Capitol Comments

May 2020

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

'May, more than any other month of the year, wants us to feel most alive.' — Fennel Hudson

Department of the Treasury [COVID-19 Resources]

SBA Coronavirus (COVID-19): Small Business Guidance & Loan [Resources]

Joint federal agency issuances, actions and news

Interagency Guidance on Credit Risk Review Systems (05.08.2020)

The FDIC, the Federal Reserve Board, the Office of the Comptroller of the Currency, and the National Credit Union Administration have jointly issued the final Interagency Guidance on Credit Risk Review Systems (interagency guidance). The interagency guidance replaces the guidance in Attachment 1 – Loan Review Systems, which is part of the December 2006 Interagency Policy Statement on the Allowance for Loan and Lease Losses. Additionally, the interagency guidance aligns with the Interagency Guidelines Establishing Standards for Safety and Soundness.

Highlights:

- The interagency guidance highlights the important role of credit risk review systems in an institution's overall risk management program.
- The interagency guidance is a stand-alone document that updates and replaces existing guidance on the elements of an effective credit risk review system currently contained in Attachment 1 – Loan Review Systems to the December 2006 Interagency Policy Statement on the Allowance for Loan and Lease Losses.
- The interagency guidance:
    - Articulates principles for sound credit risk management that include a system of independent, ongoing credit risk review and appropriate communication to management and the board of directors regarding the performance of the institution's loan portfolio.

  - Describes a broad set of practices and principles to be considered when developing and maintaining a credit risk review system, including: qualifications and independence of credit risk review personnel; the frequency, scope, and depth of reviews; and the review, follow-up, communication, and distribution of results.
  - Reflects current industry credit review practices, as well as terminology that is consistent with Accounting Standards Update No. 2016–13, which introduces the current expected credit losses (CECL) methodology and replaces the existing incurred loss methodology in U.S. GAAP. A new Interagency Policy Statement on Allowances for Credit Losses that describes the CECL methodology is being issued separately.

The principles described in the interagency guidance are designed to be commensurate with the institution's size, nature and scope of operations, loan portfolio types, risk profile, and risk management practices.

Related Topics:

Appendix A to Part 364—Interagency Guidelines Establishing Standards for Safety and Soundness

Interagency Policy Statement on the Allowance for Loan and Lease Losses

Attachment:

Interagency Guidance on Credit Risk Review Systems

Source link.

Comment: On the issue of roles and responsibilities, the guidance provides additional clarity for small and rural banks with fewer resources or employees. Smaller or rural banks may supplement their credit review system to include qualified members of the staff from within the bank who are independent of the credits being assessed. Regardless of size and complexity, the review process must be performed by individuals who are not originating or approving specific credits and whose compensation is not influenced by the assigned risk ratings. Additionally, the scope areas of the credit review function were expanded. This update may require credit risk review functions to revisit their plans to ensure these areas are factored into their scope of coverage or adequately considered elsewhere within the bank.

Interagency Policy Statement on Allowances for Credit Losses (05.08.2020)

The federal financial institution regulatory agencies have jointly issued the attached final Interagency Policy Statement on Allowances for Credit Losses (interagency policy statement). The agencies adopted this policy statement in response to changes in the accounting for credit losses under U.S. generally accepted accounting principles (U.S. GAAP).

Highlights:

- In June 2016, the Financial Accounting Standards Board (FASB) issued Accounting Standards Update No. 2016-13, which introduces the current expected credit losses (CECL) methodology and replaces the existing incurred loss methodology in U.S. GAAP. The FASB has codified these changes, including subsequent amendments, in Accounting Standards Codification Topic 326, Financial Instruments – Credit Losses (FASB ASC Topic 326).
- The interagency policy statement:
  - Describes the CECL methodology for determining allowances for credit losses (ACLs) on financial assets measured at amortized cost (including loans held for investment and held to maturity debt

securities), net investments in leases, and certain off-balance-sheet credit exposures in accordance with FASB ASC Subtopic 326-20;

  - Explains the estimation of an ACL for an impaired available-for-sale debt security in accordance with FASB ASC Subtopic 326-30; and
  - Includes and updates concepts and practices detailed in the existing December 2006 Interagency Policy Statement on the Allowance for Loan and Lease Losses (2006 allowance policy statement) and July 2001 Policy Statement on Allowance for Loan and Lease Losses Methodologies and Documentation for Banks and Savings Institutions that remain relevant under FASB ASC Topic 326.

- The principles described in the interagency policy statement are consistent with U.S. GAAP, regulatory reporting requirements, safe-and-sound banking practices, and the agencies' codified guidelines establishing standards for safety and soundness.
- An attachment to the 2006 allowance policy statement on loan review systems has been superseded by separate interagency guidance on credit risk review systems.
- The interagency policy statement will take effect at the time of each institution's adoption of FASB ASC Topic 326, which may be delayed in accordance with Section 4014 of the Coronavirus Aid, Relief, and Economic Security Act.

Related Topics:

FIL-59-*2019, October 17, 2019, Proposed Interagency Policy Statement on Allowances for Credit Losses*

FIL-20-2019, April 3, 2019, New Accounting Standard on Credit Losses: Frequently Asked Questions

FIL-39-2016, June 17, 2016, Joint Statement on the New Accounting Standard on Financial Instruments – Credit Losses

Attachment:

Interagency Policy Statement on Allowances for Credit Losses

Source link.

Comment: The interagency statement on credit losses accounting is intended to "promote consistency in the interpretation and application of the Financial Accounting Standards Board's credit losses accounting standard, which introduces the current expected credit losses (CECL) methodology," according to the policy statement. The statement will be effective at the time of each institution's adoption of the credit losses accounting standard. Section 4014 of the CARES Act provided temporary relief from CECL application until the earlier of either the end of the COVID-19 emergency or December 31, 2020.

FFIEC Joint Statement on Risk Management for Cloud Computing Services (04.30.2020)

The FDIC, as a member of the Federal Financial Institutions Examination Council (FFIEC), is issuing the attached statement addressing the use of cloud computing services and security risk management principles in the financial services sector.

Highlights:

- Inherent in the use of cloud computing services are shared responsibilities between the provider and the client. The attached document identifies responsibilities financial institutions would have when contracting with cloud computing providers.

- The attached document provides examples of risk management practices for a financial institution's safe and sound use of cloud computing services and safeguards to protect its customers' sensitive information from risks that pose potential consumer harm.
- The attached document includes a list of public and private sector resources and references that can assist financial institutions with managing cloud computing services.

Attachment:

FFIEC Joint Statement on Risk Management for Cloud Computing Services

Note:

Access FDIC Financial Institution Letters (FILs) on the FDIC's website

Source link.

Comment: The joint statement highlights three main cloud service models, each with different levels of shared responsibilities between providers and clients – in this case banks. "Financial institution management should engage in effective risk management for the safe and sound use of cloud computing services," the FFIEC noted in its introduction. "Security breaches involving cloud computing services highlight the importance of sound security controls and management's understanding of the shared responsibilities between cloud service providers and their financial institution clients."

CFPB actions and news

Consumer Financial Protection Bureau Outlines Responsibilities of Financial Firms During Pandemic (05.13.2020)

WASHINGTON, D.C. — The Consumer Financial Protection Bureau (Bureau) released a statement and FAQs outlining the responsibility of certain financial firms during the pandemic. In the statement, the Bureau outlines the billing error responsibilities of credit card issuers and other open-end non-home secured creditors during the COVID-19 pandemic.

Additionally, the Bureau encourages financial firms to continue to provide the kind of assistance to their communities that many have been providing, such as waiving fees, lowering minimum-balance requirements, and implementing changes in account terms that benefit consumers.

In order to help consumers, the Bureau released two FAQ documents. First, the FAQs remind providers of checking, savings, or prepaid accounts that they can offer consumers immediate relief by changing account terms without advance notice where the change in terms is clearly favorable to the consumer. For example, in light of the Federal Reserve Board's April 2020 interim final rule deleting the six-per-month transfer limit on savings accounts, an institution may eliminate transfer fees on savings accounts without providing advance notice. Second, the Bureau issued FAQs focusing on existing regulatory flexibilities for open-end credit (that is not home-secured) that may be useful for assisting customers. For example, there is no advance notice requirement should a creditor choose to extend a credit card account's grace period.

Additionally, the Bureau released a statement to assist consumers, small business owners, and their creditors in managing the challenges that the current pandemic poses. The statement highlights creditors' responsibilities during the crisis and provides them with temporary and targeted relief to ensure that they are able to assist their consumers and accurately resolve their billing error claims.

The CFPB is committed to providing consumers with up-to-date information and resources to protect and manage their finances during this difficult time as the situation evolves. Consumers can learn more on consumerfinance.gov/coronavirus.

Statement on Supervisory and Enforcement Practices Regarding Regulation Z Billing Error Resolution Timeframes in Light of the COVID-19 Pandemic

The Bureau’s Payments and Deposits Rules FAQs related to the COVID-19 Pandemic

The Bureau’s Open-End (not Home-Secured) Rules FAQs related to the COVID-19 Pandemic

Source link.

Comment: In its release of these new resources, the CFPB made a point of “encourag[ing] financial firms to continue to provide the kind of assistance to their communities that many have been providing, such as waiving fees, lowering minimum-balance requirements and implementing changes in account terms that benefit consumers.”

Consumer Financial Protection Bureau Issues Final Remittance Rule (05.11.2020)

WASHINGTON, D.C. – The Consumer Financial Protection Bureau (Bureau) issued a final rule covering remittances transfers. The Remittance Rule imposes requirements on entities that send international money transfers, or remittance transfers, on behalf of consumers. Among its requirements, the Rule mandates that remittance transfer providers generally must disclose the exact exchange rate, the amount of certain fees, and the amount expected to be delivered to the recipient. The Rule also allows for depository institutions to estimate certain fees and exchange rate information under certain circumstances, but by statute, this provision expires in July 2020.

The final rule allows certain banks and credit unions to continue to provide estimates of the exchange rate and certain fees under certain conditions. This could preserve consumers’ ability to send remittances from their bank accounts to certain countries or recipient institutions.

The final rule also increases the threshold that determines whether an entity makes remittance transfers in the normal course of its business and is subject to the Rule. Entities making 500 or fewer transfers annually in the current and prior calendar years would not be subject to the Rule. This will reduce the burden on over 400 banks and almost 250 credit unions that send a relatively small number of remittances—less than .06 percent of all remittances.

Last month, the Bureau also announced regulatory flexibility as a result of the impact the pandemic is having on consumers’ finances, both here and around the world. Because many consumers rely on remittance transfer providers to send money from the United States to their families and friends abroad, the Bureau took action to minimize the impact of the pandemic on the remittances market by enabling insured institutions to continue to focus on the immediate needs of their customers. The final rule will further provide regulatory certainty that will continue to enable consumers to send money to their family and friends overseas during the pandemic and beyond.

The rule is available at: https://files.consumerfinance.gov/f/documents/cfpb_remittance-transfers_final-rule_2020-05.pdf

Source link.

Comment: This final rule imposes stricter reporting requirements on entities that process international money and remittance transfers for consumers. However, the new rule augments the safe harbor protections afforded to certain banks when reporting the costs of transfers and remittances to consumers. The final rule increases the transfer threshold to 500 transfers per year, making the temporary exemption permanent. This final rule will take effect on July 21, 2020, replacing a temporary rule that has been in place since 2013. These changes make it more feasible for community banks to provide remittance services.

Consumer Financial Protection Bureau Issues Clarifications to Support Small Business Applying for PPP Loans (05.06.2020)

WASHINGTON, D.C. – The Consumer Financial Protection Bureau issued clarifying FAQs to support small businesses who have applied for a loan from their financial institution under the Small Business Administration's (SBA) Paycheck Protection Program (PPP).

Creditors are generally required under the Equal Credit Opportunity Act and Regulation B to notify applicants within 30 days of receiving a "completed application" of the creditor's approval, counteroffer, denial or other adverse notice regarding the application. Regulation B notifications of action taken are designed to help consumers and businesses by providing transparency to the credit underwriting process in a timely manner. Information that is generally included in a complete application includes any approvals or reports by governmental agencies or others who can guarantee, insure, or provide security for the credit or collateral. In its FAQs, the Bureau clarifies that a PPP application is only a "completed application" once the creditor has received a loan number from the SBA or a response about the availability of funds. This ensures that the time awaiting this information from the SBA does not count towards the 30-day notice requirement, and that applications will therefore not "time out" during the process.

The FAQs also make clear that if the creditor denies an application without ever sending the application to the SBA, the creditor must give notice of this adverse action within 30 days. It further clarifies that a creditor cannot deny a loan application based on incompleteness where the creditor has enough information for a credit decision but has yet to receive a loan number or response about the availability of funds from the SBA.

Source link.

Comment: The notice was published by the Consumer Financial Protection Bureau (CFPB) as "clarifying frequently asked questions (FAQs)" about the PPP program. The bureau noted that, generally under the Equal Credit Opportunity Act and Regulation B, creditors are required to notify applicants within 30 days of receiving a "completed application" of the creditor's approval, counteroffer, denial or other adverse notice regarding the application. Apply the bank's commercial adverse action procedures. If needed, there are model forms in Appendix C.

CFPB Issues Two Factsheets on Appraisal Notices (04.30.2020)

The Bureau released two factsheets on the ECOA valuation rule. The factsheets provide information on transaction coverage under the Rule and delivery method and timing requirements for appraisals and other written valuations. The Bureau also published an FAQ related to the ECOA valuations rule in light of the COVID-19 emergency.

You can access the transactions coverage factsheet and the delivery of appraisals factsheet here: https://www.consumerfinance.gov/policy-compliance/guidance/equal-credit-opportunity-act-valuation-rule/.

Source link.

Comment: With regard to applications that are denied or withdrawn, the fact sheet reflects that there is no exception to the applicant notice or the appraisal/valuation delivery requirements of the ECOA Valuations Rule for denied or withdrawn applications. Pursuant to the applicant notice requirement of the ECOA Valuations Rule, within three business days after receiving a covered application a creditor must mail or deliver to the applicant a notice advising of the right to receive a copy of any written appraisal or other valuation developed in connection with the application. The Loan Estimate under the TRID rule, which must be mailed or delivered to the applicant within three business days after receipt of an application, contains language that satisfies the notice requirement. The fact sheet notes that even when a creditor decides to deny an application within three business days of receipt, the notice requirement still applies. As it is likely that no Loan Estimate would be issued in such a situation, a creditor would need to mail or deliver a notice to the applicant. The fact sheet provides that the creditor could modify the notice to make clear to the applicant that the credit application was denied. Of course if an application is denied within three business days of receipt, it is likely that no written appraisal or other valuation would be developed in connection with the application and, if so, there would be no requirement to deliver a written appraisal or other valuation. For purposes of the ECOA Valuations Rule, a "dwelling" is defined as "a residential structure that contains one to four units whether or not that structure is attached to real property. The term includes, but is not limited to, an individual condominium or cooperative unit, and a mobile or other manufactured home." The fact sheet provides that two factors determine whether a structure is a dwelling under the ECOA Valuations Rule: "The structure: (1) must be residential and (2) contain one-to-four units. When both factors are present, a dwelling exists."

CFPB Paves Way for Consumers Facing Financial Emergencies to Obtain Access to Mortgage Credit More Quickly (04.26.2020)

WASHINGTON, D.C. – The Consumer Financial Protection Bureau (Bureau) took steps to make it easier for consumers with urgent financial needs to obtain access to mortgage credit more quickly in the middle of the COVID-19 pandemic.

"The steps we are taking will help consumers facing financial emergencies obtain access to mortgage credit faster," said CFPB Director Kathleen L. Kraninger. "The pandemic is resulting in consumers facing various challenges, and our temporary and targeted solutions are intended to ensure that consumers receive the credit they need in a timely manner."

The steps taken will help those institutions better serve consumers to obtain access to mortgage credit quickly, despite operational disruptions. These steps also will reduce regulatory uncertainty and allow creditors to focus their resources on meeting consumers' needs. The Bureau is issuing an interpretive rule clarifying that consumers can exercise their rights to modify or waive certain required waiting periods under the TILA-RESPA Integrated Disclosure Rule and Regulation Z rescission rules. The Bureau is also issuing an FAQ document that addresses when creditors must provide appraisals or other written valuations to mortgage applicants in order to expedite access to credit for consumers affected by the COVID-19 pandemic.

Read the interpretive rule addressing the TRID Rule and Regulation Z rescission rules issues.

Read the FAQ document addressing the ECOA Valuations Rule issues.

Source link.

Comment: The bureau said the interpretive rule, which takes effect upon its publication in the Federal Register, provides that a consumer has a "bona fide personal financial emergency" that would permit them to utilize the TRID modification and waiver provisions if they determine their need to obtain funds due to the COVID-19 pandemic: (1) necessitates consummating the credit transaction before the end of the TRID rule waiting periods or (2) must be met before the end of the Regulation Z rescission rules waiting period. The bureau also concludes in the interpretive rule that the COVID-19 pandemic is a "changed circumstance" for purposes of certain TRID rule provisions, allowing creditors to use revised estimates reflecting changes in settlement charges for purposes of determining good faith, the rule summary states.

Consumer Financial Protection Bureau Outlines Mortgage Loan Transfer Process to Prevent Consumer Harm (04.24.2020)

WASHINGTON, D.C. — The Consumer Financial Protection Bureau (CFPB) outlined practices to provide mortgage servicers clarity, facilitate compliance, and prevent harm to consumers during the transfer of residential mortgages.

A mortgage servicer typically collects and processes loan payments on behalf of the owner of the mortgage note, conducts escrow-related processes, and handles loss mitigation, as appropriate. Servicing transfers are common and may occur in several ways. The mortgage owner may sell the rights to service the loan, the owner of the loan may hire a vendor–typically called a sub-servicer to take on the servicing duties–or the entity that owns the loan may outright sell the mortgage loan as an asset.

As consumers do not have a choice with respect to the transfer of servicing, compliance with regulatory requirements is especially important in risk mitigation and preventing consumer harm. Examples of practices that servicers may consider as contributing to compliance include:

- Developing a servicing transfer plan that includes a communications plan, testing plan (for system conversion), a timeline with key milestones and an escalation plan for potential problems;
- Engaging in quality control work after a transfer of preliminary data to validate that the data on the transferee's system matches the data submitted by the transferor;
- Determining servicing responsibilities for legacy accounts including tax reporting, credit bureau reporting and other questions that may arise;
- Conducting a post-transfer review or de-brief to determine effectiveness of the transfer plan and whether any gaps have arisen that require resolution; and
- Monitoring consumer complaints and loss mitigation performance metrics. The CFPB emphasizes the importance of post-transfer monitoring to ensure that transferred data is complete, accurate and functional for the transferee.
- Identifying any loans in default, active foreclosure and bankruptcy or any forbearance agreements entered in with the borrower. Where applicable include loss mitigation activity for each loan, including status and notes pertaining to the loss mitigation action.

"Consumers should experience a seamless process when their mortgage servicer changes. The guidance we released will facilitate a well-functioning mortgage servicer transfer process, providing a roadmap for servicers that will prevent consumer harm," said CFPB Director Kathleen L. Kraninger. "The guidance provides insights the

CFPB has gained through years of supervisory and enforcement work to oversee compliance with regulations updated after the financial crisis."

Since 2014 when significant changes to Regulation X mortgage servicing rules took effect, the CFPB has found weakness in how some servicers manage mortgage transfers. When transferring a loan, servicers should have policies and procedures reasonably designed to transfer all of the information and documents in their possession or control relating to a transferred mortgage loan, such as, a unique identifier for each loan, the terms of the loan, current unpaid principal balance as of a specific date, information concerning any escrow, and copies of any loss mitigation applications submitted by a borrower and of any loss mitigation agreements agreed to with a borrower. Such actions can prevent consumer harm, for example, ensuring there is no lag in paying the borrower's taxes and insurance from escrow accounts.

The CFPB began developing this guidance well before the coronavirus pandemic, in consultation with interagency and intergovernmental partners. Recognizing the particular challenges that entities may face as a result of the pandemic, if a servicing transfer is requested or required by a federal regulator or by the security issuer of "Government Loans," the CFPB intends to consider such challenges, including operational and time constraints related to the transfer, and to be sensitive to good-faith efforts demonstrably designed to transfer the servicing without adverse impact to consumers. The CFPB intends to focus any supervisory feedback for institutions, if needed, on identifying issues, correcting deficiencies, and ensuring appropriate remediation for consumers.

Read the guidance

Source link.

Comment: Although many community banks may not use third-party servicers, they do need to remember the transfer notice requirements of Regulation Z, which dovetail with the RESPA servicing transfers.

FDIC actions and news

FDIC Issues Proposed Rule to Mitigate the Deposit Insurance Assessment Effect of Participation in the Paycheck Protection Program (PPP), the PPP Lending Facility, and the Money Market Mutual Fund Liquidity Facility (05.12.2020)

WASHINGTON – The Federal Deposit Insurance Corporation (FDIC) approved a notice of proposed rulemaking that would mitigate the deposit insurance assessment effects of participating in the Paycheck Protection Program (PPP) established by the U.S. Small Business Administration (SBA) and the Paycheck Protection Program Lending Facility (PPPLF) and Money Market Mutual Fund Liquidity Facility (MMLF) established by the Board of Governors of the Federal Reserve System.

The PPP, PPPLF and MMLF were put in place to provide financing to small businesses and liquidity to small business lenders and the broader credit markets, and to help stabilize the financial system in a time of significant economic strain. At the same time, PPP loans are fully guaranteed by the SBA, and transactions made with the PPPLF and MMLF are conducted with the Federal Reserve on a non-recourse basis. The FDIC's action will ensure that banks will not be subject to significantly higher deposit insurance assessments for participating in these programs.

The FDIC is proposing an effective date by June 30, 2020, and an application date of April 1, 2020, which would ensure that the changes are applied to assessments starting in the second quarter of 2020 and provide certainty to the IDIs regarding the assessment effects of these programs. Comments on the proposed rule will be accepted for seven days after publication in the Federal Register.

Attachment:

Notice of Proposed Rulemaking Re: Assessments, Mitigating the Deposit Insurance Assessment Effect of Participation in the Paycheck Protection Program (PPP), the PPP Lending Facility, and the Money Market Mutual Fund Liquidity Facility

Source link.

Comment: The interim final rule: 1) removes the effect of participation in the PPP and PPPLF on various risk measures used to calculate an IDI's assessment rate, 2) removes the effect of participation in the PPPLF and MMLF programs on certain adjustments to an IDI's assessment rate, 3) provides an offset to an IDI's assessment for the increase to its assessment base attributable to participation in the MMLF and PPPLF and 4) removes the effect of participation in the PPPLF and MMLF programs when classifying IDIs as small, large or highly complex for assessment purposes.

OCC actions and news

OCC Finalizes Rule to Strengthen and Modernize Community Reinvestment Act Regulations (05.20.2020)

WASHINGTON—The Office of the Comptroller of the Currency (OCC) released a final rule strengthening and modernizing the agency's regulations under the Community Reinvestment Act (CRA).

The final rule will increase bank CRA-related lending, investment, and services in low- and moderate-income communities where there is significant need for credit, more responsible lending, and greater access to banking services. The final rule reflects careful consideration of the more than 7,500 comments stakeholders submitted in response to the notice of proposed rulemaking announced on December 12, 2019. The OCC made several changes to the proposal that respond to stakeholders' comments, including:

- Clarifying the importance of the quantity and quality of activities as well as their value.
- Increasing credit for mortgage origination to promote availability of affordable housing in low- and moderate-income areas.
- Clarifying credit for athletic facilities to ensure they benefit and support low- and moderate-income communities.
- Deferring establishment of thresholds for grading banks' CRA performance and delineating banks' deposit-based assessment areas until the OCC assesses improved data required by the final rule.

The final rule will benefit communities, businesses, and banks by:

- Clarifying what qualifies for CRA consideration.
- Updating how banks define assessment areas by retaining immediate geographies around branches and establishing additional assessment areas for banks that do not rely on branch networks to serve their customers.
- Evaluating bank CRA performance more objectively through quantitative measures that assess the volume and value of activity.
- Making reporting more transparent and timelier.
- Providing greater support for small businesses, small and family-owned farms, and Indian Country.

- Thoroughly evaluating banks' CRA performance in all their assessment areas, not just a limited evaluation in some of them.

The CRA was enacted in 1977 to encourage insured depository institutions to help meet the credit needs in their local communities, including low- and moderate-income neighborhoods. The final rule preserves this important objective but responds to dramatic changes in the banking industry since the law's enactment and regulatory changes in 1995. The final rule addresses the shortcomings in the current CRA regulatory framework that has not kept pace with banking industry advancements, and ensures the regulations no longer adversely affect the very communities the CRA was intended to help.

The final CRA rule applies to national banks and savings associations, which conduct the majority of all CRA activity.

Related Links

CRA Final Rule (PDF)

List of CRA Qualifying Activities (PDF)

Source link.

Comment: This rule is effective on October 1, 2020. Banks must comply with the final amendments by October 1, 2020, January 1, 2023, or January 1, 2024, as applicable. Until the compliance dates, banks must continue to comply with parts 25 and 195 that are in effect on September 30, 2020 (as set forth in appendix C to 12 CFR 25). Alternatively, the OCC may permit a bank to voluntarily comply, in whole or in part, with the amendments adopted in this release prior to the applicable compliance dates. Parts 25 and 195 that are in effect on September 30, 2020 (as set forth in appendix C) expire on January 1, 2024.

Credit Administration: Documentation of SBA Paycheck Protection Program Loans (04.27.2020)

The Office of the Comptroller of the Currency (OCC) is issuing this bulletin to clarify its statement in OCC Bulletin 2020-44, which is hereby rescinded. Loans made by banks under the Small Business Administration's (SBA) Paycheck Protection Program (PPP) are an important part of the federal COVID-19 response program for small business and may qualify for credit under the Community Reinvestment Act (CRA). While not requiring banks to obtain or maintain information beyond what exists in the ordinary course of business, the OCC is encouraging banks providing loans under the SBA PPP to prudently document their implementation and lending decisions. Additionally, banks are encouraged to identify and track the PPP loans made to small business borrowers that have annual revenues of $1 million or less and are located in low- to moderate-income (LMI) areas.

Highlights

As part of the PPP, banks may accept applications from both existing small business customers and applicants who are not current loan customers. When working with all applicants, in addition to adherence to the SBA PPP program requirements, banks are encouraged to collect and track information provided during the application process regarding borrowers' annual revenue, and for loans made in LMI census tracts, distressed areas, and underserved areas, and that benefit LMI individuals, families, and communities. Maintaining and monitoring this information, where available, in the administration of the SBA PPP is a prudent banking practice consistent with the principles of safety and soundness and fair access and fair treatment of borrowers, and other applicable legal requirements. Prudent practices may also include documenting implementation decisions—such as the bank's business justifications and any alternatives considered—when setting eligibility criteria, establishing processes for considering applications, and approving or denying PPP applications. Relevant business considerations may include estimates of resources needed to implement and offer the SBA PPP, current available resources (including staff resources), and the ability to access needed information about an applicant in a timely way, among other factors.

In addition to thorough documentation of program administration and loan decisions, banks are encouraged to identify and track PPP loan volumes. Such documentation serves to enhance overall credit risk management while enabling the bank to demonstrate the full spectrum of businesses served, including small businesses and those in LMI areas. When exercising supervisory and enforcement responsibilities in this area, the OCC will take into account the unique circumstances resulting from the national emergency and good faith efforts to comply with applicable legal requirements.

Source link.

Comment: The bulletin stated that maintaining and monitoring that information "is a prudent banking practice consistent with the principles of safety and soundness and fair access and fair treatment of borrowers. "Prudent practices may also include documenting implementation decisions—such as the bank's business justifications and any alternatives considered—when setting eligibility criteria, establishing processes for considering applications and approving or denying PPP applications," the agency stated. "Relevant business considerations may include estimates of resources needed to implement and offer the SBA PPP, current available resources (including staff resources) and the ability to access needed information about an applicant in a timely way, among other factors." The OCC said banks should also identify and track PPP loan volumes, which it stated would enhance overall credit risk management while enabling the bank to demonstrate "the full spectrum of businesses served, including small businesses and those in LMI areas." Take advantage of the CRA opportunities!

COVID-19 Financial Support Programs: Visitorial Authority (04.24.2020)

The federal government has taken many actions in response to the economic disruption caused by the spread of COVID-19, including establishing and implementing financial support programs. While the Office of the Comptroller of the Currency (OCC) recognizes that a wide range of stakeholders, including state and local officials, have an interest in the successful implementation of these programs, the OCC reminds banks that it has exclusive visitorial authority over them.

Highlights

The federal banking system plays a critical role in implementing the federal government's COVID-19 response (e.g., by providing loans under the U.S. Small Business Administration's Paycheck Protection Program). It is imperative that banks are able to fulfill this role efficiently and effectively without unnecessary delay.

To that end, the OCC reiterates that federal law vests the OCC with exclusive visitorial authority over banks. Unless otherwise authorized by federal law, this authority generally precludes state and local officials from conducting examinations, requiring the production of banks' books or records, or exercising other visitorial authority with respect to banks.

If a bank receives a request from a state or local official seeking information that constitutes an attempt to exercise visitation over the bank, the bank is not required to provide this information. The bank, however, should contact its examiner-in-charge as soon as possible.

State and local officials are urged to contact the OCC if they have any information to indicate that a bank may be violating federal or applicable state law.

Source link.

Comment: A 'friendly' reminder that federally chartered banks (i.e., national banks, federal savings associations and federal branches and agencies of foreign banks) and to other interested parties that the OCC has exclusive visitorial authority over federally chartered banks. This application of visitorial exclusivity derives from the U.S. Supreme Court's decision in Cuomo v. The Clearing House, LLC, 557 U.S. 519 (2009), which was codified in 2010 by the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Federal Reserve actions and news

Federal Reserve Publishes Updates to The Term Sheet for The Term Asset-Backed Securities Loan Facility (TALF) And Announces Information to be Disclosed Monthly for The TALF And the Paycheck Protection Program Liquidity Facility (05.11.2020)

The Federal Reserve Board announced additional information regarding borrower and collateral eligibility criteria for the Term Asset-Backed Securities Loan Facility (TALF). The facility was announced on March 23 as part of an initiative to support the flow of credit to U.S. consumers and businesses. To help ensure that U.S. consumers and businesses remain able to access credit at affordable terms, TALF initially will make up to $100 billion of loans available.

Also, the Board outlined the information it will publicly disclose for the TALF and the Paycheck Protection Program Liquidity Facility (PPPLF) on a monthly basis. The Board will disclose the name of each participant in both facilities; the amounts borrowed, interest rate charged, and value of pledged collateral; and the overall costs, revenues, and fees for each facility. The disclosures are similar to those announced in April for the Board facilities that utilize CARES Act funds.

"The Federal Reserve remains committed to providing the public and Congress with detailed information about our efforts to support households and businesses during this unprecedented time," said Federal Reserve Board Chair Jerome H. Powell.

The Federal Reserve intends to use its full range of tools to support the flow of credit to households, businesses, and communities to counter the economic impact of the coronavirus pandemic and promote a swift recovery once the disruptions abate.

Source link.

The April 2020 Senior Loan Officer Opinion Survey on Bank Lending Practices (05.04.2020)

The April 2020 Senior Loan Officer Opinion Survey on Bank Lending Practices addressed changes in the standards and terms on, and demand for, bank loans to businesses and households over the past three months, which generally corresponds to the first quarter of 2020.

Regarding loans to businesses, respondents to the April survey indicated that, on balance, they tightened their standards and terms significantly on commercial and industrial (C&I) loans to firms of all sizes. Banks reported stronger demand for C&I loans from large and middle-market firms, while demand for C&I loans from small firms was about unchanged. Meanwhile, banks tightened standards and reported weaker demand across all three major commercial real estate (CRE) loan categories—construction and land development loans, nonfarm nonresidential loans, and multifamily loans—over the first quarter of 2020.

For loans to households, banks tightened standards across all three consumer loan categories—credit card loans, auto loans, and other consumer loans—over the first quarter of 2020, on net, while moderate fractions of banks tightened their lending standards on most categories of residential real estate (RRE) loans. Banks reported stronger demand for all categories of closed-end mortgage loans and weaker demand for all categories of consumer loans.

The survey also included two sets of special questions: one set about C&I loan demand across firms' industries over the past six months and one set about changes in CRE lending policies over the past year. Banks reported that C&I loan demand from borrowers from most industries changed little over the past six months, and most banks that reported stronger demand cited an increase in customers' precautionary demand for cash and liquidity and a decrease in customers' internally generated funds as reasons for stronger demand. In their answers to the special questions about CRE lending policies, banks reported having tightened loan-to-value ratios, debt service coverage, and the spreads of loan rates over their costs of funds across all three major CRE loan categories over the past year.

Many banks also provided written comments about the coronavirus (COVID-19) pandemic in addition to answering the standardized survey questions. In these comments, banks reported that the changes in standards and demand across loan categories reported for the first quarter occurred late in March as the economic outlook shifted when news emerged about the rapid global spread of COVID-19.

Source link.

Comment: Lenders tightened standards and terms on commercial and industrial loans to firms of all sizes, according to the survey. Banks also reported stronger demand for commercial and industrial loans with most citing precautionary demand from borrowers for cash and a decrease in customers' internally generated funds.

Federal Reserve Board Announces Interim Final Rule to Delete the Six-Per-Month Limit on Convenient Transfers From the "Savings Deposit" Definition in Regulation D (04.29.2020)

The Federal Reserve Board on Friday announced an interim final rule to amend Regulation D (Reserve Requirements of Depository Institutions) to delete the six-per-month limit on convenient transfers from the "savings deposit" definition. The interim final rule allows depository institutions immediately to suspend enforcement of the six transfer limit and to allow their customers to make an unlimited number of convenient transfers and withdrawals from their savings deposits at a time when financial events associated with the coronavirus pandemic have made such access more urgent.

The regulatory limit in Regulation D was the basis for distinguishing between reservable "transaction accounts" and non-reservable "savings deposits." The Board's recent action reducing all reserve requirement ratios to zero has rendered this regulatory distinction unnecessary.

Concurrently, the Federal Reserve is making temporary revisions to the FR 2900 series, FR Y-9, and FR 2886b reports to reflect the amendments to Regulation D.

Federal Register notices:

Regulation D: Reserve Requirements of Depository Institutions

[Agency Information Collection Activities: Announcement of Temporary Approval by the Board Under Delegated Authority and Submission to OMB (PDF)]

Source link.

Comment: Banks may allow their customers to make an unlimited number of convenient transfers and withdrawals from savings and money market accounts following this action. Banks may continue to impose terms and conditions in their deposit contracts as well. Additionally, the FAQs issued with this interim final rule add clarity to this change and address how it intersects with Reg CC.

Other federal action and news

FTC Blog - COVID-19 Contact Tracing Text Message Scams (05.19.2020)

You've probably been hearing a lot about contact tracing. It is the process of identifying people who have come in contact with someone who has tested positive for COVID-19, instructing them to quarantine and monitoring their symptoms daily.

Contact tracers are usually hired by a state's department of public health. They work with an infected person to get the names and phone numbers for everyone that infected person came in close contact with while the possibly infectious. Those names and phone numbers are often kept in an online system. People who had contact with someone infected with COVID-19 may first get a text message from the health department, telling them they'll get a call from a specific number. The tracer who calls will not ask for personal information, like a Social Security number. At the end of the call, some states ask if the contact would like to enroll in a text message program, which sends daily health and safety reminders until the 14-day quarantine ends. But tracers won't ask you for money or information like your Social Security, bank account, or credit card number. Anyone who does is a scammer.

There's no question, contact tracing plays a vital role in helping to stop the spread of COVID-19. But scammers, pretending to be contact tracers and taking advantage of how the process works, are also sending text messages. But theirs are spam text messages that ask you to click a link. Check out the image below. Unlike a legitimate text message from a health department, which only wants to let you know they'll be calling, this message includes a link to click.

Source link.

Comment: This FTC blog could be included in the bank's website as a consumer education service.

FinCEN Issues Advisory on Medical Scams Related to the Coronavirus Disease 2019 (COVID-19) (05.18.2020)

The Financial Crimes Enforcement Network (FinCEN) is issuing this advisory to alert financial institutions to rising medical scams related to the COVID-19 pandemic. This advisory contains descriptions of COVID-19-related medical scams, case studies, red flags, and information on reporting suspicious activity.

This is the first of several advisories FinCEN intends to issue concerning financial crimes related to the COVID-19 pandemic. These advisories are based on FinCEN's analysis of COVID-19-related information obtained through public reports, Bank Secrecy Act (BSA) data, and law enforcement partners. FinCEN will issue financial analyses and intelligence, as appropriate, to financial institutions to help them detect, prevent, and report suspected illicit activity. Additionally, FinCEN has temporarily expanded its Rapid Response Program, which supports law enforcement and financial institutions in the recovery of funds stolen via fraud, theft, and other financial crimes related to COVID-19.

Source link.

Comment: In addition, please see FinCEN's "Advisory to Financial Institutions Regarding Disaster-Related Fraud" (FIN-2017-A007, October 31, 2017) for descriptions of other relevant typologies, such as benefits fraud, charities fraud and cyber-related fraud. For suspected suspicious transactions linked to COVID-19, along with checking the appropriate suspicious activity report-template (SAR-template) box(es) for certain typologies, FinCEN also encourages financial institutions to enter "COVID19" in Field 2 of the SAR-template. This very complete advisory could be used to enhance BSA/AML training. The case studies are helpful tools. Add the "red flags" to your screening tools.

CSBS Blog - Consumer Relief Guide – Your Rights to Mortgage Payment Forbearance and Foreclosure Protection Under the Federal CARES Act (05.15.2020)

The COVID-19 pandemic is causing financial hardship for millions of American homeowners. If you, or someone you know, is experiencing financial hardship, you or they may have access to help under a new federal law known as the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). This guide has information to help you make important decisions about your financial obligations.

Quick Facts

You have the right to obtain a 180-day pause in paying your mortgage or temporarily lower mortgage payments if you are a borrower on a federally backed mortgage loan and affirm that you are experiencing a financial hardship due directly or indirectly to the COVID-19 emergency. This program is called mortgage forbearance or mortgage relief. Your mortgage servicer (the company you send your payments to each month) can tell you if your loan is federally backed.

The decision to request forbearance should be considered carefully; however, Congress has made the actual request process very easy. See The Decision to Request Forbearance below.

Forbearance is a temporary reduction or suspension of your monthly payment to help you through a difficult period. You will need to repay any missed or reduced payments in the future through one of numerous options. While in forbearance, you can still choose to make partial payments, which will reduce the amount you would need to repay in the future.

At the end of the forbearance period you and your servicer will discuss repayment options. In most cases you should receive multiple options to repay the monthly payments that were not paid during forbearance over time.

There are no fees associated with obtaining forbearance. Be wary of anyone offering to help you with forbearance for a fee.

Foreclosure actions on loans federally backed by Fannie Mae, Freddie Mac and HUD, which includes single family FHA loans and reverse mortgage HECM loans, are frozen until June 30, 2020.

Steps to request forbearance under the CARES Act

First, you will need to contact your mortgage servicer.

If you don't know if you have a federally backed mortgage, call your mortgage servicer. You can find your servicer on your monthly mortgage statement or by searching the Mortgage Electronic Registration Systems (MERS) website: www.mers-servicerid.org/sis.

Eligible Loan Types

To be eligible for protections under the CARES Act, your mortgage must be backed by one of the federal agencies and entities listed below.

Loan types that are federally backed include:

- Conventional loans purchased or securitized by Fannie Mae and Freddie Mac (combined, GSEs)
- To find out if your loan is owned by one of the GSEs, please visit the following webpages:
- Fannie Mae Loan Lookup: www.knowyouroptions.com/loanlookup
- Freddie Mac Loan Lookup: ww3.freddiemac.com/loanlookup
- Federal Housing Administration (FHA), including Home Equity Conversion Mortgage (HECM)
- U.S. Department of Veterans Affairs (VA)
- U.S. Department of Agriculture (USDA), including USDA Direct and USDA Guaranteed

Privately held loans are not eligible for forbearance relief under the CARES Act, but you should still contact your mortgage servicer to ask about assistance programs.

Source link.

Comment: This guide could be used by banks as part of their financial literacy toolkit and as part of their COVID-19 outreach.

CSBS Blog - The Historic and Horrific 2020 Job Losses in Perspective (05.12.2020)

The U.S. Bureau of Labor Statistics (BLS) recently reported that 20.5 million workers were dropped from employers' April payrolls and that the nation's official unemployment rate shot up to 14.7% from 4.4% the previous month. The numbers are truly staggering, reflecting the significant impact that the COVID-19 pandemic has had on the economy due to measures to contain the spread of the virus. In one month, more wage earners lost their jobs than the population of Florida…or the population of New York. In one month, the unemployment rate increased by 10.3 percentage points. This is the largest one-month jump in the history of the series. Moreover, the over-the-month rate increase exceeded the official unemployment rate in every month since the beginning of the series in 1948, except for two months in late 1982 when the rate hit 10.8%.

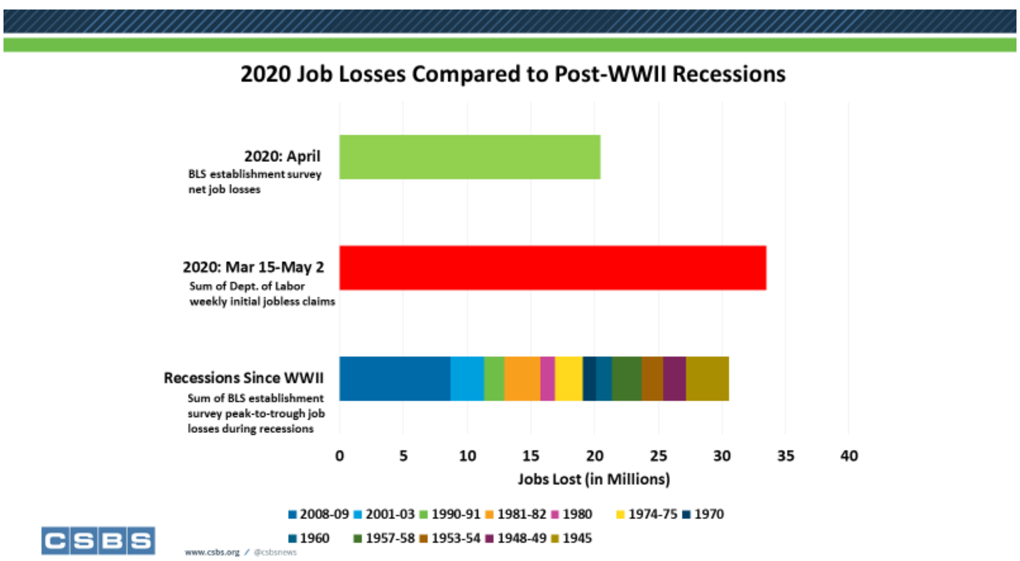
And yet, while it seems like these figures could not be worse, both surveys used to report the monthly employment situation do not tell the entire story. First, the establishment survey—used to measure nonfarm payroll employment, hours worked, and earnings by industry—counts workers as employed if they were paid for any part of the month, including when the survey period ended on April 12. Second, workers who were absent from their jobs and not paid are not counted as employed, even if they are continuing to receive benefits.

Similarly, the household survey—used to measure labor force status, including to calculate the unemployment rate—was conducted from April 12 to April 18. The BLS notes that there was an extremely large increase in both the number of unemployed on temporary layoff and the number of workers classified as employed but absent from work. And that if those counted as employed but absent from work had instead (and probably more correctly) been classified as unemployed on temporary layoff, the reported unemployment rate would have been about 5 percentage points higher.

Both surveys suffer from a timing bias in that they reflect responses only at mid-month, as well as potential misclassification errors. And because the lockdown procedures implemented since the pandemic that started in March continue to result in more layoffs and business closures, the last two monthly BLS reports have likely understated the depth of job losses across the nation.

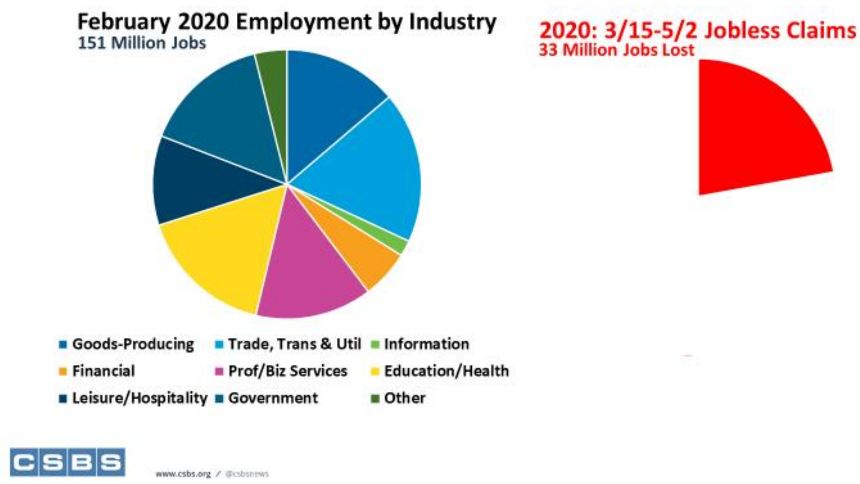
For a more high-frequency accounting of unemployed workers, the U.S. Department of Labor (DOL) reports weekly unemployment insurance claims. However, it is important to note that the DOL figures are gross job losses, not net job losses as reported in the BLS establishment survey, and that seasonal factors are likely over-emphasizing the current number of unemployed workers. Even so, the weekly DOL reports have clearly shown that the U.S. labor market has taken a stunning, historic and horrific hit. Over the past seven weeks, the DOL has reported that more than 33 million American workers—roughly 22% of the February 2020 labor force—have filed for initial unemployment insurance benefits.

To put that figure in perspective, the nearby bar chart compares both April 2020 job losses reported by the BLS and the last seven weeks of initial claims reported by the DOL with the net jobs lost over all of the post-World War II recessions. In less than two months, more workers joined the ranks of the unemployed than the sum of all the net jobs lost over the past twelve economic downturns.



Moreover, the nearby pie chart compares the percentage of jobs lost to the February 2020 percentage of employment by industry. Again, more jobs were lost in the last seven weeks than were employed in any of these individual industry sectors.

Stunning. Historic. Horrific.



While the federal government has gone to extreme measures to cushion the economic impact to many affected workers and businesses, the way forward must come from businesses committed to reopening, workers dedicated to providing value-added products and services, and consumers willing to spend, interact and engage with others. Certainly, a vaccine or treatment would help everyone feel more comfortable intermingling in shops, at work, in theatres and concert halls, at sporting events, and in other ways. But to get these workers back on the job, we will need to learn how to reopen the economy with the risk of the virus still in our midst.

In many areas, we are already seeing the ingenuity of business leaders and workers lead to a big readjustment in the way transactions are completed. The way out is through the creative genius and unwavering, resilient spirit of the American people. I remain confident that together we will overcome both the virus and the aftereffects from the Great Lockdown. Remain hopeful, my friends.

Source link.

FinCEN Reissues Real Estate Geographic Targeting Orders for 12 Metropolitan Areas (05.08.2020)

WASHINGTON—The Financial Crimes Enforcement Network (FinCEN) announced the renewal of its Geographic Targeting Orders (GTOs) that require U.S. title insurance companies to identify the natural persons behind shell companies used in all-cash purchases of residential real estate. These renewed GTOs are identical to the November 2019 GTOs. The purchase amount threshold remains $300,000 for each covered metropolitan area.

The terms of this Order are effective beginning May 10, 2020 and ending on November 5, 2020. GTOs continue to provide valuable data on the purchase of residential real estate by persons possibly involved in various illicit enterprises. Reissuing the GTOs will further assist in tracking illicit funds and other criminal or illicit activity, as well as inform FinCEN's future regulatory efforts in this sector.

The GTOs cover certain counties within the following major U.S. metropolitan areas: Boston; Chicago; Dallas-Fort Worth; Honolulu; Las Vegas; Los Angeles; Miami; New York City; San Antonio; San Diego; San Francisco; and Seattle.

FinCEN appreciates the continued assistance and cooperation of the title insurance companies and the American Land Title Association in protecting the real estate markets from abuse by illicit actors.

Any questions about the Orders should be directed to FinCEN's Regulatory Support Section at FRC@FinCEN.gov.

A copy of the GTO is available here.

Frequently asked questions regarding these GTOs are available here.

Source link.

Comment: Geographic Targeting Orders ('GTO') require U.S. title insurance companies to identify the natural persons behind legal entities used in purchases of residential real estate performed without a bank loan or similar form of external financing. The monetary threshold remains at $300,000 and the nine districts remain the same. The GTOs cover purchases involving virtual currency, as well as 'fiat' currency, wires, personal or business checks, cashier's checks, certified checks, traveler's checks, a money order in any form or a funds transfer.

2020 CSBS Community Bank National Survey Opens - Gleaning Insights on Future of Community Banking Amidst a Global Pandemic (05.06.2020)

Community banks are serving an extraordinary role during these unprecedented times. Now – perhaps more than ever – it is vital to hear from our nation's community bankers.

That is why we have decided to move forward with the release of the CSBS National Survey of Community Banks. We hope in its seventh year the results from this important survey will enable community banks to inform policymakers, regulators, researchers and their peers about the opportunities and challenges facing the community banking industry.

Last year, 35% of survey respondents said the costs of funds was the factor most likely to influence future profitability – only 4% cited regulation. This year, those numbers may drastically change due to these uncertain times.

To gain a better understanding of how bankers are responding to the crisis, this year, the survey also includes several questions tailored to the COVID-19 pandemic and asks questions about the future of our community banks and the communities they serve.

We hope community bankers will share their voices. We look forward to gleaning valuable insights about the future of community banking and further understanding the immense impact of community banks during this crisis.

Here is a link to the survey. Your response should take about 20 minutes, but the results will have a lasting impact.

Source link.

CSBS Asks FDIC to Provide More Brokered Deposit Relief to Help Ag and Small Businesses (04.24.2020)

The FDIC has the authority to provide relief for small banks in revising brokered deposit restriction rules, which ultimately would aid community banks and rural communities, CSBS said in a comment letter.

Specifically, CSBS wants the FDIC to allow less than well-capitalized institutions to gradually reduce their reliance on brokered deposit funding over time by allowing adequately capitalized institutions to renew or rollover brokered deposits held before the institution became less than well capitalized under the prompt corrective action (PCA) rules. Doing so could minimize the so-called liquidity 'cliff effect' created by brokered deposit restrictions.

The letter addresses an issue raised recently in public remarks by FDIC Chairman Jelena McWilliams, who said Congress needs to act to amend the brokered deposit restrictions to reduce unintended consequences arising from interactions with PCA rules.

However, the FDIC has enough flexibility under the existing brokered deposit statute to make improvements, said CSBS. The improvements would allow banks, particularly those in rural areas and markets that increasingly lack ample local deposits to meet the legitimate credit needs of the community, to provide critical credit to agricultural customers and small businesses.

Source link.

Comment: This comment letter is much appreciated support for community banking!

Publications, articles, reports, studies, testimony & speeches

Coronavirus and CARES Act - Chair Jerome H. Powell (05.19.2020)

Chairman Crapo, Ranking Member Brown, and other members of the Committee, thank you for the opportunity to discuss the extraordinary steps the Federal Reserve has taken to address the challenges we are facing.

I would like to begin by acknowledging the tragic loss and tremendous hardship that people are experiencing both here in the United States and around the world. The coronavirus outbreak is, first and foremost, a public health crisis, with the most important responses coming from those on the front lines in hospitals, emergency services, and care facilities. On behalf of the Federal Reserve, let me express our sincere gratitude to those individuals who put themselves at risk day after day in service to others and to our nation.

The forceful measures that we, as a country, are taking to control the spread of the virus have substantially limited many kinds of economic activity. Many businesses remain closed, people have been advised to stay home, and basic social interactions have been greatly curtailed. People have put their lives and livelihoods on hold at significant economic and personal cost. All of us are affected, but the burdens are falling most heavily on those least able to carry them.

It is worth remembering that the measures taken to contain the virus represent an investment in our individual and collective health. As a society, we should do everything we can to provide relief to those who are suffering for the public good.

Available economic data for the current quarter show a sharp drop in output and an equally sharp rise in unemployment. By these measures and many others, the scope and speed of this downturn are without modern precedent and are significantly worse than any recession since World War II. Since the pandemic arrived in force just two months ago, more than 20 million people have lost their jobs, reversing nearly 10 years of job gains. This precipitous drop in economic activity has caused a level of pain that is hard to capture in words, as lives are upended amid great uncertainty about the future. In addition to the economic disruptions, the virus has created tremendous strains in some essential financial markets and impaired the flow of credit in the economy.

Source link.

How Falling Oil Prices in Early 2020 Weakened the U.S. Economy (05.19.2020)

The benchmark West Texas Intermediate (WTI) price of oil dropped by more than half from Jan. 21 to April 3. There is a long tradition of economists arguing that lower oil prices, all else equal, are good for the United States economy. Thus, one might have expected this dramatic price cut to have been a much-needed piece of welcome news.

Indeed, President Trump tweeted that the oil price drop "is good for the consumer" on March 9. The Wall Street Journal echoed this sentiment, calling low oil prices "a gift to U.S. consumers" on April 2. This view would have seemed reasonable just a few years ago, but it is no longer accurate.

Instead, we will show that on balance this oil price decline has weakened rather than strengthened the U.S. economy, making this event different from past episodes of falling oil prices.

…snip

…snip

Implications for the Banking System

Independently of these expenditure shifts, there has also been concern that lower oil prices may undermine the stability of the banking system with potential spillovers to the economy at large. Because bank loans are securitized by oil reserves that are valued based on the oil futures curve—a measure of what investors believe oil will be worth in the future—a dramatic drop in oil prices matters to banks that are heavily involved in lending to oil companies. One measure of this effect is the decline in banks' stock valuations when confronted with a large decline in the price of oil.

This argument is reminiscent of the housing crisis of 2007–09. Prior to that crisis, banks nationwide had 37 percent of their loan portfolios in residential mortgages. As house prices collapsed in 2007–09, the return on bank stocks cumulatively declined by 32 percent more than the overall stock market because banks had become overly exposed to house price corrections.

There is no evidence, however, that banks today are similarly dependent on oil-sector lending. Even for the most-exposed banks, the share of bank loans to the energy sector was no larger than 18 percent in the fourth quarter of 2019. Few banks had an exposure greater than 2 percent. Moreover, tighter regulations have forced banks to hold more reserves against potential loan losses.

Standard & Poor's 500 bank stocks dropped by 19 percent relative to the overall stock market between Jan. 21—when awareness of the COVID-19 virus in the U.S. emerged—and April 3, compared with a decline of 23 percent for S&P 500 energy companies. Put differently, the excess decline experienced by bank stocks relative to the market has been about half of the excess decline of bank stocks during the housing crisis. Thus, there is no evidence to date that the crisis in the oil sector has spilled over into the banking sector more broadly.

In fact, there are many other reasons why bank stocks were hit particularly hard during the current crisis—notably the stress experienced by the broader financial system and falling interest rates. Thus, our analysis likely overstates the systemic impact of lower oil prices on banks' stock returns.

Source link.

U.S. Economy - Weekly Economic Index (05.19.2020)

The Weekly Economic Index (WEI) provides a signal of the state of the U.S. economy based on data available at a daily or weekly frequency. It represents the common component of 10 different daily and weekly series covering consumer behavior, the labor market and production. It is updated Tuesday and Thursday at 10:30 a.m. CT, using data available up to 8 a.m. CT.

May 19, 2020: Update

The WEI is currently -11.70 percent, scaled to four-quarter GDP growth, for the week ended May 16 and -10.37 percent for May 9; for reference, the WEI stood at 1.58 percent for the week ended February 29.

The WEI for the week of May 9 was revised upward following the release of the staffing index, which was more positive than previous data. The decline in the WEI for the week of May 16, relative to this revised number, was driven by decreases in retail sales and consumer confidence and a modest fall in steel production. These releases reversed positive moves seen in all three series in the prior week.

Source link.

Falling Oil Prices Drag Down U.S. Business Investment (05.19.2020)

The dramatic decline in the price of oil has led to massive investment reductions by U.S. oil and gas producers. We expect at least a 35 percent drop in such investment between the first and second quarters of 2020 in real (inflation-adjusted) terms, which will reduce nonresidential business fixed investment by 6 percentage points alone.

The outlook for capital expenditures in 2020 is highly uncertain but skewed to the downside.

Oil and Gas Investment Especially Important

The oil and gas sector has become increasingly important for U.S. business fixed investment. Between 2010 and 2019, the sector spent $1.2 trillion drilling and completing wells—increasing U.S. crude oil production by nearly 140 percent.

Over that same period, the oil and gas sector's share of U.S. nonresidential business fixed investment (an important component of gross domestic product) averaged 6.4 percent, nearly double prior-decade levels.

Coming into 2020, many exploration and production firms faced an inability to produce attractive returns amid heavy debt burdens and an oversupplied oil market. Investors had grown skeptical of the sector. Even before the coronavirus (COVID-19) crisis and oil price collapse, firms had planned to cut annual capital expenditures 10–15 percent relative to 2019 levels.

Crisis Impact and Lack of Storage

Due to the COVID-19 pandemic and an oil-supply surge from Saudi Arabia, the benchmark West Texas Intermediate (WTI) crude oil price dropped from $50–$55 per barrel in February to the $20s in late March. This is far below the $46 to $52 that companies on average need to profitably drill new wells, according to the Dallas Fed Energy Survey. Although hedging—using financial instruments in the oil futures market to ensure revenue—allows some firms more breathing room during low-price periods, the overall impact to revenue for many firms is shattering.

On top of the problems with wellhead economics, many companies need to shut in existing production as oil storage capacity is reached. Global oil consumption is expected to drop from more than 100 million barrels per day in fourth quarter 2019 to 76 million barrels in second quarter 2020, according to the International Energy Agency. Consequently, refineries are processing significantly less crude oil. This backs up the flow of oil to the wellhead, which helped create 'negative' prices in the oil futures market on April 20.

Source link.

Federal Reserve Board Issues Report on the Economic Well-Being of U.S. Households (05.14.2020)

Financial circumstances were generally positive for most adults at the end of 2019. However, the Federal Reserve Board's latest Report on the Economic Well-Being of U.S. Households, Featuring Supplemental Data from April 2020, found that financial conditions changed dramatically for people who experienced job loss or reduced hours during March 2020 as the spread of COVID-19 intensified in the United States.

The report draws from the Board's seventh annual Survey of Household Economics and Decisionmaking (SHED), which examines the economic well-being and financial lives of U.S. adults and their families. The 2019 survey of over 12,000 adults was conducted in October of last year, offering a picture of personal finances prior to the onset of the COVID-19 pandemic. To obtain updated information in the midst of closures and stay-at-home orders, a smaller supplemental survey of just over 1,000 adults was conducted from April 3 to April 6 of this year, focusing on labor market effects and households' overall financial circumstances at that time.

In April 2020, fewer adults reported that they were at least doing okay financially than had been the case 6 months earlier. The April supplemental survey showed that 72 percent of adults were either 'doing okay' financially (43 percent) or 'living comfortably' (29 percent). This is down from the 75 percent of adults who were at least doing okay financially and the 36 percent who were living comfortably in the fall of 2019.

Source link.

Coronavirus and the Risk of Deflation (05.11.2020)

The pandemic caused by COVID-19 represents an unprecedented negative shock to the global economy that is likely to severely depress economic activity in the near term. Could the crisis also put substantial downward pressure on price inflation? One way to assess the potential risk to the inflation outlook is by analyzing prices of standard and inflation-indexed government bonds. The probability of declining price levels—or deflation—

among four major countries within the next year indicates that the perceived risk remains muted, despite the recent economic turmoil.

Source link.

Historical Patterns Around Financial Crises (05.11.2020)

Long-run historical data for advanced economies provide evidence to help policymakers understand specific conditions that typically lead up to financial crises. Recent research finds that rapid growth in the top income share and prolonged low labor productivity growth are robust predictors of crises. Moreover, if crises are preceded by these developments, then the subsequent recoveries are slower. This recent empirical evidence suggests that financial crises are not simply random events but are typically preceded by a prolonged buildup of macrofinancial imbalances.

Source link.

COVID-19: Agriculture's Ominous Feeling About the Pandemic (05.06.2020)

Article Highlights

- Farm incomes fell again as commodity prices remained weak
- Ag bankers concerned about pandemic's impact on commodity markets, meat processing
- Outlook is pessimistic, with greater uncertainty than usual

The COVID-19 pandemic came at a particularly bad time for agriculture. After multiple years of low commodity prices and a trade war that constricted access to overseas markets, the extreme disruption in the broader economy was the last thing farmers wanted to see. "Coronavirus decreasing grain market, oils and commodities markets," said a Minnesota agricultural lender.

The Minneapolis Fed's first-quarter agricultural credit conditions survey, conducted during April, sheds some light on the early impacts of the pandemic on farmers and ranchers. Farm incomes fell from January through March relative to a year earlier. Spending on capital equipment and farm household purchases also decreased. Falling incomes pushed the rate of loan repayment down, while renewals and extensions increased. Respondents noted that cropland values generally decreased.

The closure of several livestock and poultry slaughter plants due to virus outbreaks among workers had many livestock producers concerned about the impacts on the food supply chain and whether there would be markets for animals. "If the meat packing industry does not change, it could be the final nail for most producers," one South Dakota banker said. The outlook for the second quarter was for continued contraction, although several respondents noted great uncertainty due to the pandemic.

Source link.

COVID-19 Challenges State and Local Government Finances (05.06.2020)

As the coronavirus pandemic wreaks havoc on the U.S. economy, state and local governments will not be immune from the pain. In the near term, governments face liquidity challenges, as many tax deadlines have been postponed. In the longer term, governments will experience large revenue declines that may lead to significant budget cuts.

The coronavirus pandemic has disrupted tax collections and impelled increased medical spending, with potentially serious financial consequences for state and local governments tasked with a response. These consequences, in turn, could affect the U.S. economy more broadly. The state and local government sector is an important contributor to both economic growth and employment in the United States. In 2019, the sector contributed two-tenths to overall GDP growth. In February 2020, state and local government employment together made up about 13 percent of U.S. total employment. State and local government employment made up an even larger share of employment in the Tenth Federal Reserve District, ranging from 13.1 percent in Missouri to 21 percent in Wyoming.1

However, the economic effects of COVID-19 on state and local governments may take some time to fully materialize and may persist even as health risks dissipate. During the Great Recession, state and local governments were not a drag on GDP growth until 2010, and then hindered growth through 2013 even as other parts of the economy rebounded. State and local government performance tends to lag business cycles for two main reasons. The first reason is that government spending sometimes increases during times of stress as the demand for safety net programs increases. The second, and likely more important, reason is that state and local tax collections tend to lag business cycles. For example, Chart 1 shows that state tax collections did not reach their troughs until well into the last two recessions.

Source link.

Selected federal rules – proposed

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

PROPOSED DATE	SUMMARY OF PROPOSED RULE
02.10.2020	Request for Comments on Unsafe and Unsound Banking Practices: Brokered Deposit Restrictions - The FDIC is inviting comment on proposed revisions to its regulations relating to the brokered deposits restrictions that apply to less than well capitalized insured depository institutions. The proposed rule would create a new framework for analyzing certain provisions of the “deposit broker” definition, including “facilitating” and “primary purpose.” The proposed rule would also establish an application and reporting process with respect to the primary purpose exception. The application process would be available to insured depository institutions and third parties that wish to utilize the exception. **Comments must be received by the FDIC no later than June 9, 2020.**

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.

EFFECTIVE DATE:	SUMMARY OF FINAL RULE:
09.03.2019	Availability of Funds and Collection of Checks (Regulation CC) - The Board and the Bureau (Agencies) are amending Regulation CC, which implements the Expedited Funds Availability Act (EFA Act), to implement a statutory requirement in the EFA Act to adjust the dollar amounts under the EFA Act for inflation. The Agencies are also amending Regulation CC to incorporate the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA) amendments to the EFA Act, which include

extending coverage to American Samoa, the Commonwealth of the Northern Mariana Islands, and Guam, and making certain other technical amendments. This rule is effective September 3, 2019, except for the amendments to 12 CFR 229.1, 229.10, 229.11, 229.12(d), 229.21, and appendix E to part 229, which are effective July 1, 2020.

04.01.2020 Regulatory Capital Treatment for High Volatility Commercial Real Estate (HVCRE) Exposures - The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation (collectively, the agencies) are adopting a final rule to revise the definition of "high volatility commercial real estate (HVCRE) exposure" in the regulatory capital rule. This final rule conforms this definition to the statutory definition of "high volatility commercial real estate acquisition, development, or construction (HVCRE ADC) loan," in accordance with section 214 of the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA). The final rule also clarifies the capital treatment for loans that finance the development of land under the revised HVCRE exposure definition. DATES: The final rule is effective on April 1, 2020.

04.06.2020 Regulatory Capital Rule: Temporary Changes to the Community Bank Leverage Ratio Framework - This interim final rule makes temporary changes to the community bank leverage ratio framework, pursuant to section 4012 of the Coronavirus Aid, Relief, and Economic Security Act (statutory interim final rule). As of the second quarter 2020, a banking organization with a leverage ratio of 8 percent or greater (and that meets other qualifying criteria) may elect to use the community bank leverage ratio framework. The statutory interim final rule also establishes a two-quarter grace period for a qualifying community banking organization whose leverage ratio falls below the 8-percent community bank leverage ratio requirement, so long as the banking organization maintains a leverage ratio of 7 percent or greater. The temporary changes to the community bank leverage ratio framework implemented by this statutory interim final rule will cease to be effective as of the earlier of the termination date of the national emergency concerning the coronavirus disease declared by the President on March 13, 2020, under the National Emergencies Act, or December 31, 2020. To provide clarity to banking organizations, the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation issued concurrently an interim final rule that provides a transition from the temporary 8-percent community bank leverage ratio requirement to a 9-percent community bank leverage ratio requirement. DATES: The final rule is effective on April 23, 2020.

04.06.2020 Regulatory Capital Rule: Transition for the Community Bank Leverage Ratio Framework - Transition for the Community Bank Leverage Ratio Framework - This interim final rule provides a graduated transition to a community bank leverage ratio requirement of 9 percent from the temporary 8-percent community bank leverage ratio requirement (transition interim final rule). When the requirements in the transition interim final rule become applicable, the community bank leverage ratio will be 8 percent beginning in the second quarter of calendar year 2020, 8.5 percent through calendar year 2021, and 9 percent thereafter. The transition interim final rule also maintains a two-quarter grace period for a qualifying community banking organization whose leverage ratio falls no more than 1 percentage point below the applicable community bank leverage ratio requirement. The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation (together, the agencies) issued concurrently an interim final rule that established an 8-percent community bank leverage ratio, as mandated under the Coronavirus Aid, Relief, and Economic Security Act. The agencies are issuing the transition interim final rule to provide community banking organizations with sufficient time and clarity to meet the 9 percent leverage ratio requirement under the community bank leverage ratio framework while they also focus on supporting lending to creditworthy households and businesses given the recent strains on the U.S. economy caused by the coronavirus disease emergency. DATES: The final rule is effective on April 23, 2020.

04.13.2020 Regulatory Capital Rule: Paycheck Protection Program Lending Facility and Paycheck Protection Program Loan - To provide liquidity to small business lenders and the broader credit markets, to help stabilize the financial system, and to provide economic relief to small businesses nationwide, the Board of Governors of the Federal Reserve System (Board) authorized each of the Federal Reserve Banks to participate in the Paycheck Protection Program Lending Facility (PPPL Facility), pursuant to section 13(3) of the Federal Reserve Act. Under the PPPL Facility, each of the Federal Reserve Banks will extend non-recourse loans to eligible financial institutions to fund loans guaranteed by the Small Business Administration under the Paycheck Protection Program established by the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). To facilitate use of this Federal Reserve facility, the Office of the Comptroller of the Currency, the Board, and the Federal Deposit Insurance Corporation (together, the agencies) are adopting this interim final rule to allow banking organizations to neutralize the regulatory capital effects of participating in the facility. This treatment is similar to the treatment extended previously by the agencies in connection with the Federal Reserve's Money Market Mutual Fund Liquidity Facility. In addition, as mandated by section 1102 of the CARES Act, loans originated under the Small Business Administration's Paycheck Protection Program will receive a zero percent risk weight under the agencies' regulatory capital rule. DATES: The interim final rule is effective on April 13, 2020.

04.17.2020 Loans to Executive Officers, Directors, and Principal Shareholders of Member Banks - In light of recent disruptions in economic conditions caused by the Coronavirus Disease 2019 and current strains in U.S. financial markets, the Board is issuing an interim final rule that excepts certain loans that are guaranteed under the Small Business Administration's Paycheck Protection Program from the requirements of section 22(h) of the Federal Reserve Act and the corresponding provisions of the Board's Regulation O. DATES: The interim final rule is effective on April 22, 2020.

04.17.2020 Real Estate Appraisals - The OCC, Board, and FDIC (collectively, the agencies) are adopting an interim final rule to amend the agencies' regulations requiring appraisals of real estate for certain transactions. The interim final rule defers the requirement to obtain an appraisal or evaluation for up to 120 days following the closing of a transaction for certain residential and commercial real estate transactions, excluding transactions for acquisition, development, and construction of real estate. Regulated institutions should make best efforts to obtain a credible valuation of real property collateral before the loan closing, and otherwise underwrite loans consistent with the principles in the agencies' Standards for Safety and Soundness and Real Estate Lending Standards. The agencies are providing this relief to allow regulated institutions to expeditiously extend liquidity to creditworthy households and businesses in light of recent strains on the U.S. economy as a result of the National Emergency declared in connection with coronavirus disease 2019 (COVID-19). The interim final rule is effective April 17, 2020 through December 31, 2020. Comments on the interim final rule must be received no later than June 1, 2020.

04.24.2020 Federal Reserve Board Announces Interim Final Rule to Delete the Six-Per-Month Limit on Convenient Transfers From the "Savings Deposit" Definition in Regulation D - The Board of Governors of the Federal Reserve System ("Board") is amending its Regulation D (Reserve Requirements of Depository Institutions) to delete the numeric limits on certain kinds of transfers and withdrawals that may be made each month from "savings deposits." The amendments are intended to allow depository institution customers more convenient access to their funds and to simplify account administration for depository institutions. There are no mandatory changes to deposit reporting associated with the amendments. This rule is effective on April 24, 2020.

07.01.2020 Home Mortgage Disclosure (Regulation C) - The Bureau of Consumer Financial Protection (Bureau) is amending Regulation C to increase the threshold for reporting data about closed-end mortgage loans, so that institutions originating fewer than 100 closed-end mortgage loans in either of the two preceding calendar years will not have to report such data effective July 1, 2020. The Bureau is also setting the threshold for reporting data about open-end lines of credit at 200 open-end lines of credit effective January 1, 2022, upon the expiration of the current temporary threshold of 500 open-end lines of credit. This final rule is effective on July 1, 2020, except for the amendments to § 1003.2 in amendatory instruction 5, the amendments to § 1003.3 in amendatory instruction 6, and the amendments to supplement I to part 1003 in amendatory instruction 7, which are effective on January 1, 2022. See part VI for more information.

07.21.2020 Remittance Transfers under the Electronic Fund Transfer Act (Regulation E) - The Electronic Fund Transfer Act, as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act, establishes certain protections for consumers sending international money transfers, or remittance transfers. The Bureau of Consumer Financial Protection's (Bureau) remittance rule in Regulation E (Remittance Rule or Rule) implements these protections. The Bureau is amending Regulation E and the official interpretations of Regulation E to provide tailored exceptions to address compliance challenges that insured institutions may face in certain circumstances upon the expiration of a statutory exception that allows insured institutions to disclose estimates instead of exact amounts to consumers. That exception expires on July 21, 2020. In addition, the Bureau is increasing a safe harbor threshold in the Rule related to whether a person makes remittance transfers in the normal course of its business. This final rule is effective July 21, 2020.

10.20.2020 Community Reinvestment Act Regulations - The Office of the Comptroller of the Currency (OCC) is adopting a final rule to strengthen and modernize the Community Reinvestment Act (CRA) by clarifying and expanding the activities that qualify for CRA credit; updating where activities count for CRA credit; creating a more consistent and objective method for evaluating CRA performance; and providing for more timely and transparent CRA-related data collection, recordkeeping, and reporting. DATES: This rule is effective on October 1, 2020. Banks must comply with the final amendments by October 1, 2020, January 1, 2023, or January 1, 2024, as applicable. Until the compliance dates, banks must continue to comply with parts 25 and 195 that are in effect on September 30, 2020 (as set forth in appendix C to 12 CFR 25). Alternatively, the OCC may permit a bank to voluntarily comply, in whole or in part, with the amendments adopted in this release prior to the applicable compliance dates. Parts 25 and 195 that are in effect on September 30, 2020 (as set forth in appendix C) expire on January 1, 2024.

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.
CFPB	Consumer Financial Protection Bureau
CARD Act	Credit Card Accountability Responsibility and Disclosure Act of 2009
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
Federal bank regulatory agencies	FDIC, FRB, and OCC
Federal financial institution regulatory agencies	BFCP, 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, Fed or Federal Reserve	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. 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
Treasury	U.S. Department of Treasury