



## Community Bankers of Michigan Regulatory Dispatch

February 22, 2022

***Timely news and resources community bankers can use  
to better stay on top of a rapidly changing world.***

### **Consumer Compliance Outlook**

The latest issue of *Consumer Compliance Outlook* is now available on the *Outlook* [website](#). This issue includes the following articles and features:

- Advanced Topics in Adverse Action Notices Under the Equal Credit Opportunity Act
- Compliance Alert: FEMA Begins Risk Rating 2.0 Flood Insurance Initiative
- 2021 Interagency Fair Lending Webinar
- News from Washington: Regulatory Updates
- On the Docket: Recent Federal Court Opinions
- [Regulatory Calendar](#)
- Entire [Issue](#) (PDF download)

***Comment: The section on AAN under ECOA provides very helpful information on the confusing topics of counteroffers, incomplete applications, and withdrawn applications. Another helpful section addresses Risk Rating 2.0 and flood insurance.***

### **CBM Insights**

Q: Can we grant a Phase II CTR exemption to a sole proprietor?

A: In theory, yes. The tricky part is documenting that the activities are related to legitimate business purposes – the commercial enterprise issue.

15. *Are sole proprietorships eligible for treatment as exempt persons?*

*A sole proprietorship may be treated as an exempt person if it meets the definition of a non-listed business or a payroll customer. When designating a sole proprietorship as an exempt person, a bank*

must take those reasonable and prudent steps to assure itself that the sole proprietorship is a bona fide business.

Source [link](#).

(vi) To the extent of its domestic operations and only with respect to transactions conducted through its exemptible accounts, any other commercial enterprise (for purposes of this paragraph (d), a “non-listed business”), other than an enterprise specified in paragraph (d)(6)(viii) of this section, that:

(A) Has maintained a transaction account, as defined in paragraph (d)(6)(ix) of this section, at the bank for at least 12 months;

(B) Frequently engages in transactions in currency with the bank in excess of \$10,000; and

(C) Is incorporated or organized under the laws of the United States or a State, or is registered as and eligible to do business within the United States or a State; or

Source [link](#).

Under Phase II, a bank may exempt commercial entities which do not fall within any of the categories listed under Phase I if: they conduct legitimate business activity (such as payroll to employees); they maintain a financial account for a certain period of time (two months); they are incorporated and eligible to do business in the U.S.; and the bank, in its risk based review, has a reasonable belief that the customer has a legitimate business purpose for conducting large currency transactions.

With a sole proprietorship operating in many states, there is no distinction between the sole proprietor and the sole proprietorship, so ensuring that transaction are related solely to the business may be difficult to document.

Banks should consider requiring such businesses to maintain a business account separate from their personal account. Even if the accounts are sperate, the bank should still review and document that the transactions where related to a legitimate business purpose.

## Items of Interest

### **Bank Management**

	<p><b>FRB <a href="#">Speech by Governor Brainard on Central Bank Digital Currencies</a> (02.18.2022) - <i>The financial system is undergoing fast-moving changes associated with digitalization and decentralization. Some of these innovations hold considerable promise to reduce transaction costs and frictions, increase competition, and improve financial inclusion, but there are also potential risks. With technology driving profound change, it is important we prepare for the financial system of the future and not limit our thinking to the financial system of today.</i></b></p> <p><i>The Evolving Digitalization and Decentralization of Finance</i> <i>In recent years, there has been explosive growth in the development and adoption of new digital assets that leverage distributed ledger technologies and cryptography. The market</i></p>
--	---

	<p>capitalization of cryptocurrencies grew from less than \$100 billion five years ago to a high of almost \$3 trillion in November 2021 and is currently around \$2 trillion.</p> <p><b>Comment: Governor Lael Brainard laid out a case for the role a U.S. central bank digital currency could play in bolstering financial stability as the use of stablecoins and cryptocurrency grows and other countries issue their own CBDCs.</b></p>
	<p><a href="#">FRB Comments on "Some Benefits and Risks of a Hot Economy" – Governor Christopher J. Waller</a> (02.18.2022) - <i>The Fed adopted a new framework for monetary policy that sought to run the economy hot with two goals: to produce a broad and inclusive full employment outcome, and to engineer a moderate overshoot of inflation, following years of persistent undershooting. The interaction of the Covid shock, supportive monetary and fiscal policy, and the nature of global supply chains helped produce a strong rebound with a substantial inflation overshoot that has upended some of the premises of that new framework. In this paper, we assess some of the benefits and risks of a hot economy, whether they were directly engineered by monetary policy or not. First, we assess the effects of a sustained expansion and a hot labor market on differentials of unemployment and labor force participation rates across demographic groups. We compare groups that traditionally have done relatively well by these measures (e.g., college education, or white) to groups that have done less well (e.g., high school education, or Blacks and Hispanics).</i></p> <p><i>We find narrowing of differentials in unemployment but not labor force participation rates. These gains in inclusivity are reversed during labor market downturns, with cold labor markets disproportionately harming less-advantaged groups. Next, we consider the risk of financial crisis by constructing a measure of financial conditions that emphasizes credit conditions. The data imply that loose conditions are good for GDP growth, but excessively loose conditions—as we have presently—make the downside risks from recessions notably worse. Third, we look at inflation risk. We estimate a small model using recent data and find little risk of persistent inflation problems when the Phillips curve is flat and inflation expectations are very slow to respond to realized inflation. But following an inflation shock like the current one, if inflation expectations prove less inertial and more adaptive, high inflation can persist, and relying on a Phillips curve relationship to lower inflation would be very costly. The quantification of the costs depends critically on the assumed parameters, but the qualitative result is robust.</i></p> <p><b>Comment: Governor Christopher Waller delivered this speech to address a recent paper highlighting the authors claim of three impacts of running a 'hot' economy: labor market inclusiveness, potential market instability, and a greater risk of excessive inflation.</b></p>
	<p><a href="#">FRB A Synthetic Identity Fraud Mitigation Toolkit Unmasked</a> (02.17.2022) - Synthetic identity fraud is a real problem facing the payments industry and other types of businesses. Furthermore, feedback from the Federal Reserve’s ongoing engagement with payments fraud experts and a June 2021 survey reinforces the need for synthetic identity fraud awareness and dialogue about detection and mitigation strategies.</p> <p>The Fed supports the payments industry in combatting synthetic identity fraud by encouraging education, understanding and broad industry collaboration. This fraud</p>

	<p>mitigation toolkit offers a wide variety of informative resources for financial institutions, consumers, and businesses. Through future phases of the toolkit, new resources will be added over time, including in the areas of synthetic identity fraud detection and mitigation.</p> <p><i><b>Comment: The initial release of the toolkit includes downloadable resources that focus on the basics of synthetic identity fraud, how synthetic identities are used to commit fraud and strategies for detecting synthetic identities. The second release of the toolkit later this year will expand on the insights and resources in the toolkit's initial release with additional strategies for validating identities and detecting suspected synthetic identity fraud.</b></i></p>
	<p><b>FRB <a href="#">Industrial Production and Capacity Utilization - G.17</a></b> (02.16.2022) - In January, total industrial production increased 1.4 percent. Manufacturing output and mining production rose 0.2 percent and 1.0 percent, respectively. The index for utilities jumped 9.9 percent; after being held down in December by unusually mild weather, the demand for heating surged in January with the arrival of significantly colder-than-normal temperatures. At 103.5 percent of its 2017 average, total industrial production in January was 4.1 percent higher than its year-earlier level and 2.1 percent above its pre-pandemic (February 2020) reading. Capacity utilization for the industrial sector increased 1.0 percentage point in January to 77.6 percent, a rate that is 1.9 percentage points below its long-run (1972–2021) average.</p>

## 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

	<p><b>OCC <a href="#">Acting Comptroller Discusses Modernization of the Community Reinvestment Act</a></b> (02.14.2022) - WASHINGTON— Acting Comptroller of the Currency Michael J. Hsu today discussed the history of the Community Reinvestment Act (CRA) with the National Community Reinvestment Coalition. His remarks highlighted how a modernized CRA can</p>
--	--

	<p>help address persistent disparities and gaps in wealth and economic opportunities in minority, rural, and other vulnerable communities.</p> <p>Related Links  <a href="#">Remarks</a></p> <p><i>Comment: These remarks also note that the revisions will be interagency and will start with the Fed's Advanced Notice of Proposed Rulemaking.</i></p>
--	--

## Technology / Security

	No news to report this week.
--	------------------------------

## [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

**01.26.2022** [Request for Information Regarding Fees Imposed by Providers of Consumer Financial Products or Services](#) - The Consumer Financial Protection Bureau (Bureau or CFPB) is seeking comments from the public related to fees that are not subject to competitive processes that ensure fair pricing. The submissions to this request for information will serve to assist the CFPB and policymakers in exercising its enforcement, supervision, regulatory, and other authorities to create fairer, more transparent, and competitive consumer financial markets. **DATES: Comments must be received on or before March 31, 2022.**

**01.25.2022** [Pilot Program on Sharing of Suspicious Activity Reports and Related Information With Foreign Branches, Subsidiaries, and Affiliates](#) - FinCEN is issuing this notice of proposed rulemaking to seek public comment on the proposed establishment of a limited-duration pilot program, subject to conditions set by FinCEN, to permit a financial institution with a suspicious activity report (SAR) reporting obligation to share SARs and information related to SARs with the institution's foreign branches, subsidiaries, and affiliates for the purpose of combating illicit finance risk, in accordance with Section 6212(a) of the Anti-Money Laundering Act of 2020 (AML Act). **DATES: Written comments on this proposed rule must be received on or before March 28, 2022.**