Community Bankers of Michigan Regulatory Dispatch

April 17, 2024

Timely news and resources community bankers can use

to better stay on top of a rapidly changing world.

CSBS Community Bankers' Economic Outlook Still Pessimistic but Shows Upswing

Community bankers are showing slightly more confidence in future economic conditions but still have concerns, especially about regulatory burden, according to the latest Community Bank Sentiment Index (CBSI), released by the Conference of State Bank Supervisors (CSBS).

The CBSI increased by 6 points in the first quarter of 2024 to 98 points, its highest level in two years. This is the third consecutive quarterly increase; however, the CBSI is still slightly below the neutral level of 100 points. Compared to last quarter, six of the seven components improved, but concerns about regulatory burden, future business conditions, and future profitability continue to put downward pressure on the index.

"Rapid interest rate increases over the past two years have resulted in an inverted yield curve, where short-term interest rates have been higher than long-term rates for more than a year," said CSBS Chief Economist Tom Siems. "This has created challenges for community bankers to maintain profitability as net interest margins and liquidity positions are squeezed. Moreover, because of higher overall interest rates, bankers must be keenly aware of credit risks that might develop in their loan portfolios."

The CBSI surveys community bankers nationwide in the last month of each quarter to capture their thoughts on future economic conditions in seven areas. An index reading of 100 indicates a neutral sentiment. Anything above 100 indicates a positive sentiment, and anything below 100 indicates a negative sentiment. Quarterly results are included in the Federal Reserve Economic Data, the online database maintained by the Federal Reserve Bank of St. Louis known informally as the FRED.

The CBSI's first quarter uptick follows last quarter's increase of six points and is 15 points higher than a year ago. Regulatory burden fell to 18 points, representing not only the only component to drop this quarter but also the lowest it has been since 2022.

The capital spending component had the greatest quarterly improvement, climbing 13 points to 131. The monetary policy component rose 9 points to 105, its first level above 100 since 2019. On a year-over-year basis, the monetary policy indicator is up 66 points. The business conditions component rose 5 points to 78 points, its highest level since the first quarter of 2022. At 87, the profitability component inched up 6 points from last quarter.

In a special question, only 66% of community bankers said they believe the U.S. economy is at the start of, or already in, a recession, down from 81% last quarter. Respondents rated their top concerns as government regulation, cyberattacks, the federal debt/deficit, the cost/availability of labor, and inflation.

Comment: While community bankers are less pessimistic about the overall economy and banking conditions and is nearly a neutral 100, regulatory compliance remains dismal and a drag on the index as a whole.

CBM Insights

Q: Who qualifies as "family" for establishing up to a 200 acres rural homestead?

A: The courts have broadly defined a "family" as a group of people having the social status of a family. Further, the head of the family must be legally or morally obligated to support at least one other family member, and there must be a corresponding dependence by the other family member for this support. As long as the obligation of support and dependency is shown, a number of different types of relationships can be considered a "family" including:

- An adult child and parent;
- A brother and sister;
- A divorced parent and a minor child; and
- A widower with no dependent children.

The duty of support may be either a moral or legal duty. In the case of a minor child or an elderly person, the support does not to be strictly financial, but could be emotional instead. However, the support of a dependent adult must always be financial.

Finally, there can only be one homestead per family. But in the event of divorce, each spouse may claim a separate homestead. If one spouse passes away, the surviving spouse may retain the family status.

If in doubt, ask the title company for guidance.

Items of Interest

Bank Management

	OCC Acting Comptroller Discusses Creating Economic Opportunity for New Americans (04/02/2024) – WASHINGTON—Acting Comptroller of the Currency Michael J. Hsu discussed the value of financial literacy for new Americans in remarks during the Financial Literacy and Education Commission's Public Meeting. In his remarks, Mr. Hsu acknowledged that immigrants are important drivers of our economy, including through entrepreneurship and innovation; however, they are also more likely to be unbanked than other Americans. He also highlighted ways banks can draw new Americans into the financial system, from exploring innovative ways to support account openings to working with trusted community partners to help them thrive. ***Comment: Acting Comptroller Hsu called on banks to take steps to serve newly arrived immigrants before they can slip into the ranks of the country's unbanked.***

FDIC Consolidated Reports of Condition and Income for First Quarter 2024 (04/09/2024) – The linked materials pertain to the Consolidated Reports of Condition and Income (Call Report) for the March 31, 2024, report date and provide guidance on certain reporting issues. This Financial Institution Letter and the linked Supplemental Instructions should be shared with the individual(s) responsible for preparing the Call Report at your institution. Please plan to complete as early as possible the preparation, editing, and review of your institution's Call Report data and the submission of these data to the agencies' Central Data Repository (CDR). Starting your preparation early will help you identify and resolve any edit exceptions before the submission deadline. If you later find that certain information needs to be revised, please make the appropriate changes to your Call Report data and promptly submit the revised data file to the CDR.

Except for certain institutions with foreign offices, your completed Call Report must be received by Tuesday, April 30, 2024, in accordance with the filing requirements discussed below. An institution with more than one foreign office, other than a "shell" branch or an International Banking Facility, is permitted an additional *five* calendar days to submit its Call Report data. Such an institution must electronically file its data to the CDR no later than Sunday, May 5, 2024.

There are no new data items that take effect this quarter in the FFIEC 031, FFIEC 041 or FFIEC 051 Call Report forms. The agencies are implementing revisions to several Call Report schedules this quarter as Financial Accounting Standards Board's Accounting Standards Update No. 2016-13, "Financial Instruments – Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments" (ASU 2016-13) is effective for all institutions. These revisions that also included similar revisions to the Regulatory Capital Reporting for Institutions Subject to the Advanced Capital Adequacy Framework (FFIEC 101) and certain other regulatory reports were approved in March 2019 following publication (see 84 FR 4131, February 14, 2019). As communicated previously in June 2023, the agencies have also discontinued the use of the Call Report binder format filing instructions (see 88 FR 38595, June 13, 2023).

Institutions should refer to the attached Supplemental Instructions for March 2024, for additional guidance on certain reporting issues. The Supplemental Instructions also include an entry on the FDIC's special assessment final rule that becomes effective April 1, 2024.

All institutions have adopted ASU 2022-02, "Financial Instruments - Credit Losses (Topic 326): Troubled Debt Restructurings and Vintage Disclosures," as of the December 31, 2023, report date. Institutions should continue referring to the topic "Accounting for Loan Modifications to Borrowers Experiencing Financial Difficulty" in the Supplemental Instructions that provides guidance on how an institution should report its loan modifications to borrowers experiencing financial difficulty in the Call Report.

The Call Report forms for March 31, 2024, are available for printing and downloading from the FFIEC's Reporting Forms webpage for each version of the Call Report. These forms can also be accessed from the FDIC's Bank Financial Reports webpage. Updates to the Call Report instructions for March 2024 will be available soon on these webpages.

Each institution must file its March 31, 2024, Call Report data in one of two ways:

- By using computer software to prepare and edit its report data and then electronically submitting the data directly to the CDR; or

- By completing its report in paper form and arranging with a software vendor or another party to convert the paper report to the electronic format that can be processed by the CDR. The software vendor or other party then must electronically submit the institution's Call Report data file to the CDR.

Electronic submission of first quarter 2024 Call Report data will be considered timely if the data are received by the CDR no later than Tuesday, April 30, 2024, or Sunday, May 5, 2024, as applicable, and pass

FFIEC-published criteria for validity and quality edits or, where necessary, contain explanations for any quality edits that are not passed.

The CDR Help Desk is available from 9:00 a.m. until 8:00 p.m., Eastern Time, Monday through Friday, to provide assistance with user accounts, passwords, and other CDR system-related issues. The CDR Help Desk can be reached by telephone at (888) CDR-3111, by fax at (703) 774-3946, or by email at cdr.help@cdr.ffiec.gov. For all other Call Report issues, 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; 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).

Statement of Applicability: The contents of, and material referenced in, this FIL apply to all FDIC-insured financial institutions.
FIL-17-2024

Supplemental Instructions - March 2024

CFPB Share Your Feedback on Improving Public Engagement in Government (04/02/2024) – The Office of Management and Budget wants your ideas on how federal agencies can become more effective, consistent, and equitable in how we engage with the public.

Submit your ideas on frameworks, guidelines, and leading practices for:

- Notice and comment processes
- Requests for information
- Listening sessions
- Customer feedback surveys
- User research
- Crowdsourcing
- Other activities to inform the public of regulations, policies, and program and service designs

We welcome input from a diverse and wide array of stakeholders, including individuals and private, advocacy, non-profit, and philanthropic organizations. Share your comments by Friday, May 17.

Comment: This is part of a White House initiative entitled 'Broadening Public Engagement in the Federal Regulatory Process.'

FRB Risks and Uncertainty in Monetary Policy: Current and Past Considerations - Governor Michelle W. Bowman 04/02/2024) – What's Next for the Economy and Monetary Policy?

Looking ahead, the FOMC will continue to face a number of risks and uncertainties as it seeks to return inflation to its 2 percent goal. It will be important to evaluate how these uncertainties and risks affect our monetary policy decisions going forward. As this audience knows, members of the FOMC consult a range of models that consider several scenarios and their potential economic outcomes using different benchmark monetary policy rules.27 This type of analysis can provide helpful input in informing my own views on the appropriate path of monetary policy. Given the importance of transparency, it is also necessary that our communications explain not only how the economic outlook affects our monetary policy decisions, often referred to as the FOMC's "reaction function," but also how the risks and uncertainties surrounding the economic outlook matter for those decisions.

	Governor Bowman continues: *However, most employment gains over the past year have been in part-time employment, and some of the recent strength in job gains may reflect stronger labor supply due to increased immigration. The 12-month readings of total and core PCE inflation through February printed at 2.5 and 2.8 percent, respectively, much lower than a year ago. However, with the annualized 3-month PCE inflation readings moving well-above the 12-month measures in February, I expect further progress in bringing inflation down to 2 percent will be slower this year.* *Still, my baseline outlook continues to be that inflation will decline further with the policy rate held steady at its current level, and that the labor market will remain strong but with labor demand and supply gradually rebalancing as the number of job openings relative to unemployed workers declines. And should the incoming data continue to indicate that inflation is moving sustainably toward our 2 percent goal, it will eventually become appropriate to gradually lower the federal funds rate to prevent monetary policy from becoming overly restrictive. However, we are still not yet at the point where it is appropriate to lower the policy rate, and I continue to see a number of upside risks to inflation.*

BSA / AML

	No news to report this week.

Deposit / Retail Operations

	No news to report this week.

Human Resources

	No news to report this week.

Lending

	CFPB Finds Violations of Credit Report Accuracy Requirements, Including for Survivors of Human Trafficking (04/08/2024) – The Consumer Financial Protection Bureau (CFPB) published an edition of Supervisory Highlights to share key findings from recent examinations about continuing accuracy problems in the credit reporting system. The CFPB found consumer reporting companies failed to ensure the accuracy of credit reports, including by failing to exclude information resulting from alleged identity theft or human trafficking. The CFPB also found furnishers – companies that provide information to consumer reporting companies – failed to correct false or fraudulent information sent to consumer reporting companies. The CFPB continues to prioritize examinations of consumer reporting companies and furnishers. CFPB examiners have found failures by these companies to follow a rule implemented in June 2022 to help survivors mitigate the financial consequences of human trafficking. The rule requires credit reporting companies to block, from credit reports, adverse information that resulted from human trafficking. Specifically, this edition of Supervisory Highlights found: • Consumer reporting companies failed to block or remove information related to identity theft and human trafficking: Examiners found that companies refused to honor consumer requests to block information associated with identity theft based on overbroad criteria; failed to inform consumers

when blocks were denied or rescinded; failed to provide victims of identity theft with summaries of rights; and failed to timely block all information resulting from human trafficking identified by consumers.
- Consumer reporting companies accepted information from unreliable furnishers: Examiners found companies accepted information from furnishers that may have been no longer providing reliable, verifiable information about consumers. For example, consumer reporting companies continued to include information from furnishers that failed to respond to all or nearly all disputes or that issued the same responses to all disputes.
- Furnishers provided information to consumer reporting companies they knew was false: Examiners found that auto loan furnishers continued to share incomplete or inaccurate information for several months or even years after learning the information was false, incomplete, or inaccurate. In other instances, furnishers provided information even after they determined the information was fraudulent or due to identity theft.
- Furnishers did not follow requirements for dispute investigations and identity theft: Examiners found that some furnishers continued to furnish information that consumers were disputing without indicating the information was in dispute. In other instances, furnishers failed to conduct investigations into the accuracy of information consumers disputed.

Comment: While this report targets consumer reporting companies, its worth noting the findings related to dispute investigations and identity theft.

FRB Consumer Credit - G.19 (04/05/2024) – The Federal Reserve Board announced on March 7, 2024 the following changes to the Consumer Credit (G.19) statistical release: Beginning with the April 2024 G.19 Consumer Credit release, scheduled to be published on June 7, 2024, data for the Finance Companies New Car Loan Terms of Credit series will be produced from Experian's Velocity Risk Report instead of Experian's Autocount Risk Report. The updated source data will affect only data from the first quarter of 2024 forward; previous data will not be affected. The types of measures shown will not change.

In February, consumer credit increased at a seasonally adjusted annual rate of 3.4 percent. Revolving credit increased at an annual rate of 10.2 percent, while nonrevolving credit increased at an annual rate of 0.9 percent.

Comment: In February, Equifax 'Insight' reported that U.S. consumer debt was $17.37 trillion, up 2.8% from February 2023. Mortgage debt, including home equity loans, accounted for $12.63 trillion, a 72.7% share of total debt, while non-mortgage consumer debt totaled $4.74 trillion, with 34.5% of non-mortgage consumer debt attributable to auto loans and leases.

CFPB Finds Americans are Paying Upfront Fees Seeking to Lower Interest Rates on Mortgages (04/05/2024) – The Consumer Financial Protection Bureau (CFPB) issued a new report finding that more borrowers paid "discount points" upfront as overall interest rates rose. The percentage of homebuyers paying discount points roughly doubled from 2021 to 2023. The increase was even greater among borrowers with lower credit scores. While discount points may provide advantages to some borrowers, the financial tradeoffs are complex. The CFPB is monitoring these increases and potential risks to consumers.

"Higher interest rates on mortgages have led borrowers to pay upfront fees to lower their interest payments," said CFPB Director Rohit Chopra. "The heavy use of 'discount points' suggests that many borrowers are uncertain about their ability to refinance in the future."

	Discount points are a one-time fee paid at closing to a lender in exchange for a lower interest rate. Paying one discount point is the equivalent of paying a fee of one percent of the loan amount, but discount points have no fixed value in terms of the change in interest rate. Most borrowers only benefit from discount points if they keep their mortgage long enough that the cumulative monthly savings from the reduced interest rate outweigh the upfront costs. ***Comment: The CFPB will plan to monitor the use of discount points and weigh the advantages against the potential risks to borrowers.***

Technology / Security

	CISA Issues Emergency Directive 24-02: Mitigating the Significant Risk from Nation-State Compromise of Microsoft Corporate Email System (04/02/2024) – CISA publicly issued Emergency Directive (ED) 24-02 to address the recent campaign by Russian state-sponsored cyber actor Midnight Blizzard to exfiltrate email correspondence of Federal Civilian Executive Branch (FCEB) agencies through a successful compromise of Microsoft corporate email accounts. This Directive rhttps://www.cisa.gov/news-events/directives/ed-24-02-mitigating-significant-risk-nation-state-compromise-microsoft-corporate-email-systemequires agencies to analyze the content of exfiltrated emails, reset compromised credentials, and take additional steps to secure privileged Microsoft Azure accounts. While ED 24-02 requirements only apply to FCEB agencies, other organizations may also have been impacted by the exfiltration of Microsoft corporate email and are encouraged to contact their respective Microsoft account team for any additional questions or follow up. FCEB agencies and state and local government should utilize the distro MBFedResponse@Microsoft.com for any escalations and assistance with Microsoft. Regardless of direct impact, all organizations are strongly encouraged to apply stringent security measures, including strong passwords, multifactor authentication (MFA) and prohibited sharing of unprotected sensitive information via unsecure channels. ***Comment: Make sure your IT staff are aware of these kind of alerts. As noted, because so many organizations use Microsoft, banks systems may have also been impacted.***
	CISA Microsoft Releases April 2024 Security Updates (04/09/2024) – Microsoft released security updates to address vulnerabilities in multiple products. A cyber threat actor could exploit some of these vulnerabilities to take control of an affected system. Users and administrators are encouraged to review the following and apply the necessary updates: Microsoft Security Update Guide for April
	CISA Adobe Releases Security Updates for Multiple Products (04/09/2024) – Adobe has released security updates to address multiple vulnerabilities in Adobe software. A cyber threat actor could exploit some of these vulnerabilities to take control of an affected system. Users and administrators are encouraged to review the following Adobe Security Bulletins and apply the necessary updates: • Adobe After Effects • Adobe Photoshop • Adobe Commerce and Magento

	• Adobe InDesign • Adobe Experience Manager • Adobe Media Encoder • Adobe Bridge • Adobe Illustrator • Adobe Animate ***Comment: Make sure your IT staff is aware of these updates. Many banks use Adobe products to one degree or another.***

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 RULES WITH REQUEST FOR PUBLIC COMMENT

03.28.2024 **FinCEN** Request for Information and Comment on Customer Identification Program Rule Taxpayer Identification Number Collection Requirement SUMMARY: FinCEN, in consultation with staff at the Office of the Comptroller of the Currency (OCC), the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Administration (NCUA), and the Board of Governors of the Federal Reserve System (Board) (collectively, the "Agencies"), seeks information and comment from interested parties regarding the Customer Identification Program (CIP) Rule requirement for banks to collect a taxpayer identification number (TIN), among other information, from a customer who is a U.S. person, prior to opening an account (the "TIN collection requirement"). Generally, for a customer who is an individual and a U.S. person ("U.S. individual"), the TIN is a Social Security number (SSN). In this request for information (RFI), FinCEN specifically seeks information to understand the potential risks and benefits, as well as safeguards that could be established, if banks were permitted to collect partial SSN information directly from the customer for U.S. individuals and subsequently use reputable third-party sources to obtain the full SSN prior to account opening. FinCEN seeks this information to evaluate and enhance its understanding of current industry practices and perspectives related to the CIP Rule's TIN collection requirement, and to assess the potential risks and benefits associated with a change to that requirement. This notice also serves as a reminder from FinCEN, and staff at the Agencies, that banks must continue to comply with the current CIP Rule requirement to collect a full SSN for U.S. individuals from the customer prior to opening an account ("SSN collection requirement"). This RFI also supports FinCEN's ongoing efforts to implement section 6216 of the Anti-Money Laundering Act of 2020, which requires FinCEN to, among other things, identify regulations and guidance that may be outdated, redundant, or otherwise do not promote a risk-based anti-money laundering/countering the financing of terrorism (AML/CFT) regime. **DATES: Written comments on this RFI are welcome and must be received on or before May 28, 2024.**

10.25.2023 **FRB** Requests Comment on a Proposal to Lower the Maximum Interchange Fee That a Large Debit Card Issuer Can Receive For a Debit Card Transaction SUMMARY: Regulation II implements a provision of the Dodd-Frank Act that requires the Board to establish standards for assessing whether the amount of any interchange fee received by a debit card issuer is reasonable and proportional to the cost incurred by the issuer with respect to the transaction. Under the current rule, for a debit card transaction that does not qualify for a statutory exemption, the interchange fee can be no more than the sum of a base component of 21 cents, an ad valorem component of 5 basis points multiplied by the value of the transaction, and a fraud-prevention adjustment of 1 cent if the issuer meets certain fraud-prevention-standards. The Board developed the current interchange fee cap in 2011 using data voluntarily reported to the Board by large debit card issuers concerning transactions performed in 2009. Since that time, data collected by the Board every other year on a mandatory basis from large debit card issuers show that certain costs incurred by these issuers have declined significantly; however, the interchange fee cap has remained the same. For this reason, the Board proposes to update all three components of the interchange fee cap based on the latest data reported to the Board by large debit card issuers. Further, the Board proposes to update the interchange fee cap every other year going forward by directly linking the interchange fee cap to data from the Board's biennial survey of large debit card issuers. Initially, under the proposal, the base component would be 14.4 cents, the ad valorem component would be 4.0 basis points (multiplied by the value of the transaction), and the fraud-prevention adjustment would be 1.3 cents for debit card transactions performed from the effective date of the final rule to June 30, 2025. The Board also proposes a set of technical revisions to Regulation II. **DATES: Comments must be received on or before May 12, 2024. (Extended from February 12, 2024)**