



## Capitol Comments February 2017

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

*Opening Comment: New regulatory climate is making an impact. With the advent of a new presidential administration and the pending changes in top regulators, the agencies appear to be taking a deep breath and putting out a fairly limited set of final and proposed rules. One presidential Executive Order would require elimination of two regs for every new one. However, the EO applies to “executive agencies,” and it does not apply to the SEC nor most likely to the OCC, FDIC or CFPB. Also, it can’t require elimination of rules required by statute. Still, it creates a different climate with regard to proliferation of new rules. Watch this space for response to this effort on regulatory burden relief.*

### Joint federal agency issuances

#### Agencies Adjust CRA Thresholds for Small, Intermediate Institutions

The Agencies are amending their Community Reinvestment Act (CRA) regulations 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 (CPI–W). The FDIC is also amending its CRA Notice requirements to reflect two technical changes concerning the manner in which the agency will receive public comments considered in the CRA examination process.

Beginning January 18, 2017, banks and savings associations that, as of December 31 of either of the prior two calendar years, had assets of less than \$1.226 billion are small banks or small savings associations. Small banks and small savings associations with assets of at least \$307 million as of December 31 of both of the prior two calendar years and less than \$1.226 billion as of December 31 of either of the prior two calendar years are intermediate small banks or intermediate small savings associations.

*Comment: This is an annual CRA asset-size adjustment and applies to all banks. The joint final rule with the technical amendment is available [here](#).*

### CFPB actions

#### CFPB Publishes Consumer Blog on Overdraft “Opt-In”

The CFPB issued a consumer blog post entitled “Understanding the Overdraft “Opt-In” Choice – Making the Right Choice for You.” The blog is written for consumers and explains the issue of “opt-in” under Regulation E and provides steps a reader can take to avoid overdraft fees. To read the blog, click [here](#).

***Comment: It's worth noting that Randolph Brooks Federal Credit Union, the second largest credit union in San Antonio, Texas is the defendant in a lawsuit alleging that its method for assessing overdraft fees violates federal law. The principal issue is whether the credit union pays overdrafts, and assesses a fee, based upon the ledger-balance method or the available-balance method and how that is disclosed. "What they are doing by the use of available balance is ignore the fact that money is in the account to pay the transaction, and have created this hypothetical balance that is not the real balance." said plaintiffs' attorney Richard McCune. Take this opportunity to review your own bank's disclosures to see how you address the issue of overdraft fees and ledger-balance method versus the available-balance method.***

### **CFPB Releases New HMDA Webinar**

The Bureau has made available on its website a webinar on the 2015 HMDA final rule that discusses identifiers, as well as other data points including those related to applicants and borrowers. In addition, the Bureau has made available on its website a chart to illustrate the options a financial institution has for collecting and reporting ethnicity and race information under current Regulation C, Regulation C effective January 1, 2018, and the Bureau's Official Approval Notice (issued on September 23, 2016).

***Comment: The table entitled [Collection and Reporting of HMDA Information About Ethnicity and Race](#) provides helpful guidance on the 2017 and 2018 transition reporting requirements. You can access the table [here](#). You can access the webinar on the CFPB dedicated implementation [webpage](#) for HMDA.***

### **CFPB Releases Small Entity Compliance Guide on Prepaid Rule**

The CFPB released a guide to help small entities determine their obligations to comply with its final rule on prepaid accounts. The final rule requires new consumer protections for prepaid cards, such as detailed disclosures and consumer loss limits.

***Comment: Theoretically, this rule should be on hold due to the Executive Order relating to recently enacted rules. However, this guide was published notwithstanding that hold! Remember that the rule applies to payroll cards and government benefit cards—not just the prepaid cards sold at check cashers. It does not apply to gift cards, FSAs or HAS cards. The effective date is October 1, 2017. For the small entity compliance guide, click [here](#).***

## **FDIC actions**

### **FDIC Issues Winter 2017 Consumer News**

The Winter 2017 *FDIC Consumer News* focuses on common concerns heard from consumers and offers tips for solving and avoiding problems. Some topics include:

- What to do if a credit card bill shows a charge you did not make;
- Where to go for help if you can't access funds on your prepaid card;
- How to handle an email that appears to be from your bank and that asks for personal information; and
- Understanding your options if you're turned down for a checking account.

Consumers also frequently contact the FDIC to determine whether their deposit accounts are fully insured. The latest *FDIC Consumer News* provides an overview of "EDIE," the FDIC's simple online tool for estimating deposit insurance coverage.

Also included in the latest issue of *FDIC Consumer News* is information for bank customers about recent guidance issued by the FDIC and other federal regulators related to deposit account errors.

The FDIC encourages financial institutions, government agencies, consumer organizations, educators, the media, and anyone else to help make the tips and information in *FDIC Consumer News* widely available. The publication may be

reprinted in whole or in part without permission. Please credit *FDIC Consumer News*. Organizations also may link to or mention the FDIC website.

The Winter 2017 *FDIC Consumer News* can be read or printed at [www.fdic.gov/consumers/consumer/news/cnwin17](http://www.fdic.gov/consumers/consumer/news/cnwin17), with e-reader and portable audio (MP3) versions forthcoming. Additionally, in the coming weeks a Spanish-language version will be posted at [www.fdic.gov/quicklinks/spanish.html](http://www.fdic.gov/quicklinks/spanish.html).

***Comment: As noted above, the FDIC encourages the distribution of this publication. Consider adding a link to your web page or reprinting for distribution to consumers. Hopefully such action would reflect well on the “services” component of the CRA evaluation! To find current and past issues, visit [www.fdic.gov/consumernews](http://www.fdic.gov/consumernews).***

## OCC actions

### Revised Comptroller’s Licensing Manual Booklet Issued

The Office of the Comptroller of the Currency (OCC) issued the “Conversions to Federal Charter” booklet of the *Comptroller’s Licensing Manual*. This revised booklet replaces the booklet titled “Conversions” issued in April 2010. The revised booklet incorporates conversion procedures and requirements updated after the Office of Thrift Supervision’s integration with the OCC on July 21, 2011, and revised regulations (12 CFR 5) that became effective July 1, 2015, addressing conversions to both national banks and federal savings associations.

This booklet applies to all financial institutions converting to national banks or federal savings associations.

***Comment: For a copy of the booklet, click [here](#).***

### OCC Issues Supplemental Exam Procedures for Third-Party Relationships

The Office of the Comptroller of the Currency (OCC) issued examination procedures to supplement OCC Bulletin 2013-29, “[Third-Party Relationships: Risk Management Guidance](#),” issued October 30, 2013. The [supplemental procedures](#) promote consistency when examining national banks and federal savings associations’ (collectively, banks) risk management of third-party relationships. These procedures expand on the core assessment contained in the “Community Bank Supervision,” “Large Bank Supervision,” and “Federal Branches and Agencies Supervision” booklets of the *Comptroller’s Handbook*. These procedures use the concepts and definitions contained in OCC Bulletin 2013-29, including appendix A. Appendix B of OCC Bulletin 2013-29 provides additional guidance about third-party risk management practices in specific areas.

Note for Community Banks - These procedures may be used during examinations of a bank’s risk management of third-party relationships.

***Comment: Exam procedures are a valuable internal audit tool and should be used by all departments in question to judge compliance with regulatory expectations. We continue to hear that examiners are carefully reviewing third-party relationships already. Be prepared!***

### OCC Issues Final Rule Under EGRPRA Review

As part of its review under the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA), the Office of the Comptroller of the Currency (OCC) published on January 23, 2017, a [final rule](#) that removes outdated or otherwise unnecessary provisions in certain rules, reducing the regulatory burden on national banks and federal savings associations (FSA). The final rule also integrates the OCC’s national bank and FSA rules relating to fidelity bonds, Securities Exchange Act of 1934 disclosures, securities offering disclosures, and insider and affiliate lending. While the OCC is conducting the EGRPRA review jointly with the Federal Deposit Insurance Corporation and the Board of Governors of the Federal Reserve System (the federal banking agencies), this final rule affects rules exclusive to the OCC and its supervision of national banks and FSAs. The final rule is effective April 1, 2017.

Note for Community Banks - The OCC rules amended by this final rule apply to all national banks and FSAs.

***Comment: Among changes related to record-keeping and notification, this final rule also clarifies national bank director oath requirements.***

### OCC Alerts Banks to Fictitious Calls and Emails Regarding Funds Held

Consumers have reported receiving communications that the OCC is holding \$11,000 on their behalf as a refund for illegal fees charged by their financial institutions. The callers have been identified as both males and females with heavy accents who are using various names, including Alex, Miley, and Deborah Howells. The callers have the personal information of the potential victim including address, date of birth, and Social Security number. The potential victim is asked to confirm this information and to provide his or her bank routing number and account number so that a transfer may be made.

***Comment: It might be worth a bank alerting its customers from time to time that the primary regulators (OCC, FDIC, FRB, and state departments' of banking) do not contact bank customers directly, would never hold funds for those customers, and would never solicit confidential information.***

## Other federal action and news

### Financial Action Task Force (FATF) Updates List of Jurisdictions with Strategic AML/CFT Deficiencies

The Financial Crimes Enforcement Network (FinCEN) issued an advisory to financial institutions regarding the Financial Action Task Force's (FATF) updated list of jurisdictions with strategic anti-money laundering/counter-terrorist financing (AML/CFT) deficiencies. These changes may affect U.S. financial institutions' obligations and risk-based approaches regarding relevant jurisdictions.

***Comment: The advisory was issued January 19, 2017 and can be viewed [here](#).***

## State agency actions

### Conference of State Bank Supervisors Releases BSA/AML Self-Assessment Tool

The Bank Secrecy Act and related federal and state law requirements are the first line of defense against financial crimes. Financial institutions and financial service providers play an important role in minimizing these risks. It is important that banks, trust companies, and money services businesses are able to effectively identify, monitor and communicate Bank Secrecy Act/Anti-money Laundering (BSA/AML) risks. For many, particularly small, non-complex institutions or businesses, these requirements command significant compliance resources.

To help manage new and evolving risks associated with BSA/AML, various state regulators have worked with the Conference of State Bank Supervisors (CSBS) to develop and release the new [BSA/AML Self-Assessment Tool](#). If your state's banking department does not require the use of this tool, it is a valuable supplemental instrument to strengthen BSA/AML risk management programs.

***Comment: Is your bank in a "high risk" geography for BSA/AML? We are already seeing increased exam scrutiny. With the new president's focus on terrorists, this could translate into more scrutiny for money laundering.***

# Publications, articles, reports, studies, testimony & speeches

Testimony by Chair Yellen on semiannual Monetary Policy Report to the Congress

Chair Janet L. Yellen submitted prepared written testimony to the Committee on Banking, Housing, and Urban Affairs of the U.S. Senate on February 14, 2017.

*“At its meeting that concluded early this month, the Committee left the target range for the federal funds rate unchanged but reiterated that it expects the evolution of the economy to warrant further gradual increases in the federal funds rate to achieve and maintain its employment and inflation objectives. As I noted on previous occasions, waiting too long to remove accommodation would be unwise, potentially requiring the FOMC to eventually raise rates rapidly, which could risk disrupting financial markets and pushing the economy into recession. Incoming data suggest that labor market conditions continue to strengthen and inflation is moving up to 2 percent, consistent with the Committee’s expectations. At our upcoming meetings, the Committee will evaluate whether employment and inflation are continuing to evolve in line with these expectations, in which case a further adjustment of the federal funds rate would likely be appropriate.*

*The Committee’s view that gradual increases in the federal funds rate will likely be appropriate reflects the expectation that the neutral federal funds rate--that is, the interest rate that is neither expansionary nor contractionary and that keeps the economy operating on an even keel--will rise somewhat over time. Current estimates of the neutral rate are well below pre-crisis levels--a phenomenon that may reflect slow productivity growth, subdued economic growth abroad, strong demand for safe longer-term assets, and other factors. The Committee anticipates that the depressing effect of these factors will diminish somewhat over time, raising the neutral funds rate, albeit to levels that are still low by historical standards.”*

**Comment: Chair Yellen said that interest rate increases would be appropriate if the economy remains on track and it appears a rate increase for March is likely. Chair Yellen also expressed a commitment to tailoring Fed oversight. To read the entire prepared testimony, click [here](#).**

## House Agriculture Committee Prepares for Farm Bill by Exploring Economic Outlook in Rural America

The House Agriculture Committee held a [hearing](#) to review the economic challenges facing rural America. Members heard from several witnesses who highlighted these factors, including low farm commodity prices, declining net farm income, tightening credit conditions, a strong dollar, and unfair trade practices by foreign competitors.

“There is real potential for a crisis in rural America,” said Chairman K. Michael Conaway. “Net farm income for America’s farmers and ranchers has fallen 50 percent over the past four years with the collapse in commodity prices. As we begin the farm bill process, these economic realities must be front and center. The farm bill serves as a safety net for producers, helping manage risk in difficult times. We are in those times now, and we must deliver solutions that work for our nation’s farmers and ranchers.”

## Selected federal rules proposed

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

### COMMENTS


CLOSE	SUMMARY OF PROPOSED RULE
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02.21.2017	The CFPB is <a href="#">seeking comments</a> from the public about consumer access to such information, including access by entities acting with consumer permission, in connection with the provision of products or services that make use of that information. Submissions to this Request for Information will assist market participants and policymakers to develop practices and procedures that enable consumers to realize the benefits associated with safe access to their financial records, assess necessary consumer protections and safeguards, and spur innovation.
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## COMMENTS CLOSED

- 01.15.2017 The OCC issued a paper entitled [Exploring Special Purpose National Bank Charters for Fintech Companies](#) in which it asked for public comment to help inform its consideration of the issues and specific questions raised therein.
- 01.06.2017 The OCC, the Federal Reserve, the FDIC, the Farm Credit Administration (FCA), and the NCUA issued a [new proposal](#) to amend their regulations regarding loans in areas having special flood hazards to implement the private flood insurance provisions of the Biggert-Waters Flood Insurance Reform Act of 2012 (Biggert-Waters Act). Specifically, the proposed rule would require regulated lending institutions to accept policies that meet the statutory definition of private flood insurance in the Biggert-Waters Act and permit regulated lending institutions to accept flood insurance provided by private insurers that does not meet the statutory definition of “private flood insurance” on a discretionary basis, subject to certain restrictions.
- 12.29.2016 The CFPB is adding a consumer rating system for its complaint database. Comments were [solicited](#) and continue to be invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Bureau, including whether the information will have practical utility; (b) The accuracy of the Bureau’s estimate of the burden of the collection of information, including the validity of the methods and the assumptions used; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology
- 10.18.2016 The CFPB released a proposal to update its [TILA-RESPA Integrated Disclosure rule](#) 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](#).
- 10.07.2016 [Payday, Vehicle Title, and Certain High-Cost Installment Loans](#). 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](#) were due on or before October 7, 2016.
- 08.22.2016 [Arbitration Agreements](#). 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.

## 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:

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01.18.2017 [CRA Asset Size Adjustments](#). The OCC, the Board, and the FDIC (collectively, the Agencies) are amending their Community Reinvestment Act (CRA) regulations 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 (CPI-W). The FDIC is also amending its CRA Notice requirements to reflect two technical changes concerning the manner in which the agency will receive public comments considered in the CRA examination process.

## 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

EFFECTIVE DATE:	SUMMARY OF FINAL RULE:
12.24.2016	<a href="#">Credit Risk Retention</a> . 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. <b>Compliance with the rule with regard to all other classes of asset-backed securities is required beginning December 24, 2016.</b>
01.01.2017	The CFPB is <a href="#">amending the official commentary</a> that interprets the requirements of Reg. Z to reflect a change in the asset-size threshold for certain creditors to qualify for an exemption to the requirement to establish an escrow account for a higher-priced mortgage loan based on the annual percentage change in the average of the CPI-W for the 12-month period ending in November. The exemption threshold is adjusted to increase to \$2.069 billion from \$2.052 billion. The adjustment is based on the .8 percent increase in the average of the CPI-W for the 12-month period ending in November 2016. Therefore, creditors with assets of less than \$2.069 billion (including assets of certain affiliates) as of December 31, 2016, are exempt, if other requirements of Regulation Z also are met, from establishing escrow accounts for higher-priced mortgage loans in 2017. This asset limit applies during a grace period, in certain circumstances, with respect to transactions with applications received before April 1 of 2018. The adjustment to the escrows exemption asset-size threshold will also increase a similar threshold for small-creditor portfolio and balloon-payment qualified mortgages. Balloon-payment qualified.
01.01.2017	<a href="#">New HMDA reporting requirements</a> . 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.  <b><i>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. IBAT has prepared a new set of regulatory guidelines, including a <a href="#">guideline on HMDA</a>.</i></b>
01.01.2017	Reg. Z Annual Threshold Adjustments (CARD Act, HOEPA and ATR/QM). The CFPB issued a <a href="#">final rule</a> 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.
01.15.2017	<a href="#">Civil Money Penalty Adjustment</a> . The CFPB issued a final rule adjusting for inflation the maximum amount of each civil penalty within the Bureau’s jurisdiction. These adjustments are required by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996 and further amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. The inflation adjustments mandated by the Inflation Adjustment Act serve to maintain the deterrent effect of civil penalties and to promote compliance with the law.
09.30.2017	<a href="#">Joint Agencies: Loans in Areas Having Special Flood Hazards</a> . 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.**

***Comment: IBAT has created regulatory guidelines, including a [guide on flood regulations](#).***

10.01.2017 [Prepaid Accounts under the Electronic Fund Transfer Act \(Regulation E\) and the Truth In Lending Act \(Regulation Z\)](#). 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](#).

***Comment: The prepaid rules affect Regulation E relating to payroll cards, which were working quite well. The prepaid rule amended Regulations E and Z to create consumer protections for prepaid financial products, including payroll cards. The rules also apply to government benefit cards but not to gift cards or health savings account cards. The rules are effective October 1, 2017, although the requirement to submit account agreements to the CFPB is effective October 1, 2018.***

10.03.2017 Although the Military Lending Act was effective October 3, 2016, credit cards are exempt until October 3, 2017. [80 Fed Reg 43560](#)

10.19.2017 [Mortgage Servicing Rules](#). 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 October 19, 2016, publication date (and for some changes 18 months) to implement the rules.**

10.19.2017 [Safe harbors from FDCPA liability for actions complying with mortgage servicing rules under RESPA and Reg. Z](#). The CFPB specified mortgage servicing rules in Regulations X and Z. This interpretive rule constitutes an advisory opinion for purposes of the FDCPA and provides safe harbors from liability for servicers acting in compliance with specified mortgage servicing rules in three situations: Servicers do not violate FDCPA section 805(b) when communicating about the mortgage loan with confirmed successors in interest in compliance with specified mortgage servicing rules in Regulation X or Z; servicers do not violate FDCPA section 805(c) with respect to the mortgage loan when providing the written early intervention notice required by Regulation X to a borrower who has invoked the cease communication right under FDCPA section 805(c); and servicers do not violate FDCPA section 805(c) when responding to borrower-initiated communications concerning loss mitigation after the borrower has invoked the cease communication right under FDCPA section 805(c).

01.01.2018 [Home Mortgage Disclosure \(Regulation C\)](#). 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. IBAT has prepared a new set of regulatory guidelines, including a [guideline on HMDA](#).***

05.11.2018 FinCEN is issued [final rules](#) under the Bank Secrecy Act to clarify and strengthen 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.

10.01.2018 [Prepaid Accounts under the Electronic Fund Transfer Act \(Regulation E\) and the Truth In Lending Act \(Regulation Z\)](#). 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](#).

## Selected federal rules – recent effective dates

Our list of effective dates of past final federal rules is limited to approximately 12 months. IBAT's "[Selected Final Federal Rules: October 2009 to Present](#)" document contains selected future and past final rules.

EFFECTIVE DATE:	SUMMARY OF FINAL RULE:
11.04.2016	<a href="#">Technical amendments to various BSA regulations</a> . FinCEN issued a final rule to make a number of technical amendments. This final rule updates various sections of the regulations implementing the Bank Secrecy Act ("BSA") by removing or replacing outdated references to obsolete BSA forms, removing references to outdated recordkeeping storage media, and replacing several other outdated terms and references
10.03.2016	<a href="#">Limitations on Terms of Consumer Credit Extended to Service Members and Dependents</a> . 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. <b>FDIC-supervised institutions and other creditors must comply with the rule for new covered transactions beginning October 3, 2016.</b> For credit extended in a new credit card account under an open-end consumer credit plan, compliance is required beginning October 3, 2017. <a href="#">FIL-37-2015</a> <i>Comment: IBAT has created a set of guidelines, including a guide on MLA.</i>
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 <a href="#">FIL-44-2016</a> for further information about the Call Report revisions taking effect in September 2016 and March 2017.</i>
08.30.2016	<a href="#">Fed CMP inflation adjustments</a> . 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	<a href="#">OCC CMP inflation adjustments</a> . 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	<a href="#">FDIC adjustment of maximum CMPs</a> . 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	<a href="#">FinCEN adjustment of maximum CMPs</a> . 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 <a href="#">final rules</a> 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](#). 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](#). 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](#). 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](#). 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](#). 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 \(CARD ACT, HOEPA and ATR/QM\)](#). 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 \(Regulation Z\)](#). The CFPB amended certain mortgage rules issued by the CFPB in 2013. The final rule 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](#) 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](#). 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 \(Regulation C\)](#). 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](#). OFAC issued regulations to implement [Executive Order 13694](#) 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](#). 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:
- Amends § 1026.22(a)(5) to restore subparagraphs (i) and (ii).
  - Amends the commentary to § 1026.17 at paragraph 17(c)(1)-2 to restore subparagraphs i, ii, and iii.
  - Amends commentary paragraph 17(c)(1)-4 to restore subparagraphs i.A, and i.B.
  - Amends commentary paragraph 17(c)(1)-10 to restore introductory text and subparagraphs iii, iv, and vi.
  - Amends commentary paragraph 17(c)(1)-11 to restore subparagraphs i, ii, iii, and iv.
  - Amends commentary paragraph 17(c)(1)-12 to restore subparagraphs i, ii, and iii.
  - Amends commentary paragraph 17(c)(4)-1 to restore subparagraphs i and ii.
  - Amends commentary paragraph 17(g)-1 to restore subparagraphs i and ii.
  - 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](#) (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.

## 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.
CARD Act	<a href="#">Credit Card Accountability Responsibility and Disclosure Act of 2009</a>
CFPB	<a href="#">Consumer Financial Protection Bureau</a>
CFR	<a href="#">Code of Federal Regulations</a> . Codification of rules and regulations of federal agencies.
CRA	<a href="#">Community Reinvestment Act</a> . This Act is designed to encourage loans in all segments of communities.
CRE	Commercial Real Estate
CSBS	<a href="#">Conference of State Bank Supervisors</a>
CTR	<a href="#">Currency Transaction Report</a> . Filed for each deposit, withdrawal, exchange of currency that involves a transaction in currency of more than \$10,000.
Dodd-Frank Act	<a href="#">The Dodd–Frank Wall Street Reform and Consumer Protection Act</a>
DOJ	<a href="#">Department of Justice</a>
FDIC	<a href="#">Federal Deposit Insurance Corporation</a>
EFTA	<a href="#">Electronic Fund Transfer Act</a>
Federal bank regulatory agencies	FDIC, FRB, and OCC
Federal financial institution regulatory agencies	CFPB, FDIC, FRB, NCUA, and OCC
FEMA	<a href="#">Federal Emergency Management Agency</a>
FFIEC	<a href="#">Federal Financial Institutions Examination Council</a>
FHFA	<a href="#">Federal Housing Finance Agency</a>
FHA	<a href="#">Federal Housing Administration</a>
FinCEN	<a href="#">Financial Crime Enforcement Network</a>
FR	<a href="#">Federal Register</a> . U.S. government daily publication that contains proposed and final administrative regulations of federal agencies.
FRB, Fed or Federal Reserve	<a href="#">Federal Reserve Board</a>

FSOC	<a href="#">Financial Stability Oversight Council</a>
FTC	<a href="#">Federal Trade Commission</a>
GAO	<a href="#">Government Accountability Office</a>
HARP	<a href="#">Home Affordable Refinance Program</a>
HAMP	<a href="#">Home Affordable Modification Program</a>
HMDA	<a href="#">Home Mortgage Disclosure Act</a>
HOEPA	<a href="#">Home Ownership and Equity Protections Act of 1994</a>
HPML	<a href="#">Higher Priced Mortgage Loan</a>
HUD	<a href="#">U.S. Department of Housing and Urban Development</a>
IRS	<a href="#">Internal Revenue Service</a>
MLO	Mortgage Loan Originator
MOU	Memorandum of Understanding
NFIP	<a href="#">National Flood Insurance Program</a> . U.S. government program to allow the purchase of flood insurance from the government.
NMLS	<a href="#">National Mortgage Licensing System</a>
OCC	<a href="#">Office of the Comptroller of the Currency</a>
OFAC	<a href="#">Office of Foreign Asset Control</a>
OREO	<a href="#">Other Real Estate Owned</a>
QRM	Qualified Residential Mortgage
Reg. B	<a href="#">Equal Credit Opportunity</a>
Reg. C	<a href="#">Home Mortgage Disclosure</a>
Reg. DD	<a href="#">Truth in Savings</a>
Reg. E	<a href="#">Electronic Fund Transfers</a>
Reg. G	<a href="#">S.A.F.E. Mortgage Licensing Act</a>
Reg. P	<a href="#">Privacy of Consumer Financial Information</a>
Reg. X	<a href="#">Real Estate Settlement Procedures Act</a>
Reg. Z	<a href="#">Truth in Lending</a>
RESPA	<a href="#">Real Estate Settlement Procedures Act</a>
SAR	<a href="#">Suspicious Activity Report</a> – Report financial institutions file with the U.S. government (FinCEN) regarding activity that may be criminal in nature.
SDN	Specially Designated National
TILA	<a href="#">Truth in Lending Act</a>
TIN	Tax Identification Number
Treasury	<a href="#">U.S. Department of Treasury</a>

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