

# Recent and Proposed Regulatory Changes Impacting Credit Unions and ACUA Chart Pack

---

Sarah H. Moore  
Administrator

Carrie Ellis McCollum  
General Counsel

Alabama Credit Union Administration



# Overview of Regulatory and Accounting Framework Governing FISCUs

- State regulator - ACUA
- NCUA or private insurer
- Consumer Financial Protection Bureau
  - Incorporates all previous consumer protection laws and regulations
- Financial Accounting Standards Board



# ACUA's New Regulations Impacting FISCO

## ➤ Effective on April 15, 2017:

- CUSOs do not have to have a separate audit if the CUSO is consolidated into the Credit Union or the Credit Union invests less than 2% of its assets in the CUSO.
- CUSOs powers were expanded to include foreclosure, repossession services.

## ➤ Effective September 25, 2017:

- Vendor Risk Management.
  - Outlines Risk Assessment and Planning, Due Diligence, Insurance for third parties that provide for mission critical services including IT providers, accountants, appraisers and attorneys.
  - Ensure IT providers indemnify credit unions against claims for infringement of intellectual property rights.



# ACUA's New Regulations Impacting FISCO (cont'd)

## ➤ Commercial arrangements with third parties

- Evaluation of safety and soundness risks to the credit union.
- Evaluation of the potential risk of liability and ensure the credit union takes appropriate precautions to reduce or offset such risk, including, but not limited to, the use of such devices as disclaimers/disclosures to members and bond or insurance coverage of the third party and the credit union.
- Ensure contract includes provisions of indemnification of the credit union by the third party.

## ➤ Mergers and Acquisitions

- Fiduciary duties of the boards in a merger or acquisition.
- Documentation of the credit union's due diligence reviews.
- Requires a written agreement detailing the important agreed upon terms of the merger.



# New NCUA Regulation on Mergers and Acquisitions

- Revises and clarifies the contents and format of the member notice to require merging FCUs to:
  - Disclose all merger-related financial arrangements for covered persons;
  - Increase the minimum member notice period to no less than 45 days or more than 90 days before the vote;
  - Provide procedures to allow reasonable member-to-member communications regarding the proposed merger at the credit union's cost;
  - Disclose plans for locations of the continuing branches;
  - Disclose impact on products and services; and
  - Disclose how much of the members' net worth will transfer to the continuing credit union.



# New NCUA Regulation on Mergers and Acquisitions (cont'd)

- Submission of board minutes to NCUA that reference the merger during the 24 months preceding the date of approval of the merger plan by the boards of directors of both credit unions; and
- Requires that the board of directors of the merging FCU and continuing credit union to certify that there are no merger-related financial arrangements other than those disclosed to the members of the merging FCU in the member notice.



# CFPB Final Rule: “Payday, Vehicle Title, and Certain High-Cost Installment Loans”

- Final Rule Issued October 5, 2017; expected effective date in the third quarter of 2019.
- Applies to lenders who extend credit by making covered loans, including banks, credit unions, payday lenders, and title pawn companies.
  - Exempts lenders and their affiliates that collectively have made 2,500 or fewer covered loans in the current calendar year and 2,500 or fewer covered loans in the preceding calendar year and derived no more than 10% of their receipts from covered loans.
- Identifies “unfair and abusive practices” and sets requirements for lenders making covered loans.



# CFPB – Payday Lending Rule - Loans Subject to Entire Rule

- **Covered short-term loans** – Loans that have terms of 45 days or less.
  - Open-end and closed-end loans if the consumer is required to repay substantially the entire advance (open-end) or entire amount of the loan (closed end) within 45 days. This includes:
    - Payday loans (typically for 14-day and 30-day terms);
    - Short-term vehicle title loans (usually made for 30-day terms);
- **Covered longer-term balloon-payment loans** – Loans that have terms of more than 45 days and have:
  - Balloon payment (substantially the entire loan balance (closed-end) or substantially the entire advance (open-end) in a single payment, or at least one payment twice as large as other payments); or
  - Multiple advances where the required minimum payments may not fully amortize the loan balance by a specified date; and the amount of the final payment to repay the outstanding loan balance at such time could be more than twice the amount of other minimum payments on the loan.





# CFPB – Payday Lending Rule - Loans Subject in Part to the Rule

- **Covered longer-term loans** - loans that have:
  - A cost of credit that exceeds 36% per year; and
  - A form of “leveraged payment mechanism” that gives the lender a right to withdraw payments from the consumer’s account.



# CFPB – Payday Lending Rule - Exempt Loans

- Alternative loans defined by the Rule or loans made under the Payday Alternative Loan (PAL) program defined by NCUA
- Loans extended solely to finance **purchase of** car or consumer good in which the good secures the loan
- Home mortgages/other loans secured by real property or dwelling if recorded or perfected
- Credit cards
- Student loans
- Non-recourse pawn loans
- Overdraft services and lines of credit
- Wage advance programs
- No-cost advances



# CFPB – Payday Lending Rule (overview)

- Determine borrower's ability to repay.
  - Exempts PAL loans and loans that mirror PAL loans
- Obtain and consider consumer report from a registered information system\* before originating a covered loan.
- Report certain information on covered loans to registered information system.\*
- Restrictions on loan sequences – Prohibits making a covered short-term loan or a covered longer-term balloon-payment loan to a consumer who has outstanding three covered short-term or longer-term balloon-payment loans (or a combination of either type), for a period of 30 days after the third loan is no longer outstanding or for a period of 30 days after a loan made pursuant to the conditional exemption provided by the Rule is no longer outstanding.
- Establish and follow compliance program.
- Maintain records in tabular format, including: loan identification, type, terms, and origination calculations (projections of ability to repay, including consumer net income, major financial obligations, residual income or debt to income ratio, and estimated basic living expenses) for short-term or longer-term balloon-payment loans.

\*NOTE: There are currently no registered information systems with CFPB

# CFPB - Loans Subject to Payment Withdrawal Requirements

- Loans subject to payment withdrawal requirement include previous covered loans plus:
  - Covered short-term loans – loans that have terms of 45 days or less;
  - Covered longer-term balloon-payment loans – loans that have terms of more than 45 days and a balloon payment;
  - Covered longer-term loans - loans that have:
    - A cost of credit that exceeds 36% per year; and
    - A form of “leveraged payment mechanism” that gives the lender a right to withdraw payments from the consumer.
- Lender must obtain new and specific authorization to make withdrawals from consumers’ accounts after second consecutive failed withdrawal attempt due to insufficient funds.



# CFPB - Payment Withdrawal Requirements

- A Lender making withdrawals from consumers' accounts for covered loans must provide written notice to the consumer before the Lender's first attempt to withdraw payment for a covered loan or before an attempt to withdraw payment in a different amount, on a different date than the regularly scheduled payment date, by a different payment channel or to re-initiate a returned prior transfer.
- Lender must provide notice to the consumers where the second consecutive attempt to withdraw payments failed due to insufficient funds *within three business days* after the Lender receives information that the second consecutive attempt has failed.
- Rule specifies the content of the notice.



# CFPB - Ability to Repay

- Verify the consumer's net monthly income using a reliable record of income payment, unless a reliable record is not reasonably available;
- Verify the consumer's monthly debt obligations using a national consumer report, the records of the lender and its affiliates, and a consumer report from a "registered information system";
- Verify the consumer's monthly housing costs using a national consumer report if possible, or otherwise rely on the consumer's written statement of monthly housing expenses;
- Consider any major financial obligations listed by the consumer;
- Forecast a reasonable amount for basic living expenses, other than debt obligations and housing costs; and
- Determine the consumer's ability to repay the loan based on the lender's projections of the consumer's residual income or debt-to-income ratio.



# CFPB - Ability to Repay (cont'd)

- For a covered short-term loan, the lender must *reasonably* determine the consumer can:
  - Make payments for major financial obligations,
  - Make all payments under the loan, and
  - Meet basic living expenses during the shorter of the term of the loan or the period ending 45 days after consummation of the loan, and for 30 days after having made the highest payment under the loan.
- For a covered longer-term balloon-payment loan, the lender must *reasonably* determine the consumer can:
  - Make payments for major financial obligations,
  - Make all payments under the loan, and
  - Meet basic living expenses during the relevant monthly period, and for 30 days after having made the highest payment under the loan.





# CFPB - Alternative to the Ability to Repay

- The loan terms prescribed by the Rule are the same loan terms set by NCUA for a PAL loan. These requirements are:
  - The loan is not structured as open-end credit;
  - The loan has a term of not less than one (1) month and not more than six (6) months;
  - Loan is not less than \$200 and not greater than \$1,000;
  - Repayable in two or more substantially equal payments due in substantially equal intervals, and the loan amortizes completely during the term of the loan;
  - The loan carries a cost of credit (excluding application fees) of not more than the interest rate permissible for FCUs to charge under regulations issued by NCUA, and any application fees charged to the consumer reflect the actual costs associated with processing the application and do not exceed the application fees permissible for FCUs to charge under regulations issued by the NCUA.





# CFPB - Alternative to the Ability to Repay (cont'd)

- Lender must determine from its records that the loan would not result in the consumer being indebted on more than three outstanding loans under this section from the lender within 180 days and
- Lender may not make more than one alternative loan under this exemption at a time to a consumer.
- Lender must comply with provisions of the Rule for documenting proof of recurring income.

Each of these criteria are also required for PAL loans.



# CFPB - Conditional Exemption for Certain Covered Short-Term Loans

- Allows up to 3 covered short-term loans in short succession (a period of 180 days) if:
  - The loan is closed-end credit;
  - Satisfies principal amount limitations:
    - First loan has a principal amount not greater than \$500;
    - Second loan is at least one-third smaller than the first loan; and
    - Third loan is at least two-thirds smaller than the first loan.
- The loan amortizes completely during the term.
- Lender may not take a vehicle security interest.
- Lender provides disclosures required by Rule.



# CFPB - Conditional Exemption for Certain Covered Short-Term Loans (cont'd)

- Prior to making the loan, the lender must determine that:
  - The consumer has not had in the past 30 days an outstanding covered short-term or longer-term balloon-payment loan;
  - The loan would not result in the consumer having a loan sequence of more than three covered short-term (conditional exemption) loans;
  - The loan would not result in the consumer having during any consecutive 12-month period:
    - More than six covered short-term loans outstanding, or
    - Being in debt for more than 90 days on covered short-term loans.
- Other restrictions:
  - After a conditional exemption loan is made, the Lender must not make a covered loan (except a conditional exemption loan), or a non-covered loan while the conditional exemption loan is outstanding and for 30 days.



League of Southeastern  
Credit Unions & Affiliates

# Consumer Financial Protection Bureau Regulations (coming soon)

- Overdrafts
- Collections
- Student Loan Servicing
- Business lending data for minority owned businesses



# Changes to Alabama's Small Loan Act

- Increases the coverage of the Act from loans in the amount of \$1,000 to loans in the amount of \$1,500.
- Also get a minimum term of loans covered by the Act – 3 months.
- Act does not apply to credit unions.



# SAR'S – Suspicious Activity Reports

- **Reminder:** File SAR's for any activity that may require a SAR filing or is otherwise suspicious.



# Financial Accounting Standards Board (FASB)

## Current Expected Credit Loss

- FASB identified weaknesses in current practice of recognizing incurred losses following the recent global economic crisis.
- Issued proposed accounting standards update on December 20, 2012- Current Expected Credit Loss model or “CECL.”
- Changes loss recognition to capture all credit losses expected to be realized over the life of lender’s existing loan portfolio.
- Implementation 2021.



# Financial Accounting Standards Board (FASB)

## Current Expected Credit Loss

- Expected credit loss is an estimate of the present value of future cash flows not expected to be collected based on quantitative and qualitative information such as:
  - Past events
  - Historical loss experience
  - Current conditions
  - Borrower credit worthiness and
  - Forecasts of expected credit losses
  - Current point and forecast direction of economic cycle





# Key Employment Statistics as of September 30, 2017\* (seasonally adjusted)

\*Source: Alabama Department of Labor

	<u>Alabama</u>	<u>USA</u>
Civilian Non- Institutional Population (1)	3,838,028	255,562,416
Percentage of Total Population	78.9%	79.1%
Civilian Labor Force (2)	2,151,272	160,521,353
Participation Rate	56.1%	62.8%
Percentage v. USA	89.3%	

(1) Refers to people 16 years of age and older who are not inmates of institutions (penal, mental facilities, homes for the aged), and who are not on active duty in the Armed Forces.

(2) Excludes individuals who are no longer seeking employment and refers to people 16 years and older who are not inmates of institutions (penal, mental facilities, homes for the aged) and who are not on active duty in the Armed Forces.



# Key Employment Statistics as of September 30, 2017\* (seasonally adjusted) (cont'd)

\*Source: Alabama Department of Labor

	<u>Alabama</u>	<u>USA</u>
Employed to Civilian Non-Institutional Population	53.9%	60.1%
Percentage v. USA	89.7%	
Unemployment	82,678	6,933,858
Unemployment Rate	3.8%	4.3%



# Key Demographic Statistics\* as of December 31, 2015

\*Source: DataUSA

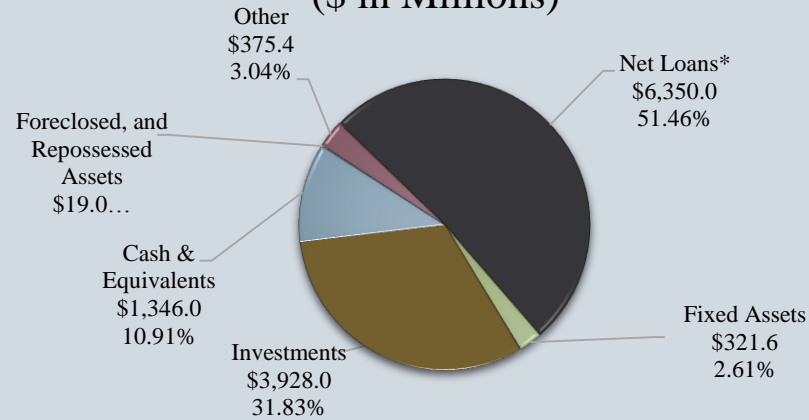
	<u>Alabama</u>	<u>USA</u>
Median Household income	\$44,765	\$55,775
year over year growth	4.52%	3.95%
% of USA	80.3%	
Median Property Value	\$134,100	\$194,500
year over year growth	6.77%	7.34%
Poverty Rate	18.5%	14.7%
Housing Units Owned	67.9%	67.7%
Number of Cars Owned	2	2





## ACUA CHART PACK – June 30, 2017 (excludes Corporate Credit Union)

### Alabama Asset Distribution (\$ in Millions)

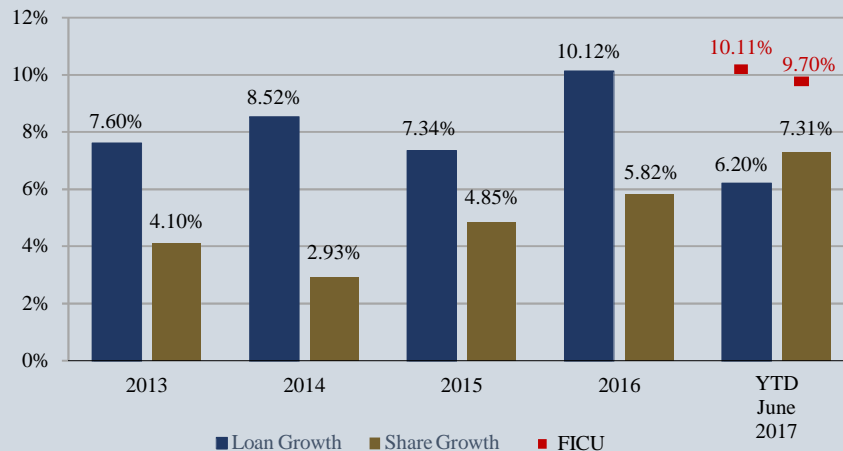


\*Net Loans equals Total Loans (\$6,416 million) minus Allowance for Loan and Lease Losses (\$66 million).

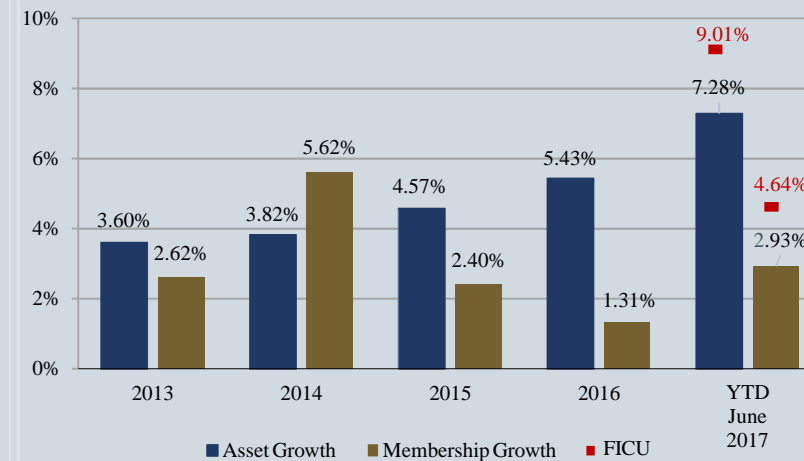
### Number of Insured Credit Unions Reporting

	Federal Charter	State Charter	Total	Alabama
2013	4,105	2,449	6,554	67
2014	3,927	2,346	6,273	63
2015	3,764	2,257	6,021	62
2016	3,608	2,177	6,785	61
June 2017	3,568	2,128	5,696	61

### Loan Growth vs. Share Growth

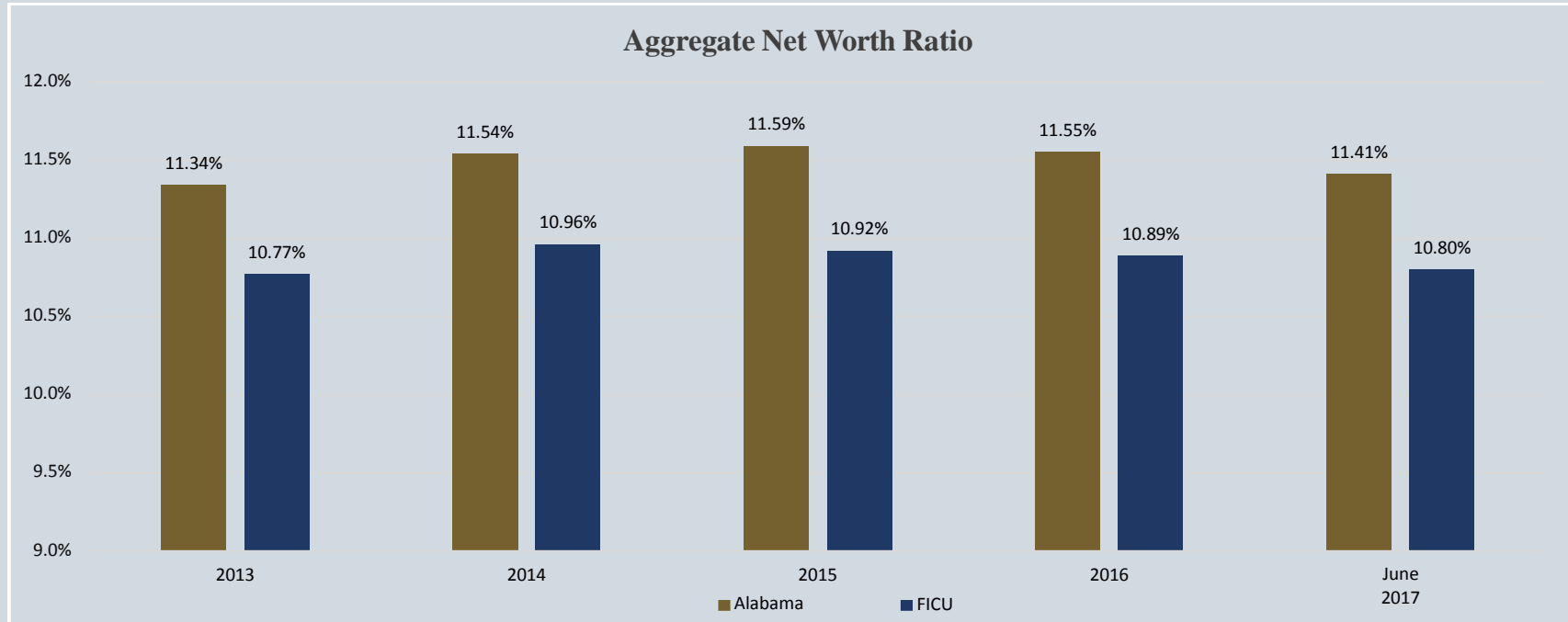


### Asset Growth vs. Membership Growth





## ACUA CHART PACK – June 30, 2017 (excludes Corporate Credit Union)



### Net Worth Change

	December 2016 \$ in Millions	June 2017 in Millions	% Change (Annualized)
Total Net Worth	\$1,375.25	\$1,408.05	4.78%

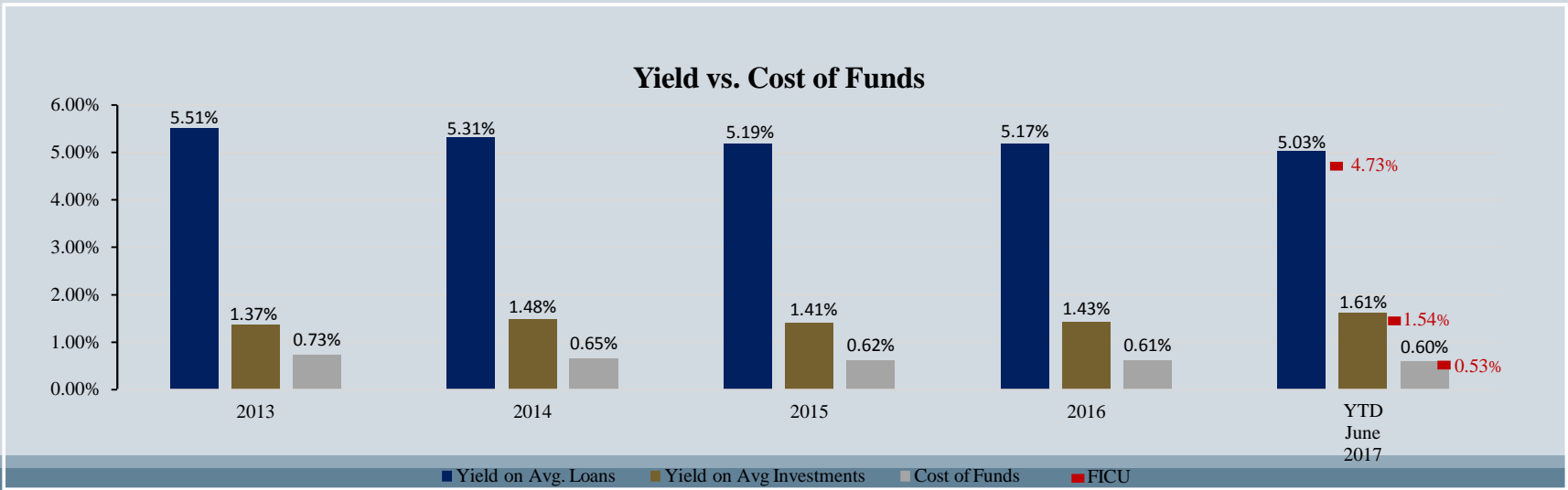
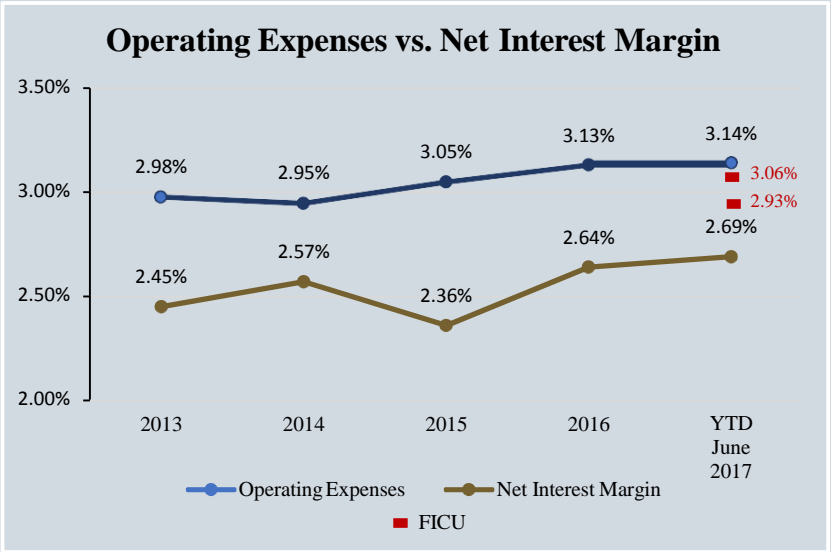
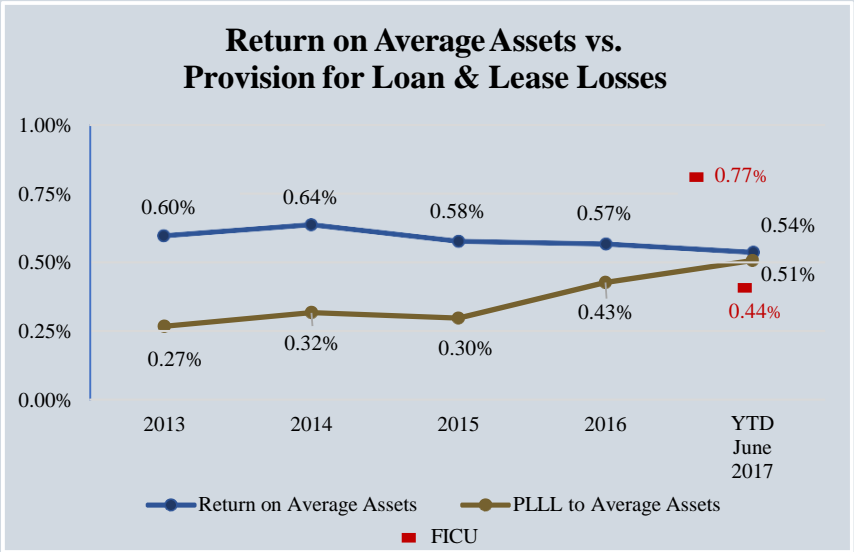
### Net Worth Ratios

Number of Credit Unions	December 2016	% of Total
13% and above	32	52.46%
10% to 12%	19	31.15%
7% to 9%	9	14.75%
Below 7% 1	1	1.64%



ACUA CHART PACK – June 30, 2017 (excludes Corporate Credit Union)

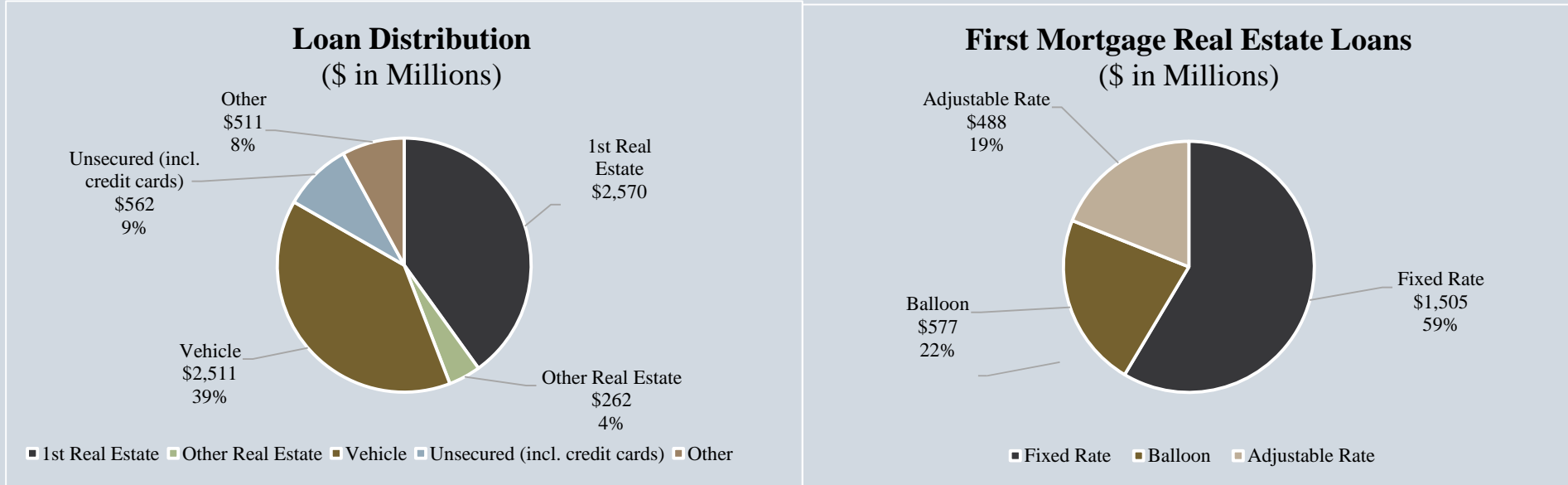
Earnings





## ACUA CHART PACK – June 30, 2017 (excludes Corporate Credit Union)

### Loan Distribution



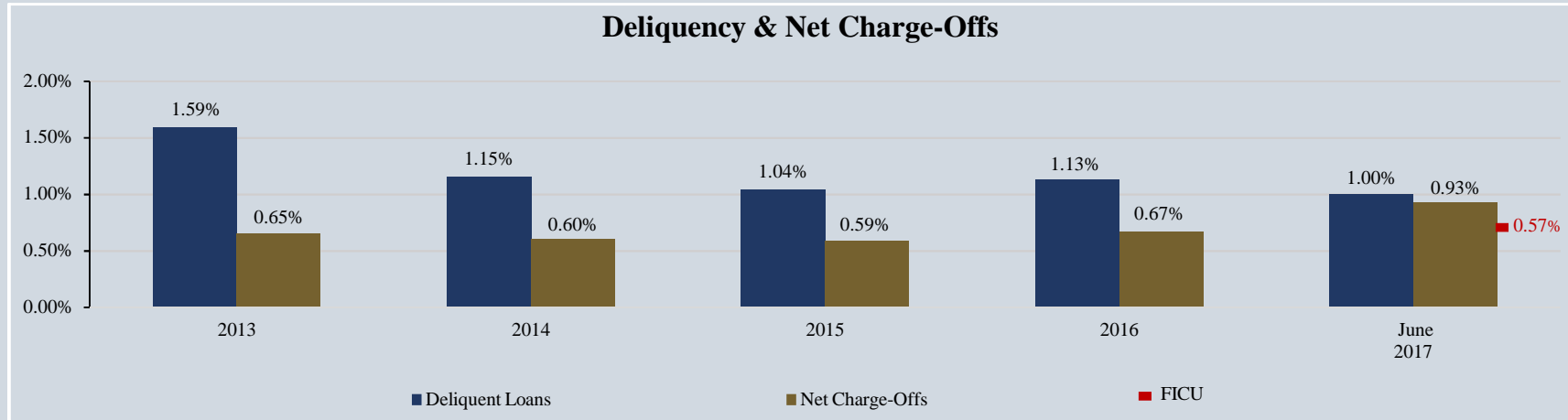
Loan Growth						
Loan Category	December 2016 \$ In Millions	% of Total Loans December 2016	June 2017 \$ In Millions	% of Total Loans June 2017	Growth In Millions	Growth Rate (Annualized)
Unsecured Credit Card	\$242	3.89%	\$237	3.69%	-\$5	-4.0%
All Other Unsecured	\$328	5.27%	\$325	5.07%	-\$3	-2.0%
New Vehicle	\$503	8.08%	\$522	8.14%	\$19	7.5%
Used Vehicle	\$1,926	30.95%	\$1,989	31.00%	\$63	6.5%
First Mortgage Real Estate	\$2,475	39.77%	\$2,570	40.06%	\$95	7.7%
Other Real Estate	\$261	4.19%	\$262	4.08%	\$1	--
Leases Receivable & All Other	\$489	7.85%	\$511	7.96%	\$22	9.0%
<b>Total Loans</b>	<b>\$6,224</b>	<b>100%</b>	<b>\$6,416</b>	<b>100%</b>	<b>\$192</b>	<b>6.2%</b>

Numbers may not add up due to rounding

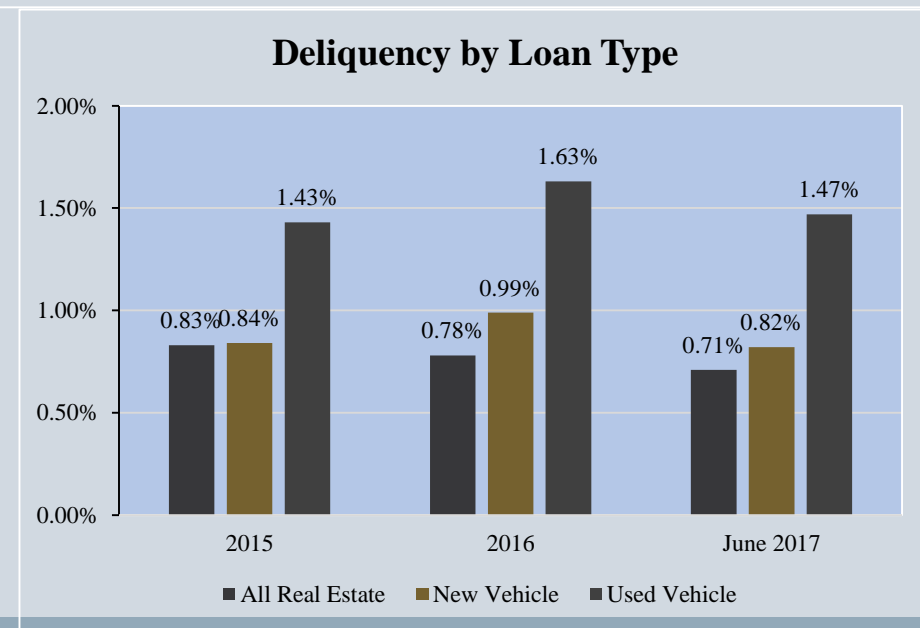


## ACUA CHART PACK – June 30, 2017 (excludes Corporate Credit Union)

### Loan and Delinquency Trends



Charge-Offs by Loan Type		
	2016 % of Average	YTD June 2017 % of Average
Unsecured Credit Card	1.72%	1.93%
Vehicle	1.01%	1.37%
First Mortgage Real Estate	0.05%	0.09%
Other Real Estate	0.25%	0.20%
<b>Total Net Charge-Offs</b>	<b>0.67%</b>	<b>0.93%</b>







## ACUA CHART PACK – June 30, 2017 (excludes Corporate Credit Union)

### Share Trends



Shares						
Share Category	December 2016 Balance \$ in Millions	% of Total Shares December 2016	June 2017 Balance \$ in Millions	% of Total Shares June 2017	Growth \$ in Millions	Growth Rate (Annualized)
Share drafts	\$1,557.51	14.86%	\$1,669.73	15.37%	\$112.22	14.41%
Regular Shares	\$4,860.05	46.37%	\$5,113.53	47.07%	\$253.48	10.43%
Money Market Shares	\$910.74	8.69%	\$934.02	8.60%	\$23.28	5.11%
Share Certificates	\$1,979.84	18.89%	\$1,973.52	18.17%	-\$6.32	-6.38%
IRA / KEOGH Accounts	\$1,045.19	9.97%	\$1,038.91	9.56%	-\$6.28	-1.20%
All Other Shares	\$113.22	1.08%	\$119.17	1.10%	\$5.95	10.51%
Non-Member Deposits	\$13.73	0.14%	\$14.65	0.13%	\$0.92	13.40%
<b>Total Shares and Deposits</b>	<b>\$10,480.28</b>		<b>\$10,863.53</b>		<b>\$383.25</b>	<b>7.31%</b>



## ACUA CHART PACK – June 30, 2017 (excludes Corporate Credit Union)

### Asset-Liability Management Trends

