INDEPENDENT COMMUNITY BANKS of NORTH DAKOTA

Capitol Comments

May 2021

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

'Rough winds do shake the darling buds of May.' – William Shakespeare

Joint federal agency issuances, actions and news

Agencies Extend Comment Period on Request for Information on Artificial Intelligence (05.17.2021)

Five federal financial regulatory agencies announced they will extend the comment period on the request for information on financial institutions' use of artificial intelligence (AI) until July 1, 2021.

The agencies are seeking information from the public on how financial institutions use AI in their activities, including fraud prevention, personalization of customer services, credit underwriting, and other operations. More specifically, the RFI seeks comments to better understand the use of AI, including machine learning, by financial institutions; appropriate governance, risk management, and controls over AI; and challenges in developing, adopting, and managing AI.

The agencies extended the comment period to allow stakeholders more time to coordinate and prepare their comments, which were originally due by June 1, 2021.

Source link.

Comment: The request for information also seeks input on appropriate governance, risk management and controls over AI; challenges in developing, adopting and managing AI and machine learning systems; and benefits to banks and customers. It also asks whether additional regulatory clarifications are needed on the use of AI in a safe and sound manner and in compliance with applicable laws and regulations.

Agencies Invite Comment on Proposed Rule for Income Tax Allocation Agreements (04.22.2021)

The federal bank regulatory agencies invited comment on a proposed rule that updates and codifies existing guidance on income tax allocation agreements involving depository institutions and their affiliates.

Under the proposed rule, banks that file tax returns as part of a consolidated tax filing group would be required to enter into tax allocation agreements with their holding companies and other members of their consolidated group. The proposed rule also describes the provisions required to be included in those agreements and specifies regulatory reporting treatment.

Comments must be received within 60 days of the proposed rule's publication in the Federal Register.

FDIC: PR-36-2021

[Notice of proposed rulemaking- Tax Allocation Agreements]

Source link.

Comment: There is an existing interagency policy statement on this topic that was issued in 1998 and amended in 2014. Fashioning that policy statement into a rule would make it binding and enforceable. Share this proposal with your bank's CPA firm.

CFPB actions and news

CFPB Issues TRID Rule FAQs About the BUILD Act (05.14.2021)

The Bureau has issued additional TRID Rule Frequently Asked Questions (FAQs). These FAQs address housing assistance loans, and how the BUILD Act impacts the TRID Rule requirements for certain housing assistance loans.

You can access the TRID FAQs, including those related to the BUILD Act, here:

Source link.

Comment: FAQs from the CFPB are an excellent tool in answering thorny compliance questions. In this instance, for a transaction that qualifies for the partial exemption under the BUILD Act, a creditor may elect not to provide the applicant with a Loan Estimate or Closing Disclosure. If a creditor elects not to provide such disclosures for a qualifying transaction, the creditor must provide the applicant with a Good Faith Estimate and HUD-1 Settlement Statement under RESPA and a traditional disclosure statement under TILA. Creditors relying on the BUILD Act partial exemption also must provide applicants with the Special Information Booklet under RESPA.

CFPB Issues Reports Detailing Mortgage Borrowers' Continuing COVID-19 Challenges (05.04.2021)

WASHINGTON, D.C. – The Consumer Financial Protection Bureau (CFPB) released two reports showing that more work needs to be done to help mortgage borrowers coping with the COVID-19 pandemic and economic downturn. The first report documents that Black and Hispanic mortgage borrowers are much more likely to be delinquent or in a forbearance program than white borrowers. In a second report, the CFPB reports that overall mortgage complaints to the CFPB have risen to their highest level in three years.

"More borrowers are behind on their mortgage than at any time since the height of the Great Recession," said CFPB Acting Director Dave Uejio. "Communities of color have been hit hard by the pandemic, and the latest data show that many borrowers are still hurting. The CFPB will continue to seek and actively respond to developments in the market, doing everything in our power to help families stay in their homes. As we warned mortgage servicers last month, unprepared is unacceptable."

The CFPB is seeking comments on a proposal intended to help prevent avoidable foreclosures for borrowers affected by the COVID-19 emergency. That proposal, if finalized, would temporarily require servicers to enhance communications with borrowers who are delinquent or in forbearance, allow servicers to offer certain streamlined loan modification options to borrowers with COVID-19-related hardships, and require servicers to afford all borrowers a special pre-foreclosure review period. The comment period closes May 10th.

Research Brief on Mortgage Borrowers

The CFPB's research brief, "Characteristics of Mortgage Borrowers During the COVID-19 Pandemic," shows that some homeowners and communities are more at risk than others.

- Borrowers in forbearance or delinquent are disproportionately Black and Hispanic. For example 33% of borrowers in forbearance (and 27% of delinquent borrowers) are Black or Hispanic, while only 18% of the total population of mortgage borrowers are Black or Hispanic.
- Loans in forbearance or delinquent are disproportionately likely to have high loan-to-value (LTV) and limited equity, leaving them vulnerable to being underwater. For example, half of all loans in forbearance have an LTV greater than 60%, compared to only 34% of current loans. Borrowers who are behind on their payments but not in forbearance are more than five times as likely to have an LTV greater than 95% than borrowers who are current on their payments.
- Forbearance and delinquency are significantly more common in communities of color (defined as majority minority census tracts) and lower-income communities (defined by census tract income quartiles).

Read the research brief, "Characteristics of Mortgage Borrowers During the COVID-19 Pandemic".

Consumer Complaint Bulletin on Mortgage Forbearance

In March 2021, consumers submitted more mortgage complaints to the CFPB than in any month since April 2018. Mortgage complaints mentioning forbearance or related terms have also reached their highest monthly average since March and April of 2020, and the number of borrowers who report they are struggling to make their payments is also trending upward.

The complaint bulletin highlights the problems consumers in forbearance are having getting the help they need.

- Servicer communications: Many consumers complained that servicers did not provide clear and accurate information about their options. In particular, consumers reported that servicers were not providing information about loss mitigation until after the consumer's forbearance had ended, and that the information provided about post-forbearance options was confusing and incomplete. The CFPB encourages servicers to use all available tools to reach struggling homeowners and to do so in advance of the end of the forbearance period.
- Delays and denials of loan modifications: Consumers reported long delays in having their loan modified so that they could resume payments on the mortgage. In some cases, these delays were due to demands for additional documents by servicers. In other cases, consumers said servicers provided conflicting information about what options were available and the consumer's eligibility for loan modification. The CFPB expects servicers to handle inquiries promptly, to evaluate income fairly, and to work with borrowers throughout the loss mitigation process.

Read the consumer complaint bulletin for more information on complaints received by the CFPB.

Source link.

Comment: The original foreclosure relief from the CARES Act was directed at federally related mortgages. The new proposal would apply to all mortgages, not just the federally related ones. However, neither of them

apply to "small servicers" as defined in Regulation Z (over 5,000 mortgages serviced). The loss mitigation requirements of RESPA are not extended to such servicers.

CFPB Consumer Complaint Bulletin Examines County-Level Demographic Data (04.28.2021)

WASHINGTON, D.C. – The Consumer Financial Protection Bureau (CFPB) issued a bulletin analyzing complaints submitted by consumers in counties nationwide. In 2019 and 2020, the CFPB received more complaints on a per-capita basis from consumers living in predominantly minority counties than from consumers in predominantly white, non-Hispanic counties. Consumers in counties with the highest percentage of minority population submitted complaints at over four times the rate compared to counties with the lowest percentage of minority population.

"Consumer complaints support and inform the CFPB's work, and provide key insight into emerging trends in the financial marketplace," said CFPB Acting Director Dave Uejio. "Today's report shows that while all people across the nation face financial hardships, a significantly higher rate of complaints come from ethnically diverse communities. The data raise concerns that deserve our further study and, as such, we'll keep a spotlight on patterns or any abuses we see."

The bulletin provides county-level visualization of trends the CFPB identifies in per-capita submission of complaints. The bulletin analyzes complaints at the county level and describes the CFPB's ongoing work to better understand the communities that submit complaints and how their problems vary.

Among other key findings in this bulletin:

- From 2019 to 2020, consumer complaints increased across all demographic groups. Complaints increased at a greater rate in predominantly minority counties compared to predominantly white, non-Hispanic counties.
- Consumers living in predominantly minority counties submitted more complaints on a per capita basis in nearly every one of the 11 product categories about which the Bureau accepts complaints.
- Credit or consumer reporting appears to cause significantly more issues for consumers in predominantly minority counties.

The CFPB will soon expand demographic collection to include household size and income. As part of this work, the CFPB will enhance its complaint form to give consumers the option to provide household size and household income when submitting a complaint. The CFPB will also begin exploring what additional information it may need to help better understand the experiences of diverse communities that submit complaints.

Read the new bulletin here.

Source link.

Comment: The CFPB had previously published its Consumer Response Annual Report for 2020, providing a review of the Bureau's complaint process and a description of complaints received from consumers in all 50 states and the District of Columbia between January 1 and December 31, 2020. Compliance Management Systems must include a robust complaint procedure. Remember, too, that consumers may file complaints with other federal regulatory ombudsmen as well as the appropriate state regulator. Be prepared to respond effectively. Report complaint data to the board of directors regularly.

CFPB Delays Mandatory Compliance Date for General Qualified Mortgage Final Rule (04.27.2021)

WASHINGTON, D.C. – The Consumer Financial Protection Bureau (CFPB) formally delayed the mandatory compliance date of the General Qualified Mortgage (QM) final rule from July 1, 2021 to October 1, 2022. The CFPB is taking this action to help ensure access to responsible, affordable mortgage credit, and preserve flexibility for consumers affected by the COVID-19 pandemic and its economic effects.

"So many consumers have been hit hard by the pandemic and the economic downturn, and we want to ensure that responsible, affordable mortgages remain available," said CFPB Acting Director Dave Uejio. "As the mortgage market navigates an uncertain and challenging time, extending the date by which lenders must comply with the CFPB's new General QM definition will help provide options and flexibility for both lenders and borrowers."

The General QM final rule is part of the CFPB's work to protect homeowners from debt traps and unaffordable, irresponsible mortgage lending. Under the statute, QM loans are presumed to be made based on the lender's reasonable determination of the homeowner's ability to repay the loan. Delaying the mandatory compliance date of the General QM final rule allows lenders more time to offer QM loans based on the homeowners' debt-to-income (DTI) ratio, and not solely based on certain pricing thresholds.

Delaying the final rule's compliance date would also give lenders more time to use the Government-Sponsored Enterprise (GSE) Patch, which provides QM status to loans that are eligible for sale to Fannie Mae or Freddie Mac. The availability of the GSE Patch after July 1, 2021 may be limited by recent revisions to the Preferred Stock Purchase Agreements entered into by the Department of the Treasury and the Federal Housing Finance Agency.

Read the final rule issued today.

Read an executive summary of the final rule.

Source link.

Comment: The General QM final rule would replace the current requirement for General QM loans that the consumer's debt-to-income ratio (DTI) not exceed 43%, with a limit based on the loan's pricing. In adopting a price-based approach to replace the specific DTI limit for General QM loans, the CFPB determined that a loan's price is a strong indicator of a consumer's ability to repay and is a more holistic and flexible measure of a consumer's ability to repay than DTI alone. A loan meets the general QM definition if its annual percentage rate exceeds the average prime offer rate (APOR) for a comparable transaction by less than 2.25 percentage points.

FDIC actions and news

FDIC Issues Request for Information on Digital Assets (05.17.2021)

WASHINGTON — The Federal Deposit Insurance Corporation (FDIC) today announced that it is gathering information and soliciting comments from interested parties about insured depository institution' current and potential digital asset activities.

The FDIC recognizes that there are novel and unique considerations related to digital assets. Given that banks are increasingly exploring the emerging digital asset ecosystem, the FDIC is issuing this request for information (RFI) to help inform its understanding of the industry's and consumers' interests in this area.

“At the FDIC, we are laying the foundation for the next chapter of banking by ensuring we have a regulatory framework that allows responsible innovation to flourish. Digital assets is one area in which we have seen rapid expansion and innovation in recent years. This RFI gives us an opportunity to gain additional insight into the market, and what role banks might play in the future,” said FDIC Chairman Jelena McWilliams.

The FDIC encourages comments from all interested parties by July 16, 2021.

Attachment:

[Request for Information]

Source [link].

Comment: The FDIC joins other federal bank regulators in exploring the world of digital assets. The Federal Reserve last week published a proposal to allow certain chartered financial institutions access to its accounts. That move would benefit Special Purpose Depository Institutions like Kraken Bank and Avanti, two crypto firms.

FDIC Publishes 2021 Risk Review (05.11.2021)

WASHINGTON – The Federal Deposit Insurance Corporation (FDIC) published its 2021 Risk Review, a comprehensive summary of emerging risks in the U.S. banking system. The FDIC began reporting key banking sector risks in its Risk Review publication in 2019, and this year’s report expands coverage of key risks during a time of heightened uncertainty.

“The U.S. economy and banking system showed remarkable resilience last year following the deepest recession in modern history,” said FDIC Chairman Jelena McWilliams. “Our analysis examines how insured institutions navigated the unprecedented banking landscape in 2020 and the key risks that warrant continued monitoring.”

The 2021 Risk Report summarizes conditions in the U.S. economy, financial markets, and banking sector, and presents key credit and market risks to banks. The report focuses on the effects of these risks on community banks in particular, as the FDIC is the primary federal regulator for the majority of community banks in the U.S. banking system.

The FDIC intends to publish its next Risk Review in the spring of 2022.

Source [link].

Comment: The Risk Review provides a summary of risks that may ultimately affect FDIC-insured institutions and the FDIC’s Deposit Insurance Fund. Much of the discussion in the report focuses on risks that may affect community banks, as FDIC is the primary federal regulator for the majority of community banks in the United States.

FDiTech Announces New Deputy Director of Office of Innovation (05.10.2021)

WASHINGTON – The Federal Deposit Insurance Corporation (FDIC) announced the appointment of Zunera Mazhar as Deputy Director of the agency’s Office of Innovation. Ms. Mazhar will guide the agency’s work to promote the adoption of innovative technologies within the FDIC and across the financial services sector.

“I am extremely excited that Zunera will be joining our team,” said FDIC Chief Innovation Officer Sultan Meghji. “She is a proven leader and offers a wealth of management, communications, technology and transformation experience to help build the banking ecosystem of the future.”

Ms. Mazhar added, “It is an honor and privilege to join the FDIC at this transformative moment in the agency’s long and storied history. I look forward to joining a talented team working towards creating a more inclusive, resilient and equitable financial system through innovation across both the agency and the banking sector.”

As Deputy Director of the FDIC’s Office of Innovation, Ms. Mazhar will work across the agency to promote innovative solutions to support the agency’s work. Prior to coming to the FDIC, Ms. Mazhar served as the Chief of Staff in the Office of Chief Information Officer at the U.S. Department of Education where she worked to provide technological solutions to support schools, students, and families. Previously, she was Chief of Communications at the U.S. Citizenship and Immigration Services’ Fraud Detection and National Security Directorate.

FDiTech seeks to evaluate and promote the adoption of innovative technologies in the financial services sector and to improve the efficiency, effectiveness, and stability of U.S. banking operations. In addition, FDiTech works to serve consumers through greater access to financial institutions, products, and services and to help accelerate transformation of banking through increased collaboration with market participants.

Source link.

FDIC’s Office of the Ombudsman Publishes Report on 2019 & 2020 Activities (05.05.2021)

WASHINGTON – The Federal Deposit Insurance Corporation’s (FDIC) Office of the Ombudsman published a report detailing its activities, as well as assistance provided on behalf of the banking industry, for calendar years 2019 and 2020. The FDIC Office of the Ombudsman is an independent, neutral, and confidential liaison between the agency and its stakeholders, providing information and assistance to anyone affected by the FDIC in its regulatory, resolution, receivership, or asset disposition activities.

“I am pleased to release our latest report, delineating the activities of the Office for the previous two calendar years. This report offers transparency into the work we do every day, including engagements with parties from the banking industry,” said M. Anthony Lowe, FDIC Ombudsman.

Over the past two years, the Office of the Ombudsman hosted a series of Trust through Transparency listening sessions throughout the country to solicit input on the existing appeals process; facilitated discussions and informally resolved disagreements over bank examination findings; assumed responsibility for the Post–Examination Survey process; and served as a resource to financial institutions and the general public impacted by the COVID-19 pandemic.

The FDIC established the Office of the Ombudsman in 1994. To learn more about the office, or to submit an inquiry or comment, please visit www.fdic.gov/about/ombudsman.

Attachment:

FDIC Office of the Ombudsman Report on 2019 & 2020 Activities

Source link.

FDIC Makes Public March Enforcement Actions (04.30.2021)

WASHINGTON – The Federal Deposit Insurance Corporation (FDIC) released a list of orders of administrative enforcement actions taken against banks and individuals in March. There are no administrative hearings scheduled for May 2021.

The FDIC issued ten orders containing 12 administrative actions in March 2021. The administrative enforcement actions in those orders consisted of five Prohibition Orders, three Orders to Pay Civil Money Penalties, two Section 19 Applications, one Order to Correct Conditions, and one Order Terminating Consent Order.

To view orders, adjudicated decisions and notices and the administrative hearing details online, please visit the FDIC's Web page by clicking the link below.

March 2021 Enforcement Decisions and Orders

Source link.

FDiTech to Host Virtual "Office Hours" on Banking-Related Innovation (04.29.2021)

WASHINGTON – The Federal Deposit Insurance Corporation (FDIC) announced that it will host a series of virtual 'office hours' to hear directly from a range of stakeholders regarding current and evolving technological innovations in the business of banking.

Hosted by the FDIC's tech lab, FDiTech, and FDIC Chief Innovation Officer Sultan Meghji, these hour-long, one-on-one sessions will provide insight into the important role innovation plays in transforming banks and enabling regulators to conduct efficient and effective oversight.

"Thoughtful innovation requires listening," said FDIC Chief Innovation Officer Sultan Meghji. "These virtual office hours will provide another direct avenue for the FDIC to hear from those on the front lines of financial innovation about how we can build a more inclusive and resilient banking ecosystem."

FDiTech seeks to evaluate and promote the adoption of innovative and transformative technologies in the financial services sector and to improve the efficiency, effectiveness, and stability of U.S. banking operations, services, and products; to support access to financial institutions, products, and services; and to better serve consumers. FDiTech's mission is to help accelerate transformation of banking by encouraging the adoption of technological innovations through increased collaboration with market participants.

In the first series of these Office Hour meetings, the FDIC and FDiTech are particularly interested in the attendees' input and views on artificial intelligence and machine learning (AI/ML) involving:

- Automation of back office processes;
- Bank Secrecy Act/Anti-Money Laundering (BSA/AML) compliance;
- Credit underwriting decisions (especially removing potential bias); and
- Cyber security.

While FDiTech anticipates a high demand for these Office Hours, there will be a limited number of available meetings. Specifically, FDiTech anticipates hosting approximately 15 one-hour sessions each quarter. Interested parties wishing to participate in these sessions should email a simple expression of interest to innovation@fdic.gov no later than May 24, 2021. In response, FDiTech will ask stakeholders to provide additional information no later than Friday, May 28, 2021. The FDIC will use this information to schedule these limited one-on-one sessions during the week of June 14, 2021. FDiTech will host additional Office Hours later in the year.

Source link.

FDIC Issues Proposed Rule Regarding False Advertising, Misrepresentations About Insured Status, and Misuse of the FDIC's Name or Logo (04.22.2021)

WASHINGTON — The Federal Deposit Insurance Corporation (FDIC) issued a proposed rule implementing its statutory authority to prohibit any person or organization from making misrepresentations about FDIC deposit insurance or misusing the FDIC's name or logo. This statutory authority allows the FDIC to bring formal enforcement actions, such as cease and desist orders or civil money penalties, against individuals or entities for violations.

The proposed rule describes the process by which the FDIC would identify and investigate potential violations, and the procedures it would follow, when formally and informally enforcing the statutory prohibitions. The proposed rule would also create a central point-of-contact where the public could report or make inquiries about potential violations. Additionally, the proposed rule would establish a more transparent process that would promote stability and public confidence in FDIC deposit insurance and the nation's financial system.

Recently, the FDIC has noticed an increase in the number of cases where individuals or entities have misused the FDIC's name or logo, or have made false or misleading representations about deposit insurance. Historically, the FDIC has resolved these matters by sending a letter to the responsible parties requesting corrective action be taken. Between January 1, 2019 and December 31, 2020, the FDIC sent 165 such letters. The proposed rule includes a similar informal resolution process as well as more formal enforcement procedures.

Comments on the proposed rule will be accepted for 60 days after publication in the Federal Register.

Notice of Proposed Rulemaking on False Advertising, Misrepresentation of Insured Status, and Misuse of the FDIC's Name or Logo. - PDF

Source link.

Comment: The agency notes that Section 18(a)(4) of the FDICA prohibits any person from misusing the name or logo of the Federal Deposit Insurance Corporation (FDIC) or from engaging in false advertising or making knowing misrepresentations about deposit insurance. Meanwhile, the California Department of Financial Protection and Innovation has entered a settlement agreement with Chime Financial, Inc., who is not licensed to operate as a bank but has used the words "bank" and "banking" in certain aspects of its business and in its website.

OCC actions and news

Community Reinvestment Act: Implementation of the June 2020 Final Rule (05.18.2021)

The Office of the Comptroller of the Currency (OCC) published in the Federal Register on June 5, 2020, a final rule (June 2020 rule) to modernize the agency's regulations under the Community Reinvestment Act (CRA). The OCC has determined that it will reconsider the June 2020 rule. While this reconsideration is ongoing, the OCC will not object to the suspension of the development of systems for, or other implementation of, provisions with a compliance date of January 1, 2023, or January 1, 2024, under the 2020 CRA rule. At this time, the OCC also does not plan to finalize the December 4, 2020, proposed rule that requested comment on an approach to determine the CRA evaluation measure benchmarks, retail lending distribution test thresholds, and community development minimums under the June 2020 rule. In addition, the OCC is discontinuing the CRA information collection pursuant to the Paperwork Reduction Act (PRA) notice published in the Federal Register in December 2020.

Note for Community Banks

This bulletin applies to community banks subject to the CRA.

Highlights

While this reconsideration is ongoing, the OCC will not implement or rely on the evaluation criteria in the June 2020 rule pertaining to

- quantification of qualifying activities (12 CFR 25.07 and 25.08);
- assessment areas (12 CFR 25.09);
- general performance standards (12 CFR 25.10 through 25.13);
- data collection (12 CFR 25.21);
- recordkeeping (12 CFR 25.25); and
- reporting (12 CFR 25.26).

Background

The OCC's actions will provide for an orderly reconsideration of the June 2020 rule and provide banks with more flexibility to deploy resources in response to the COVID-19 pandemic. These actions also provide the OCC with the opportunity to consider additional stakeholder input, to evaluate issues and questions that have been raised, to reassess the necessary data, and to take additional regulatory action, as appropriate.

The OCC will continue to implement the provisions of the June 2020 CRA rule that had a compliance date of October 1, 2020. The OCC interpreted and explained these provisions in OCC Bulletin 2020-99. These implementation efforts include

issuance of OCC Bulletin 2021-5 providing bank type determinations, lists of distressed and underserved areas, and the median hourly compensation value for community development service activities;

deployment of the CRA Qualifying Activities Confirmation Request process for banks and other stakeholders to request confirmation whether an activity meets the qualifying criteria under the June 2020 CRA rule; and

provision of training on provisions of the June 2020 rule with the October 1, 2020, compliance date in a series of webinars for examiners and bankers.

Banks are reminded to maintain appropriate documentation for CRA examination purposes required under OCC Bulletin 2020-99. Such documentation includes the qualifying criteria met by the activity, the area(s) served by the activity, and the date and amount of the activity (including the basis for full or partial consideration). Certain banks previously subject to data collection and reporting under the 1995 CRA framework will continue to report large bank CRA data during the transition period, as specified in OCC Bulletin 2020-99.

Related Links

- CRA June 2020 Final Rule (PDF)
- OCC Bulletin 2020-99, "Community Reinvestment Act: Key Provisions of the June 2020 CRA Rule and Frequently Asked Questions"

- OCC Bulletin 2021-5, "Community Reinvestment Act: Bank Type Determinations, Distressed and Underserved Areas, and Banking Industry Compensation Provisions of the June 2020 CRA"
- CRA Qualifying Activities Confirmation Request

Source link.

Comment: This represents a major 'do over' on behalf of the OCC. In comment letters filed with the OCC when the final rule was being considered, many community bankers urged working in unison with the other agencies to have a single CRA rule. Let's hope this is a step in that direction.

Credit Card Lending: Revised Comptroller's Handbook Booklet and Rescissions (04.29.2021)

The Office of the Comptroller of the Currency (OCC) issued the revised "Credit Card Lending" booklet of the Comptroller's Handbook, which is prepared for use by OCC examiners in connection with the examination and supervision of national banks, federal savings associations, and federal branches and agencies of foreign banking organizations (collectively, banks).

Refer to the "Foreword" booklet of the Comptroller's Handbook for more information regarding the OCC's process for revising and updating booklets.

Rescissions

The revised booklet replaces version 1.2 of the "Credit Card Lending" booklet published on January 6, 2017. This bulletin rescinds OCC Bulletin 2015-41, "Credit Card Lending: Revised Comptroller's Handbook Booklet and Rescissions," which was issued on November 4, 2015.

Note for Community Banks

The "Credit Card Lending" booklet applies to the OCC's supervision of community banks.

Highlights

The revised booklet

- reflects the adoption of the current expected credit loss methodology by some banks and the increased use of models in credit card originations and risk management.
- reflects changes to OCC issuances published and rescinded since this booklet was last issued.
- includes clarifying edits regarding supervisory guidance, sound risk management practices, or legal language.
- revises certain content for general clarity.

Related Link

"Credit Card Lending"

Source link.

Federal Reserve actions and news

Federal Reserve Board Announces the Third Extension of a Rule to Bolster the Effectiveness of the Small Business Administration's Paycheck Protection Program (PPP) (05.14.2021)

The Federal Reserve Board on Friday announced the third extension of a rule to bolster the effectiveness of the Small Business Administration's (SBA) Paycheck Protection Program (PPP). Like the earlier extensions, this one will temporarily modify the Board's rules so that certain bank directors and shareholders can apply to their banks for PPP loans for their small businesses.

To prevent favoritism, the Board limits the types and quantity of loans that bank directors, shareholders, officers, and businesses owned by these persons can receive from their affiliated banks. However, these limits have prevented some small business owners from accessing PPP loans—especially in rural areas.

The SBA clarified last year that PPP lenders can make PPP loans to businesses owned by their directors and certain shareholders, subject to certain limits, and without favoritism. The Board's rule extension will allow those individuals to apply for PPP loans, consistent with SBA's rules and restrictions. The extension only applies to PPP loans.

The Board is providing the rule extension for PPP loans made since March 31, and to allow banks to continue to make PPP loans to a broad range of small businesses within their communities. The SBA explicitly has prohibited banks from prioritizing or providing favorable processing time to PPP loan applications from a director or equity holder, and the Board will administer the rule extension accordingly.

The rule extension, which is effective immediately, applies to PPP loans made from March 31 through June 30, 2021. The rule change will continue to apply if the PPP is extended, with the change ultimately sunsetting on March 31, 2022. Comments will be accepted for 45 days after publication in the Federal Register.

Federal Register notice: Loans to Executive Officers, Directors, and Principal Shareholders of Member Banks (PDF)

Source link.

Comment: The PPP funds have been exhausted except for participating community financial institutions included Certified Development Companies, SBA Microlenders, Community Development Financial Institutions and minority Depository Institutions.

Federal Reserve Board Invites Public Comment on Proposed Changes to Regulation II Regarding Network Availability for Card-Not-Present Debit Card Transactions and Publishes a Biennial Report Containing Summary Information on Debit Card Transactions In 2019 (05.07.2021)

The Federal Reserve Board on Friday invited public comment on proposed changes to Regulation II (Debit Card Interchange Fees and Routing) to clarify that debit card issuers should enable, and allow merchants to choose from, at least two unaffiliated networks for card-not-present debit card transactions, such as online purchases. The Board views these clarifications of Regulation II's existing requirements as necessary in light of information indicating that often only one network is enabled for such transactions.

Additionally, the Board published a biennial report containing summary information on debit card transactions in 2019.

Regulation II implements section 920 of the Electronic Fund Transfer Act (EFTA). Among other things, the regulation requires that there be at least two unaffiliated payment card networks enabled on a debit card to process debit card transactions. At the time the Board promulgated Regulation II, the market had not developed solutions to broadly support multiple networks over which merchants could choose to route card-not-present transactions. Although technology has subsequently evolved to address these barriers, data collected by the

Board and information from industry participants indicate that two unaffiliated networks are often not available to process card-not-present debit card transactions because some issuers do not enable two networks for those transactions. The absence of at least two unaffiliated networks for card-not-present transactions forecloses the ability of merchants to choose between competing networks when routing such transactions, an issue that has become increasingly pronounced because of continued growth in online transactions, particularly in the COVID-19 environment.

The proposed revisions would clarify that card-not-present transactions are a "particular type of transaction" for which two unaffiliated payment card networks must be available. The proposed revisions would further clarify the responsibility of the debit card issuer in ensuring that at least two unaffiliated networks have in fact been enabled to comply with the regulation.

The Board also published a report on debit card transactions in 2019, including information on volume and value, interchange fee revenue, certain issuer costs, and fraud losses. The report is the sixth in a series published every two years as prescribed by section 920 of the EFTA and summarizes information collected from debit card issuers subject to the interchange fee standard in Regulation II and payment card networks. Key highlights are provided at the beginning of the report. The Board will continue to review the parts of Regulation II that directly address interchange fees for certain electronic debit transactions in light of the most recent data collected by the Board pursuant to section 920 of the EFTA and may propose revisions in the future.

The Board's Federal Register notice and report are attached.

2019 Interchange Fee Revenue, Covered Issuer Costs, and Covered Issuer and Merchant Fraud Losses Related to Debit Card Transactions (PDF)

Federal Register notice: Debit Card Interchange Fees and Routing

Board Memo: Proposed Amendments to Regulation II (Debit Card Interchange Fees and Routing) to Clarify the Prohibition on Network Exclusivity; Biennial Report on 2019 Interchange Fee Revenue, Covered Issuer Costs, and Covered Issuer and Merchant Fraud Losses Related to Debit Card Transactions (PDF)

Source link.

Senior Loan Officer Opinion Survey on Bank Lending Practices (05.03.2021)

The April 2021 Senior Loan Officer Opinion Survey on Bank Lending Practices

The April 2021 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 correspond to the first quarter of 2021.1

Regarding loans to businesses, respondents to the April survey indicated that, on balance, they eased their standards on commercial and industrial (C&I) loans to firms of all sizes over the first quarter. Banks reported weaker demand, on net, for C&I loans to large and middle-market firms, and demand for C&I loans from small firms remained basically unchanged.2 Standards on commercial real estate (CRE) loans secured by nonfarm nonresidential properties remained basically unchanged, while banks tightened standards on construction and land development loans and eased standards on multifamily loans. Banks reported stronger demand for construction and land development and multifamily loans and reported weaker demand for nonfarm nonresidential loans.

For loans to households, banks eased standards across most categories of residential real estate (RRE) loans, on net, and reported stronger demand for most types of RRE loans over the first quarter. Banks also eased standards across all three consumer loan categories—credit card loans, auto loans, and other consumer loans. Meanwhile, demand for credit card and other consumer loans remained basically unchanged, and demand for auto loans moderately strengthened.

The survey included two sets of special questions: one set inquiring about changes in banks' lending policies compared with pre-pandemic levels (since the end of 2019), by borrower risk rating, and one set about changes in CRE lending policies over the past year. First, in their answers about changes in lending policies compared with pre-pandemic levels, banks reported having tightened C&I and consumer credit policies for most categories of borrowers on net. For C&I loans, large banks tightened lending policies for most firms, except on loans to large investment-grade firms, for which they eased credit policies on net. Small banks tightened standards on all categories of C&I borrowers and especially on small and below-investment-grade firms. For consumer loans, banks tightened standards on all categories of consumers. Second, in their answers to the special questions about CRE lending policies, banks reported tightening most terms on nonfarm nonresidential loans and on construction and land development loans and leaving most terms unchanged on multifamily loans.

Source link.

Comment: The three major categories of lending covered by the survey are Commercial and Industrial (C&I) loans, Commercial Real Estate (CRE) loans, and Residential Real Estate (RRE) loans. In CRE lending, the survey indicated slightly more lenient standards (as compared to the fourth quarter of 2020) across its three subcategories: construction and land development, nonfarm nonresidential and multifamily.

Consumer Compliance Outlook Latest Issue is Now Available (04.29.2021)

The latest issue of Consumer Compliance Outlook is now available on the Outlook website. This issue contains the following articles and features:

- Technological Innovation Is Essential to the Future of Community Banking in America
- Understanding Regulation Z's Advertising Requirements
- Compliance Alert: Agencies Issue Statements on LIBOR Transition
- News from Washington: Regulatory Updates
- On the Docket: Recent Federal Court Opinions
- Regulatory Calendar
- Entire issue (pdf download)

Other federal action and news

CSBS Statement on Senate Passage of the CRA Joint Resolution to Strike Down OCC True Lender Rule (05.12.2021)

Statement from John W. Ryan, CSBS president and CEO, on Senate passage of the Congressional Review Act joint resolution (S.J. Res.15) to strike down the Office of the Comptroller of the Currency's (OCC) true lender rule:

"State financial regulators appreciate the Senate striking down the OCC's true lender test, which undercut state consumer protection laws. The OCC has attempted to invalidate the long-standing role of states to determine the interest charged to their citizens by nonbank lenders.

"We are looking forward to swift action by the House to invalidate the OCC true lender final rule."

Source link.

Comment: Congress has listened. The Senate approved a joint resolution to repeal the True Lender Rule under the Congressional Review Act. The House is expected to pass it, and the president has expressed his support for the resolution.

CSBS BLOG - Beneficial Ownership Rules Should Recognize State Regulators (05.06.2021)

The Corporate Transparency Act's beneficial ownership reporting requirements should formally recognize state regulators, CSBS said in a comment letter to FinCEN.

Responding to an advance notice of proposed rulemaking, CSBS noted its strong support of the proposed requirements, which would require entities like corporations and limited liability companies to disclose their beneficial owners among other information. This would help prevent anonymous and illicit activity from bad actors.

To strengthen the regulation, CSBS asked for state financial regulators to be classified as an "appropriate regulatory agency," enabling them to request to access to beneficial ownership information, and for FinCEN to consult with state regulators when developing the regulations.

Source link.

CSBS Podcast - What is SolarWinds? Why Does it Matter? (05.04.2021)

We speak with Charles about SolarWinds to learn what it is, what happened with the company and the far-reaching consequences of this cybersecurity breach.

Chapters

0:37 - What is SolarWinds?

1:50 - What exactly happened?

3:38 - When did someone notice something was amiss?

5:00 - Who is impacted by this hack?

6:15 - What did this attack do?

8:25 - Who is sophisticated enough to conduct this type of attack?

11:00 - How bad is this overall now that it's identified?

13:06 - What's the worst-case scenario?

14:51 - Is there any good news at all?

Source link.

Comment: By compromising SolarWinds Orion, an IT management platform widely used by tens of thousands of organizations, Russian hackers distributed their "Sunburst" malware to as many as 18,000 of SolarWinds's 33,000+ global customers. The attack was conducted with novel methods and techniques circumventing traditional security controls.

FinCEN Reissues Real Estate Geographic Targeting Orders for 12 Metropolitan Areas (05.01.2021)

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. The GTOs are identical to the November 2020 GTOs. The purchase amount threshold remains $300,000 for each covered metropolitan area.

The terms of this Order are effective beginning May 5, 2021 and ending October 31, 2021. GTOs continue to provide valuable data on the purchase of residential real estate by persons possibly involved in various illicit enterprises. Renewing 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: Note that the targeting order applies to title insurance.

CSBS BLOG - Climate Risk Management: The Latest Information (04.22.2021)

Recently, federal regulatory agency leaders have taken steps towards understanding the financial risks associated with climate risk.

The Federal Reserve Board announced the creation of two committees tasked with identifying the micro and macro prudential risks of climate risk and developing a program to mitigate these risks. Treasury Secretary Janet Yellen stated on multiple occasions that climate risk management will constitute a major area of focus for the Financial Stability Oversight Council. Both the Federal Housing Finance Agency and the Securities and Exchange Commission released requests for input on the climate risks associated with the housing sector and purpose of climate risk disclosures, respectively. While still in the information gathering stage, the federal agencies clearly plan to make climate risk management a top priority for this administration.

Following the recent actions of federal regulatory agencies and inquiries from various members following the CSBS Legislative Fly-In panel with Sarah Bloom Raskin, CSBS thought it prudent to gather the latest information and data related to climate risk management.

The following reports, guidance, and speeches serve as a primer for understanding actions taken by a wide array of stakeholders in the financial services sector.

- 2020 Core Logic Climate Change Catastrophe Report
- Moody's Analytics: An Empirical Assessment of the Financial Impacts of Climate-related Hazard Events
- The Federal Reserve Board's Financial Stability Report: The Implications of Climate Change for Financial Stability
- Federal Reserve Bank of San Francisco Economic Letter: Climate Change is a Source of Financial Risk
- Governor Lael Brainard Speech on Financial Stability Implications of Climate Change from CERES 2021 Conference
- New York Department of Financial Services Industry Guidance to Regulated Financial Institutions

If you have any questions about the above material or seek further information on current state and federal actions towards understanding climate risk management, please contact Camille Polson, Senior Analyst of Policy Development at cpolson@csbs.org.

Source link.

Comment: Review your bank's risk assessment procedures and add this area of concern.

CSBS BLOG - Community Bankers' Prospects on Profits Drive Outlook (04.19.2021)

The headline number from CSBS's first quarter 2021 Community Bank Sentiment Index (CBSI) was 115, up significantly from the fourth quarter 2020 reading of 98, and meaningfully above the neutral reading of 100. Six of the seven components that make-up the index improved, with bankers' expectations for higher profitability rocketing up from 62 to 105 and contributing the most to driving overall sentiment upward. Bankers expecting higher profits are more optimistic overall, with an average CBSI score of 142. The average CBSI for bankers expecting profits to remain the same was 115, while those expecting lower profits averaged 84.

As shown in the nearby chart, the first quarter 2021 component that assesses "future profitability" is only marginally above the neutral level of 100. At 105, the component index indicates that community bankers expect future profits to be higher for the first time since the fourth quarter 2019 survey. The 43-point quarterly surge in the index was the largest quarterly increase among the seven components since the inception of the CBSI in early 2019. CBSI readings can range from 0 to 200, where values above 100 indicate positive sentiment and those below 100 point to negative sentiment.

Source link.

Publications, articles, reports, studies, testimony & speeches

Federal Reserve Board Issues Report on the Economic Well-Being of U.S. Households (05.17.2021)

In the fourth quarter of 2020, nearly one-fourth of adults said that they were worse off financially compared to a year earlier, reflecting the economic fallout and distress resulting from the global COVID-19 pandemic. The Federal Reserve Board's report, Economic Well-Being of U.S. Households in 2020, which was released on

Monday, found a larger share of adults were worse off in 2020 than in previous years of the survey. This change occurred broadly across the population, but not all groups fared similarly.

Despite the increase in the share of Americans doing worse off financially, most believed they were still at least doing "okay" financially overall. Seventy-five percent of adults were either doing okay or living comfortably in November, which was unchanged from 2019 after having fluctuated through the year. However, not all groups have fared similarly through the pandemic, and persistent disparities in well-being across education and race remained.

Source link.

Industrial Production and Capacity Utilization - G.17 (05.14.2021)

Total industrial production increased 0.7 percent in April. The indexes for mining and utilities increased 0.7 percent and 2.6 percent, respectively; the index for manufacturing rose 0.4 percent despite a drop in motor vehicle assemblies that principally resulted from shortages of semiconductors. An important contributor to the gain in factory output was the return to operation of plants that were damaged by February's severe weather in the south central region of the country and had remained offline in March. The weather-induced drop in total industrial production in February and the subsequent rebound in March are now estimated to have been larger than reported last month.

At 106.3 percent of its 2012 average in April, total industrial production has moved up 16.5 percent from its level in April 2020 (the trough of the pandemic), but it was 2.7 percent below its pre-pandemic (February 2020) level. Capacity utilization for the industrial sector rose 0.5 percentage point in April to 74.9 percent, a rate that is 4.7 percentage points below its long-run (1972–2020) average.

Source link.

U.S. Economic Outlook and Monetary Policy - Vice Chair Richard H. Clarida (05.12.2021)

Current Economic Situation and Outlook

In February 2020, none of us could have imagined that in a few short weeks the COVID-19 pandemic and the mitigation efforts put in place to contain it would deliver the most severe blow to the U.S. economy since the Great Depression. Gross domestic product (GDP) collapsed by more than 30 percent at an annual rate in the second quarter of 2020; more than 22 million jobs were lost, wiping out a decade of employment gains; the unemployment rate rose from a 50-year low of 3.5 percent in February to almost 15 percent in April; and inflation plummeted in response to a collapse in aggregate demand that dwarfed the contraction in aggregate supply.

But with the benefit of hindsight, it is clear that the economy has proven to be much more resilient than many forecast or feared one year ago. With timely support from monetary and fiscal policy—unprecedented in both scale and scope—and the rapid development and deployment of several effective vaccines, the economy stabilized and began a robust recovery in the second half of 2020 that both we and outside forecasters expect to pick up steam this year. So far, the economic activity data we have received this year is consistent with this outlook. For example, GDP rose by an impressive 6.4 percent in the first quarter, with real final sales to private domestic purchasers up an eye-popping 10.6 percent. Household spending on goods is rising robustly, and spending on services is also picking up as contact-intensive sectors begin to reopen and recover. Business and *residential investment have more than fully recovered from the 2020 collapse and are operating above pre-pandemic levels.*

However, after looking at the details of Friday's disappointing employment report, the near-term outlook for the labor market appears to be more uncertain than the outlook for economic activity. Employment remains 8.2 million below its pre-pandemic peak, and the true unemployment rate adjusted for participation is closer to 8.9 percent than to 6.1 percent. At the recent pace of payroll gains—roughly 500,000 per month over the past three months—it would take until August 2022 to restore employment to its pre-pandemic level. But what this necessary rebalancing of labor supply and demand means for wage and price dynamics will depend importantly on the pace of recovery in labor force participation as well as the extent to which there are post-pandemic mismatches between labor demand and supply in specific sectors of the economy and how long any such imbalances persist.

Readings on inflation on a year-over-year basis have recently increased and are likely to rise somewhat further before moderating later this year. Over the next few months, 12-month measures of inflation are expected to move above our 2 percent longer-run goal, largely reflecting, I believe, transitory factors such as a run of year-over-year comparisons with depressed service-sector prices recorded last spring as well as the emergence of some supply bottlenecks that may limit how quickly production can rebound in certain sectors. However, under my baseline outlook, these one-time increases in prices are likely to have only transitory effects on underlying inflation, and I expect inflation to return to—or perhaps run somewhat above—our 2 percent longer-run goal in 2022 and 2023. This outcome would be entirely consistent with the new framework the Federal Reserve unanimously adopted in August 2020 and began to implement at our September 2020 Federal Open Market Committee (FOMC) meeting.

Source link.

Consumer Credit - G.19 (05.07.2021)

March 2021

Consumer credit increased at a seasonally adjusted annual rate of 5.1 percent during the first quarter. Revolving credit increased at an annual rate of 2.4 percent, while nonrevolving credit increased at an annual rate of 5.9 percent. In March, consumer credit increased at an annual rate of 7.4 percent.

Source link.

The Economic Outlook and Implications for Monetary Policy - Governor Michelle W. Bowman (05.05.2021)

Thank you for this opportunity to address the members of the Colorado Forum, which has been an arena for thoughtful discussion and debate for more than 40 years. Today I would like to discuss a subject that I expect is of great interest to Coloradans and others: the outlook for the U.S. economy in 2021. I believe that the economy has gained momentum in the past several months and is well positioned to grow strongly in 2021. Nevertheless, we have further to go to recover from the economic damage inflicted by the COVID-19 pandemic, and risks remain.

As we all know, starting in late February or March of last year, widespread economic and social lockdowns and other effects of the pandemic caused the swiftest and deepest contraction in employment and economic activity since the Great Depression. Money markets, the Treasury market, and other parts of the financial system seized up, and there were fears of another severe financial crisis. The Federal Reserve stepped in quickly to assist, reviving several lending facilities used in the previous crisis and creating several new facilities. We also cut short-term interest rates to near zero and began purchasing large quantities of Treasury and agency securities to help sustain the flow of credit to households and businesses. Congress and the Administration also worked together to provide effective and timely support. Calm was restored in financial markets, and employment and output began growing in May, but it was a very deep hole to fill. Since that time, progress in controlling the pandemic has been a dominant force driving the economic recovery. Rapid progress last summer gave way to slower economic growth over the turn of the year, as infection rates once again surged. But after a substantial pickup in vaccinations and steep declines in virus-related hospitalizations and deaths, the economic outlook has brightened. Job creation had stalled over the winter months but improved again starting in February. Over the past year, we've seen a return of nearly 14 million jobs.

Source link.

Community Development - Chair Jerome H. Powell (05.03.2021)

Together, over the past year, we have been making our way through a very difficult time. We are not out of the woods yet, but I am glad to say that we are now making real progress. While some countries are still suffering terribly in the grip of COVID-19, the economic outlook here in the United States has clearly brightened. Vaccination levels are rising. Fiscal and monetary policy are providing strong support. The economy is reopening, bringing stronger economic activity and job creation.

That is the high-level perspective—let's call it the 30,000 foot view—and from that vantage point, we see improvement. But we should also take a look at what is happening at street level. Lives and livelihoods have been affected in ways that vary from person to person, family to family, and community to community. The economic downturn has not fallen evenly on all Americans, and those least able to bear the burden have been the hardest hit.

The pain is all the greater in light of the gains we had seen in the years prior to the pandemic. COVID swept in as the United States was experiencing the longest expansion on record. Unemployment was at 50-year lows, and inflation remained under control. Wages were moving up, particularly for the lowest-paid workers. Long-standing racial disparities in unemployment were narrowing, and many who had struggled for years were finding jobs. It was not until the later years of that expansion that its benefits had started to reach those on the margins. During our Fed Listens events, we met with people around the country and heard repeatedly about the life-changing gains of the strong labor market, particularly at the lower end of the income spectrum. Just a few months later, those stories changed to ones of job losses, overextended support services, and businesses built over generations closing their doors for good.

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

05.10.2021	False Advertising, Misrepresentation of Insured Status, and Misuse of the FDIC's Name or Logo - The Federal Deposit Insurance Corporation is seeking comment on a proposed rule to implement section 18(a)(4) of the Federal Deposit Insurance Act. Section 18(a)(4) of the Federal Deposit Insurance Act prohibits any person from making false or misleading representations about deposit insurance or from using the Federal Deposit Insurance Corporation's name or logo in a manner that would imply that an uninsured financial product is insured or guaranteed by the Federal Deposit Insurance Corporation. The proposed rule would describe: The process by which the Federal Deposit Insurance Corporation will identify and investigate conduct that may violate section 18(a)(4) of the Federal Deposit Insurance Act; the standards under which such conduct will be evaluated; and the procedures which the Federal Deposit Insurance Corporation will follow when formally and informally enforcing the provisions of section 18(a)(4) of the Federal Deposit Insurance Corporation Act. DATES: Comments are due on or before July 9, 2021.
05.10.2021	Tax Allocation Agreements - 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 inviting comment on a proposed rule (proposal) under section 39 of the Federal Deposit Insurance Act that would establish requirements for tax allocation agreements between institutions and their holding companies in a consolidated tax filing group. The proposal would promote safety and soundness by preserving depository institutions' ownership rights in tax refunds and ensuring equitable allocation of tax liabilities among entities in a holding company structure. Under the proposal, national banks, state banks, and savings associations that file tax returns as part of a consolidated tax filing group would be required to enter into tax allocation agreements with their holding companies and other members of the consolidated group that join in the filing of a consolidated group tax return. The proposal also would describe specific mandatory provisions in these tax allocation agreements, including provisions addressing the ownership of tax refunds received. If the agencies were to adopt the proposal as a final rule, the agencies would rescind the interagency policy statement on tax allocation agreements that was issued in 1998 and supplemented in 2014. DATES: Comments must be received by July 9, 2021.

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:**
09.30.2020	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 September 30, 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. **NOTE: The OCC has determined that it will reconsider the June 2020 rule. While this reconsideration is ongoing, the OCC will not object to the suspension of the development of systems for, or other implementation of, provisions with a compliance date of January 1, 2023, or January 1, 2024, under the 2020 CRA rule.**
10.20.2020	Applicability of Annual Independent Audits and Reporting Requirements for Fiscal Years Ending in 2021 - In light of recent disruptions in economic conditions caused by the coronavirus disease 2019 (COVID–19) and strains in U.S. financial markets, some insured depository institutions (IDIs) have experienced increases to their consolidated total assets as a result of large cash inflows resulting from participation in the Paycheck Protection Program (PPP), the Money Market Mutual Fund Liquidity Facility (MMLF), the Paycheck Protection Program Liquidity Facility (PPPLF), and the effects of other government stimulus efforts. Since these inflows may be temporary, but are significant and unpredictable, the FDIC is issuing an interim final rule (IFR) that will allow IDIs to determine the applicability of part 363 of the FDIC's regulations, Annual Independent Audits and Reporting Requirements, for fiscal years ending in 2021 based on the lesser of their (a) consolidated total assets as of December 31, 2019, or (b) consolidated total assets as of the beginning of their fiscal years ending in 2021. Notwithstanding any temporary relief provided by this IFR, an IDI would continue to be subject to any otherwise applicable statutory and regulatory audit and reporting requirements. The IFR also reserves the authority to require an IDI to comply with one or more requirements of part 363 if the FDIC determines that asset growth was related to a merger or acquisition. DATES: This IFR is effective immediately and will remain in effect through December 31, 2021, unless extended by the FDIC.
10.26.2020	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 October 26, 2020.
11.30.2020	Debt Collection Practices (Regulation F) - The Bureau of Consumer Financial Protection (Bureau) is issuing this final rule to revise Regulation F, which implements the Fair Debt Collection Practices Act (FDCPA) and currently contains the procedures for State application for exemption from the provisions of the FDCPA. The Bureau is finalizing Federal rules governing the activities of debt collectors, as that term is defined in the FDCPA. The Bureau's final rule addresses, among other things, communications in connection with debt collection and prohibitions on harassment or abuse, false or misleading representations, and unfair practices in debt collection. DATES: This rule is effective November 30, 2020. **Note**: The CFPB issued a Notice of Proposed Rulemaking (NPRM) to delay by 60 days the effective date of two final rules issued under the Fair Debt Collection Practices Act (FDCPA). The debt collection rules, issued in late 2020, are scheduled to take effect on November 30, 2021. The CFPB is proposing to extend the effective date of both rules to January 29, 2022. The proposed delay would allow stakeholders affected by the pandemic additional time to review and implement the rules.
12.02.2020	Temporary Asset Thresholds - To mitigate temporary transition costs on banking organizations related to the coronavirus disease 2019 (COVID event), the OCC, Board, and the FDIC (together, the agencies) are issuing an interim final rule to permit national banks, savings associations, state banks, bank holding companies, savings and loan holding companies, and U.S. branches and agencies of foreign banking organizations with under $10 billion in total assets as of December 31, 2019, (community banking organizations) to use asset data as of December 31, 2019, in order to determine the applicability of various regulatory asset thresholds during calendar years 2020 and 2021. For the same reasons, the Board is temporarily revising the instructions to a number of its regulatory reports to provide that community banking organizations may use asset data as of December 31, 2019, in order to determine reporting requirements for reports due in calendar years 2020 or 2021. DATES: Effective date: This rule is effective on December 2, 2020. Comment date: Comments must be received on or before February 1, 2021.
12.29.2020	True Lender Rule - The Office of the Comptroller of the Currency (OCC) is issuing this final rule to determine when a national bank or Federal savings association (bank) makes a loan and is the "true lender," including in the context of a partnership between a bank and a third party, such as a marketplace lender. Under this rule, a bank makes a loan if, as of the date of origination, it is named as the lender in the loan agreement or funds the loan. DATES: This rule is effective on December 29, 2020.
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.

02.17.2021 Higher-Priced Mortgage Loan Escrow Exemption (Regulation Z) -The Bureau of Consumer Financial Protection (Bureau) is issuing this final rule 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 exempt certain insured depository institutions and insured credit unions from the requirement to establish escrow accounts for certain higher-priced mortgage loans. DATES: This final rule is effective February 17, 2021.

03.01.2021 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 QMs) 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 final rule to create a new category of QMs (Seasoned QMs) for first-lien, fixed-rate covered transactions that have met certain performance requirements, are held in portfolio by the originating creditor or first purchaser for a 36-month period, comply with general restrictions on product features and points and fees, and meet certain underwriting requirements. The Bureau's primary objective with this final rule is to ensure access to responsible, affordable mortgage credit by adding a Seasoned QM definition to the existing QM definitions. DATES: This final rule is effective March 1, 2021.

03.15.2021 OCC Final Rule on Supervisory Guidance - The OCC is adopting a final rule that codifies the Interagency Statement Clarifying the Role of Supervisory Guidance, issued by the OCC, Board of Governors of the Federal Reserve System (Board), Federal Deposit Insurance Corporation (FDIC), National Credit Union Administration (NCUA), and Bureau of Consumer Financial Protection (Bureau) (collectively, the agencies) on September 11, 2018 (2018 Statement). By codifying the 2018 Statement, with amendments, the final rule confirms that the OCC will continue to follow and respect the limits of administrative law in carrying out its supervisory responsibilities. The 2018 Statement reiterated well-established law by stating that, unlike a law or regulation, supervisory guidance does not have the force and effect of law. As such, supervisory guidance does not create binding legal obligations for the public. Because it is incorporated into the final rule, the 2018 Statement, as amended, is binding on the OCC. The final rule adopts the rule as proposed without substantive change. DATES: This final rule is effective March 15, 2021.

03.15.2021 CFPB Final Rule On The Role Of Supervisory Guidance - The Bureau of Consumer Financial Protection (Bureau) is adopting a final rule that codifies the Interagency Statement Clarifying the Role of Supervisory Guidance, issued by the Office of the Comptroller of the Currency (OCC), Board of Governors of the Federal Reserve System (Board), Federal Deposit Insurance Corporation (FDIC), National Credit Union Administration (NCUA), and the Bureau (collectively, the agencies) on September 11, 2018 (2018 Statement). By codifying the 2018 Statement, with amendments, the final rule confirms that the Bureau will continue to follow and respect the limits of administrative law in carrying out its supervisory responsibilities. The 2018 Statement reiterated well-established law by stating that, unlike a law or regulation, supervisory guidance does not have the force and effect of law. As such, supervisory guidance does not create binding legal obligations for the public. Because it is incorporated into the final rule, the 2018 Statement, as amended, is binding on the Bureau. The final rule adopts the rule as proposed without substantive change. DATES: This final rule is effective March 15, 2021.

04.01.2021 Unsafe and Unsound Banking Practices: Brokered Deposits and Interest Rate Restriction - The FDIC is finalizing revisions to its regulations relating to the brokered deposits and interest rate restrictions that apply to less than well capitalized insured depository institutions. For brokered deposits, the final rule establishes a new framework for analyzing certain provisions of the "deposit broker" definition, including "facilitating" and "primary purpose." For the interest rate restrictions, the FDIC is amending its methodology for calculating the national rate, the national rate cap, and the local market rate cap. Further, the FDIC is explaining when nonmaturity deposits are accepted and when nonmaturity deposits are solicited for purposes of applying the brokered deposits and interest rate restrictions. DATES: Effective Date: April 1, 2021; with an extended compliance date of January 1, 2022, as provided in section I(C)(4).

04.01.2021 FDIC Rule on the Role of Supervisory Guidance - The FDIC is adopting a final rule that codifies the Interagency Statement Clarifying the Role of Supervisory Guidance, issued by the FDIC, Board of Governors of the Federal Reserve System (Board), Office of the Comptroller of the Currency, Treasury (OCC), National Credit Union Administration (NCUA), and Bureau of Consumer Financial Protection (Bureau)(collectively, the agencies) on September 11, 2018 (2018 Statement). By codifying the 2018 Statement, with amendments, the final rule confirms that the FDIC will continue to follow and respect the limits of administrative law in carrying out its supervisory responsibilities. The 2018 Statement reiterated well-established law by stating that, unlike a law or regulation, supervisory guidance does not have the force and effect of law. As such, supervisory guidance does not create binding legal obligations for the public. Because it is incorporated into the final rule, the 2018 Statement, as amended, is binding on the FDIC. The final rule adopts the rule as proposed without substantive changes. DATES: This final rule is effective April 1, 2021.

04.01.2021 Unsafe and Unsound Banking Practices: Brokered Deposits and Interest Rate Restriction - The FDIC is finalizing revisions to its regulations relating to the brokered deposits and interest rate restrictions that apply to less than well capitalized insured depository institutions. For brokered deposits, the final rule establishes a new framework for analyzing certain provisions of the "deposit broker" definition, including "facilitating" and "primary purpose." For the interest rate restrictions, the FDIC is amending its methodology for calculating the national rate, the national rate cap, and the local market rate cap. Further, the FDIC is explaining when nonmaturity deposits are accepted and when nonmaturity deposits are solicited for purposes of applying the brokered deposits and interest rate restrictions. DATES: Effective Date: April 1, 2021; with an extended compliance date of January 1, 2022, as provided in section I(C)(4).

10.01.2022 Qualified Mortgage Definition under the Truth in Lending Act (Regulation Z): General 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. One category of QMs is the General QM category. For General QMs, the ratio of the consumer's total monthly debt to total monthly income (DTI or DTI ratio) must not exceed 43 percent. This final rule amends the General QM loan definition in Regulation Z. Among other things, the final rule removes the General QM loan definition's 43 percent DTI limit and replaces it with price-based thresholds. Another category of QMs consists of loans that are eligible for purchase or guarantee by either the Federal National Mortgage Association (Fannie Mae) or the Federal Home Loan Mortgage Corporation (Freddie Mac) (government-sponsored enterprises or GSEs), while operating under the conservatorship or receivership of the Federal Housing Finance Agency (FHFA). The GSEs are currently under Federal conservatorship. In 2013, the Bureau established this category of QMs (Temporary GSE QMs) as a temporary measure that would expire no later than January 10, 2021 or when the GSEs cease to operate under conservatorship. In a final rule released on October 20, 2020, the Bureau extended the Temporary GSE QM loan definition to expire on the mandatory compliance date of final amendments to the General QM loan definition in Regulation Z (or when the GSEs cease to operate under the conservatorship of the FHFA, if that happens earlier). In this final rule, the Bureau adopts the amendments to the General QM loan definition that are referenced in that separate final rule. DATES: The Consumer Financial Protection Bureau (CFPB) formally delayed the mandatory compliance date of the General Qualified Mortgage (QM) final rule from July 1, 2021 to October 1, 2022.

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