



Community Bankers of Michigan Regulatory Dispatch

April 19, 2022

Timely news and resources community bankers can use

to better stay on top of a rapidly changing world.

FinCEN Issues Advisory on Kleptocracy and Foreign Public Corruption

WASHINGTON—The Financial Crimes Enforcement Network (FinCEN) issued an advisory on kleptocracy and foreign public corruption, urging financial institutions to focus their efforts on detecting the proceeds of foreign public corruption—a priority for the U.S. Government as it continues to implement the U.S. Strategy on Countering Corruption. The advisory provides typologies and potential indicators of kleptocracy and other forms of foreign public corruption, namely bribery, embezzlement, extortion, and the misappropriation of public assets.

Kleptocrats and other corrupt public officials steal the public's wealth for personal gain and use their positions of power and access to state-owned resources for their personal benefit. Like other criminal actors, corrupt public officials launder the proceeds of their corruption through a variety of means, including funneling money through shell companies or by purchasing various high-end assets, such as real estate, yachts, private jets, and high value art.

“Foreign public corruption erodes public trust and disproportionately harms the most vulnerable in societies. Russia’s further invasion of Ukraine is a yet another example of how a kleptocracy like Russia—a country whose government has been characterized for years by corruption, money laundering, malign influence, sanctions evasions and armed interventions abroad—harms not only its own citizens, but those living beyond its borders,” said FinCEN Acting Director Himamauli Das. “Financial institutions play a crucial role in identifying corrupt activity and associated money laundering on the part of foreign public officials and should remain vigilant and promptly report suspicious financial activity.”

The advisory highlights financial red flag indicators to assist financial institutions in preventing, detecting, and reporting suspicious transactions associated with kleptocracy and foreign public corruption. For purposes of suspicious activity reporting, financial institutions should consider the relevant facts and circumstances of each transaction, in keeping with their risk-based approach to compliance.

Additionally, the U.S. Department of the Treasury last month launched the Kleptocracy Asset Recovery Rewards Program, which offers rewards payments for information leading to seizure, restraint, or forfeiture of assets linked to foreign government corruption, including the Government of the Russian Federation. More information on eligibility for rewards payments and on submission of relevant information to the U.S. government can be found [here](#). Those individuals with information are encouraged to contact Kleptocracy_Rewards@Treasury.gov or call +1 202-622-2050.

Comment: While the Advisory largely addresses issues around Russia and kleptocracy, there is some interesting information – and an admonition - regarding Suspicious Activity Reporting starting on [page 9 of the linked document](#).

CBM Insights

Q: We have an application for a home equity loan secured by a rural homestead. The borrower's mother also resides on the same property in a manufactured home. Can we make a home equity loan in this situation?

A: Best to discuss with the title company and confirm the requirements for the state in which the property is located. Having said that, if the manufactured home is 'attached' to the real property and the title surrendered, it has become part of the homestead and would not be considered 'additional collateral.' If the manufactured home still has a title and is the personal property of the mother, it would still be possible for the bank to secure a home equity loan against the homestead provided the bank did not also take a non-purchase money security interest in the manufactured home.

Items of Interest

Bank Management

	<p>FDIC Consolidated Reports of Condition and Income for First Quarter 2022 (04/14/2022) - The linked materials pertain to the Consolidated Reports of Condition and Income (Call Report) for the March 31, 2022, report date and provide guidance on certain reporting issues. This Financial Institution Letter and the attached Supplemental Instructions should be shared with the individual 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.</p> <p>Except for certain institutions with foreign offices, your completed Call Report must be received by Saturday, April 30, 2022, 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 Thursday, May 5, 2022.</p> <p>For institutions that have adopted Accounting Standards Update (ASU 2022-02), "Financial Instruments - Credit Losses (Topic 326): Troubled Debt Restructurings and Vintage Disclosures," a new topic, "Accounting for Loan Modifications to Borrowers Experiencing Financial Difficulties," has been added to the attached March 2022 Supplemental Instructions. This topic provides guidance on how an institution should report its loan modifications to borrowers experiencing financial difficulties in the Call Report for the March 31, 2022, report date.</p> <p>Institutions are reminded to use total consolidated assets as of the June 30, 2021, report date to determine their eligibility to file the FFIEC 051 Call Report or the FFIEC 041 Call Report as of March 31, 2022. Institutions are expected to file the same report form for each quarterly report date during 2022. The June 30, 2021, report date should also be used in determining whether an institution has crossed certain total asset thresholds that require additional data items to be reported in its Call Report for report dates in calendar year 2022.</p> <p>Supplemental Instructions</p>
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CSBS [How Difficult Is It to Curb Inflation? What Tools Do We Have?](#) (04/13/2022) – This podcast explores the challenges behind curbing inflation, the tools available to the Federal Reserve to do so, and the consequences of the Fed acting too aggressively or too gently.

"States of the Economy" is a monthly look at the economic picture across the country. In this episode CSBS Chief Economist Tom Siems and host Matt Longacre discuss what the latest inflation and jobs numbers, business confidence measures and more are telling us about the current trajectory of the U.S. economy.

Comment: This is important reading as you consider fine-tuning your bank's strategic plan and assumptions. Rate hikes are projected to offer a modest boost to community bank margins in 2022, with much greater expansion occurring in 2023. Economists expect three more short-term rate increases in 2023. If that occurs, community bank margins are projected to rise to 3.33% in 2022 from 3.28% in 2021 and then increase to 3.44% in 2023.

Joint [Rules of Practice and Procedure: Notice of Proposed Rulemaking](#) (04/13/2022) - The Office of the Comptroller of the Currency (OCC), along with the Board of Governors of the Federal Reserve System (Federal Reserve Board), the Federal Deposit Insurance Corporation (FDIC), and the National Credit Union Administration (NCUA) (collectively, the agencies), are proposing changes to the Uniform Rules of Practice and Procedure (Uniform Rules) to recognize the use of electronic communications in all aspects of administrative hearings and to otherwise increase the efficiency and fairness of administrative adjudications. The agencies also are proposing to update their agency-specific rules of administrative practice and procedure (Local Rules). The OCC also proposes to integrate its Uniform Rules and Local Rules, 12 CFR 19, so that one set of rules applies to both national banks and federal savings associations (FSA). Finally, the OCC is proposing to amend its rules on organization and functions to address service of process. Comments on the proposal are due by June 13, 2022.

Note for Community Banks:

The proposed amendments would apply to all national banks and all FSAs, including community institutions.

Highlights:

The notice of proposed rulemaking would propose the following changes, among others:

- Add a definition of "electronic signature" to the Uniform Rules.
- Codify the current practice of permitting electronic service and filings in the process of administrative actions.
- Allow for remote depositions if certain conditions are met.
- Adopt notice pleading for administrative proceedings.
- Modify the discovery rules to recognize electronic documents and allow for electronic production.
- Include specific Equal Access to Justice Act procedures based on the 2019 Administrative Conference of the United States Model Rule.
- Add specific provisions related to the forfeiture of a national bank, FSA, or federal branch or agency charter or franchise for certain money laundering or cash transaction offenses.
- Update the OCC's cease-and-desist authority to include violations of certain provisions of the Sarbanes-Oxley Act.
- Establish new rules for expert and hybrid fact-expert witnesses.
- Consolidate the Uniform Rules and Local Rules for national banks and FSAs.

Background:

Section 916 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 required the agencies, together with the Office of Thrift Supervision (OTS), to develop uniform rules and procedures for administrative hearings. In August 1991 the agencies and OTS each adopted final Uniform Rules as well as Local Rules specific to each agency. The Uniform Rules and Local Rules have remained largely unchanged since 1996, when the agencies last amended these rules, while the practice of administrative hearings has changed fundamentally with the introduction of electronic communication and transmission. The agencies have identified sections of the Uniform Rules and Local Rules that should be modified to recognize electronic pleadings and communications in administrative hearings and other sections that require modification based on recent experience of the agencies in administrative litigation.

Furthermore, since the Uniform Rules and Local Rules were last amended, the Dodd–Frank Wall Street Reform and Consumer Protection Act transferred the former OTS rules to the OCC, resulting in separate OCC administrative practice and procedure rules for national banks and FSAs. Although many of the national bank and FSA Local Rules are similar, in some cases no corresponding rule exists, or one set of rules provides more specificity than the other. Consolidating these rules would provide consistent and uniform rules for all OCC-supervised institutions in OCC adjudicatory proceedings.

Related Link

["Rules of Practice and Procedure" \(PDF\)](#)

Comment: This proposal provides important updated procedures that are consistent with changes in technology.

FRB [Accepting Applications for its Community Advisory Council](#) (04/11/2022) - The Federal Reserve Board announced it is accepting applications from individuals who wish to be considered for membership on the Community Advisory Council, or CAC, which advises the Board on issues affecting consumers and communities. It is made up of a diverse group of experts and representatives of consumer and community development interests, including affordable housing, workforce development, small business, and asset and wealth building.

CAC members meet semiannually with members of the Board of Governors to provide a range of perspectives on the economic circumstances and financial services needs of consumers and communities, with a particular focus on the concerns of low- and moderate-income consumers and communities. The CAC is one of several advisory councils that the Board draws upon for firsthand insight from key stakeholders.

The Board expects to announce the appointment of CAC members later this year. Applicants from previous years are encouraged to re-apply. Additional information about the selection process, including instructions for submitting an application, can be found in the attached Federal Register notice.

Comment: The Community Advisory Council (CAC) was formed by the Federal Reserve Board in 2015 to offer diverse perspectives on the economic circumstances and financial services needs of consumers and communities, with a particular focus on the concerns of low- and moderate-income populations.

BSA / AML

OCC [Suspicious Activity Reports: OCC Authority for Exemptions to Suspicious Activity Report Requirements: Final Rule](#) (04/14/2022) - On March 16, 2022, the Office of the Comptroller of the Currency (OCC) issued a final rule amending the OCC's suspicious activity report (SAR) regulations. This rule allows the OCC to issue exemptions from the requirements of those regulations based on a request from a bank subject to those regulations that meets the criteria specified in the final rule. The final rule adopts, with changes in response to comments, the proposed rule published in the Federal Register on January 22, 2021.

The final rule takes effect on May 1, 2022.

Note for Community Banks:

The final rule applies to community banks.

Highlights:

The final rule

- harmonizes the OCC's legal authority to issue exemptions from its SAR regulations with preexisting exemptive authority of the Financial Crimes Enforcement Network of the U.S. Department of the Treasury (FinCEN).
- establishes processes for the OCC to facilitate changes related to SAR regulations required by the Anti-Money Laundering Act of 2020.
- establishes processes for the OCC to grant relief to banks that develop innovative solutions intended to meet Bank Secrecy Act requirements more efficiently and effectively.
- does not, by itself, result in any exemptions from SAR requirements. The final rule only clarifies the OCC's legal authority to issue such exemptions in the future.

When issuing any exemptions, the OCC expects to coordinate with FinCEN and the other federal banking agencies. For exemption requests from the OCC's SAR regulations that would also require an exemption from FinCEN's SAR regulation, a bank would need to seek an exemption from both the OCC and FinCEN.

Further Information:

Please contact Jina Cheon, Counsel; Henry Barkhausen, Counsel; or Scott Burnett, Counsel; Chief Counsel's Office, at (202) 649-5490.

Related Link:

["Exemptions to Suspicious Activity Report Requirements" \(PDF\)](#)

Comment: Note that the proposal does not change banks' duties to report.

Deposit / Retail Operations

FTC [How Do You Spot a Scam? Listen to How Someone Tells You to Pay](#) (04/11/2022) - Like spring cleaning for your finances, Financial Literacy Month is a great time to dust off your knowledge for spotting and avoiding scams. The best way to make a clean getaway from a scam? Listen to how they tell you to pay.

If someone tells you:

- “Pay us by putting money on a gift card and then give us the number on the back.” — That’s a scam.
- “We’ll send you a check, deposit the check, and then send us the money.” — That’s a scam. (That check will later turn out to be fake and you will be on the hook for the money.)
- “You have to pay us by sending money through a money transfer company like MoneyGram or Western Union.” — That’s a scam.
- “Go to a store with a cryptocurrency ATM, put your money in to buy cryptocurrency, and use this QR code to send it to this address.” — That’s a scam.

Scammers have lots of stories about why you need to pay — like pretending they’re calling from the government, a business, utility, tech company, or even a charity. Or they’ll call about a family emergency. Or maybe they call with an alert about a virus on your computer that needs fixing. No matter what they say, they’ll pressure you to act immediately, and of course, pay them money. When they do, hang up and report them to the FTC at [ReportFraud.ftc.gov](https://www.ftc.gov/report-fraud).

For more information on spotting scams and avoiding them, visit [ftc.gov/scams](https://www.ftc.gov/scams). And don’t forget to share what you learn with others during #FinancialLiteracyMonth.

Comment: Consider posting this helpful material on your website to educate your customers.

Human Resources

No news to report this week.

Lending

No news to report this week.

Technology / Security

Joint [Ask the Regulators Webinar on the Computer-Security Incident Notification Rule](#) (04/13/2022) - On November 23, 2021, the Federal Reserve, Federal Deposit Insurance Corporation, and Office of the Comptroller of the Currency (the Agencies) announced the approval of a final rule on computer-security incident notification to improve the sharing of information about cyber incidents that may affect the U.S. banking system. Compliance with the final rule is required by May 1, 2022.

On Thursday, April 28, 2022, at 2:00 ET, the Agencies will jointly host an Ask the Regulators webinar regarding this rule. During the webinar, the Agencies will respond to questions submitted in advance from banking organizations and bank service providers.

Please email questions in advance of the webinar to asktheregulators@stls.frb.org. Questions received by April 20 will receive priority for responses from the panelists.

	<p>Registration for the webinar is now available at: https://www.webcaster4.com/Webcast/Page/584/44888</p> <p>We strongly encourage participants to use the webinar audio on their computer for the best experience. Webinar materials will be archived for future viewing.</p> <p>Audience: This program is intended for banking organizations and their service providers who are subject to the Computer-Security Incident Notification rule.</p> <p><i>Comment: Notice that you can post questions for this webinar now as well as attend. With the increased cyber activity from Russian actors as part of the Ukraine offense, it is critical to identify and report relevant cyber incidents promptly as required by this rule.</i></p>

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 RULE WITH REQUEST FOR PUBLIC COMMENT

03.25.2022 [FDIC Request for Information on Bank Merger Act](#) - The Federal Deposit Insurance Corporation sent for publication in the Federal Register a Request for Information (RFI) seeking information and comments regarding the application of the laws, practices, rules, regulations, guidance, and statements of policy (together, regulatory framework) that apply to merger transactions involving one or more insured depository institution, including the merger between an insured depository institution and a noninsured institution. **Dates: Comments are due May 31, 2022.**

03.22.2021 [Rules to Enhance and Standardize Climate-Related Disclosures for Investors](#) - The Securities and Exchange Commission today proposed rule changes that would require registrants to include certain climate-related disclosures in their registration statements and periodic reports, including information about climate-related risks that are reasonably likely to have a material impact on their business, results of operations, or financial condition, and certain climate-related financial statement metrics in a note to their audited financial statements. The required information about climate-related risks also would include disclosure of a registrant’s greenhouse gas emissions, which have become a commonly used metric to assess a registrant’s exposure to such risks. The proposing release will be published on SEC.gov and in the Federal Register. **DATES: Comments should be received on or before May 20, 2022.**