOJ joint issuance on immigration status (with no changes to Regulation B).
  - What about the recent Supreme Court's unwinding of the Chevron Doctrine?
  - What happens with the political changes effective in 2025?



# Legal Landmines

- Sovereign Citizens, Credit Reporting & Debt Cancellation.
  - Rescission for various loan types.
  - FCBA/FCRA/credit disputes.
  - Demand for accounting with affidavits.
  - Regulation X QWRs/information requests.
  - Paid in full notations & similarly restrictive endorsements/legends on payments.
  - Self-executing agreements/contracts.



**ANY QUESTIONS?**

**THE END**