Regulatory Dispatch

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Fed Releases Long-Awaited Study on Central Bank Digital Currency

The Federal Reserve Board on Thursday released a discussion paper that examines the pros and cons of a potential U.S. central bank digital currency, or CBDC. It invites comment from the public and is the first step in a discussion of whether and how a CBDC could improve the safe and effective domestic payments system. The paper does not favor any policy outcome.

"We look forward to engaging with the public, elected representatives, and a broad range of stakeholders as we examine the positives and negatives of a central bank digital currency in the United States," Federal Reserve Chair Jerome H. Powell said.

The paper summarizes the current state of the domestic payments system and discusses the different types of digital payment methods and assets that have emerged in recent years, including stablecoins and other cryptocurrencies. It concludes by examining the potential benefits and risks of a CBDC and identifies specific policy considerations.

Consumers and businesses have long held and transferred money in digital forms, via bank accounts, online transactions, or payment apps. The forms of money used in those transactions are liabilities of private entities, such as commercial banks. Conversely, a CBDC would be a liability of a central bank, like the Federal Reserve.

While a CBDC could provide a safe, digital payment option for households and businesses as the payments system continues to evolve, and may result in faster payment options between countries, there may also be downsides. They include how to ensure a CBDC would preserve monetary and financial stability as well as complement existing means of payment. Other key policy considerations include how to preserve the privacy of citizens and maintain the ability to combat illicit finance. The paper discusses these and other factors in more detail.

To fully evaluate a potential CBDC, the Board's paper asks for public comment on more than 20 questions. Comments will be accepted for 120 days and can be submitted here.

Comment: Issues discussed in the study include financial stability risks and privacy protection while guarding against fraud and other illegal issues. We certainly have questions as to how BSA/AML compliance with work with a 'digital dollar.' Of note, Fed Governor Lael Brainard, who has been nominated as vice chair, appears to be the Fed's biggest advocate for a CBDC.

Community Bank Q&A

Q: Our bank has a 'community board' on our website. Our marketing department wants to solicit and collect photos from the local FFA chapter of children posing with their animals. Does that pose any compliance issues?

A: It could. The issue is with the Children's Online Privacy Protection Act (COPPA). Specifically, COPPA compliance depends on if that 'community board' is directed at children and who is uploading the photos.

Below is from the Federal Trade Commission's *COMPLYING WITH COPPA: FREQUENTLY ASKED QUESTIONS website.*

…snip

4. Does the Rule prohibit adults, such as parents, grandparents, teachers, or coaches from uploading photos of children?

COPPA only covers information collected online from children. It does not cover information collected from adults that may pertain to children. Thus, COPPA is not triggered by (1) an adult uploading photos of children on a general audience site, (2) an adult uploading photos of children in the non-child directed portion of an otherwise child-directed website (e.g., a parent's corner), or (3) an age-screened user (age 13 or older) uploading photos of children on a mixed audience site or service.

However, operators of websites or online services that are primarily directed to children (as defined by the Rule) must assume that the person uploading a photo is a child and they must design their systems either to: (1) give notice and obtain prior parental consent, or (2) remove any child images and metadata prior to posting.

Source link.

Items of Interest

Bank Management

	OCC Civil Money Penalties: Notice Adjusting Maximum Civil Money Penalties for 2022 (01.19.2022) - On January 12, 2022, the Office of the Comptroller of the Currency (OCC) published in the Federal Register the attached notice to adjust the maximum amount of each civil money penalty (CMP) within its jurisdiction pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (2015 Adjustment Act). The adjusted maximum penalties are effective as of January 12, 2022, for violations occurring on or after November 2, 2015. Note for Community Banks The OCC may exercise its discretion to impose inflation-adjusted maximum CMPs on any national bank or federal savings association, if appropriate. Highlights The notice updates the inflation-adjusted maximum CMPs that the OCC may impose, using the inflation adjustment required under the 2015 Adjustment Act, as provided by the Office of Management and Budget (OMB) in OMB Memorandum M-22-07 issued on

December 15, 2021. This revision does not affect the OCC's discretion to assess a CMP in an amount lower than the maximum allowed.

Background
The 2015 Adjustment Act requires federal agencies with CMP authority to annually adjust each CMP authorized by law that the agency has jurisdiction to administer in accordance with the guidance published by the OMB. Agencies must adjust their CMPs no later than January 15 of each year and publish those adjustments in the Federal Register.

Related Link
Notification of Inflation Adjustments for Civil Money Penalties (PDF)

Comment: This is an annual inflation adjustment.

CFPB Issues Civil Penalty Inflation Adjustments Final Rule (01.18.2022) - On Jan. 14, 2022, the Bureau announced the annual adjustments for inflation to the Bureau's civil penalty amounts, as required by the Federal Civil Penalties Inflation Adjustment Act, as amended. This final rule became effective on Jan. 15, 2022.

Comment: This is an annual inflation adjustment.

OCC Conditionally Approves SoFi Bank, National Association (01.18.2022) - WASHINGTON—The Office of the Comptroller of the Currency (OCC) conditionally approved applications from Social Finance Inc. (SoFi) to create SoFi Bank, National Association (SoFi Bank, N.A.), as a full service national bank headquartered in Cottonwood Heights, Utah. As part of the transaction, SoFi Bank, N.A. will acquire Golden Pacific Bank, National Association, a national bank insured by the Federal Deposit Insurance Corporation.

Upon consummation of this transaction, SoFi Bank, N.A., will have $5.3 billion in total assets and $718 million in capital at the end of the first year of operation, and will continue to offer a range of local commercial-focused loan offerings and deposit products previously offered by Golden Pacific. The bank will also provide a fully digital, mobile-first national lending platform for consumers across the country. The conditions imposed require specific capital contributions, adherence to an Operating Agreement, and confirmation that the resulting bank will not engage in any crypto-asset activities or services. In addition, the parent company of SoFi Bank, N.A., SoFi Technologies, has applied to the Federal Reserve to become a bank holding company and therefore subject to consolidated supervision.

"This decision brings SoFi, a large fintech, inside the federal bank regulatory perimeter, where it will be subject to comprehensive supervision and the full panoply of bank regulations, including the Community Reinvestment Act. This levels the playing field and will ensure that SoFi's deposit and lending activities are conducted safely and soundly, including limiting the bank's ability to engage in crypto-asset activities," Acting Comptroller Hsu said. "This action is consistent with the comprehensive legal and policy review of pending licensing decisions I initiated last May, and our work with other federal and state regulators to develop a coordinated approach to modernizing the federal regulatory

perimeter. Like every other national bank we supervise, the OCC will require SoFi Bank, N. A., to be adequately capitalized, have strong risk management programs, policies and procedures in place, and provide fair treatment to its customers."

Related Links
OCC Decision Letter to Conditionally Approve SoFi Bank, National Association (PDF)
Acting Comptroller of the Currency Michael J. Hsu

Comment: Curious to see how this issue plays out given that other national banks are permitted to engage in crypto activities.

BSA / AML

FinCEN Announces Inflation Adjustments to BSA Civil Monetary Penalties (01.21.2022) - The Financial Crimes Enforcement Network (FinCEN) is issuing a final rule to reflect annual inflation adjustments to its civil monetary penalties as mandated by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended. This rule adjusts certain maximum civil monetary penalties within the authority of FinCEN to the amounts required by that Act.

Comment: This is an annual inflation adjustment.

Deposit / Retail Operations

FDIC Approves Final Rule Regarding Deposit Insurance Simplification (01.21.2022) - The Federal Deposit Insurance Corporation (FDIC) has published a final rule to amend the deposit insurance regulations for trust accounts and mortgage servicing accounts. The changes are intended to make the deposit insurance rules easier to understand for depositors and bankers, facilitate more timely insurance determinations for trust accounts in the event of a bank failure, and enhance consistency of insurance coverage for mortgage servicing account deposits. The final rule will take effect on April 1, 2024, providing depositors and insured depository institutions more than two years to prepare for the changes in coverage.

The Final Rule and a Fact Sheet can be found on the FDIC's website.

Comment: The fact sheet provided with this final rule is very helpful.

Human Resources

IRS January 31 Wage Statement Deadline Reminder for Employers (01.19.2022) - WASHINGTON — The Internal Revenue Service urged employers to be aware of the January deadline to file Forms W-2 and other wage statements. Filing these documents timely helps employers avoid penalties and helps the IRS in fraud prevention.

A 2015 law made it a permanent requirement that employers file copies of their Form W-2, Wage and Tax Statements, and Form W-3, Transmittal of Wage and Tax Statements, with the Social Security Administration by January 31.

Forms W-2 are normally due to workers by January 31. Forms 1099-MISC, Miscellaneous Information and Forms 1099-NEC, Nonemployee Compensation, are also due to taxpayers by January 31. Various other due dates related to Form 1099-MISC and Form 1099-NEC, including dates due to the IRS, can be found on the form's instructions PDF at IRS.gov.

Fraud detection
The normal January filing date for wage statements means that the IRS can more easily detect refund fraud by verifying income that individuals report on their tax returns. Employers can help support that process and avoid penalties by filing the forms on time and without errors.

The IRS and SSA encourage all employers to e-file. It is the quickest, most accurate and convenient way to file these forms. For more information about e-filing Forms W-2 and a link to the SSA's Business Services Online website, visit the SSA's Employer W-2 Filing Instructions & Information website at SSA.gov/employer.

Use same employer identification number on all forms
Employers should ensure the employer identification number (EIN) on their wage and tax statements (Forms W-2, W-3, etc.) and their payroll tax returns (Forms 941, 943, 944, etc.) match the EIN the IRS assigned to their business. They should not use their Social Security number (SSN) or Individual Taxpayer Identification number (ITIN) on forms that ask for an EIN.
If an employer used an EIN (including a prior owner's EIN) on their payroll tax returns that's different from the EIN reported on their W-3, they should review General Instructions for Forms W-2 and W-3 PDF, Box h—Other EIN used this year.

Filing these forms with inconsistent EINs or using another business's EIN may result in penalties and delays in processing an employer's returns. Even if an employer uses a third-party payer (such as a Certified Professional Employer Organization, Professional Employer Organization, or other third party) or a different entity within their business to file these documents, the name and EIN on all statements and forms filed must be consistent and exactly match the EIN the IRS assigned to their business. For more information on third-party arrangements, see Publication 15, Employer's Tax Guide.

Extensions
Employers may request a 30-day extension to file Forms W-2 by submitting a complete application on Form 8809, Application for Extension of Time to File Information Returns by January 31. However, one of the criteria in Section 7 of Form 8809 must be met for the extension to be granted.

Filing Form 8809 does not extend the due date for furnishing wage statements to employees. A separate extension of time to furnish Forms W-2 to employees must be filed

	by January 31. See Extension of time to furnish Forms W-2 to employees for more information. Additional information can be found on the instructions for Forms W-2 & W-3 and the Information Return Penalties page at IRS.gov.

Lending

	CFPB HMDA 2022 Filing Reminders and Tips #1 (01.18.2022) - The 2022 HMDA filing season (for 2021 HMDA data) is in full swing. Here are some reminders and tips for preparing and uploading your submission. • Filing Season Dates: The 2022 filing season is now open for HMDA Data submissions. It will close for on-time submissions on Tuesday, March 1, 2022. • Need to Test a File?: Filers are encouraged to use the HMDA Beta Platform to test their loan/application register (LAR) files prior to submission. The HMDA Beta Platform (https://ffiec.beta.cfpb.gov/filing/) is available on an ongoing basis for filers and vendors to test files and review platform updates. Please note that the Beta Testing Platform is for testing purposes only. Data entered on the Beta Testing Platform will NOT be considered a HMDA submission for compliance with HMDA data reporting requirements. • What's my User Account? Users can log in to the 2021 HMDA Data Platform using their existing credentials from previous filing seasons. If you are new to filing HMDA data and do not have an account, please fill out a registration form here: https://hmdahelp.consumerfinance.gov/accounthelp/. • LEI Reminder: The LEI, or Legal Entity Identifier, used to register with the HMDA Platform and submit HMDA data must relate to the institution covered by Regulation C. An institution may not use an LEI assigned to a parent company, holding company, or other affiliated institution. • Open End Threshold: Effective, January 1, 2022, the threshold for reporting data about open-end lines of credit is 200 in each of the two preceding calendar years. • Initially Payable Data Field Reminder: Except for purchased covered loans and transactions covered by a partial exemption, an institution must report whether the obligation arising from a covered loan was, or for an application would have been, initially payable to the institution. An institution can report "not applicable" for the initially payable data field only if it had not determined whether the loan would have been initially payable to the institution reporting the application when the application was withdrawn, denied, or closed for incompleteness. Therefore, an institution cannot report "not applicable" for this data field if it has determined to whom the application would have been initially payable at the time the application was withdrawn, denied, or closed for incompleteness.

	Have a question? We have an answer. HMDA filers can contact HMDA Help at hmdahelp@cfpb.gov throughout the filing for data questions, filing help, and other inquiries. Find additional answers to your filing questions here: https://ffiec.cfpb.gov/documentation/2021. ***Comment: Remember that data submitted on the Beta Platform (used to test data prior to submission) will not be considered for compliance with HMDA data reporting requirements. And the final rule reporting threshold for open-end lines of credit is 200 in each of the two preceding calendar years, which became effective January 1.***
	SCMedia Mortgage Lenders Face Jump in Fraud Costs, Attack Volumes Since Pandemic Began (01.19.2022) - The combination of heightened malicious attacks in the past two years, coupled with low-interest rates that have fueled a hot real estate market, and more financial employees working from home has created a perfect storm for a boom in fraud hitting U.S. mortgage lenders. The cost of fraud overall for U.S. banks and lenders has leapt between 6.7% and 9.9%, according to a recent report conducted late last year by LexisNexis Risk Solutions in Atlanta. Indeed, both fraud costs and attack volumes have hit mortgage lenders much harder in recent months than before the COVID pandemic began nearly two years ago, per the findings of the 2021 edition of the LexisNexis True Cost of Fraud Study: Financial Services & Lending. The report was based on a survey of more than 500 risk and fraud management executives in the United States and Canada. ***Comment: One frightening statistic in the article is that for every actual dollar of mortgage fraud loss, the real cost to the lender is in excess of four dollars.***
	FRB Releases Results of Survey Of Senior Financial Officers at Banks About Their Strategies and Practices for Managing Reserve Balances (01.18.2022) - The Federal Reserve Board on Tuesday released results of a survey of senior financial officers at banks about their strategies and practices for managing reserve balances. The Senior Financial Officer Survey is used by the Board to obtain information about deposit pricing and behavior, bank liability management, the provision of financial services, and reserve management strategies and practices. The most recent survey was conducted in collaboration with the Federal Reserve Bank of New York between November 5, 2021, and November 19, 2021, and includes responses from banks that held approximately three quarters of total banking system reserve balances at the time of the survey. Information about the survey is available on the Board's website. The November 2021 survey is attached.

Technology / Security

Selected federal rules – proposed

Proposed rules are included only when community banks may want to comment. Date posted may not be the same as the Federal Register Date.

PROPOSED RULE WITH REQUEST FOR PUBLIC COMMENT

12.08.2021 Beneficial Ownership Information Reporting Requirements - FinCEN is promulgating proposed regulations to require certain entities to file reports with FinCEN that identify two categories of individuals: The beneficial owners of the entity; and individuals who have filed an application with specified governmental authorities to form the entity or register it to do business. The proposed regulations would implement Section 6403 of the Corporate Transparency Act (CTA), enacted into law as part of the National Defense Authorization Act for Fiscal Year 2021 (NDAA), and describe who must file a report, what information must be provided, and when a report is due. Requiring entities to submit beneficial ownership and company applicant information to FinCEN is intended to help prevent and combat money laundering, terrorist financing, tax fraud, and other illicit activity. Once finalized, these proposed regulations will affect a large number of entities doing business in the United States. This document also invites comments from the public regarding all aspects of the proposed regulations as well as comments in response to specific questions. **DATES: Written comments on this proposed rule may be submitted on or before February 7, 2022.**