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

'December, being the last month of the year, cannot help but make us think of what is to come.' —Fennel Hudson

Joint federal agency issuances, actions and news

Federal Banking Agencies Announce Availability of 2019 Small Business, Small Farm, and Community Development Lending Data (12.14.2020)

The three federal banking agency members of the Federal Financial Institutions Examination Council (FFIEC) with Community Reinvestment Act (CRA) responsibilities announced the availability of data on small business, small farm, and community development lending reported by certain commercial banks and savings associations, pursuant to the CRA. The agencies releasing the data are the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency.

An FFIEC disclosure statement on the reported 2019 CRA data, in electronic form, is available for each reporting commercial bank and savings association. The FFIEC also prepared aggregate disclosure statements of small business and small farm lending for all the metropolitan statistical areas and non-metropolitan counties in the United States and its territories. These statements are available for public inspection on the FFIEC website (www.ffiec.gov/cra).

Attachments:

Fact Sheet on 2019 Data – With Tables (Note: Tables are in PDF)

Source link.

Revisions to the Consolidated Reports of Condition and Income (Call Report) (12.09.2020)

On November 30, 2020, the Federal Deposit Insurance Corporation (FDIC), the Board of Governors of the Federal Reserve System (Board), and the Office of the Comptroller of the Currency (collectively, the agencies), under the auspices of the Federal Financial Institutions Examination Council (FFIEC), published the attached initial regulatory reporting changes in the Federal Register. The agencies are requesting comment on an adjustment to the measurement date for certain total asset thresholds. These thresholds trigger additional reporting requirements in the Call Reports for report dates in 2021 due to institution asset growth in 2020. Much of this asset growth is related to participation in various coronavirus disease 2019 related stimulus activities. These changes would apply to the three versions of the Call Report (FFIEC 031, FFIEC 041, and FFIEC 051), as appropriate.

The agencies recently issued an interim final rule (IFR) providing relief to financial institutions with under $10 billion in total assets as of December 31, 2019, by allowing them to calculate their asset size for applicable thresholds in certain rules during calendar years 2020 and 2021 based on the lower of total assets as of December 31, 2019, or as of the normal measurement date. Consistent with this IFR, the agencies are proposing to permit an institution to use the lesser of the total consolidated assets reported in its Call Report as of December 31, 2019, or June 30, 2020, when determining whether the institution has crossed certain total asset thresholds to report additional data items in its Call Reports for report dates in calendar year 2021. These

thresholds include the $5 billion threshold for limiting eligibility to use the FFIEC 051 version of the Call Report, and the $100 million, $300 million, $1 billion, and $10 billion thresholds for reporting certain additional data items in the Call Reports. The agencies are proposing this relief for calendar year 2021 only.

In addition, the IFR allows institutions that temporarily exceed the $10 billion total asset threshold to use the community bank leverage ratio framework in Call Report Schedule RC R from December 31, 2020, through December 31, 2021, provided they meet the other qualifying criteria for this framework. For each of these report dates, an institution would use the lesser of its total assets as of December 31, 2019, or as of the current quarter-end report date to determine whether it has met the $10 billion total asset threshold.

The agencies encourage you to review the proposed regulatory reporting changes applicable to your institution. Redlined copies of the FFIEC 031, FFIEC 041, and FFIEC 051 Call Report forms clarifying affected footnotes and draft Supplemental Instructions providing guidance on the temporary adjustment to the measurement date for certain total asset thresholds are available on the FFIEC's webpage for each report, which can be accessed from the FFIEC's Reporting Forms webpage.

Please share this letter with individuals responsible for preparing Call Reports at your institution. For further information about the proposed Call Report revisions, institutions should contact their assigned Call Report analyst. If you do not know the analyst assigned to your institution, state member institutions should contact their Federal Reserve District Bank, while national institutions, FDIC-supervised banks, and savings associations should contact the FDIC's Data Collection and Analysis Section in Washington, D.C., by telephone at (800) 688-FDIC (3342) or email to FDICInfoReq@fdic.gov.

Federal Register Notice

Source link.

Comment: These revisions to the Call Report follow the interim rule published in November that provided relief for community banks, which played a significant role in the Payroll Protection Program.

Revisions to the Consolidated Reports of Condition and Income (Call Report) and the FFIEC 101 Report (12.01.2020)

On November 23, 2020, the Federal Deposit Insurance Corporation (FDIC), the Federal Reserve Board (Board), and the Office of the Comptroller of the Currency (collectively, the agencies), under the auspices of the Federal Financial Institutions Examination Council (FFIEC), published the attached final regulatory reporting changes in the Federal Register. These changes apply to the three versions of the Call Report (FFIEC 031, FFIEC 041, and FFIEC 051) and the Regulatory Capital Reporting for Institutions Subject to the Advanced Capital Adequacy Framework (FFIEC 101 report). These reporting changes, proposed by the agencies in July 2020 (see FIL-73-2020, dated July 30, 2020), and certain reporting changes for the total loss absorbing capacity (TLAC) investments rule, proposed in October 2019 (see FIL-68-2019, dated November 5, 2019), are subject to approval by the U.S. Office of Management and Budget (OMB).

After considering the comments received on the July 2020 and October 2019 proposals, the agencies are proceeding with the proposed revisions to the reporting forms and instructions for the Call Report and the FFIEC 101 report with certain modifications. Certain changes to the Call Report and the FFIEC 101 report, as described more fully in the Federal Register notices attached to FIL-73-2020 and this Financial Institution Letter, pertain to interim final rules (IFRs) and a final rule published by one or all the banking agencies in response to disruptions

related to the Coronavirus Disease 2019 from March through June 2020. The IFRs and final rule revise certain aspects of the agencies' regulatory capital rule, amend the Board's Regulation D on reserve requirements, except certain insider loans from the Board's Regulation O, and modify the FDIC's deposit insurance assessment rules. These revisions also relate to Section 4013 of the 2020 Coronavirus Aid, Relief, and Economic Security Act (CARES Act), which provides optional temporary relief from accounting for eligible loan modifications as troubled debt restructurings. In the second quarter, the agencies received emergency approvals from OMB to implement changes to the Call Report and the FFIEC 101 report arising from these interim final rules, the final rule, and Section 4013 of the CARES Act.

Although most of the IFRs have been finalized as proposed, there were limited revisions to the IFR for the Regulatory Capital Rule: Revised Transition for the Current Expected Credit Losses Methodology for Allowances, published in the Federal Register on March 31, 2020. Therefore, the agencies will clarify the related reporting instructions to be consistent with the final rule on this subject. None of the final rules affected the revisions to the report forms that took effect June 30, 2020. Other reporting changes from the July 2020 proposal would take effect beginning with the March 31, 2021, report date.

The TLAC investments rule was finalized on October 20, 2020. The proposed reporting changes to the Call Report and the FFIEC 101 report in the October 2019 proposal, with certain modifications, apply only to advanced approaches institutions and would take effect for the June 30, 2021, report date.

The agencies encourage you to review the regulatory reporting changes applicable to your institution. Redlined copies of the FFIEC 031, FFIEC 041, and FFIEC 051 Call Report forms and the FFIEC 101 report form showing the proposed reporting changes will soon be available on the FFIEC's webpage for each report, which can be accessed from the FFIEC's Reporting Forms webpage. Redlined draft revisions to the instructions for these reports also will be available on these webpages.

Please share this letter with individuals responsible for preparing these reports at your institution. For further information about the Call Report revisions, institutions should contact their assigned Call Report analyst. If you do not know the analyst assigned to your institution, state member institutions should contact their Federal Reserve District Bank, while national institutions, FDIC-supervised banks, and savings associations should contact the FDIC's Data Collection and Analysis Section in Washington, D.C., by telephone at (800) 688-FDIC (3342) or email to FDICInfoReq@fdic.gov. For further information about the revisions to the FFIEC 101 report, reporting institutions should contact their Reporting Central District Contact.

Federal Register Notice

Source link.

Agencies Issue Statement on LIBOR Transition (11.30.2020)

WASHINGTON—The Federal Reserve Board, Federal Deposit Insurance Corporation and Office of the Comptroller of the Currency issued a statement encouraging banks to cease entering into new contracts that use USD LIBOR as a reference rate as soon as practicable and in any event by December 31, 2021, in order to facilitate an orderly—and safe and sound— LIBOR transition.

The LIBOR transition is a significant event that poses complex challenges for banks and the financial system. The agencies encourage banks to cease entering into new contracts that use USD LIBOR as a reference rate as soon

as practicable and in any event by December 31, 2021, in order to facilitate an orderly—and safe and sound—LIBOR transition.

This statement should not be read as announcing that the LIBOR benchmark has ceased, or will cease, to be provided permanently or indefinitely or that it is not, or no longer will be, representative for the purposes of language adopted by the International Swaps and Derivatives Association.

Source link.

Comment: The Agencies also issued a joint statement in November 2020 reiterating prior guidance that a bank may use any reference rate for its loans that the bank determines to be appropriate for its funding model and customer needs. In addition, be sure to identify a stable alternative index in your new contracts as well—in case the new 'LIBOR' becomes unavailable.

Agencies Provide Temporary Relief to Community Banking Organizations (11.20.2020)

The federal bank regulatory agencies announced an interim final rule that provides temporary relief for certain community banking organizations related to certain regulations and reporting requirements as a result, in large part, of their growth in size from the coronavirus response.

Community banking organizations are subject to different rules and requirements based on their risk profile and asset size. Due to participating in federal coronavirus response programs—such as the Paycheck Protection Program— and other lending that supports the U.S. economy, many community banking organizations have experienced rapid and unexpected increases in their sizes, which are generally expected to be temporary. The temporary increase in size could subject community banking organizations to new regulations or reporting requirements.

With regard to the requirements covered by the interim final rule, community banking organizations that have crossed a relevant threshold generally will have until 2022 to either reduce their size, or to prepare for new regulatory and reporting standards. The rule applies to community banking organizations financial institutions with less than $10 billion in total assets as of December 31, 2019. Community banking organizations with under $10 billion in assets may have fewer resources available to prepare and comply with previously unanticipated regulatory requirements, especially during a time of economic disruption.

The rule will be effective immediately upon publication in the Federal Register, and comments will be accepted for 60 days after publication in the Federal Register.

Temporary Asset Thresholds Interim Final Rule

Source link.

Comment: In particular, these changes help with requirements relating to audit requirements and other regulatory matters tied to size. For banks with active PPP portfolios or large EIP deposits, the interim rule is very welcome. Remember that the rule is temporary, however.

Agencies Release Fact Sheet to Clarify Bank Secrecy Act Due Diligence Requirements for Banks and Credit Unions that Offer Services to Charities and Non-Profits (11.19.2020)

Federal financial institution regulatory agencies issued a joint fact sheet clarifying that bank and credit unions compliance efforts to meet Bank Secrecy Act due diligence requirements for customers that are charities and

other nonprofit organizations should be based on the money laundering risks posed by the customer relationship.

The fact sheet highlights the importance of legitimate charities and nonprofit organizations having access to financial services and being able to transmit funds through legitimate and transparent channels, especially in the context of responding to the coronavirus pandemic. It also clarifies that charities and nonprofit organizations as a whole do not present a uniform or unacceptably high risk of being used or exploited for money laundering, terrorist financing, or sanctions violations, and that banks and credit unions must develop risk profiles that are appropriate for the risks presented by each customer. Additionally, it provides examples of customer information that may be useful to banks and credit unions in determining those risk profiles.

The fact sheet does not alter existing Bank Secrecy Act/anti-money laundering legal or regulatory requirements or establish new supervisory expectations. It was developed by the Federal Reserve Board, the Federal Deposit Insurance Corporation, the Financial Crimes Enforcement Network, the National Credit Union Administration, and the Office of the Comptroller of the Currency.

Source link.

Comment: The fact sheet highlights the importance of legitimate charities and nonprofit organizations having access to financial services and being able to transmit funds through legitimate and transparent channels, especially in the context of responding to the coronavirus pandemic. Unfortunately, too many bad guys use disasters of all kinds as a way to drain the milk of kindness from others. Be prepared to review new customers carefully.

Agencies Announce Dollar Thresholds in Regulations Z and M for Exempt Consumer Credit and Lease Transactions (11.18.2020)

The Federal Reserve Board and Consumer Financial Protection Bureau announced the dollar thresholds in Regulation Z (Truth in Lending) and Regulation M (Consumer Leasing) that will apply for determining exempt consumer credit and lease transactions in 2021.

These thresholds are set pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) amendments to the Truth in Lending Act and the Consumer Leasing Act that require adjusting the thresholds annually based on the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W). If there is no annual percentage increase in the CPI-W, the Federal Reserve Board and the Bureau will not adjust this exemption threshold from the prior year. However, in years following a year in which the exemption threshold was not adjusted, the threshold is calculated by applying the annual percentage change in CPI-W to the dollar amount that would have resulted, after rounding, if the decreases and any subsequent increases in the CPI-W had been taken into account. Transactions at or below the thresholds are subject to the protections of the regulations.

Based on the annual percentage increase in the CPI-W as of June 1, 2020, the protections of the Truth in Lending Act and the Consumer Leasing Act generally will apply to consumer credit transactions and consumer leases of $58,300 or less in 2021. However, private education loans and loans secured by real property (such as mortgages) are subject to the Truth in Lending Act regardless of the amount of the loan.

Although the Dodd-Frank Act generally transferred rulemaking authority under the Truth in Lending Act and the Consumer Leasing Act to the Bureau, the Federal Reserve Board retains authority to issue rules for certain motor vehicle dealers. Therefore, the agencies are issuing these notices jointly.

The attached notices will be published shortly in the Federal Register.

Attachments

Notice: Consumer Leasing (Regulation M)

Notice: Truth in Lending (Regulation Z)

Source link.

Comment: This year, apparently, the CPI did not move enough to result in changes to thresholds. Thus, there are no changes to be made. The threshold for 2021 has been set at $58,300, meaning TILA and CLA generally will apply to consumer credit transactions and consumer leases of that amount or less. Exceptions to this threshold are private education loans and loans secured by real property; these are subject to TILA regardless of the amount of the loan.

Agencies Announce Threshold for Smaller Loan Exemption from Appraisal Requirements for Higher-Priced Mortgage Loans (11.18.2020)

The Consumer Financial Protection Bureau, Federal Reserve Board, and Office of the Comptroller of the Currency announced that the threshold for exempting loans from special appraisal requirements for higher-priced mortgage loans during 2021 will remain at $27,200, as it was in 2020.

The threshold amount will be effective January 1, 2021, and is based on the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) as of June 1, 2020.

The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 amended the Truth in Lending Act to add special appraisal requirements for higher-priced mortgage loans, including a requirement that creditors obtain a written appraisal based on a physical visit to the home's interior before making a higher-priced mortgage loan. The rules implementing these requirements contain an exemption for loans of $25,000 or less and also provide that the exemption threshold will be adjusted annually to reflect increases in the CPI-W. If there is no annual percentage increase in the CPI-W, the agencies will not adjust this exemption threshold from the prior year. However, in years following a year in which the exemption threshold was not adjusted, the threshold is calculated by applying the annual percentage change in CPI-W to the dollar amount that would have resulted, after rounding, if the decreases and any subsequent increases in the CPI-W had been taken into account.

The attached notice will be published shortly in the Federal Register.

Attachments

Notice: Appraisals for Higher-Priced Mortgage Loans Exemption Threshold

Source link.

Comment: The threshold for exempting loans from special appraisal requirements for higher-priced mortgage loans during 2021 will remain at $27,200, as it was in 2020.

CFPB actions and news

Consumer Financial Protection Bureau Releases Report on Implementing the Dodd-Frank Act's Small Business Lending Data Collection Requirement (12.15.2020)

The Consumer Financial Protection Bureau (Bureau) released a panel report as part of its rulemaking process under Dodd-Frank Act Section 1071 governing the collection and reporting of small business lending data.

A panel was convened pursuant to the Small Business Regulatory Enforcement Fairness Act, comprised of representatives of the Bureau, the Office of Advocacy of the Small Business Administration, and the Office of Management and Budget. The panel consulted with representatives of small entities likely to be affected directly by a Section 1071 regulation, referred to as small entity representatives or SERs. The SERs provided feedback on the Bureau's proposals under consideration for Section 1071 and the potential economic impacts of complying with those proposals. The panel and SERs also discussed regulatory alternatives to minimize potential impacts.

In their feedback, SERs were generally supportive of the Bureau's statutory mission to enact rules under Section 1071 and several SERs stated that a 1071 rulemaking is necessary to better understand the small business lending market. Further, SERs requested, and the panel agreed, that, among other things, the Bureau should issue implementation and guidance materials specifically to assist small financial institutions in complying with an eventual Section 1071 rule, and to consider providing sample disclosure language.

The feedback from small entity representatives and the panel's findings and recommendations will be used by the Bureau as it prepares a notice of proposed rulemaking to implement Section 1071. Feedback on the Bureau's proposals under consideration submitted by other stakeholders will also be considered as part of the rulemaking process.

The panel report can be found here: https://files.consumerfinance.gov/f/documents/cfpb_1071-sbrefa-report.pdf.

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

Source link.

Comment: This report will be used by the CFPB to draft the rules for the collection and reporting of small business lending data mandated under Section 1071 of Dodd-Frank. It's worth noting that a rule on this issue is now 10 years overdue giving to the complexity of this issue.

CFPB Issues Final Rules Amending the ATR/QM Rule (12.10.2020)

The Consumer Financial Protection Bureau (Bureau) issued final rules related to qualified mortgage (QM) loans. Lenders are required under the law to determine that consumers have the ability to repay mortgage loans before lenders make those loans. Loans that meet legal standards for QM loans are presumed to be loans for which consumers have such an ability to repay.

The Bureau has issued two rules related to QM loans. The first final rule, the General QM Final Rule, replaces the current requirement for General QM loans that the consumer's debt-to-income ratio (DTI) not exceed 43

percent with a limit based on the loan's pricing. In the second final rule issued, the Bureau creates a new category for QMs, Seasoned QMs.

Another current category of mortgage loans that has been accorded QM status under the law are loans that meet the standards of the Government Sponsored Enterprises (GSEs). Most mortgage loans are QMs pursuant to this provision, also known as "the Patch." However, the Patch will expire on the mandatory compliance date of the General QM Final Rule (July 1, 2021), or the date the GSEs exit conservatorship, whichever comes first. The Bureau's issuance of its two new rules will support a smooth and orderly transition away from the Patch and maintain access to responsible, affordable mortgage credit upon its expiration.

In adopting a price-based approach to replace the specific DTI limit for General QM loans, the Bureau 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. Additionally, conditioning QM status on a specific DTI limit could impair access to responsible, affordable credit.

Under the General QM Final Rule, a loan receives a conclusive presumption that the consumer had the ability to repay if the annual percentage rate does not exceed the average prime offer rate for a comparable transaction by 1.5 percentage points or more as of the date the interest rate is set. A loan receives a rebuttable presumption that the consumer had the ability to repay if the annual percentage rate exceeds the average prime offer rate for a comparable transaction by 1.5 percentage points or more but by less than 2.25 percentage points. In addition, the General QM Final Rule:

Provides higher pricing thresholds for loans with smaller loan amounts, for certain manufactured housing loans, and for subordinate-lien transactions.

Retains the General QM loan definition's existing product-feature and underwriting requirements and limits on points and fees.

Requires lenders to consider a consumer's DTI ratio or residual income, income or assets other than the value of the dwelling, and debts and removes appendix Q and provides more flexible options for creditors to verify the consumer's income or assets other than the value of the dwelling and the consumer's debts for QM loans.

"Through this General QM Final Rule, we are working to create an appropriate, more flexible General QM loan definition," said CFPB Director Kathleen L. Kraninger. "Our final rule's price-based approach strikes the best balance between assessing consumers' ability to repay and promoting access to responsible, affordable mortgage credit."

The Bureau also is encouraging innovation in the mortgage origination market through the issuance of the Seasoned QM Final Rule. The rule creates a new category of 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.

To be eligible to become a Seasoned QM, a loan must be a first-lien, fixed-rate loan with no balloon payments and must meet certain other product restrictions. As under the General QM Final Rule, the creditor must also consider the consumer's DTI ratio or residual income, income or assets other than the value of the dwelling, and debts and verify the consumer's income or assets other than the value of the dwelling and the consumer's debts.

The loan must also "season" by meeting certain performance requirements at the end of the seasoning period. Specifically, the loan can have no more than two delinquencies of 30 or more days and no delinquencies of 60

or more days at the end of the seasoning period. The creditor or first purchaser also generally must hold the loan on portfolio until the end of the seasoning period.

"This Seasoned QM Final Rule will ensure access to responsible, affordable credit in the mortgage market through responsible innovation," said CFPB Director Kraninger. "Allowing lenders the flexibility to respond to changes in the economy while still ensuring a consumer has the ability to repay will help many consumers achieve their dream of owning a home."

The General QM Final Rule and the Seasoned QM Final Rule will take effect 60 days after publication in the Federal Register. The General QM Final Rule will have a mandatory compliance date of July 1, 2021. Between the General QM Final Rule's effective date and mandatory compliance date, there will be an optional early compliance period during which creditors will be able to use either the current General QM definition or the revised General QM definition. The Seasoned QM Final Rule will apply to covered transactions for which creditors receive an application on or after the effective date.

To read the General QM final rule click here: https://www.consumerfinance.gov/rules-policy/final-rules/qualified-mortgage-definition-under-truth-lending-act-regulation-z-general-qm-loan-definition/

To read the Seasoned QM final rule click here: https://www.consumerfinance.gov/rules-policy/final-rules/qualified-mortgage-definition-under-truth-lending-act-regulation-z-seasoned-qm-loan-definition/

Source link.

Comment: Many community banks may already be using the "small creditor qualified mortgage." This is available to banks with assets below $2 billion who make 2,000 or fewer first-lien covered transactions per year. The CFPB provided a useful flow chart explaining this exemption. The two rules will take effect 60 days after publication in the Federal Register, with a mandatory compliance date for the General QM Final Rule of July 21, 2021. However, lenders can use the new rule during the optional compliance period between the effective date and July 21, 2021.

Consumer Financial Protection Bureau Finalizes Advisory Opinions Policy and Announces Two New Advisory Opinions (11.30.2020)

The Consumer Financial Protection Bureau (Bureau) issued its final Advisory Opinions Policy (Policy) to publicly address regulatory uncertainty in the Bureau's existing regulations and provide guidance to entities on outstanding regulatory uncertainty. Under the final Policy, entities seeking to comply with regulatory requirements can submit a request to the Bureau where uncertainty exists. Regulatory certainty promotes compliance if the law applies and avoids unnecessary compliance costs if the law does not.

Under the final Policy, any person or entity can submit a request for an advisory opinion via email to advisoryopinion@cfpb.gov. The Bureau will review the submissions received, prioritize certain requests for response, and issue opinions with a description of the incoming request. The Bureau may also decide to issue advisory opinions on its own initiative. To increase transparency, the Bureau will publish all advisory opinions in the Federal Register and on its website at: https://www.consumerfinance.gov/compliance/advisory-opinion-program/.

As explained in the final Policy, when selecting requests for consideration, the Bureau will prioritize open questions within the Bureau's purview that can legally be addressed through an interpretive rule. The Bureau intends to further evaluate potential topics for advisory opinions based on additional factors, including:

alignment with the Bureau's statutory objectives; size of the benefit offered to consumers by resolution of the interpretive issue; known impact on the actions of other regulators; and impact on available Bureau resources.

In addition to the final Policy, the Bureau issued two advisory opinions. The Bureau issued an advisory opinion regarding earned wage access (EWA) products. Earned wage access products have recently emerged in the marketplace as an innovative way for employees to meet short-term liquidity needs that arise between paychecks without individuals having to turn to other higher cost products. The Bureau has been asked whether EWA providers are offering or extending credit within the scope of Regulation Z. The advisory opinion aims to resolve regulatory uncertainty regarding the applicability of the definition of credit under Regulation Z and encourage further innovation in the EWA space.

The Bureau also issued an advisory opinion to clarify that certain education loan products that refinance or consolidate a consumer's pre-existing federal, or federal and private, education loans meet the definition of "private education loan" in Truth in Lending Act and Regulation Z and are subject to the disclosure and other requirements in subpart F of Regulation Z. Lender compliance with these requirements will enhance the protection of borrowers who have taken out private educational loans.

A copy of the final advisory opinion program can be found here:
https://files.consumerfinance.gov/f/documents/cfpb_advisory-opinion_policy_2020-11.pdf

A copy of the advisory opinion regarding EWA programs can be found here:
https://files.consumerfinance.gov/f/documents/cfpb_advisory-opinion_earned-wage-access_2020-11.pd

A copy of the advisory opinion regarding private education loans can be found here:
https://files.consumerfinance.gov/f/documents/cfpb_advisory-opinion_private-education-loans_2020-11.pdf

Source link.

Comment: "The bureau will focus primarily on clarifying ambiguities in its regulations, although advisory opinions may clarify statutory ambiguities," the CFPB said in the policy. "The bureau will not issue advisory opinions on issues that require, or are better addressed through, a legislative rulemaking under the [Administrative Procedure Act]."

2021 HMDA Filing Instructions Guide Update (11.23.2020)

The Bureau has released an update to the Filing Instructions Guide (FIG) for data collected in 2021 that is now available. The FIG is a technical resource to help financial institutions file HMDA data collected in 2021 and reported in 2022.

The updates are as follows:

- Edits Q656 and Q657 in Table 8: Macro Quality Edits for Loan/Application Register have been reclassified and moved to Table 7: Quality Edits for Loan/Application Register.
- These edits are now considered Quality Edits for filing purposes.
- Filers that receive these edits will be able to see which specific records in their filing are impacted.

The 2021 FIG can be accessed at https://ffiec.cfpb.gov under Help for Filers.

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

Comment: Update your HMDA procedures with this Guide.

FDIC actions and news

FDIC Board Approves Proposed Rule to Amend Suspicious Activity Report Requirements (12.15.2020)

The Board of Directors of the Federal Deposit Insurance Corporation (FDIC) approved a notice of proposed rulemaking that would amend the agency's Suspicious Activity Report (SAR) regulation. The proposed regulation would permit the FDIC to issue additional, case-by-case, exemptions from SAR filing requirements to FDIC-supervised institutions.

The FDIC's current SAR regulation allows exemptions for physical crimes (robberies and burglaries) and lost, missing, counterfeit, or stolen securities. The proposed regulation approved today would make it possible for the FDIC to grant exemptions, in conjunction with the Financial Crimes Enforcement Network (FinCEN), to FDIC-supervised institutions that develop innovative solutions to meet Bank Secrecy Act requirements more efficiently and effectively.

The FDIC expects the amendments to the SAR regulation will reduce regulatory burden on financial institutions and encourage technological innovation in the banking sector. Comments on the proposed rule will be accepted for 30 days after publication in the Federal Register.

FDIC: PR-138-2020

Notice of Proposed Rulemaking Re: Exemptions to Suspicious Activity Report Requirements

Source link.

Comment: More specifically, the proposal would allow additional, case-by-case exemptions from SAR filing requirements, in conjunction with the Financial Crimes Enforcement Network (FinCEN), to banks that develop innovative solutions to meet anti-money laundering requirements "more efficiently and effectively."

FDIC Board Approves Final Rule on Brokered Deposit and Interest Rate Restrictions (12.15.2020)

The Federal Deposit Insurance Corporation (FDIC) Board of Directors approved a final rule to establish a new framework for analyzing whether deposits made through deposit arrangements qualify as brokered deposits, including those between insured depository institutions (IDIs) and third parties, such as financial technology companies. The final rule also amends the methodology for calculating the interest rate restrictions that apply to less than well capitalized IDIs.

"The new framework for brokered deposits would achieve several objectives," said FDIC Chairman Jelena McWilliams. "First, the framework would create a more transparent and consistent regulatory approach by establishing bright line tests for the 'facilitation' prong of the deposit broker definition and a consistent process for application of the primary purpose exception. Second, the final rule would encourage innovation in how banks offer services and products to customers by reducing obstacles to certain types of partnerships. And, it would continue to protect the Deposit Insurance Fund."

Brokered Deposit Restrictions: The new brokered deposit rule establishes bright-line standards for determining whether an entity meets the statutory definition of "deposit broker," and identifies a number of business relationships (or "designated exceptions") that automatically meet the "primary purpose exception." The rule also establishes a transparent application process for entities that seek a "primary purpose exception" but do not meet one of the "designated exceptions." The new brokered deposit rule reflects technological changes

across the banking industry and removes regulatory disincentives that limit banks' ability to serve their customers. Through these regulatory changes, the FDIC will continue to promote safe and sound practices, while ensuring that the classification of a deposit as "brokered" appropriately reflects changes in the banking landscape since 1989, when the law on brokered deposits was first enacted.

National and Local Market Rate Restrictions: The FDIC will define the "National Rate" as the weighted average of rates paid by all IDIs and credit unions on a given deposit product (for which data are available) based on each institution's market share of domestic deposits. The new rule also defines the "National Rate Cap" as the higher of (1) the national rate plus 75 basis points; or (2) for maturity deposits, 120 percent of the current yield on similar maturity U.S. Treasury obligations and, for nonmaturity deposits, the federal funds rate plus 75 basis points. The FDIC will continue to publish these rates on its website. The rule also provides that the local market rate cap will be 90 percent of the highest offered rate in the institution's local market area for a specific deposit product.

FDIC: PR-136-2020

Final Rule on Brokered Deposit and Interest Rate Restrictions Applicable to Less Than Well Capitalized Banks

Fact Sheet on Brokered Deposits

Fact Sheet on Interest Rate Restrictions

Chairman's Statement

Source link.

Comment: **The FDIC dropped an odious provision that could have conferred deposit broker status on entities that share third-party information with a bank. That tedious provision would have swept a huge number of advertising, data processing and other affiliates into the scope of the brokered deposit regulations. The final rule also singles out several types of business relationships between a bank and a third party that would be excluded from coverage under an existing "primary purpose" exception. For other relationships, the rule establishes an application process for getting a decision from the FDIC on whether a specific relationship qualifies for this exception.**

FDIC Board Approves 2021 Operating Budget (12.15.2020)

The Board of Directors of the Federal Deposit Insurance Corporation (FDIC) today approved a 2021 Operating Budget of $2.279 billion. The budget provides funding for the continuation of critical FDIC information technology modernization, supports numerous projects to foster innovation at our nation's banks, and expands initiatives to support diversity and inclusion. The budget also provides funding for contingency reserves in the event pandemic-related economic uncertainty leads to a deterioration in financial institution health.

"Recognizing that we are facing many uncertainties about the economic impact of the pandemic," said FDIC Chairman Jelena McWilliams, "this budget will provide requisite flexibility while allowing us to continue modernizing the FDIC's operations and to promote innovation."

The FDIC's 2021 Operating Budget includes $2.059 billion for ongoing operations, $175 million for receivership funding, and $44.9 million for the Office of the Inspector General (OIG). Over half of the $261 million (12.9 percent) increase in the Operating Budget is attributable to contingency reserves of $140 million in the event a potential operational and staffing surge becomes necessary. The Board also approved an authorized 2021 staffing level of 5,793 positions, a net increase of 65 positions from 2020.

FDIC: PR-135-2020

Statement from Chairman Jelena McWilliams

Proposed 2021 Operating Budget

2021 Operating Budget Exhibits

Source link.

Comment: It is certainly worth noting the budget contains both a 'contingency reserve' and an increase in staff. While details are not included, it would seem logical the increase in staff is at the examiner level.

FDIC-Insured Institutions Reported Improved Profitability in Third Quarter 2020 (12.01.2020)

- Quarterly Net Income Improved, Primarily Because of Lower Provision Expense
- Net Interest Margin Fell to a Record Low
- Loan and Lease Balances Declined, Driven by Reduced Commercial and Industrial Lending Activity
- Noncurrent Loan Balances Increased Modestly
- Community Banks Reported a 10 Percent Increase in Net Income Year Over Year

"The banking industry exhibited operational resiliency in the third quarter, with improvements in profitability despite continued headwinds and economic uncertainties resulting from the effects of the COVID-19 pandemic."

— FDIC Chairman Jelena McWilliams

WASHINGTON—The Federal Deposit Insurance Corporation (FDIC) reported results from commercial banks and savings institutions that reflect improved profitability from the first and second quarters of this year, increased liquidity, and strengthened capital levels. As a result, the banking industry remains well positioned to accommodate loan demand and support the economy.

For the 5,033 FDIC-insured commercial banks and savings institutions that filed Call Reports, aggregate net income totaled $51.2 billion in third quarter 2020. Although this level is down $6.2 billion (10.7 percent) from a year ago, it marks an improvement from the first half of the year and reflects moderate increases in business activity and consumer spending during the third quarter. Economic uncertainties and the effects of the COVID-19 pandemic drove an annual increase in provision expenses, but quarterly provision expenses fell significantly from second quarter 2020. Financial results for third quarter 2020 are included in the FDIC's latest Quarterly Banking Profile.

"Modest improvements in the economy and higher consumer spending supported stronger earnings results for the banking industry in the third quarter. However, economic uncertainties and pressure on revenue from unprecedented net interest margin compression continued to weigh on the banking industry. Nonetheless, the industry remains well positioned to accommodate loan demand and support the economy," McWilliams said.

Highlights from the Third Quarter 2020 Quarterly Banking Profile

Quarterly Net Income Improved Relative to the First Half of 2020: Net income was $51.2 billion, up $32.4 billion (173 percent) from the second quarter 2020, but down $6.2 billion (10.7 percent) year-over-year. The annual reduction in net income was much less severe than that reported during the previous quarter and was boosted by a decline in provision expenses of $47.5 billion (76.8 percent) between second and third quarter 2020.

More than half of all banks (52.7 percent) reported improvements in quarterly net income from the second quarter; however, the share of unprofitable institutions increased from a year ago to 4.7 percent. The annual decline in earnings pulled the average return on assets ratio down from 1.25 percent in third quarter 2019 to 0.97 percent.

Net Interest Margin Fell to an Unprecedented Level: The average net interest margin fell by 68 basis points from a year ago to 2.68 percent, the lowest level reported in the history of the Quarterly Banking Profile. Net interest income declined for a fourth consecutive quarter, falling by $10 billion (7.2 percent) from third quarter 2019—the largest year-over-year decline on record. The annual reduction in yields on earning assets (down 139 basis points) outpaced the decline in average funding costs (down 72 basis points). Nearly half of all banks (49.9 percent) reported lower net interest income year-over-year.

Community Banks Reported a 10 Percent Increase in Net Income Year-Over-Year: Reports from 4,590 FDIC-insured community banks reflect annual net income growth of $659.7 million despite a 116.6 percent increase in provision expense and continued net interest margin compression. Nearly half of community banks (48 percent) reported higher quarterly net income. Higher revenue from the sale of loans (up $1.9 billion or 154.2 percent) drove the improvement in quarterly net income year-over-year. The net interest margin for community banks compressed 41 basis points year over year to 3.27 percent, as the decline in average earning asset yields continued to outpace the decline in average funding costs.

Loan and Lease Volume Fell Slightly in the Quarter: Total loans and leases declined by $84.5 billion (0.8 percent) from the previous quarter. A reduction in commercial and industrial (C&I) lending drove the decline of $150.3 billion (5.6 percent) from second quarter 2020. Compared with third quarter 2019, total loan and lease balances grew by 4.9 percent. This rate is below the annual growth rate of 6.8 percent reported last quarter, and driven by stronger loan growth in the first half of the year.

Community banks reported positive loan growth between second and third quarter 2020 of 1 percent. Annual loan growth was relatively strong for community banks at 13.4 percent, but was driven primarily by lending activity in the first half of 2020.

Asset Quality Weakened Marginally: Noncurrent loans (i.e., loans that were 90 days or more past due or in nonaccrual status) increased by $9.3 billion (7.9 percent) in third quarter 2020. The noncurrent rate for total loans increased by 9 basis points from the previous quarter to 1.17 percent. This movement was less severe than the 14 basis point increase reported in the previous quarter.

Net charge-offs declined by $418 million (3.2 percent) from a year ago, contributing to a 4 basis point reduction in the total net charge-off rate to 0.46 percent. Noncurrent and net charge-off rates remain well below historical highs.

The Deposit Insurance Fund's Reserve Ratio Remained Unchanged from the Previous Quarter at 1.30 Percent as Deposit Growth Stabilized: The Deposit Insurance Fund totaled $116.4 billion in the third quarter, up $1.8 billion from the second quarter. Deposit growth stabilized during the third quarter after record increases in the first of 2020 and is now near the average rate of growth between year-end 2014 and year-end 2019.

Mergers and New Bank Openings Continued in the Third Quarter: During the third quarter, one new bank opened, 33 institutions were absorbed through mergers, and no banks failed.

Source link.

Banker Webinar: Banks' Use of Artificial Intelligence, including Machine Learning (11.30.2020)

The Federal Deposit Insurance Corporation, Board of Governors of the Federal Reserve System, and the Office of the Comptroller of the Currency (the Agencies) will conduct an Ask the Regulators webinar event for their supervised institutions on the use of artificial intelligence (AI), including machine learning (ML) on Wednesday, December 16, 2020, at 1:00 p.m. EST. The Consumer Financial Protection Bureau (CFPB) will also participate.

Statement of Applicability: This Financial Institution Letter (FIL) applies to all FDIC-supervised financial institutions.

Highlights:

During the "Ask the Regulators: Banks' Use of Artificial Intelligence, including Machine Learning" webinar, the Agencies, with the CFPB, will discuss issues and common questions raised about banks' use of AI/ML, including risk management and controls, data usage, explainability and transparency, independent review, and consumer protection considerations. The Agencies will also highlight several existing laws, regulations, supervisory guidance, and other resources that may be relevant to AI/ML usage.

During the session, the Agencies will respond to questions submitted in advance from bankers. Please email questions in advance of the session to asktheregulators@stls.frb.org. Questions received by December 9 will receive priority.

Participants must preregister for the event.

We strongly encourage participants to use the webinar audio on their computer for the best experience.

Webinar materials will be archived at www.askthefed.org for future viewing.

Source link.

FDIC Makes Public October Enforcement Actions (11.27.2020)

The Federal Deposit Insurance Corporation (FDIC) released a list of orders of administrative enforcement actions taken against banks and individuals in October. There are no administrative hearings scheduled for December 2020.

The FDIC issued eight orders and two notices in October 2020. The administrative enforcement actions in those orders consisted of one consent order, one order to pay a civil money penalty, one section 19 order, one removal order, two orders terminating consent or cease and desist orders, two orders modifying removal orders, one notice of assessment, and one notice of charges.

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.

October 2020 Enforcement Decisions and Orders

Source link.

FDIC Consumer News Banking with Apps (11.18.2020)

Where your mobile device meets banking

Technology is transforming the business of traditional banking. Financial technology (fintech) provides convenient access to many banking products and services. At the same time, it has blurred the lines between banks and non-banks. There are banks offering mobile banking services, internet-based banks, and even banks launching digital-only brands separate from the bank's own brand. In addition, non-bank companies are marketing and offering fintech apps for accounts that may not be FDIC-insured.

Here is an overview of the differences between deposit accounts offered by banks and financial products offered by non-bank companies, as well as tips for consumers considering using "fintech" for their banking needs.

FDIC-Insured Banks

Banks that are FDIC-insured must indicate that they have FDIC insurance in advertisements and at teller windows. The FDIC insures each depositor up to at least $250,000 at each FDIC-insured bank in the unlikely event that their bank closes (for more information visit: FDIC deposit insurance). This means that your funds will be protected in the unlikely event that your bank closes due to financial difficulties.

Some FDIC-insured banks are internet-based and provide no physical branches for customers, so your banking is conducted on a computer, mobile device, or Automated Teller Machine (ATM). Even though there is no branch building, you can typically speak with bank staff by phone, if necessary. It's always a good idea to shop around and compare the services offered by different banks--the interest rates, fees, and other costs for those services--to find the bank that fits your needs best.

Banks that have physical locations where customers can visit (sometimes called "brick and mortar" banks) may offer services such as money orders, notarizing documents, and safe deposit boxes, in addition to other traditional banking services. Most of them also offer online and mobile banking options, giving you the ability to conduct your banking at a branch or while you are at home or on the go.

Online or in person, consumers with deposits at FDIC-insured banks benefit from deposit insurance coverage. Also, establishing a deposit relationship with an FDIC-insured bank can open opportunity to other financial services like a car or home loan.

Before opening an account with a bank, it's important to make sure it is a legitimate bank and not a fraudulent website set up by criminals to entice people into transferring money or disclosing personal information for use in committing identity theft. If dealing with an FDIC-insured bank is important to you, you can confirm that it is FDIC-insured by accessing the FDIC's BankFind.

Non-bank Companies

Fintechs and other non-bank companies offer a variety of financial products and services. They may offer deposit products that are FDIC-insured. Sometimes these companies act as "deposit brokers." Other times, they have contractual arrangements with FDIC-insured banks to place their customers' funds in insured depository accounts at those banks.

It is important to be aware that non-bank companies are never FDIC-insured. Even if they partner with FDIC-insured banks, funds you send to a non-bank company are not FDIC-insured unless and until the company deposits them in an FDIC-insured bank. You need to understand the terms and conditions of financial products offered by non-bank companies and how your funds may, or may not, be protected. If a non-bank company offers products that it states are FDIC-insured, you should verify with the company that your funds will be deposited in an FDIC-insured bank, how and when that will happen, and the specific FDIC-insured bank or banks where they will be deposited (so you can confirm that they are FDIC-insured using BankFind).

Understanding the differences between FDIC-insured banks and fintechs or other non-bank companies, as well as all aspects of the products and services they offer, will help you determine what is best for your needs. Some fintechs or other non-bank companies may appear to be banks because they offer products similar to deposit accounts and in some cases even use the word "banking" in their name or description. Remember that FDIC insurance covers deposits in the bank in the event an FDIC-insured bank is closed. It does not cover the closing of a non-bank company or money that has not been deposited in an FDIC-insured bank.

If technology glitches happen with your fintech app, you may experience error messages, slow response times, or site crashes that temporarily impede access to your accounts or other mobile banking services. Be sure to contact the app's customer service as soon as possible to help resolve the issue.

If you have deposit insurance questions and wish to speak to a deposit insurance specialist, call 1-877-ASK-FDIC (1-877-275-3342) or go to the FDIC Information and Support Center.

For more information on fintech, visit:

FTC: Financial Technology: protecting consumers on the cutting edge of financial transactions

FDIC: Overseeing the fintech revolution: domestic and international perspectives on fintech

For more information on mobile banking, visit:

FDIC: Banking at the Speed of Technology

Source link.

Comment: The use of banking apps will only grow in the coming months and years.

OCC actions and news

OCC Announces New Executive Committee Members (12.07.2020)

WASHINGTON—The Office of the Comptroller of the Currency (OCC) announced the appointment of two executives to the agency's Executive Committee.

Sydney Menefee has been selected to fill the Senior Deputy Comptroller for Midsize and Community Bank Supervision on a permanent basis, and Greg Coleman will become the next Senior Deputy Comptroller for Large Bank Supervision.

"The agency and the federal banking system are lucky to have career executives of the caliber of Sydney and Greg, who demonstrate the utmost competence and professionalism in their duties and even more importantly a passion for this agency and our employees," said Acting Comptroller of the Currency Brian P. Brooks.

As Senior Deputy Comptroller for Midsize and Community Banks, Ms. Menefee will lead a team of 1,600 people in the supervision of more than 1,000 national banks and federal savings associations. In addition to being a member of the OCC's Executive Committee, she will serve on its Committee on Bank Supervision.

Ms. Menefee has served as Acting Senior Deputy Comptroller for Midsize and Community Bank Supervision since June 2020. Prior to that, she served as Deputy Comptroller and Chief Accountant since August 2018. She joined the OCC in 2009 as a Professional Accounting Fellow and held various roles in the Office of the Chief Accountant and Midsize Bank Supervision. She was commissioned a National Bank Examiner in 2016. Ms. Menefee worked in public accounting and banking prior to joining the OCC. She graduated from the University of Texas at Austin with a bachelor's degree in business administration and a master's degree in professional

accounting. She is also a certified public accountant. She assumes these duties immediately, filling the vacancy created when Blake Paulson assumed the functions of Chief Operating Officer earlier this year.

As Senior Deputy Comptroller for Large Bank Supervision, Mr. Coleman will direct nearly 800 employees in overseeing the country's largest and most complex national banks and federal branches and agencies, which hold more than $10 trillion in total consolidated assets. He will also serve as a member of the agency's Executive Committee and the Committee on Bank Supervision.

Mr. Coleman has more than 30 years of experience at the OCC supervising banks of all sizes and has been a Deputy Comptroller for Large Bank Supervision since 2015. He has been an important part of Large Bank Supervision leadership and that of the agency for a significant amount of time. During his career, he has also served as Examiner-in-Charge of Capital One and E*TRADE, and as director within the Credit and Market Risk division and as the lead for the capital markets team at JPMorgan Chase. He joined the OCC in 1989 and earned his National Bank Examiner Commission in 1994. Greg is a Chartered Financial Analyst and holds a bachelor of science degree in business administration from the University of Nebraska-Lincoln. Mr. Coleman will transition into these duties at the end of this year and follows Maryann Kennedy in this role, who is retiring.

Source link.

Office of the Comptroller of the Currency Fees and Assessments: Calendar Year 2021 Fees and Assessments Structure (12.01.2020)

This bulletin informs all national banks, federal savings associations, and federal branches and agencies of foreign banks of fees and assessments charged by the Office of the Comptroller of the Currency (OCC) for calendar year 2021. The bulletin becomes effective January 1, 2021.

Note for Community Banks

This notice applies to all national banks, federal savings associations, and federal branches and agencies of foreign banks.

Highlights

The OCC is reducing the rates in all Fee Schedules by 3 percent. The reduction reflects cost savings in the OCC’s operations and projections of the OCC’s revenues and expenses.

For the 2021 assessment year, there will be no inflation adjustment to assessment rates.

The OCC assesses institutions that enter the federal banking system in the time between assessment cycles. Under current policy, the OCC will assess these new entrants to the federal charter on a prorated basis using call report information as of December 31 or June 30 depending on the date the institution enters the federal banking system. Institutions that enter the federal banking system in the time between assessment cycles and have not previously filed call reports will be assessed a prorated fraction of the lowest tier of the general assessment fee schedule, plus any additional assessments due under other assessment categories in 12 CFR 8. The OCC adopted this policy to ensure that supervisory efforts and resources are allocated and aligned once an institution is subject to the jurisdiction of the OCC. This proration policy is in line with the OCC’s refund policy for institutions that leave the federal banking system.

The OCC is increasing the hourly fee for special examinations and investigations to $150 from $140. The increase is to ensure adequacy in recovering the cost of conducting special examinations and investigations.

Source link.

Community Reinvestment Act: Notice of Proposed Rulemaking (11.25.2020)

The Office of the Comptroller of the Currency (OCC) issued a proposed rule and request for comment on its proposed approach to determine the Community Reinvestment Act (CRA) evaluation measure benchmarks, retail lending distribution test thresholds, and community development minimums under the June 2020 CRA final rule's (2020 final rule) general performance standards. The proposal also explains how the OCC would treat significant declines in CRA activities levels in connection with performance context following the establishment of the benchmarks, thresholds, and minimums. Further, the proposed rule would make clarifying and technical amendments to the 2020 final rule.

Note for Community Banks

The CRA's general performance standards apply to national banks and federal and state savings associations (collectively, banks) with more than $2.5 billion in assets that are not evaluated under a strategic plan and that are not wholesale or limited purpose banks. Small, intermediate, wholesale, and limited purpose banks can also opt into and elect to be evaluated under the general performance standards. Accordingly, the proposal's provisions regarding the general performance standards apply only to community banks with assets greater than $2.5 billion or those that opt into and elect to be evaluated under the general performance standards. Further, the proposal's clarifying and technical amendments would apply to community banks to the extent that the amendments affect sections of the 2020 final rule that are applicable to those banks.

Highlights

Under the proposed rule, the OCC would calculate historical CRA activity levels and corresponding performance ratings under the general performance standards had they been in place. Further, under the proposal, based on additional data analysis and consideration of public comments, the OCC would set the CRA evaluation measure benchmarks, retail lending distribution test thresholds, and community development minimums such that the proportion of banks that would have received presumptive ratings of outstanding and satisfactory under the general performance standards would be no greater than the historical proportion of banks that received assigned ratings of outstanding and satisfactory under the previous CRA regulations.

The proposed rule also provides that a precipitous decrease in CRA activities would be considered as part of the assessment of performance context. Specifically, under the proposed rule, the OCC would consider to be precipitous, a decline of 10 percent or greater in a bank's performance on the general performance standards as calculated based on historical data between the establishment of the objective benchmarks, thresholds, and minimums and the bank's first evaluation under the general performance standards. Under the proposal, such a decline that could not be explained by market conditions or other performance context factors may warrant a downward adjustment in the OCC's determination of the bank's assigned rating.

The OCC is also proposing to make clarifying and technical edits to the 2020 final rule.

Background

In the 2020 final rule, the OCC updated the regulatory framework implementing the CRA for national banks and federal and state savings associations (collectively, banks). The final rule (1) clarified and expanded the bank lending, investment, and services that qualify for CRA consideration; (2) updated how banks delineate the

assessment areas in which they are evaluated; (3) provided additional methods for evaluating CRA performance in a consistent and objective manner; and (4) required reporting that is timely and transparent.

Under the 2020 final rule, banks subject to the general performance standards will be evaluated based on (1) the distribution of their retail loans (i.e., home mortgage loans, small loans to businesses, small loans to farms, and consumer loans) (retail lending distribution tests); (2) the quantified dollar value of their qualifying activities and the distribution of their branches in each assessment area and at the bank level (CRA evaluation measure); and (3) the level of their community development activities in each assessment area and at the bank level (community development minimum).

In the preamble to the 2020 final rule, the OCC indicated that it would issue a proposal that would explain the process the OCC would engage in to calibrate the requirements for each of the three components of the objective evaluation framework (i.e., the CRA evaluation measure benchmarks, retail lending distribution test thresholds, and community development minimums). This proposal requests comment on the agency's approach to determine these objective benchmarks, thresholds, and minimums.

In addition to seeking public comment on this proposal, the OCC plans to obtain data through a separate information collection survey from banks subject to the general performance standards that will be considered in the calibration of the CRA evaluation measure benchmarks, retail lending distribution test thresholds, and community development.

Related Link

Community Reinvestment Act Regulations (PDF)

Source link.

Comment: Meanwhile, the Fed – one of two other regulators that oversees CRA compliance for its member banks – is continuing to accept comments on its advance notice of proposed rulemaking (ANPR) through February 16, 2021. The Fed's ANPR differs significantly from the OCC's final rule. The third CRA regulator, the Federal Deposit Insurance Corporation (FDIC), has not issued its own proposed rule. In general, regulatory and community development experts would prefer a unified approach to CRA enforcement among the three regulators. Comments must be received on this OCC proposed rule or before February 2, 2021.

Proposed Rule Would Ensure Fair Access to Bank Services, Capital, and Credit (11.20.2020)

WASHINGTON—The Office of the Comptroller of the Currency (OCC) proposed a rule to ensure fair access to banking services provided by national banks, federal savings associations, and federal branches and agencies of foreign bank organizations.

The proposal would codify more than a decade of OCC guidance stating that banks should provide access to services, capital, and credit based on the risk assessment of individual customers, rather than broad-based decisions affecting whole categories or classes of customers.

"Fair access to financial services, credit, and capital are essential to our economy," said Acting Comptroller of the Currency Brian P. Brooks. "This proposed rule would ensure that banks meet their responsibility to provide their services fairly since they enjoy special privilege and powers because if the system fails to provide fairness to all, it cannot be a source of strength for any."

The proposal implements language included in Title III of the Dodd–Frank Wall Street Reform and Consumer Protection Act of 2010, which charged the OCC with "assuring the safety and soundness of, and compliance with laws and regulations, fair access to financial services, and fair treatment of customers by, the institutions and other persons subject to its jurisdiction." The statute expanded the OCC responsibilities to include fair access separately from fair treatment following the last financial crisis during which the government had provided substantial public resources to support the banking system.

The proposal builds upon the fundamental principle of nondiscrimination and would prevent banks—alone or in coordination with others—from limiting fair access to banking services by preventing a business or person from entering, or limiting their ability to enter, a particular market, or disadvantaging a person to benefit another person or interest.

The proposal would apply to the largest banks in the country that may exert significant pricing power or influence over sectors of the national economy. The proposal would require a covered bank to ensure it makes its products and services available to all customers in the community it serves, based on consideration of quantitative, impartial, risk-based standards established by the bank. Under the proposal, a covered bank's decision to deny services based on an objective assessment of the person's creditworthiness, ability to pay, or or other quantitative, impartial, risk-based reasons would not violate the bank's obligation to provide fair access. However, under the proposal, the bank may not deny a customer service to disadvantage, limit, or prevent the customer from entering or competing in a market or business segment, or to benefit another person or business activity.

Related Link

Federal Register Notice

Source link.

Comment: While this proposed rule would only be applicable to a bank with more than $100 billion in total assets, it is interesting in its implications for all banks and the industry as a whole. An example is if legislation is passed that provides 'safe harbor' for the cannabis industry. In its proposal, the OCC noted "personal beliefs and opinions" as well as "assessments ungrounded in quantitative, risk-based analysis" are inappropriate criteria for rejections of financial services. Notably, Brian P. Brooks, Acting Comptroller of the Currency, has stated: "Fair access to financial services, credit and capital are essential to our economy."

Federal Reserve actions and news

Federal Reserve Board Announces Annual Indexing of Reserve Requirement Exemption Amount and of Low Reserve Tranche for 2021 (12.07.2020)

The Federal Reserve Board on Monday announced the annual indexing of the reserve requirement exemption amount and the low reserve tranche. The annual indexation and publication of these amounts are required by statute but will not affect depository institutions' reserve requirements, which will remain zero.

For all net transaction accounts in 2021, the reserve requirement ratio was set to zero percent in March 2020; therefore, all net transaction accounts are exempt from reserve requirements. The reserve requirement exemption amount will be set at $21.1 million, up from $16.9 million in 2020, and is the amount of a depository institution's reservable liabilities that will always be exempt from reserve requirements. The low reserve tranche will be set at $182.9 million, up from $127.5 million in 2020, and is the amount of a depository institution's net

transaction accounts that may be subject to a reserve requirement ratio of not greater than three percent (and which may be zero). A depository institution's net transaction accounts greater than the low reserve tranche may be subject to a reserve requirement ratio of not greater than 14 percent (and which may be zero).

These annual adjustments to the reserve requirement exemption amount and the low reserve tranche are based on growth in total reservable liabilities and net transaction accounts, respectively, at all depository institutions between June 30, 2019, and June 30, 2020.

The Board also announced the annual indexing of two other amounts, the nonexempt deposit cutoff level and the reduced reporting limit, that are used to determine the frequency with which depository institutions must submit deposit reports. The attached Federal Register notice contains a description of the new boundaries for deposit reporting that will be effective in 2021.

Source link.

Beige Book (12.02.2020)

This report was prepared at the Federal Reserve Bank of Philadelphia based on information collected on or before November 20, 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

Most Federal Reserve Districts have characterized economic expansion as modest or moderate since the prior Beige Book period. However, four Districts described little or no growth, and five narratives noted that activity remained below pre-pandemic levels for at least some sectors. Moreover, Philadelphia and three of the four Midwestern Districts observed that activity began to slow in early November as COVID-19 cases surged. Reports tended to indicate higher-than-average growth of manufacturing, distribution and logistics, homebuilding, and existing home sales, although not without disruptions. Banking contacts in numerous Districts reported some deterioration of loan portfolios, particularly for commercial lending into the retail and leisure and hospitality sectors. An increase in delinquencies in 2021 is more widely anticipated. Most Districts reported that firms' outlooks remained positive; however, optimism has waned--many contacts cited concerns over the recent pandemic wave, mandated restrictions (recent and prospective), and the looming expiration dates for unemployment benefits and for moratoriums on evictions and foreclosures.

Employment and Wages

Nearly all Districts reported that employment rose, but for most, the pace was slow, at best, and the recovery remained incomplete. Firms that were hiring continued to report difficulties in attracting and retaining workers. Many contacts noted that the sharp rise in COVID-19 cases had precipitated more school and plant closings and renewed fears of infection, which have further aggravated labor supply problems, including absenteeism and attrition. Providing for childcare and virtual schooling needs was widely cited as a significant and growing issue for the workforce, especially for women—prompting some firms to extend greater accommodations for flexible work schedules. In several Districts, firms feared that employment levels would fall over the winter before recovering further. Despite hiring difficulties, firms in most Districts reported that wages grew at a slight or modest pace overall. However, many noted greater pressure to raise rates for low-skilled workers, especially in outlying areas. Staffing firms described greater placement success with competitive rates, and one firm instituted a minimum wage rate for its industrial clients.

Prices

In most Districts, firms reported modest to moderate increases of input prices, while the selling prices of final goods rose at a slight to modest pace. Contacts noted that COVID-19 cases have caused ongoing disruptions and delays among short-staffed producers and shippers—raising transportation costs, which are then passed through to buyers.

Source link.

Federal Reserve Board Releases Results of Survey of Senior Financial Officers at Banks About Their Strategies and Practices for Managing Reserve Balances (11.30.2020)

The Federal Reserve Board released results of a survey of senior financial officers at banks about their strategies and practices for managing reserve balances. The Senior Financial Officer Survey is used by the Board to obtain information about deposit pricing and behavior, bank liability management, the provision of financial services, and reserve management strategies and practices. The most recent survey was conducted in collaboration with the Federal Reserve Bank of New York between September 18, 2020, and October 2, 2020, and includes responses from banks that held approximately three quarters of total banking system reserve balances at the time of the survey.

Information about the survey is available on the Board's website. The September 2020 survey is attached.

Senior Financial Officer Survey (PDF)

Source link.

Federal Reserve Board Announces Extension Through March 31, 2021, for Several of its Lending Facilities That Were Generally Scheduled to Expire on or Around December 31 (11.30.2020)

The Federal Reserve Board on Monday announced an extension through March 31, 2021, for several of its lending facilities that were generally scheduled to expire on or around December 31.

By backstopping critical short-term funding markets, these facilities are supporting market functioning and enhancing the flow of credit to the economy. The extension, which has also been approved by the Treasury Department, will facilitate planning by potential facility participants and provide certainty that the facilities will

continue to be available through the first quarter of 2021 to help the economy recover from the COVID-19 pandemic.

The extensions apply to the Commercial Paper Funding Facility, the Money Market Mutual Fund Liquidity Facility, the Primary Dealer Credit Facility, and the Paycheck Protection Program Liquidity Facility. Further details on each facility can be found here.

Source link.

Other federal action and news

CSBS - Community Banks Play Outsized Role in PPP Lending (12.11.2020)

Community banks have been at the forefront in providing needed funds to small businesses across the country as the 2020 COVID-19 pandemic and subsequent lockdowns have severely restricted U.S. economic activity.

Our analysis of the Paycheck Protection Program (PPP), created in April by Congress as part of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), shows that community banks (using the FDIC definition) had a disproportionately greater share in lending to small businesses than their larger and more complex counterparts.

That comes as no surprise. With their long-term relationships and specialized knowledge of local markets, businesses, and customers, community banks proved their ability to make PPP funds available quickly and efficiently to businesses in need of credit.

Now that the funds have been expended and the U.S. economy is still unstable, there have been calls for more economic stimulus. We believe Congress should provide additional PPP funding for small businesses, and when it does, community banks are well-positioned to serve their local communities.

Known for their relationship lending and their personal connections to customers, community banks have always prided themselves in supporting small businesses in their local communities. At present, the ICBA reports that community banks provide more than 60% of small business loans nationwide. So, when Congress passed the CARES Act, community banks rose to the occasion, even though in many cases the fee income did not offset the additional burden.

CSBS Bankers Advisory Board member Kim DeVore, who is president of Jonah Bank of Wyoming, told us her staff worked long nights and over weekends to ensure their clients were able to make it into the PPP funding queues quickly and efficiently.

“Our focus has always been on building a better Wyoming by serving small businesses and giving back to our communities. I’m very proud of our team’s dedication to make a difference in this crisis by delivering PPP loans to eligible small businesses. It is truly one of Jonah Bank’s shining moments,” Devore said.

Source link.

Comment: No good deed goes unpunished! Now community bankers are struggling with SBA forgiveness procedures along with their customers.

FinCEN Director Emphasizes Importance of Information Sharing Among Financial Institutions (12.10.2020)

WASHINGTON—Financial Crimes Enforcement Network (FinCEN) Director Kenneth A. Blanco discussed how information sharing is critical to identifying, reporting, and preventing financial crime. In his remarks to the annual American Bankers Association/American Bar Association Financial Crimes Enforcement Conference, Director Blanco provided important clarification on FinCEN's information sharing program under Section 314(b) of the USA PATRIOT Act, and announced that FinCEN is issuing a new 314(b) Fact Sheet and rescinding previously issued guidance (FIN-2009-G002) as well as a former administrative ruling (FIN-2012-R006) (parts of which are incorporated into the guidance in the new 314(b) Fact Sheet).

Section 314(b) of the USA PATRIOT Act is an important tool for combatting financial crime. It provides financial institutions with the ability to share information with one another, under a safe harbor provision that offers protections from civil liability, in order to better identify and report potential money laundering or terrorist financing. After carefully considering feedback from the financial industry, FinCEN is providing three main clarifications:

A financial institution may share information relating to activities that it suspects may involve possible terrorist financing or money laundering. Although this may include circumstances in which a financial institution has information about activities it suspects involve the proceeds of a specified unlawful activity (SUA), financial institutions do not need to have specific information that these activities directly relate to proceeds of an SUA, or to have identified specific laundered proceeds of an SUA. Nor do financial institutions need to have made a conclusive determination that the activity is suspicious in order to benefit from the statutory safe harbor. Further, financial institutions may share information about activities as described, even if the activities do not constitute a "transaction." This can include an attempted transaction, or an attempt to induce others to engage in such a transaction. This allows financial institutions to avail themselves of Section 314(b) information sharing to address incidents of fraud or cybercrime, and other predicate offenses, where appropriate. In addition, there is no limitation under Section 314(b) on the sharing of personally identifiable information, or the type or medium of information shared, to include sharing information verbally.

An entity that is not itself a financial institution under the Bank Secrecy Act may form and operate an association of financial institutions whose members share information under Section 314(b). Notably, this includes compliance service providers.

An unincorporated association governed by a contract among the group of financial institutions that constitutes its members may engage in information sharing under Section 314(b).

Financial institutions subject to an anti-money laundering program requirement under FinCEN regulations, and any qualifying association of such financial institutions, are eligible to share information under Section 314(b). Although sharing information pursuant to Section 314(b) is voluntary, FinCEN strongly encourages financial institutions to participate to enhance their compliance with anti-money laundering/counter-financing of terrorism requirements. For additional questions related to 314(b) information sharing, contact FinCEN at 866-326-8314 or sys314a@fincen.gov.

Source link.

Comment: Share this update with your BSA Officer.

CSBS - How Concerned Are Community Banks in These 11 Areas? (12.10.2020)

We are currently collecting data from community banks to populate the fourth quarter Community Bank Sentiment Index. The index gauges how community bankers are feeling about the economy based on seven questions dealing with business conditions, monetary policy, profitability, regulatory burden and expansion.

While the seven questions are hardwired in the survey, each quarter we ask a few other questions to provide some additional context to the issues on bankers' minds. This quarter, we are asking about their level of concern over 11 critical areas:

1. Quality of your loan portfolio
2. Loan growth in your market
3. Local economic growth
4. State economic growth
5. National economic growth
6. Taxes
7. Competition
8. Cyber attacks
9. Personal/business bankruptcies
10. Federal debt/deficit
11. COVID-19/economic lockdowns

Based on the early submissions, there is no surprise that bankers are worried about everything! That probably stands to reason since they are in the risk management business and many risks are outside of a banker's control.

Drilling a little deeper in the responses, the two areas that bankers are "extremely concerned" about are related – taxes and the federal debt. Interestingly, number three on the list is COVID-19/economic lockdowns, which is certainly adding to the federal fiscal problems. The issues speak for themselves, so we will avoid any political land mines by refraining from any additional commentary.

The areas of least concern are competition and bankruptcies. The area definitely worth watching over time is the quality of the loan portfolio. Currently, 51% of respondents rate it a slight concern, and 39% a moderate concern. While that seems promising, the common comment you hear from bankers is that it is just too soon to tell.

The sentiment index survey is open until December 31. If you are a community banker, you can access the survey at https://www.questionpro.com/t/ALKEAZjxep. We would really like to see your insights. The survey will take 5 minutes! Results will be released on January 6.

Source link.

CSBS letter: Borrower Protections Under Sec. 4022 of the CARES Act (12.09.2020)

On behalf of the Conference of State Bank Supervisors (CSBS), I write to you to highlight the urgent need for action by the U.S. Department of Housing and Urban Development (HUD), the Federal Housing Finance Agency (FHFA), the Federal Housing Administration (FHA), U.S. Department of Veterans Affairs (VA), and the U.S.

Department of Agriculture (USDA), (together referred to as the Federal housing agencies) to protect consumers and ensure the orderly functioning of the housing finance market. State regulators request that prior to yearend the Federal housing agencies come to consensus on the appropriate covered period for Sec. 4022 of the CARES Act and publicly communicate that consensus to avoid any further confusion.

The spread of coronavirus disease 2019 (COVID-19) is a national emergency that has resulted in significant disruptions in economic activity and unprecedented volatility in the financial markets. Congress and the Federal housing agencies responded quickly and decisively by instituting special mortgage payment forbearance and foreclosure moratoriums for distressed borrowers affected by COVID-19 under the CARES Act, Sec. 4022. As you know, however, Congress did not assert a precise date for the "covered period" of Sec. 4022. We are concerned that many have interpreted an end to the forbearance provisions in the act to be as soon as yearend 2020. The states feel a responsibility to communicate clearly with consumers about the covered period for the forbearance benefit. If the ability to request forbearance under Sec. 4022 is coming to an end, we need to be prepared for working through an expected spike in the need for state consumer support services.

State regulators respectfully request that the Federal housing agencies come to consensus prior to year-end on the appropriate covered period for Sec. 4022, and publicly communicate that consensus to avoid any further confusion. Such undertaking will provide uniformity and prevent industry self-determination of the appropriate covered period while providing consumers with a clear understanding of the availability of this important benefit.

Time is of the essence in this request for the protection of consumers and to ensure the orderly functioning of the housing finance market

Source link.

CSBS - John Ryan: State Regulators Support Key BSA/AML Provisions in the National Defense Authorization Act (12.07.2020)

"CSBS applauds Congress for strengthening state and federal coordination on Bank Secrecy Act enforcement as part of anti-money laundering reforms included in the FY 2021 NDAA. As supervisors of the largest number of institutions subject to BSA/AML requirements, state regulators bring invaluable insights and tools to the overall fight against terrorist financing, money laundering and other financial crime.

"We particularly want to thank Chairwoman Waters, Ranking Member McHenry and Representatives Cleaver and Maloney, as well as Chairman Crapo, Ranking Member Brown and Senators Warner, Cotton, Jones and Rounds for their support in expanding state regulators' role in fighting financial crime. We look forward to working with FinCEN, federal regulators and law enforcement to protect American citizens and the financial system from both known and emerging threats."

Background:

- State regulators supervise the largest number of financial institutions, both banks and nonbanks such as money services businesses (MSBs), subject to BSA/AML requirements.
- State regulators are often the first point of contact for financial services providers and law enforcement on BSA compliance issues.
- In 2019, state-chartered banks and state-licensed MSBs collectively filed over 2.3 million Suspicious Activity Reports (SARs).

Related Topics:

John Ryan BSA-AML (Bank Secrecy Act/Anti-Money Laundering)

Source link.

Comment: This NDAA will introduce a federal beneficial ownership register to all U.S. business filings. It will have very simple compliance requirements, such as the listing of a name and address. It is neither burdensome nor requiring of annual updates.

FTC - Veterans and Imposter Scams (11.23.2020)

During the past four years, the FTC logged more than 378,000 reports from veterans — and nearly 161,000 were fraud-related. More than 24,000 of those reported a loss (with total losses of $205 million). Veterans had a median loss of $755, compared to active duty servicemembers who reported a median loss of $500 over the same period.

For both veterans and active duty personnel, imposter scams were among the top five scams causing a loss. Imposters pretend to be someone you trust to try to convince you to send them money. These scammers use all kinds of angles to make their stories sound believable. Here are some tips (and a few videos) that talk about how to spot an imposter scam.

Source link.

Comment: Educate your customers that scammers also pose as big-name companies and will call or send pop-up messages to scare them about the security of their computer. Remind your accountholders not to give out financial information and not to let anyone take control of their computer.

Publications, articles, reports, studies, testimony & speeches

Industrial Production and Capacity Utilization - G.17 (12.15.2020)

Industrial production increased 0.4 percent in November. After having fallen 16.5 percent between February and April, the level of the index has risen to about 5 percent below its pre-pandemic (February) reading. In November, manufacturing output advanced 0.8 percent for its seventh consecutive monthly gain. An increase of 5.3 percent for motor vehicles and parts contributed significantly to the gain in factory production; excluding motor vehicles and parts, manufacturing output moved up 0.4 percent. The output of utilities declined 4.3 percent, as warmer-than-usual temperatures reduced the demand for heating. Mining production increased 2.3 percent after decreasing 0.7 percent in October.

At 104.0 percent of its 2012 average, total industrial production was 5.5 percent lower in November than it was a year earlier. Capacity utilization for the industrial sector increased 0.3 percentage point in November to 73.3 percent, a rate that is 6.5 percentage points below its long-run (1972–2019) average but 9.1 percentage points above its low in April.

Source link.

The Eye of Providence: Thoughts on the Evolution of Bank Supervision - Vice Chair for Supervision Randal K. Quarles (12.11.2020)

Torrential thanks to our partners Harvard Law School and The Wharton School for organizing this conference, and to the Federal Reserve staff who have played a key role. And an equally huge thanks to all of the moderators and panelists who are participating in today's event and to all of you who are tuning in. I have very much enjoyed the discussion so far, and I hope that the conference will encourage both more and a wider variety of academic work on bank supervision.

In many respects, the focus of today's conference on bank supervision, rather than regulation, and the relatively recent efflorescence of scholarly attention to that topic, are welcome new developments. In other respects, however, the question of the proper scope of bank supervision is not a new topic at all. In going through some family papers recently, I came across this cri de coeur from one Elton Hall, president of a small bank in Victor, Idaho, as quoted in the Teton Valley News in November, 1921:

The government has so governed [my] bank that [I] no longer knew who owned it. I am inspected, examined and re-examined, informed, required, restrained, and commanded. . . . I am supposed to be an inexhaustible supply of money . . . , and because I will not sell all I have and go out and beg, borrow, or steal money to give away, I have been cussed, discussed, boycotted, talked to, talked about, lied to, lied about, held up, hung up, robbed and nearly drained, and the only reason I am clinging to life is to see what in hell is coming off next.

Source link.

Financial Accounts of the United States - Z.1 (12.10.2020)

Release Date: December 10, 2020 (2020:Q3 Release)

The Financial Accounts of the United States includes data on transactions and levels of financial assets and liabilities, by sector and financial instrument; full balance sheets, including net worth, for households and nonprofit organizations, nonfinancial corporate businesses, and nonfinancial noncorporate businesses; Integrated Macroeconomic Accounts; and additional supplemental detail.

Source link.

Consumer Credit - G.19 (12.07.2020)

October 2020

In October, consumer credit increased at a seasonally adjusted annual rate of 2 percent. Revolving credit decreased at an annual rate of 6-3/4 percent, and nonrevolving credit increased at an annual rate of 4-3/4 percent.

Source link.

Continuing on the Road to Instant Payments (12.07.2020)

Faster, or instant payments, are quickly gaining popularity around the world. And here in the United States, the topic is at the forefront of the payments industry. Now is the time to start learning more about this important and evolving area for the future of payments.

The Federal Reserve is continuing its instant payments education series on FRBservices.org (Off-site). This series discusses the fundamentals of faster payments, while also taking a deeper look at key topics and trends that

can help financial institutions and other organizations gain a better understanding of how to plan for an instant payments transformation.

Source link.

Technology and the Regulatory Agenda for Community Banking - Governor Michelle W. Bowman (12.04.2020)

Thank you to the Independent Community Bankers of America (ICBA) for inviting me to address this year's policy summit. I am delighted to be speaking with you and especially pleased to see the summit's focus on innovation. The ThinkTech accelerator represents the type of resourcefulness necessary to help community banks tackle their greatest challenges, among them ensuring that banking services and credit support are available to customers in all communities, regardless of where they are located. Today, I will share my perspective that technological innovation is essential to the future of community banking in America, and reiterate my intent to elevate those issues related to innovation to the top of the regulatory agenda.

There are certain points in history when an event can fundamentally change how society and entire industries function. In addition to the other ways that COVID-19 has affected us, this could be one of those moments. The pandemic has demonstrated the importance and unique role of technology in responding effectively to new challenges. In this case, the challenge has been an unprecedented disruption in our lives. One year ago, it would have been difficult to imagine the extent to which we are now working and conducting routine aspects of our lives from home and online.

Source link.

Fed's "Racism and the Economy" Series Explores Racial Inequities in Labor Markets (12.02.2020)

Economist Valerie Wilson says a half century of racial inequities in the U.S. labor market can be mostly summed up in a simple ratio: 2 to 1.

Over the past 48 years, White job seekers have been twice as likely as Black counterparts to secure employment during any four-week period, Wilson said. She added the 2-to-1 ratio holds across all ages, education levels, genders, and macroeconomic conditions, all the way back to when the U.S. Bureau of Labor Statistics began breaking out unemployment by race in 1972.

"Over the last 4½ decades, only the most highly educated and most experienced Black workers have approached anything near unemployment rate parity with their White counterparts, and only during periods of exceptionally low rates of unemployment," said Wilson, director of the Economic Policy Institute's Program on Race, Ethnicity, and the Economy.

Wilson was among several experts who joined three Federal Reserve Bank presidents on Nov. 17 in the second event of the "Racism and the Economy" series, which focused on racial inequities in the labor market. The seven-part series, sponsored by the Federal Reserve Banks of Atlanta, Boston, Minneapolis, and San Francisco, examines structural racism, its impacts, and ways to dismantle it.

Source link.

Modernizing and Strengthening CRA Regulations: A Conversation with the Chicago Community Trust Governor Lael Brainard (12.01.2020)

Good morning. I want to thank Dr. Helene Gayle for inviting me to join this conversation, along with the staff, grantees, and partners of the Chicago Community Trust and President Charlie Evans of the Federal Reserve Bank of Chicago. I appreciate the opportunity to discuss economic inclusion and the Community Reinvestment Act (CRA) and learn more about the Trust's work with its partners in Chicago.

The effect of COVID-19 has underscored the importance and urgency of your work. This year the Chicago Community COVID-19 Response Fund has helped many of the nonprofits and communities hardest hit by the pandemic, and I know you have been thinking critically about doing this work in a way that supports an equitable recovery for Black and Latinx communities. I commend the Trust for your leadership on these principles.

Source link.

Testimony by Chair Powell on the Coronavirus Aid, Relief, and Economic Security Act (11.30.2020)

Chairman Crapo, Ranking Member Brown, and other members of the Committee, thank you for the opportunity to update you on our ongoing measures to address the hardship wrought by the pandemic.

Our public health professionals continue to deliver our most important response, and we remain grateful for their service.

The Federal Reserve, along with others across government, is using its policies to help alleviate the economic burden. Since the pandemic's onset, we have taken forceful actions to provide relief and stability, to ensure that the recovery will be as strong as possible, and to limit lasting damage to the economy.

Economic activity has continued to recover from its depressed second-quarter level. The reopening of the economy led to a rapid rebound in activity, and real gross domestic product, or GDP, rose at an annual rate of 33 percent in the third quarter. In recent months, however, the pace of improvement has moderated.

Source link.

FedPayments Improvement Pulse: November Edition (11.19.2020)

COMMUNITY MEMBER SPOTLIGHT: REBECA ROMERO RAINEY

Rebeca Romero Rainey, President and CEO of Independent Community Bankers of America (ICBA), is an advocate for community banks and works to ensure they are equally represented across the industry. Learn more about her extensive banking background and leadership priorities in our latest spotlight.

FRAUDCLASSIFIERSM MODEL: WE WANT YOUR FEEDBACK

The Federal Reserve is seeking feedback on the FraudClassifier model to learn more about how organizations are using – or planning to use – the model. Responses will help advance the Federal Reserve’s collaborative efforts to address the industrywide challenge of inconsistent classifications for fraud involving payments. For those who have already registered for the model, complete the survey now. For those who have not, register here.

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
10.19.2020	Community Reinvestment Act - The Board of Governors of the Federal Reserve System (Board) is publishing for public comment an advance notice of proposed rulemaking (ANPR) to solicit public input regarding modernizing the Board's Community Reinvestment Act regulatory and supervisory framework. The Board is seeking comment on all aspects of the ANPR from all interested parties and also requests commenters to identify other issues that the Board should consider. Comments must be submitted on or before February 16, 2021.
11.05.2020	Role of Supervisory Guidance - The OCC, Board, FDIC, NCUA, and Bureau (collectively, the agencies) are inviting comment on a proposed rule that would codify the Interagency Statement Clarifying the Role of Supervisory Guidance issued by the agencies on September 11, 2018 (2018 Statement). By codifying the 2018 Statement, the proposed rule is intended to confirm that the agencies will continue to follow and respect the limits of administrative law in carrying out their 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. The proposal would also clarify that the 2018 Statement, as amended, is binding on the agencies. DATES: Comments must be received by January 4, 2021.
11.06.2020	Consumer Access to Financial Records - Section 1033 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) provides, among other things, that subject to rules prescribed by the Bureau of Consumer Financial Protection (Bureau), a consumer financial services provider must make available to a consumer information in the control or possession of the provider concerning the consumer financial product or service that the consumer obtained from the provider. The Bureau is issuing this Advance Notice of Proposed Rulemaking (ANPR) to solicit comments and information to assist the Bureau in developing regulations to implement section 1033. DATES: Comments must be received on or before February 4, 2021.
12.04.2020	Community Reinvestment Act Regulations - The Office of the Comptroller of the Currency (OCC) is issuing a notice of proposed rulemaking to request comment on the OCC's proposed approach to determine the Community Reinvestment Act (CRA) evaluation measure benchmarks, retail lending distribution test thresholds, and community development minimums under the general performance standards. The proposal further explains how the OCC would assess significant declines in CRA activities levels in connection with performance context following the initial establishment of the benchmarks, thresholds, and minimums. Finally, the proposed rule would make clarifying and technical amendments to the CRA final rule. DATES: Comments must be received on or before February 2, 2021.
12.15.2020	Exemptions to Suspicious Activity Report Requirements - The FDIC is inviting comment on a proposed rule that would modify the requirements for FDIC-supervised institutions to file Suspicious Activity Reports (SARs). The proposed rule would amend the FDIC's SAR regulation to allow the FDIC to issue exemptions from the SAR requirements. The proposed rule would make it possible for the FDIC to grant relief to FDIC-supervised institutions that develop innovative solutions to meet Bank Secrecy Act (BSA) requirements more efficiently and effectively. DATES: Comments are due 30 days after publication in the Federal Register.

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.

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.

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.
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).
07.01.2021	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: This final rule is effective upon publication in the Federal Register. However, the mandatory compliance date is July 1, 2021.
TBD	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 60 days after publication in the Federal Register.

Common words, phrases and acronyms

APOR	"Average Prime Offer Rates" are derived from average interest rates, points, and other pricing terms offered by a representative sample of creditors for mortgage transactions that have low-risk pricing characteristics.
CFPB	Consumer Financial Protection Bureau
CARD Act	Credit Card Accountability Responsibility and Disclosure Act of 2009
CFR	Code of Federal Regulations. Codification of rules and regulations of federal agencies.
CRA	Community Reinvestment Act. This Act is designed to encourage loans in all segments of communities.
CRE	Commercial Real Estate
CSBS	Conference of State Bank Supervisors
CTR	Currency Transaction Report. Filed for each deposit, withdrawal, exchange of currency that involves a transaction in currency of more than $10,000.
Dodd-Frank Act	The Dodd–Frank Wall Street Reform and Consumer Protection Act
DOJ	Department of Justice
FDIC	Federal Deposit Insurance Corporation
EFTA	Electronic Fund Transfer Act
Federal bank regulatory agencies	FDIC, FRB, and OCC
Federal financial institution regulatory agencies	BFCP, FDIC, FRB, NCUA, and OCC
FEMA	Federal Emergency Management Agency
FFIEC	Federal Financial Institutions Examination Council
FHFA	Federal Housing Finance Agency
FHA	Federal Housing Administration

FinCEN	Financial Crime Enforcement Network
FR	Federal Register. U.S. government daily publication that contains proposed and final administrative regulations of federal agencies.
FRB, Fed or Federal Reserve	Federal Reserve Board
FSOC	Financial Stability Oversight Council
FTC	Federal Trade Commission
GAO	Government Accountability Office
HARP	Home Affordable Refinance Program
HAMP	Home Affordable Modification Program
HMDA	Home Mortgage Disclosure Act
HOEPA	Home Ownership and Equity Protections Act of 1994
HPML	Higher Priced Mortgage Loan
HUD	U.S. Department of Housing and Urban Development
IRS	Internal Revenue Service
MLO	Mortgage Loan Originator
MOU	Memorandum of Understanding
NFIP	National Flood Insurance Program. U.S. government program to allow the purchase of flood insurance from the government.
NMLS	National Mortgage Licensing System
OCC	Office of the Comptroller of the Currency
OFAC	Office of Foreign Asset Control
OREO	Other Real Estate Owned
QRM	Qualified Residential Mortgage
Reg. B	Equal Credit Opportunity
Reg. C	Home Mortgage Disclosure
Reg. DD	Truth in Savings
Reg. E	Electronic Fund Transfers
Reg. G	S.A.F.E. Mortgage Licensing Act

Reg. P	Privacy of Consumer Financial Information
Reg. X	Real Estate Settlement Procedures Act
Reg. Z	Truth in Lending
RESPA	Real Estate Settlement Procedures Act

SAR	Suspicious Activity Report – Report financial institutions file with the U.S. government (FinCEN) regarding activity that may be criminal in nature.
SDN	Specially Designated National
TILA	Truth in Lending Act
TIN	Tax Identification Number
Treasury	U.S. Department of Treasury

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