



Community Bankers of Michigan Regulatory Dispatch

August 2, 2023

Timely news and resources community bankers can use

to better stay on top of a rapidly changing world.

CSBS Worse Than Dismal: Community Banker Sentiment at Another Record Low

With the CSBS second quarter 2023 Community Bank Sentiment Index (CBSI) dropping again to another record low, community banker pessimism on the outlook for the U.S. economy appears to have fallen into a dark abyss. All seven components that comprise the index fell from the previous quarter, with three indicators setting record lows: regulatory burden, monetary policy, and operations expansion. And like the last two surveys, 95% of community bankers say the U.S. economy is already in a recession.

Chart 1 shows that the headline number from the second quarter 2023 CBSI was 73, down 10 points from the first quarter 2023 survey and 11 points lower than one year ago. The neutral level is 100, with values below 100 indicating community bankers hold a negative sentiment and values above 100 signaling a positive outlook.

The second quarter 2023 reading is the sixth consecutive quarterly reading below 100, with the overall index down 42 points from two years ago when it reached a cyclical peak of 115 in the second quarter of 2021. Since that time, the war in Ukraine, higher inflation, rapid interest rate increases, a few high-profile bank failures and the federal debt borrowing limit have dominated news headlines.

Comment: Not surprising that the sentiment index continues to fall. At last Wednesday's Federal Open Market Committee meeting, the federal funds benchmark rate went up by a quarter of a percentage point, bringing the new range to 5.25% to 5.50%, the highest level in over two decades.

Items of Interest

Bank Management

Joint [Agencies Update Guidance on Liquidity Risks and Contingency Funding Plans](#) (07/28/2023) - Federal financial institution regulatory agencies updated their existing guidance on liquidity risks and contingency planning. The updated guidance highlights that depository institutions should regularly evaluate and update their contingency funding plans.

	<p>The updated guidance encourages depository institutions to incorporate the discount window as part of their contingency funding plans. Consistent with other contingency funding sources, the guidance reinforces the supervisory expectation that if the discount window is part of a depository institution’s contingency funding plans, the depository institution should establish and maintain operational readiness to use the discount window, which includes conducting periodic transactions.</p> <p>The discount window can readily provide funding for depository institutions and the Central Liquidity Facility can do so for credit unions.</p> <p>The guidance applies to all depository institutions supervised by the agencies.</p> <p><i>Comment: The guidance emphasizes the need for banks to regularly evaluate and update their contingency funding plans, and more frequently in changing market conditions.</i></p>
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	<p>OCC Assesses \$15 Million Civil Money Penalty Against American Express National Bank Related to Bank's Governance and Oversight of Third-Party Affiliate (07/25/2023) - WASHINGTON—The Office of the Comptroller of the Currency (OCC) announced a \$15 million civil money penalty against American Express National Bank (American Express) for failing to govern and oversee a third-party affiliate and for violations of regulations relating to certain efforts to retain small business customers.</p> <p>The OCC found that American Express failed to ensure that its third-party affiliate had appropriate call monitoring controls and appropriate mechanisms to document and track customer complaints. Additionally, American Express failed to collect necessary consumer information and properly maintain and produce records to show compliance with Customer Identification Program regulations.</p> <p>The OCC penalty has been paid to the U.S. Department of the Treasury.</p> <p>Related link Civil Money Penalty (PDF)</p> <p><i>Comment: In this example of what not to do, Amex had inadequate oversight of the affiliate, the OCC alleged in its consent order, including poor governance, inadequate call monitoring, documentation processes, and handling of customer complaints. The bank also failed to maintain and produce records related to customer retention efforts in response to OCC requests and in compliance with customer identification regulations, the order stated.</i></p>
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BSA / AML

	No news to report this week.
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Deposit / Retail Operations

	<p>CFPB Exams Find Unfair, Deceptive, and Abusive Practices Across a Wide Array of Consumer Financial Product Lines (07/26/2023) - WASHINGTON, D.C. –The Consumer Financial Protection Bureau (CFPB) released a new Supervisory Highlights report which found unfair, deceptive, and abusive acts or practices across many consumer financial products. For example, auto lenders have originated loan balances above the real value of the car being purchased and engaged in illegal collection practices while servicing these loans. The latest edition of the Supervisory Highlights report covers findings from CFPB supervisory examinations completed from July 2022 to March 2023.</p>
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“This report furthers our efforts to highlight conduct that violates federal law, including the prohibition on abusive practices in consumer financial services,” said CFPB Director Rohit Chopra. “The CFPB is also inspecting more financial data brokers engaged in consumer reporting, as well as nonbank entities using authorities that previously went unused.”

Comment: Regarding Deposits - The CFPB's examinations of banks revealed unfair acts or practices related to the assessment of both nonsufficient funds and line of credit transfer fees on the same transaction. The Bureau reported that this practice resulted in double fees being charged for denied transactions. Recent examinations through the CFPB's fair lending supervision program found violations of ECOA and Regulation B, including pricing discrimination in granting pricing exceptions based on competitive offers and discriminatory lending restrictions related to criminal history and public assistance income.

Human Resources

No news to report this week.

Lending

No news to report this week.

Technology / Security

CISA [Apple Releases Security Updates for Multiple Products](#) (07/25/2023) - Apple has released security updates to address vulnerabilities in multiple products. An attacker could exploit some of these vulnerabilities to take control of an affected device.

CISA encourages users and administrators to review the following advisories and apply the necessary updates.

iOS 16.6 and iPadOS 16.6
iOS 15.7.8 and iPadOS 15.7.8
macOS Ventura 13.5
macOS Monterey 12.6.8
macOS Big Sur 11.7.9
Safari 16.6
tvOS 16.6
watchOS 9.6

Comment: Many banks use Apple products. Be sure to share this with your IT staff.

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

06.21.2023 [Interagency Guidance on Reconsiderations of Value of Residential Real Estate Valuations-](#)

SUMMARY: The OCC, Board, FDIC, NCUA, CFPB, and FHFA (collectively, the agencies) invite comment on a

proposed rule to implement the quality control standards mandated by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) for the use of automated valuation models (AVMs) by mortgage originators and secondary market issuers in determining the collateral worth of a mortgage secured by a consumer's principal dwelling. Under the proposal, the agencies would require institutions that engage in certain credit decisions or securitization determinations to adopt policies, practices, procedures, and control systems to ensure that AVMs used in these transactions to determine the value of mortgage collateral adhere to quality control standards designed to ensure a high level of confidence in the estimates produced by AVMs; protect against the manipulation of data; seek to avoid conflicts of interest; require random sample testing and reviews; and comply with applicable nondiscrimination laws. **DATES: Comments must be received by August 21, 2023.**