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

'The American, by nature, is optimistic. They are experimental, an inventor, and a builder who builds when called upon to build greatly.' — John F. Kennedy

Department of the Treasury COVID-19 Resources

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

Joint federal agency issuances, actions and news

FFIEC Joint Statement on Managing the LIBOR Transition (07.01.2020)

The FFIEC has issued a Joint Statement on Managing the LIBOR Transition, which highlights the financial, legal, operational, and consumer protection risks that will result from the expected discontinuation of the London Interbank Offered Rate (LIBOR) for institutions with exposure to the LIBOR reference rate. Institutions with LIBOR exposure should have appropriate risk management processes in place to identify and mitigate transition risks.

Highlights:

- Institutions should identify and quantify their LIBOR exposures to effectively plan for the transition and mitigate potential financial, legal, operational, and consumer protection risks.
- Institutions with LIBOR exposure should have risk management processes commensurate with the size and complexity of the institution, its activities, and extent of exposure.
- Fallback language in financial contracts will determine how the replacement of a discontinued reference rate will be handled. Institutions with LIBOR-indexed contracts should take steps to include appropriate fallback language that considers a permanent discontinuation of the reference rate to avoid potential legal and safety and soundness risk.
- Transition plans should also address consumer protection risk, including required disclosures to consumers regarding changes in terms and advanced communication for consumers to help them understand how new reference rates would affect their payments, Annual Percentage Rate, and other terms.
- Given the significant effort involved in preparing for the transition, the supervisory focus on evaluating institutions' preparedness for LIBOR's discontinuation will increase during 2020 and 2021, particularly for institutions with significant LIBOR exposure or less-developed transition processes.

Attachment:

FFIEC Statement on Managing the LIBOR Transition.

Source link.

Comment: While the FFIEC Statement states that the FFIEC is not establishing new guidance or regulation, the FFIEC Statement then notes a number of potential preparedness and risk management actions that banks should factor into their planning for the transition and states that the supervisory focus on evaluating preparedness for LIBOR's discontinuation will increase during 2020 and 2021. CFPB has published an updated

CHARM booklet and released a notice of proposed rulemaking regarding the discontinuation of LIBOR and examples of replacement indices that meet Reg Z standards. See last month's Capitol Comments.

Flood Insurance: Proposed Revisions to Interagency Questions and Answers (06.26.2020)

The FDIC, the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the National Credit Union Administration, and the Farm Credit Administration (Agencies) are issuing proposed new and revised Interagency Questions and Answers Regarding Flood Insurance (Interagency Questions and Answers). The proposal seeks to incorporate amendments to federal flood insurance laws regarding the escrow of flood insurance premiums, the detached structure exemption, and force placement of insurance into the Interagency Questions and Answers. The document is intended to help lenders meet their responsibilities pursuant to the federal flood insurance laws that were last updated in 2011.

Highlights:

- The Interagency Questions and Answers provide information to assist financial institutions in meeting their federal flood insurance compliance responsibilities, and to increase public understanding of flood insurance requirements.
- Proposing the new and revised Interagency Questions and Answers also would address a commitment to provide the banking industry with additional information on flood insurance requirements made in the Federal Financial Institutions Examination Council's Economic Growth and Regulatory Paperwork Reduction Act Report to Congress (March 2017).
- The Agencies are proposing new questions and answers in a number of areas, including the escrow of flood insurance premiums, the detached structures exemption, and force placement of flood insurance. Other proposed questions and answers are revised to provide additional flood insurance compliance information to supervised institutions.
- The Agencies are also proposing to reorganize the Interagency Questions and Answers to make it easier to find information related to technical flood insurance topics. For example, the proposed questions and answers are organized by subject matter and the general order of the flood insurance application process. There is also a new numbering system.
- Comments on the NPR need to be received by the FDIC on or before 60 days after publication in the Federal Register.
- In addition, the Agencies are drafting new Interagency Questions and Answers Regarding Flood Insurance related to the 2019 private flood insurance final rule and will propose these Interagency Questions and Answers at a later date.

Attachment:

Notice and Request for Comment: Interagency Questions and Answers Regarding Flood Insurance – PDF

Source link.

Comment: Certain topics addressed by the proposed Q&As include the following: NFIP temporarily unavailable; private flood insurance sufficiency, effective date of flood insurance, and detached structures. These revisions are much more "user-friendly." It will be especially helpful to have all the FAQs in one document, organized in a more logical fashion. The additional FAQs also address some thorny issues as noted above.

2020 List of Distressed or Underserved Nonmetropolitan Middle-Income Geographies (06.24.2020)

The Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency announced the availability of the 2020 list of distressed or underserved nonmetropolitan middle-income geographies. These are geographic areas where revitalization or stabilization activities are eligible to receive Community Reinvestment Act (CRA) consideration under the community development definition.

Distressed nonmetropolitan middle-income geographies and underserved nonmetropolitan middle-income geographies are designated by the agencies in accordance with their CRA regulations. The criteria for designating these areas are available on the Federal Financial Institutions Examination Council (FFIEC) website (http://www.ffiec.gov/cra). The designations continue to reflect local economic conditions, including unemployment, poverty, and population changes.

As with past releases, the agencies apply a one-year lag period for geographies that were listed in 2019 but are no longer designated as distressed or underserved in the current release. Revitalization or stabilization activities in these geographies are eligible to receive CRA consideration under the community development definition for 12 months after publication of the current list.

The current and previous years' lists can be found on the FFIEC website, along with information about the data sources used to generate those lists.

2020 List of Distressed or Underserved Nonmetropolitan Middle-Income Geographies

Source link.

FFIEC Announces Availability of 2019 Data on Mortgage Lending (06.24.2020)

The Federal Financial Institutions Examination Council (FFIEC) announced the availability of data on 2019 mortgage lending transactions at 5,508 U.S. financial institutions covered by the Home Mortgage Disclosure Act (HMDA). Covered institutions include banks, savings associations, credit unions, and mortgage companies.

The HMDA data are the most comprehensive publicly available information on mortgage market activity. They are used by industry, consumer groups, regulators, and others to assess potential fair lending risks and for other purposes.

The FFIEC releases several data products to serve a variety of data users. The HMDA Dynamic National Loan-Level Dataset is updated, on a weekly basis, to reflect late submissions and resubmissions. Aggregate and Disclosure Reports provide summary information on individual financial institutions and geographies. The HMDA Data Browser allows users to create custom tables and download datasets that can be further analyzed. In addition, beginning in late March 2020, the FFIEC made available Loan/Application Registers for each HMDA filer of 2019 data, modified to protect borrower privacy..

Source link.

Comment: The CFPB concludes the report by noting that while the 2019 HMDA data is largely consistent with the 2018 HMDA data, there have been some variations, including an increased number of refinances in 2019 due to lower interest rates, and a slight increase in 2019 of nonconventional home-purchase loans.

Interagency Examiner Guidance for Assessing Safety and Soundness Considering the Effect of the COVID-19 Pandemic on Financial Institutions (06.23.2020)

The FDIC, the Federal Reserve Board, the Office of the Comptroller of the Currency, and the National Credit Union Administration (federal financial regulatory agencies) in conjunction with the state bank and credit union regulators are jointly issuing examiner guidance (interagency examiner guidance) to outline the supervisory principles for assessing the safety and soundness of institutions given the ongoing impact of the COVID-19 pandemic. This is guidance for examiners, and no action on the part of supervised institutions is required.

Highlights:

- The interagency examiner guidance acknowledges that stresses caused by COVID-19 can adversely impact an institution's financial condition and operational capabilities, even when institution management has appropriate governance and risk management systems in place to identify, monitor, and control risk.
- The interagency examiner guidance instructs agency examiners to consider the unique, evolving, and potentially long-term nature of the issues confronting institutions and to exercise appropriate flexibility in their supervisory response.
- Examiners will continue to assess institutions in accordance with existing policies and procedures and may provide supervisory feedback, or downgrade an institution's composite or component ratings, when conditions have deteriorated.
- Examiners will consider whether institution management has managed risk appropriately, including taking appropriate actions in response to stresses caused by COVID-19 impacts.
- Examiners will give consideration to the challenges involved in assessing the risk that the response presents to the institution in real time given the level of information available and the stage of local economic recovery.
- In assessing an institution under the principles in the interagency examiner guidance, examiners will consider the institution's asset size, complexity, and risk profile, as well as the industry and business focus of its customers.

Source link.

Comment: When considering the supervisory response for banks given a lower rating, examiners will give "appropriate recognition" to the extent to which weaknesses are caused by external economic problems related to the pandemic versus risk management and governance issues, according to the guidance. Examiners will also consider the extent to which banks have taken actions to work prudently with borrowers who are or may be unable to meet their contractual payment obligations because of the effects of the pandemic.

CFPB actions and news

Truth in Lending (Regulation Z) Annual Threshold Adjustments (Credit Cards, HOEPA, and Qualified Mortgages) (07.17.2020)

The Bureau of Consumer Financial Protection (Bureau) is issuing this final rule amending the 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 reviews 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).

Annual adjustments

July 17, 2020

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.

Source link.

Comment: For open-end consumer credit plans under the CARD Act amendments to TILA (1026.52(b)(1)(ii)(A) and (B)), the adjusted dollar amount in 2021 for the safe harbor for a first violation penalty fee will remain unchanged at $29 and the adjusted dollar amount for the safe harbor for a subsequent violation penalty fee will also remain unchanged at $40.

For HOEPA loans (1026.32(a)(1)(ii)) -

- ***The adjusted total loan amount threshold for high-cost mortgages in 2021 will be $22,052.***
- ***The adjusted points-and-fees dollar trigger in 2021 will be $1,103.***

For qualified mortgages (43(e)(3)(i)), the maximum thresholds for total points and fees in 2021 will be -

- ***3 percent of the total loan amount for a loan greater than or equal to $110,260;***
- ***$3,308 for a loan amount greater than or equal to $66,156 but less than $110,260;***
- ***5 percent of the total loan amount for a loan greater than or equal to $22,052 but less than $66,156;***
- ***$1,103 for a loan amount greater than or equal to $13,783 but less than $22,052; and***
- ***8 percent of the total loan amount for a loan amount less than $13,783.***

If you extend credit affected by any of these thresholds, be sure to update systems for the change.

Payday, Vehicle Title, and Certain High-Cost Installment Loans—Revocation Rule (07.07.2020)

The Bureau of Consumer Financial Protection is issuing this final rule to amend its regulations governing payday, vehicle title, and certain high-cost installment loans.

Specifically, the Bureau is revoking provisions of those regulations that: provide that it is an unfair and abusive practice for a lender to make a covered short-term or longer-term balloon-payment loan, including payday and vehicle title loans, without reasonably determining that consumers have the ability to repay those loans according to their terms; prescribe mandatory underwriting requirements for making the ability-to-repay determination; exempt certain loans from the mandatory underwriting requirements; and establish related definitions, reporting, and recordkeeping requirements.

The Bureau is making these amendments to the regulations based on its re-evaluation of the legal and evidentiary bases for these provisions.

The Bureau is releasing a table of contents for this final rule as well as an unofficial, informal redline to assist industry and other stakeholders in reviewing the changes that this final rule makes to the regulatory text and commentary of the 2017 Final Rule.

Final rule

View issued pdf.

Source link.

Comment: The worst provisions of the prior rule were the "ability-to-repay" requirement and the "payments" restriction that placed unrealistic limitations on a bank's ability to collect payment from a borrower. While the "ability-to-repay" provisions were deleted, the payment provisions were not deleted. However, this rule only applies to a narrow set of consumer loans, and the payment provision related to repeat auto deductions from accounts has a special exemption for lenders who are also the depositary bank.

CFPB Guidance for Representative Payees on EIP Payments (07.07.2020)

As part of the response to the COVID-19 pandemic, the CARES Act, enacted by Congress, provided financial relief to millions of Americans through Economic Impact Payments. These payments have now been delivered to people with a representative payee. The CFPB has important information for persons who serve as representative payee for a Social Security or Supplemental Security Income (SSI) beneficiary.

A representative payee is only responsible for managing Social Security or SSI benefits. The Economic Impact Payment is not an SSA benefit and it belongs to the beneficiary. Representative payees should discuss the payment with the beneficiary, when possible. If the beneficiary requests access to the funds, they're obligated to provide it.

Learn more about Economic Impact Payments, including how they're being delivered to people with representative payees.

Source link.

Comment: Worth noting that EIPs do not belong to nursing homes and other care facilities, the IRS warns. "The payments are intended for the recipients, even if a nursing home or other facility or provider receives the person's payment, either directly or indirectly by direct deposit or check." Additionally, if a representative payees act contrary to the instructions of the beneficiary, they may be committing fraud. Such actions could trigger a SAR filing—and potentially an elder financial exploitation report if applicable.

TILA Higher Priced Mortgage Loan Escrow Rule (06.29.2020)

This rule amends Regulation Z (Truth in Lending) to implement certain amendments to the Truth in Lending Act made by the Dodd-Frank Act. The rule implements statutory changes made by the Dodd-Frank Act that lengthen the time for which a mandatory escrow account established for a higher-priced mortgage loan must be maintained. The rule also exempts certain transactions from the statute's escrow requirement.

Source link.

Comment: The CFPB noted in its proposal that the number of banks and credit unions likely to be affected by the rule is small, since the institutions could only originate 1,000 loans a year or fewer while remaining exempt. "However, in localized areas some newly exempt community banks and small credit unions may increase mortgage lending to consumers who may be underserved at present," the CFPB said.

Truth in Lending (Regulation Z); Determining "Underserved" Areas Using Home Mortgage Disclosure Act Data (06.23.2020)

This interpretive rule construes the Bureau of Consumer Financial Protection's (Bureau's) Regulation Z, which implements the Truth in Lending Act (TILA).

The Bureau produces annually a list of rural and underserved counties and areas that is used in applying various Regulation Z provisions, such as the exemption from the requirement to establish an escrow account for a higher-priced mortgage loan and the ability to originate balloon-payment qualified mortgages. Regulation Z states that an area is "underserved" during a calendar year if, according to Home Mortgage Disclosure Act (HMDA) data for the preceding calendar year, it is a county in which no more than two creditors extended covered transactions, as defined in Regulation Z, secured by first liens on properties in the county five or more times. The official commentary provides an interpretation relating to this standard that refers to certain data elements from the previous version of the Bureau's Regulation C, which implements HMDA, that were modified or eliminated in the 2015 amendments to Regulation C. The Bureau is issuing this interpretive rule to supersede that now outdated interpretation, specifically by describing the HMDA data that will instead be used in determining that an area is "underserved."

Source link.

Comment: The CFPB previously interpreted how HMDA data would be used to determine which areas meet this standard using a method set forth in the commentary to Regulation Z. However, portions of this method have become obsolete because they rely on data elements that were modified or eliminated by certain 2015 amendments to the CFPB's HMDA regulations, which became effective in 2018.

Treatment of Certain COVID-19 Related Loss Mitigation Options Under the Real Estate Settlement Procedures Act (RESPA), Regulation X; Interim Final Rule (06.23.2020)

The Bureau issued this interim final rule to amend Regulation X. The amendments temporarily permit mortgage servicers to offer certain loss mitigation options based on the evaluation of an incomplete loss mitigation application. Eligible loss mitigation options, among other things, must permit borrowers to delay paying certain amounts until the mortgage loan is refinanced, the mortgaged property is sold, the term of the mortgage loan ends, or, for a mortgage insured by the Federal Housing Administration, the mortgage insurance terminates. These amounts include, without limitation, all principal and interest payments forborne through payment forbearance programs made available to borrowers experiencing financial hardships due, directly or indirectly, to the COVID-19 emergency, including a payment forbearance program offered pursuant to section 4022 of the Coronavirus Aid, Relief, and Economic Security Act. These amounts also include principal and interest payments that are due and unpaid by borrowers experiencing financial hardships due, directly or indirectly, to the COVID-19 emergency.

Source link.

Comment: The loss mitigation rules do not apply to "small servicers" as defined in Reg Z, which is basically one which services, together with any affiliates, 5,000 or fewer mortgage loans, for all of which it is the creditor or assignee.

Qualified Mortgage Definition Under the Truth in Lending Act (Regulation Z): General QM Loan Definition (06.22.2020)

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 loan category.

For General QM loans, the ratio of the consumer's total monthly debt to total monthly income (DTI ratio) must not exceed 43 percent. In this notice of proposed rulemaking, the Bureau proposes certain amendments to the General QM loan definition in Regulation Z. Among other things, the Bureau proposes to remove the General QM loan definition's 43 percent DTI limit and replace it with a price-based threshold. Another category of QMs is 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. The Bureau established this category of QMs (Temporary GSE QM loans) as a temporary measure that is set to expire no later than January 10, 2021 or when the GSEs exit conservatorship.

In a separate proposal released simultaneously with this proposal, the Bureau proposes to extend the Temporary GSE QM loan definition to expire upon the effective 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 present proposed rule, the Bureau proposes the amendments to the General QM loan definition that are referenced in that separate proposal. The Bureau's objective with these proposals is to facilitate a smooth and orderly transition away from the Temporary GSE QM loan definition and to ensure access to responsible, affordable mortgage credit upon its expiration.

Source link.

Comment: These changes should facilitate mortgage loans to creditworthy applicants who cannot otherwise meet the rigid standards.

CFPB updates the Remittance Transfers Small Entity Compliance Guide (06.18.2020)

The Bureau has published updates to the Remittance Transfers Small Entity Compliance Guide, reflecting amendments to the Remittance Transfers Rule the Bureau issued on May 11, 2020. You can access the updated Remittance Transfers Small Entity Compliance Guide here.

Source link.

Comment: Worth noting the CFPB issued FAQs covering Covid-19 and the Final Rule, and the Bureau issued a policy statement, which established a temporary exception allowing institutions providing remittance transfers to estimate fees to consumers in light of the Covid-19 pandemic. For the period between July 1 to January 21, 2021, the Bureau will not cite supervisory violations or initiate enforcement actions against certain banks for disclosing estimated fees and exchange rates. Like other guides, this is a helpful tool in assuring compliance with the remittance transfer rule.

Consumer Financial Protection Bureau Launches Pilot Advisory Opinion Program to Provide Regulated Entities Clear Guidance and Improve Compliance (06.18.2020)

The Consumer Financial Protection Bureau (Bureau) launched a pilot advisory opinion (AO) program to publicly address regulatory uncertainty in the Bureau's existing regulations. The pilot AO program will allow entities seeking to comply with regulatory requirements to submit a request where uncertainty exists. The Bureau will then select topics based on the program's priorities and make the responses available to the public. In the interest of providing clear rules to regulated entities, the Bureau has made iterative improvements to its guidance processes, including issuing more robust compliance aids and frequently asked questions as well as providing clarifications to individual entities. This pilot advisory program builds on those efforts, recognizing that the public widely would benefit from a process that provides clarifications broadly and not just to requesting individuals or entities.

The pilot program will focus on four key priorities:

- Consumers are provided with timely and understandable information to make responsible decisions;
- Identify outdated, unnecessary or unduly burdensome regulations in order to reduce regulatory burdens;
- Consistency in enforcement of Federal consumer financial law in order to promote fair competition; and
- Ensuring markets for consumer financial products and services operate transparently and efficiently to facilitate access and innovation.

Additionally, initial factors weighing for the appropriateness of an AO include: that the interpretive issue has been noted during prior Bureau examinations as one that might benefit from additional regulatory clarity; that the issue is one of substantive importance or impact or one whose clarification would provide significant benefit; and/or that the issue concerns an ambiguity that the Bureau has not previously addressed through an interpretive rule or other authoritative source. There will be a strong presumption against appropriateness of an AO for issues that are the subject of an ongoing investigation or enforcement action or the subject of an ongoing or planned rulemaking.

If deemed appropriate, the Bureau will issue an advisory opinion based on its summary of the facts presented that would be applicable to other entities in situations with similar facts and circumstances. The advisory opinions would be posted on the Bureau's website and published in the Federal Register.

In addition to the pilot, the Bureau also announced that the public can comment on the proposed AO program. Following the conclusion of the pilot, the proposed AO program will be fully implemented after the Bureau's review of comments received.

Requests for advisory opinions may be submitted via email to advisoryopinion@cfpb.gov.

To learn more about the pilot AO program click here:
https://files.consumerfinance.gov/f/documents/cfpb_advisory-opinions-pilot_fr-notice.pdf.

To learn more about the proposed AO program, click here:
https://files.consumerfinance.gov/f/documents/cfpb_advisory-opinions-proposal_fr-notice.pdf.

Source link.

FDIC actions and news

FDIC Seeks Input on Potential Voluntary Certification Program to Promote New Technologies (07.20.2020)

The FDIC announced that it is seeking the public's input on the potential for a public/private standard-setting partnership and voluntary certification program to promote the efficient and effective adoption of innovative technologies at FDIC-supervised financial institutions. The FDIC published a Request for Information as part of its FDiTech Initiative to promote the adoption of innovative technologies across the financial services sector.

Highlights:

- The Request for Information asks whether the proposed system might help reduce the regulatory and operational uncertainty that may prevent financial institutions from deploying new technology or entering partnerships with technology firms, including "fintechs."
- For financial institutions that choose to use the system, a voluntary certification program could help standardize due diligence practices and reduce associated costs.
- Given rapid technological developments and evolving consumer behaviors in banking, this public/private partnership model has the potential to help promote innovation across the banking sector and streamline what can be a costly and duplicative system for both banks and technology firms.
- The FDIC encourages comments from all interested parties by 60 days from publication in the Federal Register.

Attachment:

Request for Information

Source link.

FDIC Issues Rule to Codify Permissible Interest on Transferred Loans (06.25.2020)

The Federal Deposit Insurance Corporation (FDIC) issued a final regulation to codify the agency's longstanding guidance that the valid interest rate for a loan is determined when the loan is made, and will not be affected by a subsequent sale, assignment, or other transfer of the loan. The rule reaffirms the longstanding 'valid when made' doctrine, a nearly 200-year-old principle in contract law.

In 1980, Congress enacted the Depository Institutions Deregulation and Monetary Control Act, which created Section 27 of the Federal Deposit Insurance Act authorizing state banks to charge interest at a rate that is permissible in the state where the bank is located. The FDIC has interpreted and applied this law to state banks through an opinion of the General Counsel issued in 1998, but until now the agency did not enact corresponding regulations.

Recent court decisions have raised significant uncertainty regarding this longstanding application of Section 27 to state banks operating across interstate lines. Specifically, in 2015, in Madden v. Midland Funding, LLC, the United States Court of Appeals for the Second Circuit called into question the enforceability of the interest rate terms of loan agreements following a bank's assignment of a loan to a non-bank which has subsequently decreased credit availability for borrowers with lower credit scores. Although the decision concerned a loan made by a national bank, the statutory provision governing FDIC-supervised state banks' authority with respect to interest rates is substantively identical.

In codifying the longstanding FDIC guidance, the final rule addresses marketplace uncertainty regarding the enforceability of the interest rate terms of a loan agreement following a bank's assignment of a loan to a non-bank. It also promotes safety and soundness in the banking system by giving certainty around loans into the secondary market.

FDIC's action mirrors a final rule issued by the Office of the Comptroller of the Currency (OCC) on May 29, 2020, that applies to national banks.

Attachments:

Final Rule on Federal Interest Rate Authority

Statement by Chairman Jelena McWilliams

Fact Sheet

Source link.

Comment: Federal law also provides that the laws of a host state apply to branches of interstate State Banks to the same extent such state laws apply to a branch of an interstate national bank. As the FDIC summarized, "[i]f laws of the host State are inapplicable to a branch of an interstate national bank, they are equally inapplicable to a branch of an interstate State bank." This rule will assure parity between state and national charters.

Final Rule Mitigating the Deposit Insurance Assessment Effect of Participation in the Paycheck Protection Program (PPP), the PPP Liquidity Facility, and the Money Market Mutual Fund Liquidity Facility (06.22.2020)

On June 22, 2020, the FDIC Board of Directors authorized publication of a final rule that mitigates the deposit insurance assessment effects of participating in the Paycheck Protection Program (PPP) established by the U.S. Small Business Administration and the Paycheck Protection Program Liquidity Facility (PPPLF) and Money Market Mutual Fund Liquidity Facility (MMLF) established by the Board of Governors of the Federal Reserve System. To ensure that the changes are applied to assessments starting in the second quarter of 2020, the final rule will be effective immediately upon publication in the Federal Register with an application date of April 1, 2020.

Highlights:

- Under the final rule, the FDIC will mitigate the deposit insurance assessment effects of participating in the PPP, PPPLF, and MMLF.
- Absent a change to the assessment rules, an insured depository institution (IDI) that participates in the PPP, PPPLF, or MMLF programs could be subject to increased deposit insurance assessments.
- The final rule: 1) removes the effect of participation in the PPP and borrowings under the PPPLF on various risk measures used to calculate an IDI's assessment rate, 2) removes the effect of participation in the PPP and MMLF on certain adjustments to an IDI's assessment rate, 3) provides an offset to an IDI's assessment for the increase to its assessment base attributable to participation in the PPP and MMLF,

and 4) removes the effect of participation in the PPP and MMLF when classifying IDIs as small, large, or highly complex for assessment purposes.

- To ensure that the changes are applied to assessments starting in the second quarter of 2020, the final rule will be effective immediately upon publication in the Federal Register with an application date of April 1, 2020.
- The FDIC will apply the modifications under the final rule in calculating an institution's deposit insurance assessment based on items IDIs will report on the Consolidated Report of Condition and Income or the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks, as applicable, beginning as of June 30, 2020.

Source link.

Comment: In addition to removing the effect of participation in the PPP and PPPLF on various risk measures used to calculate the assessment rate of an insured depository institution (IDI), the final rule does the following:

- ***Removes the effect of participation in the PPPLF and MMLF programs on certain adjustments to an IDI's assessment rate;***
- ***Offsets an IDI's assessment for the increase to its assessment base attributable to participation in the MMLF and PPPLF; and***
- ***Removes the effect of participation in the PPPLF and MMLF programs when classifying IDIs as small, large, or highly complex for assessment purposes.***

FDIC Unveils Redesigned Website: New FDIC.gov Offers Easier Access to Information to Bankers, Consumers and Analysts (06.22.2020)

For the first time in nearly a decade, the FDIC unveiled a comprehensive overhaul of the agency's flagship website. The newly redesigned FDIC.gov offers bankers, consumers, and analysts easier access to the agency's most popular content, including a new Banker Resource Center.

Highlights:

- The Banker Resource Center provides a one-stop shopping experience for directors, trustees, officers, and staff of FDIC-supervised institutions seeking supervisory resources to promote the safe-and-sound delivery of banking services and products for their community and customers.
- The Banker Resource Center has information on topics such as accounting, credit, consumer compliance, capital markets, and the Bank Secrecy Act, as well as relevant informational videos and prior webcasts and teleconferences.
- A streamlined FDIC Resources page on the redesigned website offers a wealth of information about how the agency is meeting its essential mission to ensure that financial institutions operate safely and soundly, to protect the deposits of consumers, and to resolve failed banks.
- A new Analysis page provides trusted research and data on the state of the U.S. banking industry and the broader financial sector.
- The News section delivers regular updates on FDIC activities and banking developments, including policy changes, speeches and testimony, video content, upcoming events, and a new FDIC podcast.

- Visitors to FDIC.gov can locate information based on who they are—bankers, consumers or analysts. Frequent users of the FDIC's website will also be able to use their existing bookmarks that will redirect them to the information they routinely seek.
- The newly redesigned website continues to have easily accessible information critical to financial institutions and consumers impacted by COVID-19.

Source link.

The FDIC Updates its Enforcement Actions Manual for Flood Insurance Civil Money Penalties (06.18.2020)

The FDIC has updated its Formal and Informal Enforcement Actions Manual (manual) regarding the assessment of mandatory civil money penalties (CMPs) for certain pattern and practice violations of the National Flood Insurance Act of 1968, as amended by the Flood Disaster Protection Act of 1973, as revised, 42 U.S.C. § 4012a (Flood Act) and Part 339 of the FDIC Regulations. The manual provides direction for professional staff related to the work necessary to pursue formal and informal enforcement actions. It is also intended to support the work of field office, regional office, and Washington office staff involved in processing and monitoring enforcement actions.

Highlights:

- The Flood Act requires the FDIC to assess a penalty of up to $2,000, adjusted annually for inflation, per violation per loan against an insured depository institution (IDI) for certain pattern and practice violations of the Flood Act.
- When calculating the appropriate amount of mandatory Flood Act CMPs, the FDIC will generally use a two-step process by determining a base CMP and adjusting the base CMP for smaller institutions with reduced ability to pay such penalties.
- The base CMP takes into account the type and repeat nature of the violations.
- The Institution Asset Size Factor takes into account the institution's asset size based on the last Call Report prior to the date of the examination.
- This CMP framework is consistent with statutory authority under the Flood Act.

While the steps and charts are tools to establish an appropriate CMP when pattern and practice violations of the Flood Act are identified, the FDIC maintains its discretion to consider the facts and circumstances of each case when determining the amount of the CMP..

Source link.

Comment: Hopefully, the new FAQs will make it less likely that these penalties will be imposed!

OCC actions and news

OCC Proposal Regarding "True Lender" (07.20.2020)

The Office of the Comptroller of the Currency (OCC) signed a proposed rule to determine when, in the context of a partnership between a national bank or federal savings association (bank) and a third party, the bank makes a loan and is the "true lender." Under this proposal, a bank makes a loan and is the "true lender" if, as of the date of origination, the bank (1) is named as the lender in the loan agreement or (2) funds the loan. The proposed rule would provide certainty about key aspects of the legal framework that applies to loans made as part of banks' relationships with third parties. The deadline for comments on the proposed rule is September 3, 2020.

Highlights

Banks' lending relationships with third parties, such as marketplace lenders, can be effective tools to facilitate access to affordable credit. However, these relationships have been subject to increasing uncertainty about the legal framework that applies to loans made as part of these relationships. This uncertainty may make banks and third parties less willing to enter into relationships, limit competition, and chill the innovation that these partnerships enable—all of which may restrict access to affordable credit.

The proposed rule would resolve this uncertainty by specifying that a bank makes a loan when, as of the date of origination, the bank (1) is named as the lender in the loan agreement or (2) funds the loan.

Source link.

Comment: Several provisions of federal banking law grant banks the authority to make loans, but "none describes how to determine when a bank has, in fact, exercised this authority, and when, by contrast, the bank's relationship partner has made the loan," the OCC said in its proposal. At the moment, this ambiguity leaves it up to courts to determine the true lender when loans, sold by their original lender, end up in legal disputes This proposal creates a neat, bright line test, replacing confusing analysis resulting from case law.

Unfair or Deceptive Acts or Practices and Unfair, Deceptive, or Abusive Acts or Practices: New Comptroller's Handbook Booklet and Rescissions (06.29.2020)

The Office of the Comptroller of the Currency (OCC) issued the new "Unfair or Deceptive Acts or Practices and Unfair, Deceptive, or Abusive Acts or Practices" booklet of the Comptroller's Handbook. This booklet is part of the Consumer Compliance series of the Comptroller's Handbook. The booklet contains information for examiners regarding supervision of a bank's1 practices related to section 5 of the Federal Trade Commission (FTC) Act, which prohibits banks from engaging in unfair or deceptive acts or practices (UDAP), and sections 1031 and 1036 of the Dodd–Frank Wall Street Reform and Consumer Protection Act, which prohibit unfair, deceptive, or abusive acts or practices (UDAAP).

Highlights

This booklet

- reflects the OCC's risk-based supervision approach and is consistent with the OCC's existing principles for assessing banks' compliance management systems as they relate to UDAP and UDAAP.
- is consistent with OCC Advisory Letter 2002-3, "Guidance on Unfair or Deceptive Acts or Practices."
- includes examination procedures for examiners to assess the effectiveness of a bank's compliance management systems in managing UDAP and UDAAP risks.
- provides UDAP and UDAAP red flags and risk indicators that can be used to help identify acts or practices that may raise UDAP or UDAAP concerns.
- reinforces the OCC's continued commitment to banks' compliance with section 5 of the Federal Trade Commission Act and sections 1031 and 1036 of the Dodd–Frank Wall Street Reform and Consumer Protection Act.

Related Link

"Unfair or Deceptive Acts or Practices and Unfair, Deceptive, or Abusive Acts or Practices"

Source link.

Assessments: Interim Final Rule (06.22.2020)

The Office of the Comptroller of the Currency (OCC) approved an interim final rule to reduce assessments in response to the national emergency declared in connection with the coronavirus disease (COVID-19). Under the interim final rule, assessments due on September 30, 2020, for national banks, federal savings associations, and federal branches and agencies of foreign banks (collectively, banks) will be calculated using the December 31, 2019, "Consolidated Reports of Condition and Income" (call report) for each institution, rather than the June 30, 2020, call report. This change will result in lower assessments for most OCC-supervised banks. If a bank's assets as reported on the June 30, 2020, call report are lower than on the December 31, 2019, call report, the OCC will calculate the assessment due on September 30, 2020 for the bank using the June 30, 2020, call report.

This one-time reduction in assessments follows the 10 percent reduction in the General Assessment Fee Schedule implemented in the 2019 assessment year and the additional 10 percent reduction in the schedule for 2020.

Highlights

- COVID-19 has significantly affected financial institutions, businesses, and consumers. In light of the adverse economic effect of the extraordinary measures that have been taken to limit the public health impact of the COVID-19 pandemic, the OCC is issuing this interim final rule to implement a one-time reduction in assessments for the upcoming semiannual assessment.
- Under the interim final rule, which amends 12 CFR 8, the OCC will calculate assessments due on September 30, 2020, using call report assets as of December 31, 2019, rather June 30, 2020. The use of the December 31, 2019, call report assets will result in reduced assessments for most banks.
- If a bank's June 30, 2020, call report assets are lower than the bank's assets as reported on December 31, 2019, the OCC will use the June 30, 2020, call report for calculation of the bank's assessment.
- The interim final rule will expire after the collection of assessments on September 30, 2020. Thereafter, semiannual assessments will be based on the total assets shown in each institution's most recent call report preceding the payment date.

Related Link

"Interim Final Rule, Assessment of Fees" (PDF)

Source link.

Federal Reserve actions and news

Federal Reserve Board to Maintain the Current Schedule of Prices in 2021 (07.21.2020)

The Federal Reserve Board on Tuesday announced its intent to maintain the current schedule of prices for most payment services that the Federal Reserve Banks provide to depository institutions (priced services) in 2021. This approach recognizes the uncertainties created by the COVID-19 pandemic, and the difficulty in applying standard forecasting tools in this environment.

The Board normally communicates information about pricing schedules near the end of the year. The Board is announcing its intent to keep most 2021 prices flat at this time in order to support the business planning of users and providers of payment services.

Later in 2020, the Board will issue a Federal Register Notice of final fee schedules, effective January 2, 2021, for payment services that the Federal Reserve Banks provide to depository institutions. The Board remains committed to establishing fee schedules in accordance with the Monetary Control Act of 1980, which requires that, over the long run, fees for Federal Reserve priced services be established to fully recover all direct and indirect costs, including certain imputed costs that would be borne by private sector providers of payment services.

Source link.

Beige Book (07.15.2020)

This report was prepared at the Federal Reserve Bank of Chicago based on information collected on or before July 6, 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

Overall Economic Activity

Economic activity increased in almost all Districts, but remained well below where it was prior to the COVID-19 pandemic. Consumer spending picked up as many nonessential businesses were allowed to reopen. Retail sales rose in all Districts, led by a rebound in vehicle sales and sustained growth in the food and beverage and home improvement sectors. Leisure and hospitality spending improved, but was far below year-ago levels. Most Districts reported that manufacturing activity moved up, but from a very low level. Demand for professional and business services increased in most Districts, but was still weak. Transportation activity rose overall on higher truck and air cargo volumes. Construction remained subdued, but picked up in some Districts. Home sales increased moderately, but commercial real estate activity stayed at a low level. Financial conditions in the agriculture sector continued to be poor, while energy sector activity fell further because of limited demand and oversupply. Loan demand was flat outside of some Paycheck Protection Program (PPP) activity and increased residential mortgages. The PPP and loan deferrals by private lenders reportedly provided many firms with sufficient liquidity for the near term. Outlooks remained highly uncertain, as contacts grappled with how long the COVID-19 pandemic would continue and the magnitude of its economic implications.

Employment and Wages

Employment increased on net in almost all Districts as many businesses reopened or ramped up activity. Districts highlighted gains in the retail and leisure and hospitality sectors. However, payrolls in all Districts were well below pre-pandemic levels. Job turnover rates remained high, with contacts across Districts reporting new layoffs. Contacts in nearly every District noted difficulty in bringing back workers because of health and safety concerns, childcare needs, and generous unemployment insurance benefits. Many contacts who have been retaining workers with help from the PPP said that going forward, the strength of demand would determine whether they can avoid layoffs.

Prices

Prices were little changed overall. Contacts across Districts largely reported both input and selling prices were flat. When input prices did change, increases slightly outnumbered decreases. Contacts in several Districts reported that supply chain challenges were pushing up prices for health and safety equipment used to limit the spread of COVID-19. There were also reports of rising food and beverage prices, particularly for beef. When selling prices changed, decreases outnumbered increases, as contacts in several Districts cited weak demand and limited pricing power. One exception noted by multiple Districts was new and used vehicle prices, which were boosted by low inventories.

Source link.

Federal Reserve Board Announces Extension of Rule Change to Bolster Effectiveness of The Small Business Administration's Paycheck Protection Program (07.15.2020)

The Federal Reserve Board on Wednesday announced an extension of a rule change to bolster the effectiveness of the Small Business Administration's (SBA) Paycheck Protection Program (PPP). Like the earlier rule, the extension 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 in April 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 change will allow those individuals to apply for PPP loans, consistent with SBA's rules and restrictions. The change only applies to PPP loans.

The Board is providing the temporary change 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 favoring in processing time or prioritization a PPP loan application from a director or equity holder, and the Board will administer its rule change accordingly.

The rule change is effective immediately and will be in place while the PPP is active. Comments will be accepted for 45 days after publication in the Federal Register.

Source link.

Comment: The Fed said it is extending the exception of business loans to the bank directors and others to bolster the effectiveness of the Small Business Administration's (SBA) PPP. "Like the earlier rule, the extension 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," the Fed said. Remember that Regulation O still applies to these transactions. However, the SBA guarantee provides help on the lending limit analysis.

Consumer Compliance Outlook (06.30.2020)

The latest issue of Consumer Compliance Outlook is now available on the Outlook website. This issue, which focuses solely on COVID-19 topics, contains the following articles and features:

- A Message from Governor Bowman
- How Banks Can Help Consumers and Communities Respond to Major Disasters and Emergencies
- Furnishers' Obligations for Consumer Credit Information Under the CARES Act, FCRA, and ECOA
- Compliance Spotlight: E-Sign Act and the COVID-19 Pandemic
- Federal Reserve Statements Related to the COVID-19 Emergency and Consumer Compliance
- Regulatory Calendar
- Entire issue

The regular News from Washington and On the Docket features will return in the future. If you have any questions, comments, or suggestions, you can email us at outlook@phil.frb.org.

Source link.

Comment: Must reading for all compliance staff.

Federal Reserve Announces FraudClassifier Model to Help Organizations Classify Fraud Involving Payments (06.30.2020)

The FraudClassifier model provides an intuitive approach to classifying fraud. It offers a holistic picture to help organizations better understand the magnitude of fraud involving payments.

The FraudClassifier model was developed to help address the industrywide challenge of inconsistent classifications for fraud involving ACH, wire or check payments.

The key advantage of the FraudClassifier model is the ability to classify fraud independently of payment type, payment channel or other payment characteristics. The model focuses on a series of questions, beginning with who initiated the payment to differentiate payments initiated by authorized or unauthorized parties. The result is a holistic view of fraudulent events, which can help with more strategic fraud management. Each of the classifications is supported by definitions to facilitate consistent application of the model across the industry.

The model's classifications provide information on what fraud occurred and how it was perpetrated. Adding payment attributes (such as payment amount, date, type and channel) to these classifications can provide additional insight to help aid the organization in identifying fraud trends.

Source link.

Comment: Banks using FraudClassifier can classify fraud independently of payment type, payment channel or other payment characteristics through a series of questions, beginning with who initiated the payment to the authorized party is. Each classification is supported by definitions that allow for consistent classification of fraud across the industry.

Other federal action and news

CSBS Podcast - Are Consumers Using Mobile Payments? Are they Safe? Are they Protected? (07.17.2020)

It feels like you can do almost anything on your phone nowadays. Beyond just, you know, making a phone call, there's listening to music, texting, games, photography, changing your thermostat, watching the delivery driver drop a package at your front door… The point I'm trying to make is that more and more of our lives have been driven into our mobile phones. And where people go, so goes money. Shopping, sending cash to your friend or super, paying your Uber driver… all of these things are part of a growing financial ecosystem known as "mobile payments."

But, I'm just curious… do you really know what's going on with your money on these apps? Is the cash you store on them secure? Are your payments protected from fraud like they are with a credit card? Am I the only one who is totally clueless about this yet still continue to use these apps?

Today, I sit down with an expert from The Pew Charitable Trusts to talk about an interesting survey they conducted about consumers and mobile payments. We try to answer the questions: Are consumers adopting mobile payments technology as fast as everyone expected? Do consumers trust mobile payments? Are they running into issues and, if so, are their issues getting resolved? What sort of mobile payments are protected and what aren't?

Source link.

CSBS - Community Bankers Adjusting to a New Reality (07.15.2020)

CSBS recently reported that the latest quarterly value for the Community Bank Sentiment Index (CBSI) was 90. This is mostly unchanged from the previous historic low reading of 91 in March 2020, and down considerably from last year's index of 122. The latest survey indicates that community bankers from across the nation remain unsettled and continue to have a mostly negative sentiment as a result of the COVID-19 pandemic and subsequent economic disruptions.

Even though the overall CBSI was relatively unchanged from last quarter, five of the seven components that make up the index fell, and only two improved. As shown in the chart below, the business conditions and the monetary policy components both rose significantly from very low levels—60 and 69, respectively—to readings in the low 90s. While these values are still below the neutral level of 100, the considerable improvement in these factors suggests that bankers do not foresee future business conditions worsening by nearly as much as they implied last quarter, nor do they think monetary policy decisions will degrade the economic outlook as much as they did previously. The chart also shows that the improvement in the business conditions and monetary policy factors were offset by declines in the other five components, and most notably in franchise value (falling from 121 to 98), regulatory burden (falling from 78 to 57) and profitability (falling from 66 to 55).

Source link.

FinCEN Issues Advisory on Imposter Scams and Money Mule Schemes Related to COVID-19 (07.07.2020)

The Financial Crimes Enforcement Network (FinCEN) issued an advisory to alert financial institutions to potential indicators of imposter scams and money mule schemes, which are two forms of consumer fraud observed during the COVID-19 pandemic. The advisory contains descriptions of these scams and schemes, financial red flag indicators for both, and information on reporting suspicious activity.

The advisory is based on FinCEN's analysis of COVID-19-related information obtained from Bank Secrecy Act data, open source reporting, and law enforcement partners. FinCEN will issue COVID-19-related information to financial institutions to help enhance their efforts to detect, prevent, and report suspected illicit activity on its website at https://www.fincen.gov/coronavirus.

Source link.

Comment: The "red flags" described in this Advisory provide good training scenarios to share with front line staff. Also, the Advisory closes with explicit instructions to reference it in making relevant SAR filings. When reporting these schemes, FinCEN requests that financial institutions reference this advisory by including the key term "COVID19 MM FIN-2020-A003" in SAR field 2 (Filing Institution Note to FinCEN) and the narrative to indicate a connection between the suspicious activity being reported and the activities highlighted in the advisory.

IRS Cancellation of Certain Outstanding Economic Impact Payment Checks (07.06.2020)

As of July 6, 2020, the Treasury Department's Internal Revenue Service has cancelled outstanding Economic Impact Payment (EIP) checks issued to recipients who may not be eligible for such program payments, including those that may be deceased.

The U.S. Department of the Treasury's Bureau of the Fiscal Service (Fiscal Service) encourages financial institutions to determine the status of EIP checks by using either:

1. The Treasury Check Verification Application (TCVA) for single queries; or
2. The Treasury Check Verification Service (TCVS) for bulk queries using an automated programming interface (API).

If a financial institution inadvertently negotiates a cancelled EIP check, Treasury will not request or demand recovery from financial institutions, unless there is an additional reason to do so, for example the check was not properly endorsed. Similarly, Treasury will not reclaim from financial institutions ACH payments made to recipients who may not be eligible for such payments under program specifications.

EIP recipients are responsible for returning to the IRS a payment made to someone who may not be eligible for such payment under program specifications in accordance with IRS guidance at www.irs.gov/coronavirus (Off-site).

Financial institutions who choose to assist EIP recipients in returning any EIP checks that are not properly payable, can return these checks to:

U.S. Department of the Treasury

Bureau of the Fiscal Service

Philadelphia Financial Center

P.O. Box 51320

Philadelphia, PA 19115.

Source link.

Comment: The IRS previously said payments issued to people who had died would have to be returned by family members meaning banks are not subject to reclamation for these payments. However, they can help consumers with the return process.

FinCEN Issues Guidance Regarding Due Diligence Requirements under the Bank Secrecy Act for Hemp-Related Business Customers (06.29.2020)

FinCEN is issuing guidance to address questions related to BSA/AML regulatory requirements for hemp-related business customers. It explains how financial institutions can conduct due diligence for hemp-related businesses, and identifies the type of information and documentation financial institutions can collect from hemp-related businesses to comply with BSA regulatory requirements.

Source link.

Comment: The guidance provides that, in addition to conducting customer due diligence (CDD) on hemp-related businesses at time of application, banks must establish risk-based procedures for conducting ongoing CDD. Specifically, for customers who are hemp growers, banks may confirm the hemp grower's compliance with state, tribal government, or the USDA licensing requirements, as applicable.

CSBS Podcast – The Future of Consumer Complaints (07.01.2020)

For a financial services business and for a regulator, a license provides clarity. The business knows who is supervising their activity, has someone to talk to when they want to be sure they are complying with laws, and provides confidence they are permitted to operate in a state. The state regulator who issues the license is able to see into the operations of financial services that are impacting their communities, making it easier to keep businesses in compliance and benefit their local economies.

But there's a third party in this relationship that is critically important to business and regulator alike: the consumer. Sometimes, a consumer has a question or problem with a financial services business, and they need to reach out to their regulator. They want to know: Is what's happening here legal? Do I have other options? How do I resolve my issue?

That's where consumer complaints come in. For most of regulatory history, a Consumer Complaint would be a pretty linear relationship. A consumer would fill out a form or call their regulator, the regulator would ask questions of the business, and then the regulator would report back to the consumer their findings and what, if anything, is to be done.

But just as technology has changed how a business gets its license, and just as technology is just now changing how businesses get examined, we are very close to seeing a new way consumer complaints are handled. This new system will be faster, more organized, and easier for regulators and businesses alike. For the sake of consumers, it will provide regulators a better view into the entire history of a business, compliance and complaints alike. And, if everything goes as planned, this system could radically simplify how consumers get their voices heard.

Today, I talk to the masterminds behind this new system to learn more.

Source link.

Publications, articles, reports, studies, testimony & speeches

Industrial Production and Capacity Utilization - G.17 (07.15.2020)

Total industrial production rose 5.4 percent in June after increasing 1.4 percent in May; even so, it remained 10.9 percent below its pre-pandemic February level. For the second quarter as a whole, the index fell 42.6 percent at an annual rate, its largest quarterly decrease since the industrial sector retrenched after World War II. Manufacturing output climbed 7.2 percent in June, as all major industries posted increases. The largest gain—105.0 percent—was registered by motor vehicles and parts, while factory production elsewhere rose 3.9 percent. Mining production fell 2.9 percent, and the output of utilities increased 4.2 percent. At 97.5 percent of its 2012 average, the level of total industrial production was 10.8 percent lower in June than it was a year earlier. Capacity utilization for the industrial sector increased 3.5 percentage points to 68.6 percent in June, a rate that is 11.2 percentage points below its long-run (1972–2019) average but 1.9 percentage points above its trough during the Great Recession.

Source link.

The Fed on Fraud: New Synthetic Identity Fraud White Paper (07.01.2020)

Over the past year, we've spoken with more than 50 industry experts about the growing issue of synthetic identity payments fraud and its impact on the financial services industry. We published our most recent white paper in a series on this topic, Mitigating Synthetic Identity Fraud in the U.S. Payment System (PDF).

Key highlights include:

- Organizations that leverage a multi-layered approach that employs both manual and technological data analysis have the best chance to identify and mitigate fraud caused by synthetics, according to industry experts.
- As payments stakeholders share more information about trends, behaviors, threats and best practices, they can improve the industry's collective synthetic identity fraud detection and mitigation practices.
- The regulatory environment is evolving to provide additional protections for consumers and mechanisms for financial institutions to fight fraud. Industry experts urge organizations to remain aware that fraudsters may still find opportunities to exploit these for their own benefit.

Source link.

Consumer Credit - G.19 (07.08.2020)

In May, consumer credit decreased at a seasonally adjusted annual rate of 5-1/4 percent. Revolving credit decreased at an annual rate of 28-1/2 percent, while nonrevolving credit increased at an annual rate of 2-1/4 percent.

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
06.04.2020	National Bank and Federal Savings Association Digital Activities - The Office of the Comptroller of the Currency (OCC) is interested in making sure it is aware of and understands the evolution of financial services, so it ensures the federal banking system continues to serve consumers, businesses, and communities effectively. Further, national banks and Federal savings associations (banks) must have a regulatory and supervisory framework that enables banks to adapt to rapidly changing trends and technology developments in the financial marketplace to meet customers' evolving needs while continuing to operate in a safe and sound manner. The Office of the Comptroller of the Currency (OCC) is reviewing its regulations on bank digital activities to ensure that its regulations continue to evolve with developments in the industry. This advance notice of proposed rulemaking (ANPR) solicits public input as part of this review. DATES: Comments must be received by August 3, 2020.
06.22.2020	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 loan category. For General QM loans, the ratio of the consumer's total monthly debt to total monthly income (DTI ratio) must not exceed 43 percent. In this notice of proposed rulemaking, the Bureau proposes certain amendments to the General QM loan definition in Regulation Z. Among other things, the Bureau proposes to remove the General QM loan definition's 43 percent DTI limit and replace it with a price-based threshold. Another category of QMs is 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. The Bureau established this category of QMs (Temporary GSE QM loans) as a temporary measure that is set to expire no later than January 10, 2021 or when the GSEs exit conservatorship. In a separate proposal released simultaneously with this proposal, the Bureau proposes to extend the Temporary GSE QM loan definition to expire upon the effective 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 present proposed rule, the Bureau proposes the amendments to the General QM loan definition that are referenced in that separate proposal. The Bureau's objective with these proposals is to facilitate a smooth and orderly transition away from the Temporary GSE QM loan definition and to ensure access to responsible, affordable mortgage credit upon its expiration. DATES: Comments on the proposed rule must be received on or before 60 days after publication in the Federal Register.
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. DATES: Comments on the proposed rule must be received on or before 60 days after publication in the Federal Register.
07.20.2020	National Banks and Federal Savings Associations as Lender - The Office of the Comptroller of the Currency (OCC) is proposing a regulation to determine when a national bank or Federal savings association (bank) makes a loan and is the "true lender" in the context of a partnership between a bank and a third party, such as a marketplace lender. Under this proposal, 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: Comments must be received on or before September 3, 2020.

Selected federal rules – upcoming effective dates

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

EFFECTIVE DATE:	SUMMARY OF FINAL RULE:

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

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

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.

10.20.2020 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.

01.01.2020 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

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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