



Capitol Comments September 2020


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

'September days are here, with Summer's best of weather and Autumn's best of cheer.' – H. H. Jackson

Department of the Treasury [COVID-19 Resources](#)

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

Joint federal agency issuances, actions and news

Agencies Extend Comment Period on Proposed Revisions to Interagency Questions and Answers Regarding Flood Insurance (09.01.2020) 

WASHINGTON—Five federal regulatory agencies announced they will extend the comment period on a proposal to revise the Interagency Questions and Answers Regarding Flood Insurance (Interagency Questions and Answers) until November 3, 2020.

The agencies are extending the comment period because of the extent of the revisions proposed by the agencies and in light of the challenges associated with the COVID-19 pandemic. The extension will allow interested parties additional time to analyze the issues and to prepare comments. The proposed Interagency Questions and Answers, which were issued in July 2020, provide information addressing technical flood insurance-related compliance issues. The previous deadline for comments was September 4, 2020.

Attachment:

[Federal register notice](#)

Source [link](#).

Comment: Many comment letters requested this extension. In addition, many noted appreciation for the restructuring of the comments by topic. This will greatly facilitate any subsequent changes and simplify research.

Agencies Issue Three Final Rules (08.26.2020)

The federal bank regulatory agencies finalized three rules, which are either identical or substantially similar to interim final rules currently in effect that were issued earlier this year. They include:

- A final rule that temporarily modifies the community bank leverage ratio, as required by the CARES Act;
- A final rule that makes more gradual, as intended, the automatic restrictions on distributions if a banking organization's capital levels decline below certain levels; and
- A final rule that allows institutions that adopt the current expected credit losses or "CECL" accounting standard in 2020 to mitigate the estimated effects of CECL on regulatory capital for two years.

The final rule modifying the community bank leverage ratio adopts without change two interim final rules issued in April. The final rule temporarily lowers the community bank leverage ratio threshold and provides a gradual transition back to the prior level. Specifically, the threshold would be 8 percent for the remainder of this year, 8.5 percent for 2021, and 9 percent beginning January 1, 2022. This final rule is effective as of October 1, 2020.

Similarly, the final rule on automatic restrictions of distributions adopts without change two interim final rules, one of which was Board-only, issued in March. The final rule makes more gradual, as intended, the automatic restrictions on capital distributions, such as share repurchases, dividend payments, and bonus payments. This final rule is effective as of January 1, 2021.

Lastly, the CECL final rule is substantially similar to the interim final rule issued in March. The final rule gives eligible institutions the option to mitigate the estimated capital effects of CECL for two years, followed by a three-year transition period. Taken together, these measures offer institutions a transition period of up to five years. In a change from the interim rule, the final rule expands the pool of eligible institutions to include any institution adopting CECL in 2020. The CECL final rule is effective immediately upon publication in the Federal Register.

[Final Rule on the CBLR Transition Adjustments](#)

[Final Rule on the Definition of Eligible Retained Income in the Capital Rule](#)

[Final Rule on the Revised CECL Transition in the Capital Rule](#)

Source [link](#).

Comment: All of these rules are welcome relief at a time when the COVID-19 pandemic has caused economic woes.

Agencies Issue Statement on Bank Secrecy Act Due Diligence Requirements for Customers Who May Be Considered Politically Exposed Persons (08.21.2020)

WASHINGTON—The Federal Reserve Board, the Federal Deposit Insurance Corporation, the Financial Crimes Enforcement Network, the National Credit Union Administration, and the Office of the Comptroller of the Currency issued a joint statement clarifying that Bank Secrecy Act (BSA) due diligence requirements for customers who may be considered politically exposed persons (PEPs) should be commensurate with the risks posed by the PEP relationship.

The term PEP is commonly used to refer to foreign individuals who are or have been entrusted with a prominent public function, as well as their immediate family members and close associates. By virtue of this public position

or relationship, these individuals may present a higher risk that their funds may be the proceeds of corruption or other illicit activity.

Addressing the money-laundering threat posed by corruption of foreign officials continues to be a national security priority for the United States. The statement recognizes that PEP relationships present varying levels of money-laundering risk, which depends on facts and circumstances specific to the customer relationship. For example, PEPs with a limited transaction volume, a low dollar deposit account with the bank, known legitimate sources of funds, or access only to products or services that are subject to specific terms and payment schedules could reasonably be characterized as having lower customer risk profiles.

The statement clarifies that, while banks must adopt appropriate risk-based procedures for conducting customer due diligence (CDD), the CDD rule does not create a regulatory requirement, and there is no supervisory expectation for banks to have unique, additional due diligence steps for customers who are considered PEPs. This joint statement does not alter existing BSA and anti-money laundering (AML) legal or regulatory requirements and does not require banks to cease existing risk management practices.

[Joint Statement on Bank Secrecy Act Due Diligence Requirements for Customers Who May Be Considered Politically Exposed Persons](#)

Source [link](#).

Comment: Review and update bank BSA/AML expanded due diligence procedures. People who are considered politically exposed may pose higher risks because their funds may be the proceeds of corruption or other illicit activities, the banking regulators said in a joint statement. However, the agencies added that risks associated with politically exposed individuals vary and not all of them are automatically higher risk. The agencies don't include U.S. public officials in the politically exposed persons category.

CFPB actions and news

Consumer Financial Protection Bureau Releases Outline of Proposals Under Consideration to Implement Small Business Lending Data Collection Requirements (09.15.2020)

WASHINGTON, D.C. – The Consumer Financial Protection Bureau (Bureau) released its Outline of Proposals Under Consideration and Alternatives Considered for Section 1071 of the Dodd-Frank Act governing small business lending data collection and reporting. The Bureau will convene a Small Business Advocacy Review panel in October 2020. The panel will prepare a report that examines the impact of the potential rule on small businesses. The report, along with feedback received from small businesses, will be considered by the Bureau in its rulemaking to implement Section 1071.

Section 1071 requires financial institutions to collect certain data regarding applications for credit for women-owned, minority-owned, and small businesses, and to report that data to the Bureau on an annual basis. The Outline describes proposals that the Bureau is considering to implement Section 1071 along with the relevant law, the regulatory process, and an economic analysis of the potential impacts of the proposals on directly affected small entities.

The Bureau, along with the Office of Information and Regulatory Affairs in the Office of Management and Budget and the U.S. Small Business Administration's Office of Advocacy, are directed by the Small Business Regulatory Enforcement Fairness Act to form a panel. The Bureau is convening the panel in order to consult small entities

regarding the potential impact of the proposals under consideration, in advance of the Bureau issuing a notice of proposed rulemaking.

Other stakeholders are also welcome to provide written feedback on the Bureau's proposals under consideration. Feedback should be emailed to 2020-SBREFEA-1071@cfpb.gov no later than December 14, 2020.

To read the Outline click here: [cfpb_1071-sbrefa_outline-of-proposals-under-consideration_2020-09.pdf](#)

A high-level summary of the Outline is available here:

https://files.consumerfinance.gov/f/documents/cfpb_1071-sbrefa_high-level-summary-of-outline-of-proposals_2020-09.pdf

Additional materials related to this rulemaking are available here: <https://www.consumerfinance.gov/1071-rule/>

General information about the SBREFEA process is available here: [201510_cfpb_fact-sheet-small-business-review-panel-process.pdf](#).

Source [link](#).

Comment: This is the first step in the rulemaking process and is one of the last pieces of the landmark Dodd-Frank financial reform law to be implemented. The outline includes options to exempt community banks with as much as \$200 million in assets or up to 100 small-business loan originations. No doubt community banking associations will be filing a comment letters urging the full exemption of community banks.

Supervisory Highlights (09.04.2020)

We periodically publish Supervisory Highlights to share key examination findings. These reports also communicate operational changes to our supervision program and provide a convenient and easily accessible resource for information on our recent guidance documents.

Supervisory Highlights do not refer to any specific institution in order to maintain the confidentiality of supervised entities, but share key findings in order to help industry limit risks to consumers and comply with federal consumer financial law. Each Supervisory Highlights publication shares recent examination findings, including information about recent enforcement actions that resulted, at least in part, from our supervisory work.

Winter Supervisory Highlights

Topics: Supervision, debt collection, mortgage servicing, payday loans, student loans, Fair Debt Collection Practices Act, RESPA, ECOA, TILA

Source [link](#).

Comment: These reports discuss the Bureau's examinations in the areas of consumer reporting, debt collection, deposits, fair lending, mortgage servicing and payday lending that were completed between September 2019 and December 2019. These reports provide helpful insights into areas of regulatory concern, and banks should consider using information for targeted reviews and staff training scenarios.

Special Issue Brief: The Early Effects of the COVID-19 Pandemic on Consumer Credit (08.31.2020)

This second COVID-19 Special Issue Brief describes trends in delinquency rates, payment assistance, credit access, and account balance measures with a focus on the period since the start of the COVID-19 pandemic.

Source [link](#).

Comment: Unemployment and loss of income can wreak havoc on credit and finances, especially for the tens of millions of people who have little or no savings they can tap to cover an emergency. The inability to cover existing debt payments can bring down credit scores, and loss of income generally means making sacrifices that can greatly impact someone's everyday life. It is likely that the impact on consumer credit and credit scores will likely not be fully known until 2021.

An Updated Review of The New and Revised Data Points In HMDA: Further Observations Using The 2019 HMDA Data (08.27.2020)

The goal of this article is to help the public become more familiar with the new and revised data points in the 2019 HMDA data and to provide some initial observations about the nation's mortgage market in 2019 using those new and revised data points. As in last year's article, the focus of this article is on cross-sectional analyses, i.e. using the data contained in one year's loan application registrar (LAR) to explore various patterns and relationships between different data fields to provide some initial observations.

This data article is the second in a series and follows the first article published in June of this year.

Some of the findings in this year's data points article include:

- The top 25 open-end lenders accounted for about 573,000 open-end originations, or 53.6 percent of all open-end originations reported under HMDA.
- Conventional jumbo loans have the highest mean and median credit scores among closed-end mortgages, with a mean score of 765 and a median of 773. FHA borrowers have the lowest mean and median scores among closed-end mortgages, with a mean score of 668 and a median of 663.
- Among Black and Hispanic White homebuyers seeking conventional conforming loans, the median combined loan-to-value and debt-to-income ratios are higher than their Asian and non-Hispanic White counterparts.

Source [link](#).

Comment: In the report, the CFPB notes that underwriting and pricing disparities between prohibited basis group (i.e., race/ethnicity minority, female only or older applicants) and non-prohibited basis group (i.e., non-Hispanic White, male or younger applicants) members cannot be fully explained by HMDA data alone. However, newly reported underwriting factors – such as credit score, combined loan to value ratio (CLTV) and debt-to-income ratio (DTI) – help to explain some of the observed disparities. These new factors provide regulators with much more relevant information that can aid in selecting banks to examine and defining the scope of their reviews prior to notifying the lenders.

2021 HMDA Filing Instructions Guide and Supplemental Guide for Quarterly Filers (08.21.2020)

The Bureau is pleased to announce that the [Filing Instructions Guide \(FIG\)](#) for Home Mortgage Disclosure Act (HMDA) data collected in 2021 is now available. The 2021 FIG is a technical resource to help financial institutions file HMDA data collected in 2021 and reported in 2022.

We have also released a [Supplemental Guide for Quarterly Filers](#) for 2021, which includes 2021 calendar year deadlines. This guide will help financial institutions that are required to file HMDA data quarterly.

Note that as of March 26, 2020 and until further notice, the Bureau announced that it does not intend to cite in an examination or initiate an enforcement action against any institution for failure to report its HMDA data quarterly. Please see the [Statement on Supervisory and Enforcement Practices Regarding Quarterly Reporting Under the Home Mortgage Disclosure Act](#) for more information on quarterly reporting.

The 2021 FIG and the Supplemental Guide for Quarterly Filers can be accessed at <https://ffiec.cfpb.gov> under Help for Filers.

We encourage financial institutions to direct any questions to HMDAHelp@cfpb.gov.

Comment: While looking ahead to 2021 seems surreal right now, it will happen. These filing instructions do not provide any real significant changes for collecting and reporting data in 2021; however, they do include clarifications and revised edits for 2021 to help ensure proper use of “1111” as an “Exempt” code.

Consumer Financial Protection Bureau Announces Settlement with TD Bank for Illegal Overdraft Practices (08.20.2020)

WASHINGTON, D.C. – The Consumer Financial Protection Bureau (Bureau) announced a settlement with TD Bank, N.A. regarding its marketing and sale of its optional overdraft service: Debit Card Advance (DCA). TD Bank is headquartered in Cherry Hill, New Jersey, and operates about 1,250 locations throughout much of the eastern part of the country. The Bureau found that TD Bank’s overdraft enrollment practices violated the Electronic Fund Transfer Act (EFTA) and Regulation E by charging consumers overdraft fees for ATM and one-time debit card transactions without obtaining their affirmative consent, and that TD Bank engaged in deceptive and abusive acts or practices in violation of the Consumer Financial Protection Act of 2010 (CFPA). The Bureau also found that TD Bank engaged in practices prohibited by the Fair Credit Reporting Act (FCRA) and its implementing Regulation V. The consent order requires TD Bank to provide an estimated \$97 million in restitution to about 1.42 million consumers and to pay a civil money penalty of \$25 million.

The Bureau specifically found that TD Bank charged consumers overdraft fees for ATM and one-time debit card transactions without obtaining their affirmative consent in violation of EFTA and Regulation E, both after new customers opened checking accounts at TD Bank branches and after new customers opened checking accounts at events held outside of Bank branches.

The Bureau further found that when presenting DCA to new customers, TD Bank deceptively claimed DCA was a “free” service or benefit or that it was a “feature” or “package” that “comes with” new consumer-checking accounts. In fact, TD Bank charges customers \$35 for each overdraft transaction paid through DCA and DCA is an optional service that does not come with a consumer-checking account. When TD Bank enrolled some consumers in DCA over the phone, TD Bank deceptively described DCA as covering transactions unlikely to be covered by DCA. In some instances, TD Bank engaged in abusive acts or practices by materially interfering with consumers’ ability to understand DCA’s terms and conditions. In some cases, TD Bank required new customers to sign its overdraft notice with the “enrolled” option pre-checked without mentioning the DCA service to the consumer at all; enrolled new customers in DCA without requesting the customer’s oral enrollment decision; and deliberately obscured, or attempted to obscure, the overdraft notice to prevent a new customer’s review of their pre-marked “enrolled” status in DCA.

Source [link](#).

Comment: The CFPB also concluded that the bank failed to establish and implement reasonable written policies and procedures concerning the accuracy and integrity of consumer account information it supplied to credit bureaus. TD also failed to conduct timely investigations of indirect consumer disputes concerning some of that same information. These practices ring all the bells for bad overdraft programs!

Consumer Financial Protection Bureau Proposes New Category of Qualified Mortgages to Encourage Innovation and Access to Affordable Mortgage Credit (08.18.2020) 

WASHINGTON, D.C. – The Consumer Financial Protection Bureau (Bureau) issued a notice of proposed rulemaking (NPRM) to create a new category of seasoned qualified mortgages (Seasoned QMs) in order to encourage innovation and help ensure access to responsible, affordable in the mortgage credit market.

To be considered a Seasoned QM under the proposal, loans would have to be first-lien, fixed-rate covered transactions that have met certain performance requirements over a 36-month seasoning period. Covered transactions would also have to be held on the creditor’s portfolio during the seasoning period, comply with general restrictions on product features and points and fees and meet certain underwriting requirements. For a loan to be eligible to become a Seasoned QM, the proposal would also require that the creditor consider and verify the consumer’s debt-to-income ratio (DTI) or residual income at origination.

Seasoned QMs would only be available for covered transactions that have no more than two 30-day delinquencies and no delinquencies of 60 or more days at the end of the seasoning period. Also, should there be a disaster or pandemic-related national emergency and as long as certain conditions are met, the proposal would not disqualify a loan from becoming a Seasoned QM for the failure to make full contractual payments if the consumer receives a temporary payment accommodation.

“Today’s proposal continues the Bureau’s work to encourage safe and responsible innovation in the mortgage origination market,” said Consumer Financial Protection Bureau Director Kathleen L. Kraninger. “Our goal through our very deliberative rulemaking process is to protect, promote and preserve the financial well-being of American consumers while at the same time offering access to responsible, affordable mortgage credit.”

This announcement follows [two NPRMs from June of this year regarding QMs](#). The first NPRM proposes to amend the General QM definition in Regulation Z to replace the DTI limit with a price-based approach. Through a recent speech and otherwise, Director Kraninger has emphasized the importance of receiving public comment from stakeholders in response to this NPRM, especially on possible standards to help the Bureau identify verification safe harbors for inclusion in final rules. The second NPRM proposes to amend Regulation Z to extend a temporary QM definition known as the Government-Sponsored Enterprise Patch to expire upon the effective date of the final rule proposed in the first NPRM.

The NPRM can be found here: https://files.consumerfinance.gov/f/documents/cfpb_proposed-rule_seasoned-qm-loan-definition_2020-08.pdf

Source [link](#).

Comment: The current ATR/QM rule requires a creditor to make a reasonable, good faith determination of a consumer’s ability to repay a residential mortgage loan according to its terms. Loans that meet the rule’s requirements for QMs obtain certain protections from liability. Under the new proposal, a covered transaction would receive safe harbor from ATR liability at the end of a 36-month seasoning period and qualify as a

seasoned QM if the loan satisfies certain criteria. Comments on the proposed seasoned QM rule will be due 30 days after the proposal is published in the Federal Register.

FDIC actions and news

Deposit Insurance Coverage Banker Seminars (09.15.2020)

The FDIC will conduct four identical live seminars on FDIC deposit insurance coverage for bank employees and bank officers between September 15, 2020, and December 10, 2020, via Cisco WebEx conferencing software. Each identical live seminar will last approximately two hours and include a question-and-answer session with FDIC subject matter experts. For detailed information, visit: FIL-75-2020.

Comprehensive Deposit Insurance Seminar for Bankers

| Date | Starting Time (Eastern) | Conference Number |
|--------------|-------------------------|-------------------|
| September 15 | 3:00 pm | 9968938 |
| October 21 | 2:00 pm | 1385186 |
| November 2 | 1:00 pm | 9968940 |
| December 10 | 3:00 pm | 1385214 |

Each seminar will offer a comprehensive overview of FDIC deposit insurance rules. The session is ideal for bank employees seeking a broad understanding of FDIC deposit insurance coverage rules. For more complex issues, this seminar will refer to the YouTube videos, as described below, for additional information. The live seminars will be followed by a question-and-answer session with FDIC subject matter experts.

The seminars are free, but advance registration is required. Upon completing the registration process, participants will receive an RSVP email confirmation. If you register, but do not receive an email confirmation, verify the email address provided and repeat the registration process.

Registering for the live seminars

Seminar participants must register at least two business days prior to the event by following these steps:

1. Go to www.mymeetings.com/rsvp (www.mymeetings.com).
2. Enter the conference number for the specific seminar, as detailed below.
3. Enter 6068349 for the pass code
4. Leave the PIN number field blank.
5. Click on the "Proceed" button
6. On the next page, provide your name, email address, answer the four questions and then click the "Proceed" button.
7. Once you have received your email confirmation, you can join the seminar directly from the email invitation, which contains a "Join the meeting" link. Once you click on the link, it will automatically start the Cisco WebEx conference and connect you to the seminar. Once you are connected, confirm that you

have read the conferencing privacy policy and then click the "Proceed" button. The session will be available 20 minutes before the scheduled start time of each event. If this is the first time that you are joining a meeting, you may need to install Cisco WebEx software before you can join the session. Also, you may need to uncheck your pop-up blocker. Once you have installed Cisco WebEx, you will not be required to reinstall the software for any subsequent seminars. We recommend you use a laptop or desktop to access the event. Mobile devices such as iPads, tablets and smart phones are not compatible with this software.

8. In addition to the link to join the conference, you also will receive a call-in number for the audio component of the event. Participants must dial into the teleconference for the audio portion of the presentation as well as for the question-and-answer session.

Accessing the Slide Presentation for the Live Seminars

Please note: Slide revisions could be required if there are any legislative, regulatory, or policy changes that affect the calculation of deposit insurance coverage. The seminar will use the most recent up-to-date PowerPoint presentation.

Comprehensive Deposit Insurance Seminar for Bankers

[Comprehensive Deposit Insurance Seminar for Bankers - PowerPoint](#)

[Comprehensive Deposit Insurance Seminar for Bankers - PDF](#)

Participation in the seminars and the YouTube sessions is strictly voluntary and open to employees and officials of all FDIC-insured depository institutions.

Contact the FDIC Call Center at 877-ASK-FDIC (877-275-3342) for additional information about the FDIC's 2020 seminars.

Source [link](#).

Comment: These are excellent training programs. Take advantage of this free service.

FDIC-Insured Institutions Reported Lower Profitability but Strong Liquidity and Higher Capital Levels in Second Quarter 2020 (08.25.2020)

- Aggregate Quarterly Net Income Declined Due to Continued Economic Uncertainty
- Net Interest Margin Compressed at Record Rate
- Deposits Expanded by More Than \$1 Trillion for Second Consecutive Quarter
- Deposit Insurance Fund Increased to Record \$114.7 Billion, while Reserve Ratio Falls to 1.30 Percent Due to Inflow of Deposits
- Community Banks Registered a 3.2 Percent Increase in Net Income Year Over Year

"Although economic stress related to the COVID-19 pandemic continued to affect bank earnings, the industry has remained a source of strength for the economy. Banks of all sizes supported their customers and communities, including by originating more than \$480 billion in Paycheck Protection Program loans in the second quarter." — FDIC Chairman Jelena McWilliams

WASHINGTON—The Federal Deposit Insurance Corporation (FDIC) reported that commercial banks and savings institutions saw a decrease in net income of 70 percent from a year ago, while liquidity and capital levels remained very strong to meet loan demand and absorb any losses in the future.

For the 5,066 commercial banks and savings institutions insured by the FDIC, aggregate net income totaled \$18.8 billion in second quarter 2020, down \$43.7 billion (70.0 percent) from a year ago. The decline in net income is a continuation of uncertain economic conditions, which drove an increase in provision expenses. Financial results for second quarter 2020 are included in the FDIC's latest Quarterly Banking Profile.

Source [link](#).

Comment: Banks' earnings were thwarted by deteriorating economic activity on the coronavirus mayhem, which resulted in higher provision expenses that will likely continue into 2021. The fall in net interest margin and elevated operating expenses were major drags. However, non-interest revenues were a positive largely driven by PPP fees income. A rise in loans and deposits were also driving factors. In addition, problem banks near historic lows were a tailwind.

FDIC Proposes to Update Policy Statement on Minority Depository Institutions (08.21.2020)

WASHINGTON—The Board of Directors of the Federal Deposit Insurance Corporation (FDIC) approved a new proposed Statement of Policy to enhance the agency's efforts to encourage and preserve Minority Depository Institutions (MDIs). The proposed revisions would update, strengthen, and clarify the FDIC's policies and procedures related to the agency's existing MDI framework. The FDIC seeks public comment on the proposal over a 60-day period.

Specifically, the proposed revisions describe the initiatives the FDIC has taken and will take to promote the preservation of MDIs and enhance communication between the FDIC and these minority-owned and managed institutions. The proposed Statement of Policy would also define the program terms for technical assistance, training, education, and outreach. Finally, it offers an explanation of how the FDIC applies examination standards in assessing the performance of MDIs.

The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) established several goals related to MDIs: (1) preserving the number of minority depository institutions; (2) preserving the minority character in cases of merger or acquisition; (3) providing technical assistance to prevent insolvency of institutions not now insolvent; (4) promoting and encouraging creation of new minority depository institutions; and (5) providing for training, technical assistance, and education programs.

Under Chairman Jelena McWilliams' leadership, the FDIC has sought new and innovative ways to engage with MDIs and better understand their needs. The FDIC frequently engages with technical assistance, banker roundtables, and networking events to connect MDIs and non-MDIs for potential business partnerships.

Over the years, the FDIC has continued to modify and enhance its MDI Program to better meet its statutory goals. Last updated in 2002, the FDIC's Statement of Policy regarding MDIs detailed the framework by which the FDIC implements the goals set forth in FIRREA and administers its MDI Program to meet those goals. The revisions in the proposed Statement of Policy are intended, in part, to strengthen and improve the various aspects of the MDI Program to reflect the FDIC's enduring and strengthened commitment to preserve and promote MDIs.

Attachment:

[Proposed Statement of Policy](#)

Source [link](#).

FDIC Proposes Changes to Its Supervisory Appeals Process (08.21.2020)

WASHINGTON – The Board of Directors of the Federal Deposit Insurance Corporation (FDIC) approved a proposal to amend its Guidelines for Appeals of Material Supervisory Determinations. The most significant change in the proposal would be to replace the current Supervision Appeals Review Committee (SARC) with an independent, standalone Office of Supervisory Appeals (Office) within the FDIC.

"The proposal seeks to establish a fair, independent process for a bank to appeal material supervisory decisions. Such an appeals process is key to promoting consistency among examiners across the country, ensuring accountability at the agency, and ultimately, maintaining stability and public confidence in the nation's financial system," said FDIC Chairman Jelena McWilliams.

The Office would have final authority to resolve appeals and would be independent within the FDIC organizational structure. The Office would be staffed by individuals with bank supervisory or examination experience. To further promote its independence, the FDIC would recruit externally to staff the Office.

If the changes are adopted, an institution unable to resolve a disagreement regarding a material supervisory determination with the examiner or the appropriate Regional Office or Division Director would be able to appeal that determination to the Office.

Changes to the supervisory appeals process are being proposed, in part, based on outreach sessions the FDIC's Ombudsman held with bankers and other interested parties in the fall of 2019. The FDIC believes that the creation of the proposed Office would promote independence and help alleviate perceived conflicts of interest, among other important goals.

Currently, the SARC is comprised of three voting members: an inside FDIC Board member who serves as the Committee's chairman and a deputy or special assistant to each of the other two inside FDIC Board members who are not designated as the SARC Chairman.

Comments will be accepted through October 20, 2020.

FDIC: PR-93-2020

Attachments:

[Proposed Changes to the Guidelines for Appeals of Material Supervisory Determination](#)

[Statement by FDIC Chairman Jelena McWilliams](#)

Source [link](#).

Comment: Among other things, the proposal would update the guidelines to clarify that for purposes of the supervisory appeals process, a formal enforcement-related action begins, and appeal rights are temporarily unavailable, when the FDIC: (i) initiates a formal investigation; (ii) issues a notice of charges or notice of assessment, as applicable; (iii) provides an institution with a draft consent order; or (iv) provides written notice stating "that the FDIC is reviewing the relevant facts and circumstances to determine whether a formal enforcement action is merited."

OCC actions and news

Bank Accounting Advisory Series Updated (08.17.2020)

WASHINGTON — The Office of the Comptroller of the Currency (OCC) released an update to the Bank Accounting Advisory Series (BAAS).

The BAAS covers a variety of topics and promotes consistent application of accounting standards among national banks and federal savings associations.

This edition of the BAAS reflects accounting standards issued by the Financial Accounting Standards Board on such topics as troubled debt restructurings and credit losses. Additionally, this edition includes recent answers to frequently asked questions from the industry and examiners.

The BAAS does not represent rules or regulations of the OCC. Rather, it represents the OCC's Office of the Chief Accountant's interpretations of generally accepted accounting principles and regulatory guidance based on the facts and circumstances presented.

The OCC updates the BAAS annually.

Related Link

[Bank Accounting Advisory Series \(August 2020\)](#) (PDF)

Source [link](#).

Comment: This series provides very helpful insights into application of GAAP in various scenarios. It is particularly useful in dealing with TDRs.

Federal Reserve actions and news

Beige Book (09.02.2020)

This report was prepared at the Federal Reserve Bank of Minneapolis based on information collected on or before August 24, 2020. This document summarizes comments received from contacts outside the Federal Reserve System and is not a commentary on the views of Federal Reserve officials.

- [Federal Reserve Bank of Boston](#)
- [Federal Reserve Bank of New York](#)
- [Federal Reserve Bank of Philadelphia](#)
- [Federal Reserve Bank of Cleveland](#)
- [Federal Reserve Bank of Richmond](#)
- [Federal Reserve Bank of Atlanta](#)
- [Federal Reserve Bank of Chicago](#)
- [Federal Reserve Bank of St. Louis](#)
- [Federal Reserve Bank of Minneapolis](#)
- [Federal Reserve Bank of Kansas City](#)
- [Federal Reserve Bank of Dallas](#)
- [Federal Reserve Bank of San Francisco](#)

Economic activity increased among most Districts, but gains were generally modest and activity remained well below levels prior to the COVID-19 pandemic. Manufacturing rose in most Districts, which coincided with increased activity at ports and among transportation and distribution firms. Consumer spending continued to pick up, sparked by strong vehicle sales and some improvements in tourism and retail sectors. But many Districts noted a slowing pace of growth in these areas, and total spending was still far below pre-pandemic levels. Commercial construction was down widely, and commercial real estate remained in contraction. Conversely, residential construction was a bright spot, showing growth and resilience in many Districts. Residential real estate sales were also notably higher, with prices continuing to rise along with demand and a shortage of inventory. In the banking sector, overall loan demand increased slightly, led by solid residential mortgage activity. Agricultural conditions continued to suffer from low prices, and energy activity was subdued at low levels, with little expectation of near-term improvement for either sector. While the overall outlook among contacts was modestly optimistic, a few Districts noted some pessimism. Continued uncertainty and volatility related to the pandemic, and its negative effect on consumer and business activity, was a theme echoed across the country.

Employment and Wages

Employment increased overall among Districts, with gains in manufacturing cited most often. However, some Districts also reported slowing job growth and increased hiring volatility, particularly in service industries, with rising instances of furloughed workers being laid off permanently as demand remained soft. Firms continued to experience difficulty finding necessary labor, a matter compounded by day care availability, as well as uncertainty over the coming school year and jobless benefits. Wages were flat to slightly higher in most Districts, with greater pressure cited among lower-paying positions. Some firms also rescinded previous pay cuts. Others, however, have looked to roll back hazard pay for high-exposure jobs, though some have chosen not to do so for staff morale and recruitment purposes.

Prices

Price pressures increased since the last report but remained modest. While input prices generally rose faster than selling prices, they were moderate overall. Notable exceptions included inputs experiencing demand surges or supply-chain disruptions, such as structural lumber, for which prices spiked. Several Districts also reported that costs for personal protective equipment and inputs to it remained elevated. Freight transportation rates rose in several Districts due to a resurgence in demand. In contrast, contacts in multiple Districts cited weak demand or lack of pricing power as a factor behind slower growth in retail or other selling prices.

Source [link](#).

FraudClassifier(SM) Model: Hear from an Early Adopter (08.26.2020)

Roy Olsen of American National Bank & Trust is very clear about one benefit of serving on the executive team for a small financial institution: “I can act quickly when I see a need across the enterprise.”

Olsen explained, “We didn’t believe we had a full picture of fraud – including both successful and attempted fraud. For example, I realized that if someone tries to pass a bad check at one of our branches, the other branches won’t know about it unless it results in a loss to the bank.”

Source [link](#).

Other federal action and news

HUD's Implementation of the Fair Housing Act's Disparate Impact Standard (09.14.2020)

HUD has long interpreted the Fair Housing Act (“the Act”) to create liability for practices with an unjustified discriminatory effect, even if those practices were not motivated by discriminatory intent. This rule amends HUD’s 2013 disparate impact standard regulation to better reflect the Supreme Court’s 2015 ruling in Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc. and to provide clarification regarding the application of the standard to State laws governing the business of insurance. This rule revises the burden-shifting test for determining whether a given practice has an unjustified discriminatory effect and adds to illustrations of discriminatory housing practices found in HUD’s Fair Housing Act regulations. This Final Rule also establishes a uniform standard for determining when a housing policy or practice with a discriminatory effect violates the Fair Housing Act and provides greater clarity of the law for individuals, litigants, regulators, and industry professionals.

Source [link](#).

Comment: This final rule codifies a new burden-shifting framework for analyzing disparate impact claims to reflect the Inclusive Communities decision, and it requires a plaintiff to sufficiently plead facts to support five new ‘elements’ at the pleading stage that “a specific, identifiable policy or practice” has a discriminatory effect on a protected class group under the Fair Housing Act.

FinCEN Issues Final Rule to Require Customer Identification Program, Anti-Money Laundering Program, and Beneficial Ownership Requirements for Banks Lacking a Federal Functional Regulator (09.14.2020)

WASHINGTON—To ensure consistent Bank Secrecy Act (BSA) coverage across the banking industry, the Financial Crimes Enforcement Network (FinCEN) issued a final rule that requires minimum standards for anti-money laundering programs for banks lacking a Federal functional regulator. The final rule also extends customer identification program and beneficial ownership requirements to those banks.

Banks without a Federal functional regulator are currently required to comply with certain BSA obligations, including filing suspicious activity and currency transaction reports. FinCEN anticipates that banks lacking a Federal functional regulator will be able to leverage existing policies, procedures, and internal controls required by other statutory and regulatory requirements to fulfill the obligations set out in the final rule.

Banks lacking a Federal functional regulator will have 180 days from the day the final rule is published in the Federal Register to be in compliance.

Source [link](#).

CSBS Urges OCC to Rescind Proposed True Lender Rule (09.03.2020)

The OCC should withdraw its proposed True Lender Rule because, as outlined, it overreaches the federal agency’s authority, CSBS said in a [comment letter](#).

The OCC’s proposed rule raises both policy and legal concerns for state regulators. First, the OCC lacks the legal authority to establish the bright-line test it has proposed to determine when a national bank is a true lender.

Second, the OCC should not attempt to insulate entities it does not regulate from otherwise applicable state laws.

"While encouraging innovation is an important policy priority, we believe a reasonable solution would balance these priorities with the significant policy interests and roles of other relevant stakeholders," the letter said.

Source [link](#).

Comment: The CSBS notes that the proposed rule would allow a national bank or federal thrift to act as a mere conduit by quickly transferring loans to its nonbank "partner," which could assume all of the economic risks and control the terms and enforcement of the loans. Such "partnerships" would amount to "rent-a-charter" schemes, which the OCC has barred national banks from entering since the early 2000s.

Statement by FinCEN Regarding Unlawfully Disclosed Suspicious Activity Reports (09.01.2020)

The Financial Crimes Enforcement Network (FinCEN) is aware that various media outlets intend to publish a series of articles based on unlawfully disclosed Suspicious Activity Reports (SARs), as well as other sensitive government documents, from several years ago. As FinCEN has stated previously, the unauthorized disclosure of SARs is a crime that can impact the national security of the United States, compromise law enforcement investigations, and threaten the safety and security of the institutions and individuals who file such reports. FinCEN has referred this matter to the U.S. Department of Justice and the U.S. Department of the Treasury's Office of Inspector General.

Source [link](#).

Comment: The release offers no changes regarding the unauthorized disclosure of SARs and serves to remind everyone, including media outlets, that publishing unlawfully disclosed information is a crime. Accordingly, the penalties can be severe. Federal law provides for civil penalties of up to \$100,000 for each violation and criminal penalties include fines of up to \$250,000 and/or imprisonment of up to five years. 31 U.S.C. § 5322 and 31 U.S.C. § 1010.840.

CSBS: State Regulators are Opposed to OCC's Payments Charter (08.31.2020)

"The OCC's proposed payments charter is no different than the fintech charter already rejected in federal court and subject to a nationwide order preventing the OCC from accepting applications from a company that does not take deposits.

"State regulators are opposed to this unconstitutional expansion of power.

"While the OCC disregards the statutory limits of its authority as set by Congress and the rule of law in ignoring a federal court ruling, state regulators are focused on their responsibility to protect consumers and foster economic development across the country."

Source [link](#).

Comment: As the CSBS explained, the "OCC's proposed payments charter is no different than the fintech charter already rejected in federal court . . . State regulators are opposed to this unconstitutional expansion of power." According to reports, Comptroller Brooks is intent on moving forward and the industry will likely see a payments charter proposal in the near future. The CSBS and certain states will almost assuredly file suit immediately thereafter.

NACHA - Despite Concerns Over Mail Delivery, Overwhelming Majority of Federal Government Payments Continue to be Made On Time (08.19.2020)

HERNDON, Va., August 19, 2020 – In recent days, significant concerns have been raised over the delivery of payments from the Social Security Administration and the Veterans Benefits Administration via the U.S. Postal Service. Following is a statement from Jane Larimer, President & CEO of Nacha, the nonprofit organization that serves as the steward of the ACH Network.

“While recipients that still receive a check may have concerns about mail delivery, the overwhelming majority of Americans who rely on Social Security and Veterans benefits continue to receive their payments on time because they use Direct Deposit. This month alone, 62.7 million Social Security payments were made electronically, totaling 99.1 percent of all recipients.

“According to the Treasury Department’s most recent numbers, 97.5% of all non-IRS payments were made electronically, including Social Security, Veterans benefits and salaries for federal employees. Direct Deposit is fast, reliable and secure, ensuring that federal benefits are delivered on-time, every time.”

Source [link](#).

Publications, articles, reports, studies, testimony & speeches

Industrial Production and Capacity Utilization - G.17 (09.15.2020)

Industrial production rose 0.4 percent in August for its fourth consecutive monthly increase. However, even after the recent gains, the index in August was 7.3 percent below its pre-pandemic February level. Manufacturing output continued to improve in August, rising 1.0 percent, but the gains for most manufacturing industries have gradually slowed since June. Mining production fell 2.5 percent in August, as Tropical Storm Marco and Hurricane Laura caused sharp but temporary drops in oil and gas extraction and well drilling. The output of utilities moved down 0.4 percent. At 101.4 percent of its 2012 average, the level of total industrial production was 7.7 percent lower in August than it was a year earlier. Capacity utilization for the industrial sector increased 0.3 percentage point in August to 71.4 percent, a rate that is 8.4 percentage points below its long-run (1972–2019) average but 7.3 percentage points above its low in April.

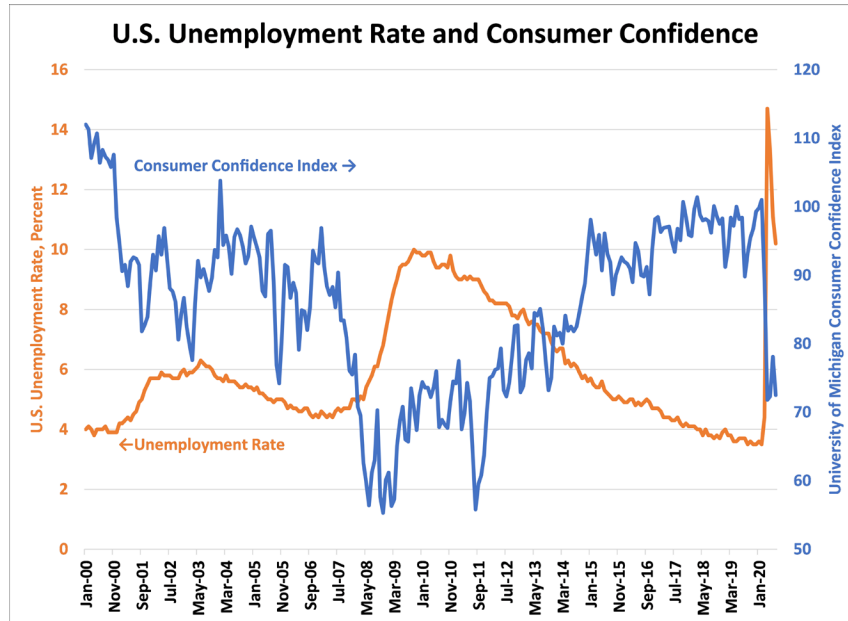
Source [link](#).

What Goes Up, Must Come Down? Examining the Relationship Between Consumer Confidence and the Unemployment Rate (09.14.2020)

Legend has it that Sir Isaac Newton discovered gravity when he saw an apple fall from a tree while contemplating the forces of nature. Even though the economy is not always governed by natural forces, the relationship between consumer confidence and the unemployment rate seems to follow Newton’s observation that when one indicator goes up, the other indicator must come down.

The nearby chart shows this long-run negative relationship between the U.S. consumer confidence index and the unemployment rate. It appears that when the unemployment rate goes up, consumer confidence drops. Or perhaps, as consumer confidence goes up, the unemployment rate drops. Either way, the significant negative

correlation reveals that consumers are more confident when joblessness is less pervasive and less confident when the unemployment rate is high.



Source [link](#).

Dallas FRB - Weekly Economic Index (09.10.2020)

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.

September 10, 2020: Update

The WEI is currently -4.26 percent, scaled to four-quarter GDP growth, for the week ended September 5 and -4.80 percent for August 29; for reference, the WEI stood at 1.55 percent for the week ended February 29.

The increase in the WEI for the week of September 5 was due to increases in steel production, rail traffic, and tax withholding, which more than offset an increase in initial unemployment insurance claims and a decline in retail sales. The WEI for the week of August 29 was revised downward due to an increase in continuing unemployment insurance claims, which more than offset an increase in the staffing index.

Source [link](#).

Consumer Credit - G.19 (09.08.2020)

July 2020

In July, consumer credit increased at a seasonally adjusted annual rate of 3-1/2 percent. Revolving credit decreased at an annual rate of 1/2 percent, while nonrevolving credit increased at an annual rate of 4-3/4 percent.

Source [link](#).

Fed Survey: Pandemic Straining Organizations Serving Low- to Moderate-Income Communities (09.02.2020)

In a new national survey by the Federal Reserve, almost two-thirds of organizations serving low- to moderate-income (LMI) communities indicated that demand for their services increased since early June as a result of the COVID-19 pandemic. Meanwhile, 42 percent noted a corresponding decrease in their ability to provide services in these communities.

["Perspectives from Main Street: The Impact of COVID-19 on Low- to Moderate-Income Communities and the Entities Serving Them"](#) is the latest community development survey of government agencies, nonprofits, financial institutions and other organizations. It was conducted in August and included 1,465 respondents working on a range of issues within their LMI communities, such as consumer finance, housing, small business, workforce development, education, and health. The respondents represented a mix of U.S. urban, suburban, and rural areas.

In addition to reporting a modest (28 percent) or significant (37 percent) increase in demand for services, more than a quarter of organizations said they could only operate for six months or less in the current environment before exhibiting financial distress, such as reducing services, laying off staff, or closing locations. When asked about COVID-19's overall impact on the LMI communities they serve, those surveyed in August most frequently cited income loss, job loss, and unemployment (38 percent). This finding was consistent with those from the same survey administered in April and June.

The full survey results from August, as well as previous surveys, are available at frbatlanta.org/covidsurvey-communities. The Federal Reserve seeks to promote the economic resilience and mobility of individuals and communities across the United States, including LMI and underserved households. Increasing economic opportunity is not only good for individuals and communities but also is vital to the overall economy. Amid the pandemic, the Fed is deepening its existing outreach to gather useful information as conditions evolve.

Source [link](#).

The Pandemic's Effect on the Economy and Banking - Governor Michelle W. Bowman (08.26.2020)

Good afternoon. It's great to be with you, and I look forward to our discussion. As you all know, the COVID-19 pandemic has caused significant disruption and hardship in nearly every aspect of our lives, and it continues to weigh heavily on our national economy, which is why it will be the central focus of my remarks here today. Let me set the stage for our discussion by outlining the economic effects of the pandemic most relevant to the banking sector, describing the Federal Reserve's response to the crisis, and then making some observations about conditions for smaller banks.

The Pandemic's Effects on the Economy and Banking

We began this year with the economy in excellent shape—by some measures the strongest in decades. From my seat as a monetary policymaker, we appeared to be in a good position regarding both legs of our dual mandate, which are maximum employment and stable prices.

But that picture was dramatically altered with the onset of the COVID-19 pandemic. Efforts to contain the spread of the virus caused a sudden stop in economic activity during March and April. While the extent of the closures

and shutdowns varied widely throughout the country, the sudden loss of employment and the contraction in output were like nothing our nation has experienced before.

The decline in activity was mostly due to temporary business closures, and the economy has bounced back noticeably in recent months as businesses reopen and fiscal support was distributed to many Americans. Even so, the economy is still far from back to normal. The future course and timing of the recovery is still highly uncertain, and its pace and intensity are likely to vary across areas of the country—heavily influenced by the decisions of state and local governments. That speaks to another aspect of this episode that is unusual—how the timing and severity of the pandemic's impact seem to differ greatly from one area to the next.

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 |
|---------------|--|
| 07.02.2020 | Higher-Priced Mortgage Loan Escrow Exemption (Regulation Z) - The Bureau of Consumer Financial Protection (Bureau) is proposing to amend Regulation Z, which implements the Truth in Lending Act, as mandated by section 108 of the Economic Growth, Regulatory Relief, and Consumer Protection Act. The amendments would exempt certain insured depository institutions and insured credit unions from the requirement to establish escrow accounts for certain higher-priced mortgage loans. <u>DATES: Comments on the proposed rule must be received on or before September 21, 2020.</u> |
| 08.18.2020 | Qualified Mortgage Definition under the Truth in Lending Act (Regulation Z): Seasoned QM Loan Definition - With certain exceptions, Regulation Z requires creditors to make a reasonable, good faith determination of a consumer's ability to repay any residential mortgage loan, and loans that meet Regulation Z's requirements for "qualified mortgages" (QMs) obtain certain protections from liability. Regulation Z contains several categories of QMs, including the General QM category and a temporary category (Temporary GSE QM loans) of loans that are eligible for purchase or guarantee by government-sponsored enterprises (GSEs) while they are operating under the conservatorship or receivership of the Federal Housing Finance Agency (FHFA). The Bureau of Consumer Financial Protection (Bureau) is issuing this proposal to create a new category of QMs (Seasoned QMs) for first-lien, fixed-rate covered transactions that have met certain performance requirements over a 36-month seasoning period, are held in portfolio until the end of the seasoning period, comply with general restrictions on product features and points and fees, and meet certain underwriting requirements. The Bureau's primary objective with this proposal is to ensure access to responsible, affordable mortgage credit by adding a Seasoned QM definition to the existing QM definitions. <u>Comments must be received on or before September 28, 2020.</u> |

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: |
|-----------------|--|
| 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. <u>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.</u> |

- 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.
- 08.03.2020 [Permissible Interest on Loans That Are Sold, Assigned, or Otherwise Transferred](#) - Federal law establishes that national banks and savings associations (banks) may charge interest on loans at the maximum rate permitted to any state-chartered or licensed lending institution in the state where the bank is located. In addition, banks are generally authorized to sell, assign, or otherwise transfer (transfer) loans and to enter into and assign loan contracts. Despite these authorities, recent developments have created legal uncertainty about the ongoing permissibility of the interest term after a bank transfers a loan. This rule clarifies that when a bank transfers a loan, the interest permissible before the transfer continues to be permissible after the transfer. DATES: The final rule is effective on August 3, 2020.
- 08.21.2020 [Federal Interest Rate Authority](#) - The Federal Deposit Insurance Corporation (FDIC) is issuing regulations clarifying the law that governs the interest rates State-chartered banks and insured branches of foreign banks (collectively, State banks) may charge. These regulations provide that State banks are authorized to charge interest at the rate permitted by the State in which the State bank is located, or one percent in excess of the 90-day commercial paper rate, whichever is greater. The regulations also provide that whether interest on a loan is permissible under section 27 of the Federal Deposit Insurance Act is determined at the time the loan is made, and interest on a loan permissible under section 27 is not affected by a change in State law, a change in the relevant commercial paper rate, or the sale, assignment, or other transfer of the loan. DATES: The rule is effective on August 21, 2020.
- 10.01.2020 [Regulatory Capital Rule: Temporary Changes to and Transition for the Community Bank Leverage Ratio Framework](#) - *The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation are adopting as final the revisions to the community bank leverage ratio framework made under two interim final rules issued in the Federal Register on April 23, 2020. The final rule adopts these interim final rules with no changes. Under the final rule, the community bank leverage ratio will remain 8 percent through calendar year 2020, will be 8.5 percent through calendar year 2021, and will be 9 percent thereafter. The 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. DATES: The final rule is effective October 1, 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.
- 01.01.2021 [Truth in Lending \(Regulation Z\) Annual Threshold Adjustments \(Credit Cards, HOEPA, and Qualified Mortgages\)](#) - The Bureau of Consumer Financial Protection (Bureau) is issuing this final rule amending the regulation text and official interpretations for Regulation Z, which implements the Truth in Lending Act (TILA). The Bureau is required to calculate annually the dollar amounts for several provisions in Regulation Z; this final rule revises, as applicable, the dollar amounts for provisions implementing TILA and amendments to TILA, including under the Credit Card Accountability Responsibility and Disclosure Act of 2009 (CARD Act), the Home Ownership and Equity Protection Act of 1994 (HOEPA), and the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). The Bureau is adjusting these amounts, where appropriate, based on the annual percentage change reflected in the Consumer Price Index (CPI) in effect on June 1, 2020. DATES: This final rule is effective January 1, 2021.
- TBD [Regulatory Capital Rule: Revised Transition of the Current Expected Credit Losses Methodology for Allowances](#) - 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 that delays the estimated impact on regulatory capital stemming from the implementation of Accounting Standards Update No. 2016-13, Financial Instruments—Credit Losses, Topic 326, Measurement of Credit Losses on Financial Instruments (CECL). The final rule provides banking organizations that implement CECL during the 2020 calendar year the option to delay for two years an estimate of CECL's effect on regulatory capital, relative to the incurred loss methodology's effect on regulatory capital, followed by a three-year transition period. The agencies are providing this relief to allow these banking organizations to better focus on supporting lending to creditworthy households and businesses in light of recent strains on the U.S. economy as a result of the coronavirus disease 2019, while also

maintaining the quality of regulatory capital. This final rule is consistent with the interim final rule published in the Federal Register on March 31, 2020, with certain clarifications and minor adjustments in response to public comments related to the mechanics of the transition and the eligibility criteria for applying the transition. DATES: The final rule is effective upon publication in the Federal Register.

TBD

[HUD's Implementation of the Fair Housing Act's Disparate Impact Standard](#) - HUD has long interpreted the Fair Housing Act ("the Act") to create liability for practices with an unjustified discriminatory effect, even if those practices were not motivated by discriminatory intent. This rule amends HUD's 2013 disparate impact standard regulation to better reflect the Supreme Court's 2015 ruling in *Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc.* and to provide clarification regarding the application of the standard to State laws governing the business of insurance. This rule revises the burden-shifting test for determining whether a given practice has an unjustified discriminatory effect and adds to illustrations of discriminatory housing practices found in HUD's Fair Housing Act regulations. This Final Rule also establishes a uniform standard for determining when a housing policy or practice with a discriminatory effect violates the Fair Housing Act and provides greater clarity of the law for individuals, litigants, regulators, and industry professionals. DATES: The final rule is effective 30 days after publication in the Federal Register.

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 |

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