



Capitol Comments October 2016

When there is a deadline associated with an item, you will see this graphic: 

Joint federal agency issuances

FFIEC issues revised MLA exam procedures

The Task Force on Consumer Compliance of the FFIEC recently developed [interagency Military Lending Act \(MLA\) examination procedures](#).¹ The MLA and its implementing regulation contain limitations on and requirements for certain types of consumer credit extended to active duty service members and their spouses, children, and other dependents. These revised examination procedures supersede the interagency MLA examination procedures transmitted with CA 08-4.

Comment: The revised examination procedures reflect amendments to the MLA implementing regulation made by the U.S. Department of Defense (DOD) in a final rule issued in July 2015 ([80 FR 43560 \(July 22, 2015\)](#))² and effective October 3, 2016 (effective for credit cards on October 3, 2017).

FFIEC hosts cybersecurity webinars

The FFIEC will host two webinars for financial institutions in October in recognition of National Cybersecurity Awareness Month.

Mobile Financial Services — Appendix E of the Retail Payment System Booklet, took place on October 13, 2016, at 3 p.m. Eastern, but it is available [here](#)³. The FFIEC members updated the Information Technology examination handbook on April 29 to address financial institutions' use of new and emerging technologies, specifically the rapid proliferation and technological advancements in the use and capabilities of mobile devices with respect to financial services. This webinar will provide an overview of the contents of the Appendix E of the Retail Payments Systems booklet and an opportunity to receive answers to questions regarding mobile financial services.

Getting the Most Out of Your FS-ISAC Membership, October 31, 2016, 1 p.m. Eastern. On Nov. 3, 2014, the FFIEC members issued a statement on Cybersecurity Threat and Vulnerability Monitoring and Sharing that encouraged financial institutions to join the Financial Services-Information Sharing and Analysis Center (FS-ISAC). Many financial institutions have expressed a desire to gain a better understanding on how to filter and utilize the information they receive through this membership service. This webinar will feature a guest speaker from the FS-ISAC who will provide tips on how to manage the information flow and filter information through the membership portal. Click [here](#)⁴ to register.

CFPB actions

Court finds CFPB structure unconstitutional

The CFPB barely survived a [decision](#) handed down by a three-judge panel in *PHH Corporation v. Consumer Financial Protection Bureau*, the United States Court of Appeals for the District of Columbia. But survive it did. PHH, which had Director Cordray increase a \$6.4 million sanction to \$109 million upon appeal, sued the agency in 2015 alleging, among other things, that the agency's structure violates the constitutional separation of powers. The court agreed with PHH's separation of powers argument but citing Supreme Court precedent, it provided a very narrow remedy. The remedy struck a Dodd-Frank provision that said a President could only remove the CFPB's director for cause. According to the decision, "... the President now will have the power to remove the Director at will, and to supervise and direct the Director. The CFPB therefore will continue to operate and to perform its many duties, but will do so as an executive agency akin to other executive agencies headed by a single person...."

Comment: In addition to the separations of powers ruling, the court reached a couple of other important conclusions. The court concluded that the CFPB is subject to the three-year statute of limitations on RESPA administrative actions. Further, the court ruled that the agency could not retroactively apply an interpretation of RESPA that was substantially different from previous interpretations by HUD. This ruling is important for marketing services agreements that were entered into under HUD rules.

CFPB issues prepaid rules affecting payroll cards

Despite the fact that there is no data supporting the need to modify the rules in Regulation E relating to payroll cards--which are working quite well--the CFPB amended Regulations E and Z to create consumer protections for prepaid financial products, including payroll cards. The rules are effective October 1, 2017, although the requirement to submit account agreements to the CFPB is effective October 1, 2018. The rules' key changes:

- Add a requirement to provide pre-acquisition disclosures to consumers;
- Add a requirement to include disclosures on the access device or, if no physical device, then on a website, mobile application, or other entry point;
- Require additional information in initial disclosures, and revise model clauses;
- Expand the circumstances under which a financial institution may be required to provide a change in terms notice;
- Increase the time period that must be covered in account transaction histories that are provided under the periodic statement alternative;
- Require additional fee information in periodic statements and account histories;
- Add requirements regarding submission of and consumer access to payroll card account agreements; and
- **In certain circumstances, subject payroll cards to Regulation Z and its credit card rules if the card can be used to access an overdraft credit feature.**

The CFPB created a [document](#) that outlines these changes, which can be found on the CFPB's [prepaid rule implementation page](#), along with other resources, including links to the rules, an executive summary, key changes for government benefit accounts, a prepaid account coverage chart, and model and sample pre-acquisition disclosure forms.

Comment: In an American Banker article, consumer finance reporter Kate Berry describes many of the nuances of the rule and addresses the opposition to it coming from both consumer advocates and banks on how it treats overdraft fees: [CFPB Holds the Line on Overdraft in Final Prepaid Card Rule](#).⁵ (Subscription required.)

CFPB creates placemat to warn senior of financial exploitation

To help warn older consumers, the CFPB is working with Meals on Wheels America and other meal service providers to deliver new mail fraud alert placemats to seniors receiving meals nationwide. The placement (see figure below) gives consumers tips on [how to spot suspicious mail](#)⁶ and what to do to protect themselves. Click [here](#)⁷ to order the mail fraud placemat in bulk.

Comment: Maybe your bank can order these in bulk and provide them to local senior centers, nursing homes, and retirement homes. For more information on identifying and preventing financial exploitation, you can download the CFPB's and FDIC's [Money Smart for Older Adults](#) guide (page 8 contains common financial exploitation schemes). If a customer won't believe you when you tell them they are being exploited, maybe they'll trust a brochure from the CFPB. To help financial caregivers protect family members and friends, the CFPB also offers [Managing Someone Else's Money](#) guides (covering powers of attorney, guardianships, trusts, and government fiduciaries). For a variety of other useful financial information, visit the CFPB's [older Americans page](#). You might keep some of these guides handy for your senior customers and for those managing the money of others.



CFPB releases results of Project Catalyst

The CFPB released the [results of a Project Catalyst](#)⁸ research project finding that offering a small incentive to prepaid card users to put some of their money into a savings “wallet” doubled uptake of the wallet. The study also found that the consumers who chose to save using the wallet continued to save after the pilot ended. And it found that participants who were offered an incentive to open the savings wallet reported significantly less payday loan use than those who were not offered the incentive.

Comment: Click [here](#)⁹ for more information on Project Catalyst.

CFPB updates TRID resources

The CFPB published on its website updated versions of the Know Before You Owe mortgage disclosure rule Small Entity Compliance Guide and the Guide to Forms. The documents can be accessed on the [TILA-RESPA implementation webpage](#).¹⁰

CFPB monthly complaint report – September

The CFPB issued its [monthly complaint report](#)¹¹ to provide a high-level snapshot of trends in consumer complaints. The CFPB has handled approximately 982,400 complaints since September 1, 2016.

Comment: As you can see from Table 1, the CFPB has been asking for complaints on student loans and, in response, they have increased 78% from the same period in 2015.

TABLE 1: CHANGE IN COMPLAINT VOLUME

	% change	3 month average: Jun - Aug 2015	3 month average: Jun - Aug 2016
Student loan	78%	642	1,141
Bank account or service	26%	2,002	2,524
Prepaid	20%	187	225
Credit card	16%	1,927	2,243
Consumer loan	8%	1,260	1,359
Other financial service	5%	188	199
Debt collection	0%	7,732	7,726
Credit reporting	-7%	5,478	5,078
Money transfer	-11%	221	197
Mortgage	-11%	4,692	4,170
Payday loan	-18%	461	379
Total	2%	24,989	25,508

CFPB creates safe harbor for URLA use

The CFPB published a [Bureau Official Approval](#)¹² pursuant to section 706(e) of the Equal Credit Opportunity Act concerning the new Uniform Residential Loan Application and the collection of expanded Home Mortgage Disclosure Act information about ethnicity and race in 2017.

Comment: The CFPB determined that the language in the 2016 URLA is in compliance with Reg. B rules concerning requests for information about race, color, religion, national origin, sex, marital status, income from alimony, child support, separate maintenance, childbearing, and childrearing. The Approval provides this safe harbor under ECOA and Reg. B for lenders using the URLA:

The Bureau of Consumer Financial Protection (Bureau) administers the Equal Credit Opportunity Act (ECOA), 15 U.S.C. 1691, et seq. and its implementing regulation, Regulation B, 12 CFR part 1002. Section 706(e) of ECOA, as amended, provides that no provision of ECOA imposing liability shall apply to any act done or omitted in good faith in conformity with any official rule, regulation, or interpretation thereof by the Bureau or in conformity with any interpretation or approval by an official or employee of the Bureau duly authorized by the Bureau to issue such an interpretation or approval. This notice (Bureau official approval) constitutes such an interpretation or approval, and therefore section 706(e) protects a creditor from civil liability under ECOA for any act done or omitted in good faith in conformity with this notice.

CFPB corrects clerical errors to Reg. E

The CFPB made certain clerical and non-substantive corrections to errors it identified in Reg. E.

Comment: The corrections:

- *The definition of “automated teller machine operator” is set forth in § 1005.16(a). Accordingly, this final rule corrects the erroneous cross reference in § 1005.7(b)(11) by changing it from § 1005.16(a)(1) to § 1005.16(a).*
- *Model Form A-37 in appendix A to part 1005 sets forth language about the rights of a remittance transfer sender regarding error resolution and cancellation. The form should contain language that informs a sender that the sender can contact the State agency that licenses or charters a remittance transfer provider and the Bureau for questions or complaints about the remittance transfer provider. However, the model form that was adopted only included this language in part.*
- *Comment 33(a)-9 explains the application of § 1005.33(a)(1)(iv)(D). However, it erroneously cross-referenced § 1005.30(h)(2) when it should have cross-referenced § 1005.33(a)(1)(iv)(D).*
- *The existence of two separate headings for the commentary to § 1005.36 is a clerical error.*

CFPB takes action against Navy Federal Credit Union

The CFPB took [action](#)¹³ against Navy Federal Credit Union for making false threats about debt collection to its members, which include active-duty military, retired servicemembers, and their families. The credit union also unfairly restricted account access when members had a delinquent loan. Navy Federal Credit Union is correcting its debt collection practices and will pay roughly \$23 million in redress to victims along with a civil money penalty of \$5.5 million.

Comment: The CFPB found that NFCU:

- *Falsely threatened legal action and wage garnishment.*
- *Falsely threatened to contact commanding officers to pressure servicemembers to repay.*
- *Misrepresented credit consequences of falling behind on a loan.*
- *Illegally froze members’ access to their accounts after they became delinquent.*

Those collecting debts in your bank should at least read the [news release](#)¹⁴ if not the entire [consent order](#).¹⁵ A debt collector shouldn’t make threats to do something the debtor does not intend to do or does not have the right to do. If your collectors often threaten legal action, but you never take legal action against debtors, it becomes clear that you never intended to sue. Although banks collecting debts on their own behalf are not subject to the Fair Debt Collection Practices Act, your collectors should familiarize themselves with it and comply to the extent possible. There is a new sheriff in town—the CFPB—and they are likely to consider failure to comply with the FDCPA a UDAAP violation. Tip: If your in-house collector uses a name other than the bank’s name which would indicate a third party is collecting, they become a debt collector under FDCPA.

CFPB blog

[Lo que necesita saber para recibir dinero del acuerdo de compensación con Honda Finance por cobrarles de más a las minorías](#)

[New financial empowerment tools for native communities](#)

[Administrador del Acuerdo de Provident planea ponerse en contacto con prestatarios elegibles próximamente](#)

[We’ve issued a new rule to help protect consumers using prepaid accounts](#)

[What you need to know to get money from the settlement with Honda Finance for overcharging minorities](#)

[Project Catalyst research pilot: Tools for saving](#)

[We're exploring the use of a list of companies that offer free credit scores](#)

[Provident Settlement Administrator to contact eligible borrowers soon](#)

[What happens to you counts](#)

[You have the right to pay off your student loan as fast as you can, without a penalty](#)

[How to avoid credit repair service scams](#)

[Don't let malicious mail make off with your money](#)

[La deuda estudiantil afecta considerablemente a las comunidades de color](#)

[The significant impact of student debt on communities of color](#)

FDIC actions

FDIC launches Spanish language website

The FDIC launched a new [Spanish-language website](#) with links to the agency's available resources in Spanish as the nation observes Hispanic Heritage Month.

Comment: The new website, "[Recursos para Consumidores en español](#)," features links to webinars and video presentations that cover topics such as deposit insurance, consumer protection, and the FDIC's Money Smart education program.

FDIC reminder of Call Report changes

The [FDIC reminds bankers](#)¹⁶ that the Call Report for the September 30, 2016, report date must be submitted to the agencies' Central Data Repository by Sunday, October 30, 2016. Certain institutions with foreign offices have an additional five calendar days to file their reports. As part of the FFIEC community bank Call Report burden-reduction initiative, a number of burden-reducing and other changes to the Call Report take effect this quarter.

Comment: According to FIL-63-2016, a number of Call Report revisions take effect this quarter, including:

- *Deletions of certain existing data items in three schedules;*
- *Increases in existing reporting thresholds and the establishment of a new threshold for certain data items in six schedules; and*
- *New and revised data items and information, some of which are of limited applicability. These revisions include Chief Executive Officer contact information; a field for an institution's Legal Entity Identifier, if any; preprinted captions for itemizing components of certain data items; the removal of references to extraordinary items; a data item for "dually payable" deposits in foreign branches; and supplementary leverage ratio data.*

OCC actions

OCC issues Charters booklet

OCC issued the “[Charters](#)”¹⁷ booklet of the Comptroller’s Licensing Manual. This revised booklet replaces the booklet of the same title issued in February 2009. The revised booklet incorporates updated chartering procedures and requirements following the integration of the OTS into the OCC in 2011 and the issuance of revised regulations (12 CFR 5) that became effective July 1, 2015, addressing chartering of both national banks and federal savings associations.

OCC to host director’s workshop in Little Rock

The OCC will host [two workshops in Little Rock, Ark.](#),¹⁸ at the Wyndham Riverfront Little Rock, Nov. 15-16, for directors of national community banks and federal savings associations supervised by the OCC.

Federal Reserve actions

Fed issues September FOMC statement

Information received since the Federal Open Market Committee met in July indicated that the labor market continued to strengthen and growth of economic activity picked up from the modest pace seen in the first half of this year. Although the unemployment rate is little changed in recent months, job gains have been solid, on average. Household spending has been growing strongly but business fixed investment has remained soft. Inflation has continued to run below the Committee's 2 percent longer-run objective, partly reflecting earlier declines in energy prices and in prices of non-energy imports. Market-based measures of inflation compensation remain low; most survey-based measures of longer-term inflation expectations are little changed, on balance, in recent months.

The Committee decided to maintain the target range for the federal funds rate at 1/4 to 1/2 percent. [Press release.](#)¹⁹

FedACH Settlement Tips

Federal Reserve Bank Services offered FedACH settlement tips. The [FedACH Settlement Advice Clarification/Reminder](#)²⁰ includes two tools available to assist in balancing.

Other federal action and news

HUD issues guidance for people with limited English proficiency

HUD issued "[Limited English Proficiency](#)" (LEP) guidance²¹ that addresses how the Fair Housing Act would apply to claims of housing discrimination brought by people because they do not speak, read, or write English proficiently. More than 25 million people in the United States do not communicate proficiently in English.

Comment: In addition to the new LEP guidance, which is limited to the Fair Housing Act, HUD published a "[Notice of Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons](#)"²² in 2007.

HUD rule: Core shelter programs’ access in accordance with gender identity

HUD published a final rule to ensure that all individuals have equal access to many of the Department's core shelter programs in accordance with their gender identity. [Equal Access in Accordance with an Individual's Gender Identity in Community Planning and Development Programs](#).²³

In February of 2012, HUD published an [Equal Access Rule](#) to make certain that housing assisted or insured by HUD is open to all eligible individuals and families without regard to actual or perceived sexual orientation, gender identity or marital status. That rule provided a limited exception in cases involving single-sex emergency shelters with shared sleeping areas or bathrooms. At that time, HUD decided not to set national policy regarding how transgender persons would be accommodated in these facilities, but instead decided to monitor and review its programs to determine if additional guidance or a national policy was warranted.

Comment: Following what had previously been a practice encouraged by HUD, providers that operate single-sex projects using funds awarded through the Department's Office of Community Planning and Development (CPD) will now be required to provide all individuals, including transgender individuals and other individuals who do not identify with the sex they were assigned at birth, with access to programs, benefits, services, and accommodations in accordance with their gender identity without being subjected to intrusive questioning or being asked to provide documentation. HUD's new rule will require a recipient, subrecipient, or provider to establish, amend, or maintain program admissions, occupancy, and operating policies and procedures (including policies and procedures to protect individuals' privacy and security), so that equal access is provided to individuals based on their gender identity. This requirement includes tenant selection and admission preferences.

SEC will hold fintech forum

The SEC will host a public forum to discuss financial technology (Fintech) innovation in the financial services industry. The forum is designed to foster greater collaboration and understanding among regulators, entrepreneurs and industry experts into Fintech innovation and evaluate how the current regulatory environment can most effectively address these new technologies. The Fintech forum will be held at the SEC's Washington D.C. headquarters on Nov. 14 and will be open to the public and webcast live on the SEC's website. Information on the agenda and participants will be published in the coming weeks.

FHFA on Principal Reduction Modification

Fannie Mae and Freddie Mac are offering a one-time [Principal Reduction Modification](#) to certain borrowers who are still struggling in the aftermath of the financial crisis. The FHFA is telling borrower's whose mortgages are owned by Fannie Mae or Freddie Mac to check their mail for information.

Comment: Eligible persons could obtain a principal reduction to help avoid foreclosure and stay in their homes by reducing their monthly payments and the amount they owe on their mortgage.

Publications, articles, reports, studies, testimony & speeches

People of color more likely to rely on student loans

Federal government data shows that over 90 percent of African-American and 72 percent of Latino students leave college with student loan debt, compared to 66 percent of white students and 51 percent of Asian-American students. While Asian-American students may be less likely to borrow federal student loans, separate research has shown that Asian-American students who need to borrow more than \$30,000 may be more likely to rely on private student loans to finance their higher education—loans that offer fewer consumer protections for borrowers. [Read the CFPB blog article](#).²⁴

Percent of undergraduates with student loan debt

Percent of fourth-year undergraduate students ages 18 to 24 with student loan debt by race



Source: U.S. Department of Education, National Center for Education Statistics, 2011-12 National Postsecondary Student Aid Study (NPSAS:12)

Curry speaks on lessons learned from the crisis

On September 15, 2016, Thomas J. Curry, Comptroller of the Currency, [spoke](#)²⁵ at the Harvard Kennedy School about the four lessons of the financial crisis: 1. Insufficient capital; 2. Excess leverage; 3. The need for ample liquidity; and 4. Effective supervision.

Fed: Mortgage Debt Outstanding

The Federal Reserve released its September report on [outstanding mortgage debt](#).²⁶

Comptroller of the Currency testifies on Wells Fargo

Click [here](#)²⁷ to read Comptroller Thomas J. Curry's written testimony before the Senate Committee on Banking, Housing, and Urban Affairs regarding sales practices at Wells Fargo. The Comptroller additionally read an [oral statement](#)²⁸ to the committee.

Comment: Comptroller Curry closed his written testimony by saying that he is committed to making sure the OCC completes its review of the matter and takes additional action against individuals and the bank if they are warranted.

CFPB Director Cordray written testimony on Wells Fargo

Richard Cordray, Director, CFPB, submitted [written testimony](#)²⁹ on the sales practices of Wells Fargo to the Senate Committee on Banking, Housing, and Urban Affairs.

Comment: Director Cordray said that their order helps answer the question "what is abusive?" He said that he has been asked from time to time by committee members what the term "abusive" means in the governing statute and the CFPB did not hesitate to apply it emphatically to what they found here. According to Cordray, their order accomplishes several things: 1) provide detail to expose Wells Fargo's illegal misconduct, including its scale; 2) answer the question of what is abusive; 3) ensure harmed consumers are compensated; 4) impose their largest fine to date; and 5) install independent consultants at Wells Fargo to complete further work until all consumers are fully compensated.

FDIC Chair Gruenberg on Deposit Insurance Fund

In his [prepared statement](#),³⁰ FDIC Chairman Martin J. Gruenberg, stated that the Deposit Insurance Fund stood at almost \$78 million at the end of June. This results in a reserve ratio of 1.17 percent. This is the highest ratio in over eight years.

August new residential construction activity

HUD and the Census Bureau [jointly announced](#)³¹ new residential construction statistics for August 2016.

FHFA releases quarterly foreclosure report

The FHFA released its [second quarter Foreclosure Prevention Report](#)³² showing that Fannie Mae and Freddie Mac completed 48,438 foreclosure prevention actions in the second quarter of 2016, bringing the total number of foreclosure prevention actions to more than 3.7 million since the start of the conservatorships in September 2008. The report also shows that the serious delinquency rates of Fannie Mae and Freddie Mac loans declined to their lowest levels since 2008.

OCC releases quarterly mortgage performance metrics

Performance of first-lien mortgages improved during the second quarter of 2016 compared with a year earlier, according to the OCC quarterly report on mortgages. The [OCC Mortgage Metrics Report](#),³³ Second Quarter 2016, showed 94.7 percent of mortgages included in the report were current and performing at the end of the quarter, compared with 93.8 percent a year earlier.

FFIEC releases 2015 HMDA data

The FFIEC [announced](#)³⁴ the availability of data on mortgage lending transactions at 6,913 U.S. financial institutions covered by HMDA. Covered institutions include banks, savings associations, credit unions, and mortgage companies. The HMDA data made available today cover 2015 lending activity.

Fed's Semiannual Report on Banking Applications Activity

The [Report on Banking Applications Activity: January 1–June 30, 2016](#),³⁵ provides information regarding the applications filed by banking organizations and reviewed by the Federal Reserve as of the most recent reporting period ending on June 30 and December 31 of each calendar year.

Comment: In the first half of 2016, 127 M&A proposals were approved, compared with 136 approved in the first half of 2015.

FedFlash

[FedFlash](#)³⁶ is your source for the latest Federal Reserve Financial Services operational news. Each bulletin keeps you informed of issues critical to your day-to-day operations, providing you with National and District updates regarding the Fed's products and services, processes, technical protocols and contact information. In this month's edition:

Check/Check 21 Services

- [Year-end freeze period for Check Services](#)

FedACH® Services

- [New ACH Same Day Originated Batch Report](#)
- [Same Day ACH balancing and settlement tips](#)

- [New FedPayments® Reporter ACH Received Entries Detail Report](#)

FedCash® Services

- [Reminder - 2016 holiday currency special ordering information now available](#)

General

- [Electronically process audit confirmation requests using Confirmation.com](#)
- [Reminder - New layout for financial services forms](#)

FedFocus

[FedFocus](#)³⁷ is the source for the latest Federal Reserve Financial Services news. Each edition keeps you informed about hot topics in the industry, as well as provides insight into the value of Federal Reserve Financial Services. In this month's edition:

- [Introducing the Business Payments Coalition: The former Remittance Coalition broadens its mission](#)
- [New and long-standing customers revere the Fed's Check Adjustment webinars](#)
- [Fed Facts: What designates a federal holiday?](#)
- [On-demand webcasts: There when you need them](#)

Fed consumer credit report

The Fed issued the [Consumer Credit – G.19 report for August 2016](#)³⁸. In August, consumer credit increased at a seasonally adjusted annual rate of 8-1/2 percent. Revolving credit increased at an annual rate of 7 percent, while nonrevolving credit increased at an annual rate of 9 percent.

Selected federal rules proposed

Proposed rules are included only when community banks may want to comment.

COMMENTS

CLOSE	SUMMARY OF PROPOSED RULE
-------	--------------------------

10.18.2016	The CFPB released a proposal to update its TILA-RESPA Integrated Disclosure rule ³⁹ to memorialize informal guidance and offer clarifications. Among the proposed changes are updates to the tolerance provisions for the total of payments, clarification that recording fees and transfer taxes may be charged in connecting with housing-assistance lending, an extension of the rules coverage to all cooperative units, and clarification about how a creditor may provide separate disclosure forms to the consumer and seller. The proposal may be most notable for the issues it didn't address—technical error resolution and simultaneous issue of title policies. Comments will be accepted until October 18, 2016. Federal Register entry . ⁴⁰
10.27.2016	Examination Guidance for Third-Party Lending . ⁴¹ The proposed third-party lending guidance outlines the risks that may be associated with third-party lending as well as the expectations for a risk-management program, supervisory considerations, and examination procedures related to third-party lending.

COMMENTS CLOSED

08.22.2016	Arbitration Agreements . ⁴² The CFPB proposed to establish 12 CFR part 1040, which would contain regulations governing two aspects of consumer finance dispute resolution. First, the proposed rule would prohibit covered providers of certain consumer
------------	---

financial products and services from using an agreement with a consumer that provides for arbitration of any future dispute between the parties to bar the consumer from filing or participating in a class action with respect to the covered consumer financial product or service. Second, the proposal would require a covered provider that is involved in an arbitration pursuant to a pre-dispute arbitration agreement to submit specified arbitral records to the CFPB. The CFPB proposes that the rulemaking would apply to certain consumer financial products and services. The CFPB is also proposing to adopt official interpretations to the proposed regulation.

- 09.01.2016 [FDIC adjustment of maximum CMPs](#).⁴³ This interim final rule adjusts the maximum limit for CMPs according to inflation as mandated by Congress in the 2015 Adjustment Act. The intended effect of annually adjusting maximum civil money penalties in accordance with changes in the Consumer Price Index is to minimize any distortion in the real value of those maximums due to inflation, thereby promoting a more consistent deterrent effect in the structure of CMPs. Other technical changes to 12 CFR part 308 are intended to improve the transparency of the regulation and to assist readers in quickly identifying the applicable CMP amounts.
- 09.06.2016 [Appraisals for Higher-Priced Mortgage Loans Exemption Threshold](#)⁴⁴. The OCC, the Federal Reserve and the CFPB published proposed rules amending the official interpretations for their regulations that implement a section of the Truth in Lending Act that establishes special appraisal requirements for HPMLs. The Agencies issued joint final rules implementing these requirements, effective January 18, 2014. The Agencies' rules exempted, among other loan types, transactions of \$25,000 or less, and required that this loan amount be adjusted annually based on any annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W). If there is no annual percentage increase in the CPI-W, the OCC, the Federal Reserve and the CFPB will not adjust this exemption threshold from the prior year. The proposal would memorialize this as well as the agencies' calculation method for determining the adjustment in years following a year in which there is no annual percentage increase in the CPI-W. Comments must be received by September 6, 2016.
- 10.07.2016 [Payday, Vehicle Title, and Certain High-Cost Installment Loans](#).⁴⁵ The CFPB proposed to establish 12 CFR part 1041, which would contain regulations creating consumer protections for certain consumer credit products. The proposal generally would cover two categories of loans. First, the proposal generally would cover loans with a term of 45 days or less. Second, the proposal generally would cover loans with a term greater than 45 days, provided that they (1) have an all-in annual percentage rate greater than 36 percent; and (2) either are repaid directly from the consumer's account or income or are secured by the consumer's vehicle. For both categories of covered loans, the proposal would identify it as an abusive and unfair practice for a lender to make a covered loan without reasonably determining that the consumer has the ability to repay the loan. The proposal generally would require that, before making a covered loan, a lender must reasonably determine that the consumer has the ability to repay the loan. The proposal also would impose certain restrictions on making covered loans when a consumer has or recently had certain outstanding loans. The proposal would provide lenders with options to make covered loans without satisfying the ability-to-repay requirements, if those loans meet certain conditions. The proposal also would identify it as an unfair and abusive practice to attempt to withdraw payment from a consumer's account for a covered loan after two consecutive payment attempts have failed, unless the lender obtains the consumer's new and specific authorization to make further withdrawals from the account. The proposal would require lenders to provide certain notices to the consumer before attempting to withdraw payment for a covered loan from the consumer's account. The proposal would also prescribe processes and criteria for registration of information systems, and requirements for furnishing loan information to and obtaining consumer reports from those registered information systems. The CFPB is proposing to adopt official interpretations to the proposed regulation. [Comments](#)⁴⁶ are due on or before October 7, 2016.
- 10.11.2016 The federal banking agencies are calling for comments on a proposed, new, and streamlined Call Report for small financial institutions. The [proposal](#),⁴⁷ from the FDIC, OCC, and Federal Reserve, would affect financial institutions with domestic offices only and less than \$1 billion in total assets, which is 90 percent of institutions required to file Call Reports. The proposal would reduce the Call Report from 85 to 61 pages and result in the removal of about 40% (950) of the data items. Some data items would be eliminated and reporting frequency would be reduced for others. Five schedules would be consolidated into a single new supplemental schedule for certain complex and specialized activities. [FFIEC press release](#).⁴⁸ According to the [Federal Reserve entry](#), the deadline for comments is October 11, 2016
- 10.14.2016 The FDIC, the Federal Reserve, and the OCC are requesting comment on a [proposed new streamlined Call Report](#)⁴⁹ for eligible small institutions. The agencies are proposing that the new FFIEC 051 Call Report for eligible small institutions and the proposed changes to the FFIEC 041 and FFIEC 031 Call Reports would take effect March 31, 2017. The agencies propose to define "eligible small institutions" as institutions with total assets less than \$1 billion and domestic offices only. Such institutions currently file the FFIEC 041 Call Report. Eligible small institutions would have the option to file the FFIEC 041 Call Report rather than the FFIEC 051. A small institution otherwise eligible to file the FFIEC 051 Call Report may be required to file the FFIEC 041 based on supervisory needs. [FIL-53-2016](#)⁵⁰

Selected federal rules recently adopted



Not all final rules are included. Only rules affecting community banks are reported, but we make no guarantees that these are all the final rules your bank needs to know about.

EFFECTIVE

DATE:

SUMMARY OF FINAL RULE:

No relevant recently adopted final rules.

Selected federal rules - upcoming effective dates

 Not all final rules are included. Only rules affecting community banks are reported, but we make no guarantees that these are all the final rules your bank needs to know about.

EFFECTIVE

DATE: SUMMARY OF FINAL RULE:

- 1 yr. from pub. [Mortgage Servicing Rules](#).⁵¹ The CFPB updated its mortgage servicing rules and expanded foreclosure protections. The final rule provides protections when a mortgage is transferred between servicers. Mortgage servicers must now offer mitigation services more than once if a borrower brings their mortgage current, then again becomes delinquent. The rule provides additional protections to mortgagors who acquired the mortgage, often through death or divorce. The rules require servicers to provide periodic statements to borrowers in bankruptcy in certain circumstances. The statements must contain specific information tailored for bankruptcy and about loss mitigation options. The CFPB published a summary for consumers on its website. **Servicers have a full year from the upcoming publication date (and for some changes 18 months) to implement the rules.**
- 12.01.2016 [Overtime Rule](#).⁵² In this Final Rule the Department updates the standard salary level and total annual compensation requirements to more effectively distinguish between overtime-eligible white collar employees and those who may be exempt, thereby making the exemption easier for employers and employees to understand and ensuring that the FLSA's intended overtime protections are fully implemented. The Department sets the standard salary level for exempt executive, administrative, professional, outside sales, and computer employees at the 40th percentile of weekly earnings of full-time salaried workers in the lowest-wage Census Region. The Department also permits employers to satisfy up to 10 percent of the standard salary requirement with nondiscretionary bonuses, incentive payments, and commissions, provided these forms of compensation are paid at least quarterly. The Department sets the total annual compensation requirement for an exempt Highly Compensated Employee (HCE) equal to the annualized weekly earnings of the 90th percentile of full-time salaried workers nationally. The Department also adds a provision to the regulations that automatically updates the standard salary level and HCE compensation requirements every three years by maintaining the earnings percentiles set in this Final Rule to prevent these thresholds from becoming outdated. Finally, the Department has not made any changes in this Final Rule to the duties tests for the EAP exemption.
- 12.24.2016 [Credit Risk Retention](#). The OCC, Board, FDIC, Commission, FHFA, and HUD (the agencies) are adopting a joint final rule (the rule, or the final rule) to implement the credit risk retention requirements of section 15G of the Securities Exchange Act of 1934, as added by section 941 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Act or Dodd-Frank Act). Section 15G generally requires the securitizer of asset-backed securities to retain not less than 5 percent of the credit risk of the assets collateralizing the asset-backed securities. Section 15G includes a variety of exemptions from these requirements, including an exemption for asset-backed securities that are collateralized exclusively by residential mortgages that qualify as "qualified residential mortgages," as such term is defined by the agencies by rule. The final rule was effective February 23, 2015. Compliance with the rule with respect to asset-backed securities collateralized by residential mortgages is required beginning December 24, 2015. **Compliance with the rule with regard to all other classes of asset-backed securities is required beginning December 24, 2016.**
- 01.01.2017 [New HMDA reporting requirements](#). The CFPB amended Regulation C to implement amendments to the HMDA made by section 1094 of the Dodd-Frank Act. Consistent with section 1094 of the Dodd-Frank Act, the CFPB added several new reporting requirements and clarified several existing requirements. The CFPB also modified the institutional and transactional coverage of Regulation C. The final rule also provides extensive guidance regarding compliance with both the existing and new requirements.
Comment: In 2017, all banks covered by Regulation C that originated at least 25 home purchase loans (including the refinancing of home purchase loans) in each of the two preceding calendar years (2015 and 2016) must report. Those reports are due in 2018.
- 01.01.2017 Reg. Z Annual Threshold Adjustments (CARD Act, HOEPA and ATR/QM). The CFPB issued a [final rule](#)⁵³ amending the regulatory text and official interpretations for Regulation Z. The CFPB is required to calculate annually the dollar amounts for several provisions in Reg. Z; this final rule revises, as applicable, the dollar amounts for provisions implementing amendments to TILA under the Credit Card Accountability Responsibility and Disclosure Act of 2009 (CARD Act), the Home Ownership and Equity Protection Act of 1994 (HOEPA), and the Dodd-Frank Act. In addition to adjusting these amounts, where appropriate, based on the annual percentage change reflected in the Consumer Price Index in effect on June 1, 2016, the CFPB corrected a calculation error pertaining to the 2016 subsequent violation penalty safe harbor fee.
- 09.30.2017 [Joint Agencies: Loans in Areas Having Special Flood Hazards](#)⁵⁴ A lender that loses the small lender exemption shall mail or deliver to the borrower no later than September 30 of the first calendar year in which the lender loses its small lenders exemption a notice in writing, or if the borrower agrees, electronically, informing the borrower of the option to escrow all premiums and fees for any required flood insurance and the method(s) by which the borrower may request escrow, using language similar to the model clause in appendix B. A lender loses the exemption when its assets are ≥ \$1 billion. This applies to any loan secured by residential improved real estate or a mobile home that is outstanding on July 1 of the first calendar year in which the lender no longer qualifies for the small lender exemption (exception is for lenders with <\$1 billion in assets). **Also, see January 1, 2016 above and September 30, 2017 below.**

- 10.01.2017 [Prepaid Accounts under the Electronic Fund Transfer Act \(Regulation E\) and the Truth In Lending Act \(Regulation Z\)](#).⁵⁵ The CFPB is issuing this final rule to create comprehensive consumer protections for prepaid accounts under Regulation E, which implements the Electronic Fund Transfer Act; Regulation Z, which implements the Truth in Lending Act; and the official interpretations to those regulations. The final rule modifies general Regulation E requirements to create tailored provisions governing disclosures, limited liability and error resolution, and periodic statements, and adds new requirements regarding the posting of account agreements. Additionally, the final rule regulates overdraft credit features that may be offered in conjunction with prepaid accounts. Subject to certain exceptions, such credit features will be covered under Regulation Z where the credit feature is offered by the prepaid account issuer, its affiliate, or its business partner and credit can be accessed in the course of a transaction conducted with a prepaid card. DATES: This rule is effective on October 1, 2017. The requirement in § 1005.19(b) to submit prepaid account agreements to the Bureau is delayed until October 1, 2018. See the CFPB's [prepaid rule implementation page](#).⁵⁶
- 01.01.2018 [Home Mortgage Disclosure \(Regulation C\)](#).⁵⁷ The CFPB amended Regulation C to implement amendments to HMDA made by section 1094 of the Dodd-Frank Act. Consistent with section 1094 of the Dodd-Frank Act, the CFPB is adding several new reporting requirements and clarifying several existing requirements. The CFPB is also modifying the institutional and transactional coverage of Regulation C. The final rule also provides extensive guidance regarding compliance with both the existing and new requirements.
- Comment: In 2018, all banks covered by Regulation C that originated at least 25 covered closed-end mortgage loans in each of the two preceding calendar years (2016 and 2017), OR all banks covered by Regulation C that originated at least 100 covered open-end lines in each of the two preceding calendar years (2016 and 2017) must report. Those reports are due in 2019. For HMDA data collected on or after January 1, 2018, bank's will collect, record, and report additional information about originations of, purchases of, and applications for covered loans. Data collection and reporting applies to most residential mortgage loan applications regardless of their ultimate disposition; it is not limited to loans that are approved. There are 25 new data points.*
- 10.01.2018 [Prepaid Accounts under the Electronic Fund Transfer Act \(Regulation E\) and the Truth In Lending Act \(Regulation Z\)](#).⁵⁸ Although the CFPB's rule regarding prepaid accounts is effective 10.01.2017, the requirement to submit account agreements to the CFPB is effective 10.03.2018. See the CFPB's [prepaid rule implementation page](#).⁵⁹

Selected federal rules – recent effective dates

Our list of effective dates of past final federal rules is limited to approximately 12 months.

EFFECTIVE

DATE:	SUMMARY OF FINAL RULE:
10.03.2016	Limitations on Terms of Consumer Credit Extended to Service Members and Dependents . ⁶⁰ The Department of Defense issued a final rule amending the implementing regulations of the Military Lending Act of 2006. The final rule expands specific protections provided to service members and their families under the MLA and addresses a wider range of credit products than the DOD's previous regulation. FDIC-supervised institutions and other creditors must comply with the rule for new covered transactions beginning October 3, 2016. For credit extended in a new credit card account under an open-end consumer credit plan, compliance is required beginning October 3, 2017. FIL-37-2015 ⁶¹
09.30.2016	Call Reports. As part of its community bank Call Report burden-reduction initiative, the Federal Financial Institutions Examination Council (FFIEC) has approved a number of burden-reducing changes to the Consolidated Reports of Condition and Income (Call Report) as well as certain new and revised data items and instructional revisions. Subject to approval by the U.S. Office of Management and Budget, these Call Report revisions will take effect September 30, 2016, or March 31, 2017, depending on the change.
	<i>Comment: Institutions should review FIL-44-2016 for further information about the Call Report revisions taking effect in September 2016 and March 2017.</i>
08.30.2016	Fed CMP inflation adjustments . ⁶² The Board of Governors of the Federal Reserve System (the "Board") is issuing an interim final rule amending its rules of practice and procedure to adjust the amount of each civil monetary penalty ("CMP") provided by law within its jurisdiction to account for inflation as required by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015.
08.01.2016	OCC CMP inflation adjustments ⁶³ . The OCC adopted an interim final rule amending its rules of practice and procedure for national banks and its rules of practice and procedure in adjudicatory proceedings for Federal savings associations to publish the maximum amount, adjusted for inflation, of each civil money penalty within its jurisdiction to administer. These actions are required under the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. The OCC is accepting comments on the interim final rule through August 30, 2016.
08.01.2016	FDIC adjustment of maximum CMPs . ⁶⁴ This interim final rule adjusts the maximum limit for CMPs according to inflation as mandated by Congress in the 2015 Adjustment Act. The intended effect of annually adjusting maximum civil money penalties in accordance with changes in the Consumer Price Index is to minimize any distortion in the real value of those maximums due to inflation, thereby promoting a more consistent deterrent effect in the structure of CMPs. Other technical changes to 12 CFR part 308

are intended to improve the transparency of the regulation and to assist readers in quickly identifying the applicable CMP amounts. The FDIC is accepting comments on the interim final rule through September 1, 2016.

- 08.01.2016 [FinCEN adjustment of maximum CMPs](#).⁶⁵ FinCEN is amending the regulations under the Bank Secrecy Act to adjust the maximum amount or range, as set by statute, of certain civil monetary penalties within its jurisdiction to account for inflation. This action is being taken to implement the requirements of the Federal Civil Penalties Inflation Adjustment Act of 1990, as further amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. FinCEN is accepting comments on the interim final rule through September 1, 2016.
- 07.11.2016 FinCEN issued [final rules](#)⁶⁶ under the Bank Secrecy Act clarifying and strengthening customer due diligence requirements for: Banks; brokers or dealers in securities; mutual funds; and futures commission merchants and introducing brokers in commodities. The rules contain explicit customer due diligence requirements and include a new requirement to identify and verify the identity of beneficial owners of legal entity customers, subject to certain exclusions and exemptions.
- 07.01.2016 The Secretary of Education amended the cash management regulations and other sections of the Student Assistance General Provisions regulations issued under the Higher Education Act of 1965, as amended. These final regulations are intended to ensure that students have convenient access to their title IV, HEA program funds, do not incur unreasonable and uncommon financial account fees on their title IV funds, and are not led to believe they must open a particular financial account to receive their Federal student aid. In addition, the final regulations update other provisions in the cash management regulations and otherwise amend the Student Assistance General Provisions. The final regulations also clarify how previously passed coursework is treated for title IV eligibility purposes and streamline the requirements for converting clock hours to credit hours.
- Comment: This rule amendment is meant to stop educational institutions from prioritizing the deposits of financial aid into institutional-sponsored accounts. Marketing material must be presented in a neutral way that enables the student to choose either his or her existing account or a campus account.***
- 07.01.2016 [Registration of Securities Transfer Agents](#).⁶⁷ The FDIC issued a final rule requiring insured State savings associations and subsidiaries of such State savings associations that act as transfer agents for qualifying securities to register with the FDIC, similar to the registration requirements applicable to insured State nonmember banks and subsidiaries of such banks. Second, the final rule revises the definition of qualifying securities to reflect statutory changes to the '34 Act made by the Jumpstart Our Business Startups Act.
- 07.01.2016 [Assessments](#).⁶⁸ Pursuant to the requirements of the Dodd-Frank Act and the FDIC's authority under section 7 of the Federal Deposit Insurance Act (FDI Act), the FDIC is imposing a surcharge on the quarterly assessments of insured depository institutions with total consolidated assets of \$10 billion or more. The surcharge will equal an annual rate of 4.5 basis points applied to the institution's assessment base (with certain adjustments). **If the Deposit Insurance Fund (DIF or fund) reserve ratio reaches 1.15 percent before July 1, 2016, surcharges will begin July 1, 2016.** If the reserve ratio has not reached 1.15 percent by that date, surcharges will begin the first day of the calendar quarter after the reserve ratio reaches 1.15 percent. (Lower regular quarterly deposit insurance assessment (regular assessment) rates will take effect the quarter after the reserve ratio reaches 1.15 percent.) Surcharges will continue through the quarter that the reserve ratio first reaches or exceeds 1.35 percent, but not later than December 31, 2018. The FDIC expects that surcharges will commence in the second half of 2016 and that they should be sufficient to raise the DIF reserve ratio to 1.35 percent in approximately eight quarters, i.e., before the end of 2018. If the reserve ratio does not reach 1.35 percent by December 31, 2018 (provided it is at least 1.15 percent), the FDIC will impose a shortfall assessment on March 31, 2019, on insured depository institutions with total consolidated assets of \$10 billion or more. **The FDIC will provide assessment credits (credits) to insured depository institutions with total consolidated assets of less than \$10 billion for the portion of their regular assessments that contribute to growth in the reserve ratio between 1.15 percent and 1.35 percent. The FDIC will apply the credits each quarter that the reserve ratio is at least 1.38 percent to offset the regular deposit insurance assessments of institutions with credits.**
- 06.30.2016 [Joint Agencies: Loans in Areas Having Special Flood Hazards](#)⁶⁹ A lender who doesn't qualify for the small lender exemption shall mail or deliver to the borrower no later than June 30 a notice in writing, or if the borrower agrees, electronically, informing the borrower of the option to escrow all premiums and fees for any required flood insurance and the method(s) by which the borrower may request escrow, using language similar to the model clause in appendix B. A lender with ≥ \$1 billion in assets does not qualify for the exemption. This applies to any loan secured by residential improved real estate or a mobile home that is outstanding on January 1, 2016. **Also, see January 1, 2016 above. For lenders that lose the exemption, see September 30, 2017 below.**
- 03.31.2016 [Operations in Rural Areas Under the Truth in Lending Act Interim Final Rule](#).⁷⁰ This interim final rule amends certain provisions of Regulation Z in light of title LXXXIX of the Fixing America's Surface Transportation Act, entitled the Helping Expand Lending Practices in Rural Communities Act, Public Law 114-94. The amendments to Regulation Z concern two matters: The eligibility of certain small creditors that operate in rural or underserved areas for special provisions that permit the origination of balloon-payment qualified mortgages and balloon-payment high cost mortgages and for an exemption from the requirement to establish an escrow account for higher-priced mortgage loans and the determination of whether an area is rural for the purposes of Regulation Z. DATES: This final rule is effective on March 31, 2016. Comments may be submitted on or before April 25, 2016.
- 01.01.2016 [Joint Agencies: Loans in Areas Having Special Flood Hazards](#)⁷¹ Homeowner Flood Insurance Affordability Act of 2014 (HFIAA) relating to the escrowing of flood insurance payments and the exemption of certain detached structures from the mandatory flood insurance purchase requirement. The final rule also implements provisions in the Biggert-Waters Flood Insurance Reform Act of 2012 (the Biggert-Waters Act) relating to the force placement of flood insurance. In accordance with HFIAA, the final rule requires regulated lending institutions to escrow flood insurance premiums and fees for loans secured by residential improved real estate or mobile homes that are made, increased, extended or renewed on or after January 1, 2016, unless the loan qualifies for a statutory exception. In addition, certain regulated lending institutions are exempt from this escrow requirement if they have total assets of less

than \$1 billion. Further, the final rule requires institutions to provide borrowers of residential loans outstanding as of January 1, 2016, the option to escrow flood insurance premiums and fees. The final rule includes new and revised sample notice forms and clauses concerning the escrow requirement and the option to escrow. The final rule includes a statutory exemption from the requirement to purchase flood insurance for a structure that is a part of a residential property if that structure is detached from the primary residence and does not also serve as a residence. However, under HFIAA, lenders may nevertheless require flood insurance on the detached structures to protect the collateral securing the mortgage. (**Lenders with assets < \$1 billion, see June 30, 2016 and September 30, 2017.**)

- 01.01.2016 [CFPB: Reg. Z Annual Threshold Adjustments \(CARD ACT, HOEPA and ATR/QM\)](#)⁷² The CFPB issued this final rule amending the regulatory text and official interpretations for Regulation Z. The CFPB is required to calculate annually the dollar amounts for several provisions in Reg. Z; this final rule reviews the dollar amounts for provisions implementing amendments to TILA under the CARD Act, HOEPA, and the Dodd-Frank Act. These amounts are adjusted, where appropriate, based on the annual percentage change reflected in the Consumer Price Index in effect on June 1, 2015. The minimum interest charge disclosure thresholds will remain unchanged in 2016
- 01.01.2016 [Amendments Relating to Small Creditors and Rural or Underserved Areas Under the Truth in Lending Act \(Regulation Z\)](#)⁷³ The CFPB amended certain mortgage rules issued by the CFPB in 2013. The final rule⁷⁴ revises the CFPB's regulatory definitions of small creditor, and rural and underserved areas, for purposes of certain special provisions and exemptions from various requirements provided to certain small creditors under the CFPB's mortgage rules.
- 01.01.2016 The OCC, the Board, and the FDIC [amended their CRA regulations](#)⁷⁵ to adjust the asset-size thresholds used to define "small bank" or "small savings association" and "intermediate small bank" or "intermediate small savings association." As required by the CRA regulations, the adjustment to the threshold amount is based on the annual percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers. The agencies also propose to make technical edits to remove obsolete references to the OTS and update cross-references to regulations implementing certain Federal consumer financial laws in their CRA regulations.
- 01.01.2016 [Federal Reserve Bank Services](#).⁷⁶ The Board of Governors of the Federal Reserve System (Board) has approved the private sector adjustment factor (PSAF) for 2016 of \$13.1 million and the 2016 fee schedules for Federal Reserve priced services and electronic access. These actions were taken in accordance with the Monetary Control Act of 1980, which requires that, over the long run, fees for Federal Reserve priced services be established on the basis of all direct and indirect costs, including the PSAF.
- 01.01.2018 [Home Mortgage Disclosure \(Regulation C\)](#)⁷⁷ The CFPB amended Regulation C to implement amendments to HMDA made by section 1094 of the Dodd-Frank Act. Consistent with section 1094 of the Dodd-Frank Act, the CFPB is adding several new reporting requirements and clarifying several existing requirements. The CFPB is also modifying the institutional and transactional coverage of Regulation C. The final rule also provides extensive guidance regarding compliance with both the existing and new requirements.
- 12.31.2015 [Cyber-related sanctions regulations](#).⁷⁸ OFAC issued regulations to implement [Executive Order 13694](#)⁷⁹ of April 1, 2015 ("Blocking the Property of Certain Persons Engaging in Significant Malicious Cyber-Enabled Activities"). OFAC intends to supplement this part 578 with a more comprehensive set of regulations, which may include additional interpretive and definitional guidance and additional general licenses and statements of licensing policy.
- 12.24.2015 [Credit Risk Retention](#). The OCC, Board, FDIC, Commission, FHFA, and HUD (the agencies) are adopting a joint final rule (the rule, or the final rule) to implement the credit risk retention requirements of section 15G of the Securities Exchange Act of 1934, as added by section 941 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Act or Dodd-Frank Act). Section 15G generally requires the securitizer of asset-backed securities to retain not less than 5 percent of the credit risk of the assets collateralizing the asset-backed securities. Section 15G includes a variety of exemptions from these requirements, including an exemption for asset-backed securities that are collateralized exclusively by residential mortgages that qualify as "qualified residential mortgages," as such term is defined by the agencies by rule. The final rule was effective February 23, 2015. **Compliance with the rule with respect to asset-backed securities collateralized by residential mortgages is required beginning December 24, 2015.** Compliance with the rule with regard to all other classes of asset-backed securities is required beginning December 24, 2016.
- 12.24.2015 [CFPB corrections to TRID rules](#).⁸⁰ The CFPB made technical corrections to Reg. Z and the Official Interpretations of Reg. Z. These corrections republish certain provisions of Reg. Z and the Official Interpretations that were inadvertently removed from or not incorporated into the CFRs by the TRID TILA-RESPA Final Rule. Specifically, this final rule makes the following corrections to reinsert existing regulatory text that was inadvertently deleted from Reg. Z and its commentary:
- o Amends § 1026.22(a)(5) to restore subparagraphs (i) and (ii).
 - o Amends the commentary to § 1026.17 at paragraph 17(c)(1)-2 to restore subparagraphs i, ii, and iii.
 - o Amends commentary paragraph 17(c)(1)-4 to restore subparagraphs i.A, and i.B.
 - o Amends commentary paragraph 17(c)(1)-10 to restore introductory text and subparagraphs iii, iv, and vi.
 - o Amends commentary paragraph 17(c)(1)-11 to restore subparagraphs i, ii, iii, and iv.
 - o Amends commentary paragraph 17(c)(1)-12 to restore subparagraphs i, ii, and iii.
 - o Amends commentary paragraph 17(c)(4)-1 to restore subparagraphs i and ii.
 - o Amends commentary paragraph 17(g)-1 to restore subparagraphs i and ii.
 - o Amends the commentary to § 1026.18 at paragraph 18(g)-4 to restore text to subparagraph i.

This rule also amends the commentary to appendix D to Reg. Z to add paragraph 7 that had been included in the TILA-RESPA Final Rule published in the Federal Register but that was inadvertently omitted from the commentary to appendix D in the CFR.

- 12.22.2015 The Federal Reserve [Amended Reg. D](#)⁸¹ (Reserve Requirements of Depository Institutions) to revise the rate of interest paid on balances maintained to satisfy reserve balance requirements (“IORR”) and the rate of interest paid on excess balances (“IOER”) maintained at Federal Reserve Banks by or on behalf of eligible institutions. The final amendments specify that IORR is 0.50 percent and IOER is 0.50 percent, a 0.25 percentage point increase from their prior levels. The amendments are intended to enhance the role of such rates of interest in moving the Federal funds rate into the target range established by the Federal Open Market Committee.
- 10.03.2015 [CFPB: Final integrated Mortgage Disclosures under the RESPA \(Reg. X\) and the Truth In Lending Act \(Reg. Z\)](#)⁸² Notice of final rule and official interpretations. The CFPB amended Reg. X and Reg. Z to establish new disclosure requirements and forms in Regulation Z for most closed-end consumer credit transactions secured by real property. In addition to combining the existing disclosure requirements and implementing new requirements imposed by the Dodd-Frank Act, the final rule provides extensive guidance regarding compliance with those requirements. [CFPB blog on the disclosure.](#)
- 10.03.2015 [CFPB: Amendments to the 2013 Integrated Mortgage Disclosures Rule under Reg. X and Reg. Z and the Loan Originator Rule under Reg. Z](#)⁸³ (80 FR 8767)⁸⁴ Notice of final rule and official interpretations. This rule amending the integrated mortgage rule extends the timing requirement for revised disclosures when consumers lock a rate or extend a rate lock after the Loan Estimate is provided and permits certain language related to construction loans for transactions involving new construction on the Loan Estimate. This rule also amends the 2013 Loan Originator Final Rule to provide for placement of the NMLSR ID on the integrated disclosures. Additionally, the CFPB made non-substantive corrections, including citation and cross-reference updates and wording changes for clarification purposes, to various provisions of Regulations X and Z as amended or adopted by the 2013 TILA-RESPA Final Rule. [CFPB blog on the disclosure.](#)
- 10.01.2015 [Department of Defense: Limitations on Terms of Consumer Credit Extended to Service Members and Dependents](#)⁸⁵ The Department of Defense amended its regulation that implements the Military Lending Act, herein referred to as the “MLA.” Among other protections for Service members and their families, the MLA limits the amount of interest that a creditor may charge on “consumer credit” to a maximum annual percentage rate of 36 percent. The Department amends its regulation primarily for the purpose of extending the protections of the MLA to a broader range of closed-end and open-end credit products. Among other amendments, the Department modifies the provisions relating to the optional mechanism a creditor could use when assessing whether a consumer is a “covered borrower,” modifies the disclosures that a creditor must provide to a covered borrower, and implements the enforcement provisions of the MLA.
- 10.01.2015 [Joint Agencies: Loans in Areas Having Special Flood Hazards](#)⁸⁶ The statutory force-placed insurance provision took effect upon the enactment of the Biggert-Waters Act on July 6, 2012. The statutory detached structure exemption took effect upon enactment of the HFIAA on March 21, 2014. The regulatory changes made by this final rule to incorporate these provisions are effective on October 1, 2015. See the final flood rule on 01.01.2016, below, for the statutory and escrow-related provisions.
- 08.01.2015 [Joint Agencies: Loans in Areas Having Special Flood Hazards](#)⁸⁷ The OCC, the Fed, the FDIC, the FCA, and the NCUA amended their regulations regarding loans in areas having special flood hazards to implement certain provisions of the Homeowner Flood Insurance Affordability Act of 2014, which amends some of the changes to the Flood Disaster Protection Act of 1973 mandated by the Biggert-Waters Flood Insurance Reform Act of 2012 (Biggert-Waters). The Agencies plan to address the private flood insurance provisions in Biggert-Waters in a separate rulemaking.

Specifically, the final rule:

- Requires the escrow of flood insurance payments on residential improved real estate securing a loan, consistent with the changes set forth in HFIAA. The final rule also incorporates an exemption in HFIAA for certain detached structures from the mandatory flood insurance purchase requirement.
- Implements the provisions of Biggert-Waters related to the force placement of flood insurance.
- Integrates the OCC's flood insurance regulations for national banks and Federal savings associations.

Common words, phrases, and acronyms

APOR	“Average Prime Offer Rates” are derived from average interest rates, points, and other pricing terms offered by a representative sample of creditors for mortgage transactions that have low-risk pricing characteristics.
ATM	Automated Teller Machine
CARD Act	Credit Card Accountability Responsibility and Disclosure Act of 2009
CFPB	Consumer Financial Protection Bureau

CFR	Code of Federal Regulations . Codification of rules and regulations of federal agencies.
CRA	Community Reinvestment Act . This Act is designed to encourage loans in all segments of communities.
CRE	Commercial Real Estate
CSBS	Conference of State Bank Supervisors
CTR	Currency Transaction Report . Filed for each deposit, withdrawal, exchange of currency

	that involves a transaction in currency of more than \$10,000.
Dodd-Frank Act	The Dodd–Frank Wall Street Reform and Consumer Protection Act
DOJ	Department of Justice
FDIC	Federal Deposit Insurance Corporation
EFTA	Electronic Fund Transfer Act
EGRPRA	Economic Growth and Regulatory Paperwork Reduction Act of 1996
Federal bank regulatory agencies	FDIC, FRB, and OCC
Federal financial institution regulatory agencies	CFPB, FDIC, FRB, NCUA, and OCC
FEMA	Federal Emergency Management Agency
FFIEC	Federal Financial Institutions Examination Council
FHFA	Federal Housing Finance Agency
FHA	Federal Housing Administration
FinCEN	Financial Crime Enforcement Network
FR	Federal Register . U.S. government daily publication that contains proposed and final administrative regulations of federal agencies.
FRB (or Fed)	Federal Reserve Board
FSOC	Financial Stability Oversight Council
FTC	Federal Trade Commission
GAO	Government Accountability Office
HARP	Home Affordable Refinance Program
HAMP	Home Affordable Modification Program
HMDA	Home Mortgage Disclosure Act
HOEPA	Home Ownership and Equity Protections Act of 1994
HPML	Higher Priced Mortgage Loan
HUD	U.S. Department of Housing and Urban Development

IRS	Internal Revenue Service
MLO	Mortgage Loan Originator
MOU	Memorandum of Understanding
NFIP	National Flood Insurance Program . U.S. government program to allow the purchase of flood insurance from the government.
NMLS	National Mortgage Licensing System
OCC	Office of the Comptroller of the Currency
OFAC	Office of Foreign Asset Control
OREO	Other Real Estate Owned
QRM	Qualified Residential Mortgage
Reg.	Abbreviation for “Regulation” – A federal regulation. These are found in the CFR.
Reg. B	Equal Credit Opportunity
Reg. C	Home Mortgage Disclosure
Reg. DD	Truth in Savings
Reg. E	Electronic Fund Transfers
Reg. G	S.A.F.E. Mortgage Licensing Act
Reg. P	Privacy of Consumer Financial Information
Reg. X	Real Estate Settlement Procedures Act
Reg. Z	Truth in Lending
RESPA	Real Estate Settlement Procedures Act
SAR	Suspicious Activity Report – Report financial institutions file with the U.S. government (FinCEN) regarding activity that may be criminal in nature.
SDN	Specially Designated National
TILA	Truth in Lending Act
TIN	Tax Identification Number
TRID	TILA/RESPA Integrated Disclosure
Treasury	U.S. Department of Treasury

This publication is designed to provide accurate and authoritative information in regard to the subject matter covered. It is provided with the understanding that the publisher is not engaged in the rendering of legal, accounting or other professional advice - from a Declaration of Principles adopted by the American Bar Association and a Committee of Publishers and Associations. © 2016 Independent Bankers Association of Texas; *All rights reserved.* Shannon Phillips Jr., Editor. North Dakota Edition, copyrighted by the Independent Community Banks of North Dakota, 2016.

¹ http://www.federalreserve.gov/bankinforeg/caletters/Attachment_CA_Letter_16-6_MLA_Exam_Procedures.pdf

-
- ² <https://www.gpo.gov/fdsys/pkg/FR-2015-07-22/pdf/2015-17480.pdf>
- ³ <https://www.webcaster4.com/Webcast/Page/583/17539>
- ⁴ <https://www.webcaster4.com/Webcast/Page/583/17540>
- ⁵ <http://www.americanbanker.com/news/law-regulation/cfbp-holds-the-line-on-overdraft-in-final-prepaid-card-rule-1091776-1.html?zkPrintable=1&nopagination=1>
- ⁶ <http://www.consumerfinance.gov/askcfpb/2049/how-can-i-recognize-mail-fraud.html>
- ⁷ <https://pueblo.gpo.gov/CFPBPubs/CFPBPubs.php?PubID=13259>
- ⁸ <http://www.consumerfinance.gov/about-us/newsroom/cfbp-project-catalyst-study-finds-savings-offers-double-number-consumers-saving/>
- ⁹ <http://www.consumerfinance.gov/about-us/project-catalyst/>
- ¹⁰ http://www.consumerfinance.gov/policy-compliance/guidance/implementation-guidance/tila-respa-disclosure-rule/?utm_source=GovDelivery&utm_campaign=RegImp&utm_medium=email&utm_term=10112016_a1
- ¹¹ http://files.consumerfinance.gov/f/documents/092016_cfbp_MonthlyComplaintReportVol15.pdf
- ¹² http://s3.amazonaws.com/files.consumerfinance.gov/f/documents/092016_cfbp_HMDAETHnicityRace.pdf
- ¹³ <http://www.consumerfinance.gov/about-us/newsroom/cfbp-orders-navy-federal-credit-union-pay-285-million-improper-debt-collection-actions/>
- ¹⁴ <http://www.consumerfinance.gov/about-us/newsroom/cfbp-orders-navy-federal-credit-union-pay-285-million-improper-debt-collection-actions/>
- ¹⁵ http://files.consumerfinance.gov/f/documents/102016_cfbp_NavyFederalConsentOrder.pdf
- ¹⁶ <https://www.fdic.gov/news/news/financial/2016/fil16063.html>
- ¹⁷ <https://occ.gov/publications/publications-by-type/licensing-manuals/charters.pdf>
- ¹⁸ <https://occ.gov/news-issuances/news-releases/2016/nr-occ-2016-126.html>
- ¹⁹ <http://www.federalreserve.gov/newsevents/press/monetary/20160921a.htm>
- ²⁰ <https://www.frbservices.org/files/communications/pdf/fedach/092816-fedach-services-settlement-tips.pdf>
- ²¹ <http://portal.hud.gov/hudportal/documents/huddoc?id=lepmemo091516.pdf>
- ²² http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/promotingfh/lep-faq
- ²³ <https://s3.amazonaws.com/public-inspection.federalregister.gov/2016-22589.pdf>
- ²⁴ <http://www.consumerfinance.gov/about-us/blog/significant-impact-student-debt-communities-color/>
- ²⁵ <https://www.occ.gov/news-issuances/speeches/2016/pub-speech-2016-113.pdf>
- ²⁶ <http://www.federalreserve.gov/econresdata/releases/mortoutstand/current.htm>
- ²⁷ <http://www.occ.gov/news-issuances/news-releases/2016/nr-occ-2016-115a.pdf>
- ²⁸ <http://www.occ.gov/news-issuances/speeches/2016/pub-speech-2016-115.pdf>
- ²⁹ <http://www.consumerfinance.gov/about-us/newsroom/written-testimony-richard-cordray-director-cfbp-senate-committee-banking-housing-and-urban-affairs/>
- ³⁰ <https://www.fdic.gov/news/news/speeches/spsep2016a.html>
- ³¹ http://portal.hud.gov/hudportal/HUD?src=/press/press_releases_media_advisories/2016/HUDNo_16-139
- ³² http://www.fhfa.gov/AboutUs/Reports/ReportDocuments/FPR_2Q2016FINAL.pdf
- ³³ <https://occ.gov/publications/publications-by-type/other-publications-reports/mortgage-metrics/metrics-q2-2016.pdf>
- ³⁴ <http://www.ffiec.gov/press/pr092916.htm>

-
- ³⁵ <http://www.federalreserve.gov/bankinforeg/semiannual-report-on-banking-applications-20160930.pdf>
- ³⁶ <https://www.frbservices.org/fedflash/>
- ³⁷ <https://www.frbservices.org/fedfocus/index.html>
- ³⁸ <http://www.federalreserve.gov/releases/g19/current/>
- ³⁹ <http://www.consumerfinance.gov/policy-compliance/rulemaking/rules-under-development/amendments-federal-mortgage-disclosure-requirements-under-truth-lending-act-regulation-z/>
- ⁴⁰ <https://www.federalregister.gov/articles/2016/08/15/2016-18426/amendments-to-federal-mortgage-disclosure-requirements-under-the-truth-in-lending-act-regulation-z>
- ⁴¹ <https://www.fdic.gov/news/news/financial/2016/fil16050a.pdf>
- ⁴² <https://www.federalregister.gov/articles/2016/05/24/2016-10961/arbitration-agreements>
- ⁴³ <https://www.federalregister.gov/articles/2016/06/29/2016-15027/rules-of-practice-and-procedure>
- ⁴⁴ <https://www.gpo.gov/fdsys/pkg/FR-2016-08-04/pdf/2016-18058.pdf>
- ⁴⁵ http://files.consumerfinance.gov/f/documents/Rulemaking_Payday_Vehicle_Title_Certain_High-Cost_Installment_Loans.pdf
- ⁴⁶ <https://www.federalregister.gov/articles/2016/07/22/2016-13490/payday-vehicle-title-and-certain-high-cost-installment-loans#open-comment>
- ⁴⁷ http://www.ffiec.gov/press/PDF/FRN-Small_Bank_Call_Report.pdf
- ⁴⁸ <http://www.ffiec.gov/press/pr080516.htm>
- ⁴⁹ <https://www.fdic.gov/news/news/financial/2016/fil16053a.pdf>
- ⁵⁰ <https://www.fdic.gov/news/news/financial/2016/fil16053.html>
- ⁵¹ http://files.consumerfinance.gov/f/documents/20160804_cfpb_Final_Rule_Amendments_to_the_2013_Mortgage_Rules.pdf
- ⁵² <https://www.federalregister.gov/articles/2016/05/23/2016-11754/defining-and-delimiting-the-exemptions-for-executive-administrative-professional-outside-sales-and>
- ⁵³ <https://www.federalregister.gov/documents/2016/06/27/2016-14782/truth-in-lending-regulation-z-annual-threshold-adjustments-card-act-hoepa-and-atrqm>
- ⁵⁴ <http://www.occ.gov/news-issuances/news-releases/2015/nr-ia-2015-89a.pdf>
- ⁵⁵ http://s3.amazonaws.com/files.consumerfinance.gov/f/documents/20161005_cfpb_Final_Rule_Prepaid_Accounts.pdf
- ⁵⁶ <http://www.consumerfinance.gov/policy-compliance/guidance/implementation-guidance/prepaid-rule/>
- ⁵⁷ http://files.consumerfinance.gov/f/201510_cfpb_final-rule_home-mortgage-disclosure_regulation-c.pdf
- ⁵⁸ http://s3.amazonaws.com/files.consumerfinance.gov/f/documents/20161005_cfpb_Final_Rule_Prepaid_Accounts.pdf
- ⁵⁹ <http://www.consumerfinance.gov/policy-compliance/guidance/implementation-guidance/prepaid-rule/>
- ⁶⁰ <http://www.gpo.gov/fdsys/pkg/FR-2015-07-22/pdf/2015-17480.pdf>
- ⁶¹ <https://www.fdic.gov/news/news/financial/2015/fil15037.html#continuation>
- ⁶² <https://www.federalregister.gov/articles/2016/07/20/2016-16969/rules-of-practice-for-hearings>
- ⁶³ <https://www.federalregister.gov/articles/2016/07/01/2016-15376/rules-of-practice-and-procedure-rules-of-practice-and-procedure-in-adjudicatory-proceedings-civil>
- ⁶⁴ <https://www.federalregister.gov/articles/2016/06/29/2016-15027/rules-of-practice-and-procedure>
- ⁶⁵ <https://www.federalregister.gov/articles/2016/06/30/2016-15653/civil-monetary-penalty-adjustment-and-table>

-
- ⁶⁶ <https://www.federalregister.gov/articles/2016/05/11/2016-10567/customer-due-diligence-requirements-for-financial-institutions>
- ⁶⁷ <https://www.federalregister.gov/articles/2016/05/06/2016-10529/registration-of-securities-transfer-agents>
- ⁶⁸ https://www.fdic.gov/news/board/2016/2016-03-15_notice_dis_b_fr.pdf
- ⁶⁹ <http://www.occ.gov/news-issuances/news-releases/2015/nr-ia-2015-89a.pdf>
- ⁷⁰ <https://www.gpo.gov/fdsys/pkg/FR-2016-03-25/pdf/2016-06834.pdf>
- ⁷¹ <http://www.occ.gov/news-issuances/news-releases/2015/nr-ia-2015-89a.pdf>
- ⁷² <https://www.federalregister.gov/articles/2015/09/21/2015-22987/truth-in-lending-regulation-z-annual-threshold-adjustments-card-act-hoepa-and-atrqm#h-4>
- ⁷³ http://files.consumerfinance.gov/f/201509_cfpb_amendments-relating-to-small-creditors-and-rural-or-underserved-areas-under-the-truth-in-lending-act-regulation-z.pdf
- ⁷⁴ http://files.consumerfinance.gov/f/201509_cfpb_amendments-relating-to-small-creditors-and-rural-or-underserved-areas-under-the-truth-in-lending-act-regulation-z.pdf
- ⁷⁵ <http://www.federalreserve.gov/newsevents/press/bcreg/bcreg20151222a1.pdf>
- ⁷⁶ <http://www.federalreserve.gov/newsevents/press/other/frnotice20151103a1.pdf>
- ⁷⁷ http://files.consumerfinance.gov/f/201510_cfpb_final-rule_home-mortgage-disclosure_regulation-c.pdf
- ⁷⁸ <https://www.federalregister.gov/articles/2015/12/31/2015-32881/cyber-related-sanctions-regulations>
- ⁷⁹ https://www.treasury.gov/resource-center/sanctions/Programs/Documents/cyber_co.pdf
- ⁸⁰ <https://www.federalregister.gov/articles/2015/12/24/2015-32463/2013-integrated-mortgage-disclosures-rule-under-the-real-estate-settlement-procedures-act-regulation>
- ⁸¹ <https://www.federalregister.gov/articles/2015/12/22/2015-32099/reserve-requirements-of-depository-institutions>
- ⁸² <https://www.federalregister.gov/articles/2013/12/31/2013-28210/integrated-mortgage-disclosures-under-the-real-estate-settlement-procedures-act-regulation-x-and-the>
- ⁸³ <https://www.federalregister.gov/articles/2013/12/31/2013-28210/integrated-mortgage-disclosures-under-the-real-estate-settlement-procedures-act-regulation-x-and-the>
- ⁸⁴ <https://www.federalregister.gov/articles/2015/02/19/2015-01321/amendments-to-the-2013-integrated-mortgage-disclosures-rule-under-the-real-estate-settlement>
- ⁸⁵ https://www.federalregister.gov/articles/2015/07/22/2015-17480/limitations-on-terms-of-consumer-credit-extended-to-service-members-and-dependents#table_of_contents
- ⁸⁶ <http://www.occ.gov/news-issuances/news-releases/2015/nr-ia-2015-89a.pdf>
- ⁸⁷ <https://www.federalregister.gov/articles/2015/07/21/2015-15956/loans-in-areas-having-special-flood-hazards>