Community Bankers of Michigan Regulatory Dispatch

February 5, 2025

Timely news and resources community bankers can use

to better stay on top of a rapidly changing world.

Brief Remarks on the Economy, and Perspective on Mutual and Community Banks - Governor Michelle W. Bowman

Problem-Based Solutions
One of the most difficult challenges on the regulatory front is prioritization, both for banks managing their businesses and for regulators deciding how to fulfill their responsibilities. At a basic level, the role of regulators is dictated by statute. Congress granted the Federal Reserve and other banking agencies broad statutory powers but has constrained how those powers may be directed through the use of statutory mandates, including to promote a safe and sound banking system, and broader U.S. financial stability. In the execution of these responsibilities, the Federal Reserve must also balance the need to act in a way that enables the banking system to serve the U.S. economy and promote economic growth. While these objectives are not incompatible, they do require us to consider tradeoffs when establishing policy.

How can regulators best meet these responsibilities? As many of you may already know, I strongly believe in a pragmatic approach to policymaking. This requires us to identify the problem we are trying to solve, determine whether we are the appropriate regulator to address the problem based on our statutory mandates and authorities, and explore options for addressing the identified issue.

As a first step, we must be attuned to the banking system and how regulatory actions affect that system. We oversee a wide range of banks of varying sizes, activities, affiliates, and complexity. These banks interact with a range of service providers, financial market utilities, payments providers, and non-bank partners, regularly competing with non-bank financial intermediaries. The banking system can be a key driver of business formation, economic expansion, and opportunity.

As we look at the banking system, including the regulatory framework, we must focus on those issues that are most important to advancing statutory priorities. There is always the risk of misidentification and mis-prioritization, and that we fail to take appropriately robust action on key issues or focus on issues that are less material to a bank's safety and soundness. Our goal should be to develop a better filter to promote appropriate and effective prioritization.

Fraud
We have seen several instances where this filter did not produce appropriate results, as we have recently seen with fraud. The incidence of fraud, particularly check fraud, has been rising substantially over the past few years, causing

harm to banks, damaging the perceived safety of the banking system, and importantly, hurting consumers who are the victims of fraudulent activity. Sometimes these efforts target vulnerable populations, like the elderly, who are particularly susceptible to certain forms of fraud.

Despite this known problem, efforts by regulators have been frustratingly slow to advance, and seem to have done little to address the underlying root causes of this increase in fraud. Why has this important issue failed to garner greater attention from all of the appropriate regulatory and law enforcement bodies? Different governmental agencies may share an important role in addressing this problem, but the need for a joint and coordinated solution does not excuse collective inaction.

Climate-Related Financial Risk
Of course, not every issue falls within the scope of the Federal Reserve's responsibilities. Even when policymakers identify an issue or priority that they would like to pursue, it is imperative to ask whether that priority falls within the scope of our mandate and authorities. Statutes and regulations, paired with the "soft" power of examination, can be deployed in ways that may not be primarily directed towards the priorities mandated for banking regulators. I've noted previously that the banking agencies' climate-related financial risk guidance arguably pushes the boundaries of appropriate regulatory responsibilities. Banks have long been required to manage all material risks, including weather- and climate-related risks. And while this additional guidance seemed to do little to advance the goals of promoting the safe and sound operation of banks it, in effect, posed significant risks of influencing credit allocation decisions. Ultimately, banking regulators should not dictate credit allocation decisions, either by rule or through supervision. Bank regulatory policy should be used to address the needs of the unbanked and expand the availability of banking services. It should not be used to limit or exclude access to banking services for legitimate customers and businesses in a way that is meant to further unrelated policy goals, sometimes referred to as "de-banking."

Once we have identified problems and determined that they are within the Fed's responsibility, we must consider alternative approaches to address them, focusing on identifying efficient solutions. New technologies and services often require novel regulatory and supervisory approaches, and we recognize that past approaches may not be effective. Often regulators take a "more is better" approach to regulation and guidance. Over the past several years, the banking industry has faced an onslaught of proposed and final regulations and guidance, materials that require a significant time commitment to review, to comment on, and to implement. Many times, these require changes to policies and procedures or risk management practices.

It is critical that in our urgency to address issues in the banking system—particularly for community banks—that we consider not just the direct and indirect effects of regulatory action but also this cumulative burden. Community banks are resilient and dedicated to serving their communities, but at some point, the cumulative burden of the bank regulatory framework can adversely affect the availability and pricing of banking services and threaten the ongoing viability of the community bank model. The community banks in this country are important economically and to their communities, and we should strive to support these institutions and their ongoing viability.

Comment: Gov. Bowman and Fed Gov. Christopher Waller are both Trump-appointees, but Bowman has been widely viewed as Gov. Barr's likely replacement to chair the Committee on Supervision and Regulation, in part because of her bank supervisory experience. At the time of her 2018 appointment to the Fed board, she was the state banking commissioner of Kansas. CBM would strongly support Gov. Bowman as chair of the Committee on Supervision and Regulation.

Bank Management

	Joint Agencies Announce Second Public Outreach Meeting as Part of Their Review of Regulations (01/31/2025) – Federal bank regulatory agencies will hold a virtual public outreach meeting on March 6, 2025, as part of their review of regulations, as required by law. The Economic Growth and Regulatory Paperwork Reduction Act (EGRPRA) requires the agencies, with input from the public, to review their regulations at least once every 10 years to identify any outdated or otherwise unnecessary regulatory requirements applicable to their supervised institutions.

	The outreach meeting is an opportunity for interested stakeholders to present their views on the six categories of regulations listed in the first two Federal Register notices: Applications and Reporting; Powers and Activities; International Operations; Consumer Protection; Directors, Officers and Employees; and Money Laundering. Individuals interested in providing oral comments must register by February 14, 2025, and indicate the regulatory category or categories they would like to discuss. The agencies will notify those individuals selected to provide comments. Advance registration is not required to attend this virtual public meeting as an observer. Additional details, including a link to attend the meeting, will be available on the EGRPRA website under the outreach page. The agencies will announce additional public meetings in 2025.

BSA / AML

	FinCEN Rescinds Alerts on Israeli Extremist Settler Violence Against Palestinians in the West Bank (01/29/2025) – FinCEN rescinded its two Alerts on Israeli Extremist Settler Violence Against Palestinians in the West Bank, published on February 1, 2024 and July 11, 2024, respectively. On January 20, 2025, the President signed a new Executive Order (E.O.), "Initial Rescissions Of Harmful Executive Orders And Actions," which, among other actions, revoked E.O. 14115, "Imposing Certain Sanctions on Persons Undermining Peace, Security, and Stability in the West Bank." As such, FinCEN is no longer requesting that financial institutions file suspicious activity reports with the key term "FIN-2024-WBEXTREMISM."

Deposit / Retail Operations

	FRB Community Pulse on Payments - January (01/30/2025) **When Synthetic Identities and Artificial Intelligence Collide** The latest addition to the Federal Reserve's Synthetic Identity Fraud Mitigation Toolkit focuses on how generative artificial intelligence (Gen AI) is leveraged to create realistic-seeming synthetic identities. **Highlights from 2024 Fall Events** Around the Fed, Cross-Border Payments, Event Summaries, Faster Payments, Payments Efficiency, and Payments Security. Federal Reserve Financial Services frequently attends industry conferences to engage with the ecosystem on advancing the speed, security and efficiency of payments. Read highlights from key events this fall. ***Comment: The FedPayments Improvement Community was established in early 2015 as a key channel for bringing stakeholders together. The Community stays informed through regular communications and events.***

Human Resources

	No news to report this week.

Lending

CFPB Updates List of Consumer Reporting Companies (01/30/2025) – **WASHINGTON, D.C.** — The Consumer Financial Protection Bureau (CFPB) released its annual list of consumer reporting companies. The list identifies dozens of specialty reporting companies that collect and sell access to people's data, including individuals' finances, employment, check writing histories, or rental history records. People can use the list to, among other things, request their consumer reporting data, dispute inaccuracies, and block access to their credit reporting data through security freezes. The list also informs consumers about the types of personal financial information that is collected for credit and other consumer reports.

"The number of companies and industries gathering, selling, and using personal financial data continues to rise," said CFPB Director Rohit Chopra. "The CFPB's consumer reporting company list helps consumers know who is collecting and selling their data, along with the steps they can take to freeze their reports."

In the United States, personal financial data is used by a variety of entities when making lending, banking, employment, and housing decisions. Some less obvious entities that use personal financial data include casinos, phone companies, volunteer organizations, government agencies determining eligibility for assistance programs, debt collectors, and insurance companies. While three nationwide consumer reporting companies – Equifax, Experian, and TransUnion – dominate much of the credit reporting market, many specialty consumer reporting companies exist to support different industries. This means consumers' personal financial data may be collected by and reported to a multitude of companies and individuals. That spread can also increase consumer risk, especially when consumers are unaware that it is happening.

The annual list of consumer reporting companies published by the CFPB allows people to find consumer reporting companies that provide specialized reporting for specific markets that might be relevant to them depending on their specific goals and situation. The list also provides information on how people can dispute inaccurate information and request a security freeze.

A security freeze blocks third-party access to personal credit reporting data. It is the only solution available for free by law that can prevent scammers from opening new credit accounts in your name in situations where credit reports are a prerequisite to lending. People reported losing more than $10 billion to fraud in 2023, an increase of 14% over the previous year, according to the Federal Trade Commission. This number captures only the initial dollar amount lost.

Other key information in this report includes:

- **Consumer reporting companies that share information with casinos are included:** Casinos and sports betting apps are dependent on digital access to consumer cash information. This year's list of consumer reporting companies includes those that provide data to casinos and sports betting companies.

- **Social media, driving data, and other unexpected information can be part of certain consumer reports:** Employment screening reports can include social media data. Consumer reporting companies will also sell driving behavior data to auto insurers, collected through drivers' mobile phones or motor vehicles, to determine auto insurance eligibility and rates. Other data may include property insurance claims, drug and alcohol testing and health screening information, and non-profit and volunteer activity verification.

- **Under many circumstances, people can receive their credit reports for free:** The bigger nationwide companies must provide a free report no less than once every twelve months upon request. Since the COVID-19 pandemic, they have chosen to make free reports available to consumers weekly. Additionally, consumer reporting companies must provide a free copy of a person's report, upon request, if an adverse action, like being denied credit or housing, is taken against the individual. For other requests, consumer reporting companies must provide consumers' copies of their information for a reasonable fee (for calendar year 2025, the maximum allowable fee is $15.50). Requesting copies of their consumer reports does not harm consumers' credit scores.

- **Hard inquiries can lower credit scores:** Applications for credit and leasing can result in a "hard inquiry" on applicants' credit reports. This can lower applicants' credit scores because most credit scores look at how recently and how frequently they have applied for credit. Likewise, tenants shopping around for rental housing, who are submitting multiple lease applications with different landlords, may be subjected to multiple hard inquiries.

- **Bank account history can affect access to credit:** While not credit history, deposit account history may be used by lenders to determine credit eligibility and pricing, especially for loan applicants with little to no credit history. Negative deposit information can include an unpaid negative balance, the bank closing an individual's account, or the account being associated with fraud.

The list of consumer reporting companies may not be complete.

Read List of Consumer Reporting Companies

Comment: For each company listed, the CFPB provides a description of their activities, information on how to obtain a copy of consumer information maintained by the company, and the company's contact information. The list shows which companies provide copies of consumer information for free and categorizes companies by specific markets, including employment, tenant, insurance, and medical.

CFPB Finds Servicemembers Pay More in Auto Lending Market (01/29/2025) **WASHINGTON, D.C.** — The Consumer Financial Protection Bureau (CFPB) published a report showing that United States servicemembers pay higher costs and face greater financial risks than civilian borrowers when taking out credit to buy a car. The report analyzes more than 20 million auto loans originated between 2018 and 2022, and finds that servicemembers typically have larger loans, make smaller down payments, and ultimately shoulder higher monthly costs.

While servicemembers pay nearly the same for both new and used vehicles as civilian buyers do, servicemembers on average pay more in interest and fees than civilian borrowers do and also make those higher payments for longer. Military borrowers are also less likely to make a downpayment, more likely to make a smaller downpayment, and more likely to make a negative equity trade-in. Because servicemembers are often required to have a personal vehicle for transportation to fulfill their military obligations, and because they may be young men and women far away from family supports, they may be especially vulnerable to overreaching lending practices and have fewer resources to draw upon.

Key findings in the report include:

- **Servicemembers borrow more while putting less down:** For new vehicles, servicemembers borrowed an average of $39,000 – over $2,200 more than civilians – while putting down about $1,100 less in down payments. For used vehicles, they financed $27,500 on average, which is almost $400 more than civilians.
- **Military borrowers pay higher rates over longer terms:** Servicemembers faced average annual percentage rates (APRs) 0.6 percentage points above civilian rates and longer loan terms. This has resulted in servicemembers' monthly payments averaging $644 for new vehicles, nearly $20 more than for civilian borrowers and nearly $1,300 more over the life of the average new vehicle loan.
- **Add-on products, including GAP products, increase costs further:** Over 70% of servicemembers purchased add-on products and paid on average about $140 more for add-on products than

	civilians. Warranty, service, and maintenance plans were the most common and expensive category of add-on products purchased. The second most common was GAP products. Servicemembers' purchase of GAP products increased sharply in 2020, after the Department of Defense changed its interpretation of the Military Lending Act. Read the report, Auto Lending to Servicemembers. The CFPB continues to protect servicemembers' financial interests across markets. The CFPB recently ordered Navy Federal Credit Union to refund over $95 million in illegal overdraft fees charged to servicemembers, veterans, and their families. The CFPB took action against FirstCash and MoneyLion for charging servicemembers illegal and high interest in violation of the Military Lending Act. The CFPB's research found that Reserve and National Guard members were forgoing an estimated $9 million annually by not receiving the interest rate reduction benefit provided by the Servicemembers Civil Relief Act. The CFPB also proposed a rule to protect servicemembers and other Americans from data brokers selling their sensitive personal information to scammers, stalkers, and foreign surveillance operations.

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.

12.09.2024 **CFPB** Fair Credit Reporting Act (Regulation V); Identity Theft and Coerced Debt SUMMARY: The Consumer Financial Protection Bureau (CFPB) is seeking information in advance of preparing a proposed rule to address concerns related to information furnished to credit bureaus and other consumer reporting agencies concerning coerced debt. More specifically, this advance notice of proposed rulemaking solicits information on amending the definitions of "identity theft" and "identity theft report" in Regulation V, which implements the Fair Credit Reporting Act, as well as other related amendments to Regulation V, to include information stemming from transactions that occurred without the consumer's effective consent. **DATES: Comments must be received by March 7, 2025.**

01.10.2025 **CFPB** Electronic Fund Transfers Through Accounts Established Primarily for Personal, Family, or Household Purposes Using Emerging Payment Mechanisms SUMMARY: In light of interest by electronic fund transfer system market participants to offer new types of products to transfer funds and make purchases through accounts established primarily for personal, family, or household purposes, the Consumer Financial Protection Bureau (CFPB) is proposing this interpretive rule to assist companies, investors, and other market participants evaluating existing statutory and regulatory requirements governing electronic fund transfers (EFTs). **DATES: Comments must be received by March 31, 2025.**

01.10.2025 **CFPB** Request for Information Regarding the Collection, Use, and Monetization of Consumer Payment and Other Personal Financial Data SUMMARY: The Consumer Financial Protection Bureau (CFPB) is seeking comments from the public to better understand how companies that offer or provide consumer financial products or services collect, use, share, and protect consumers' personal financial data, such as data harvested from consumer payments. The submissions in response to this request for information will serve to assist the CFPB and policymakers in further understanding the current state of the business practices at these companies and the concerns of consumers as the CFPB exercises its enforcement, supervision, regulatory, and other authorities. **DATES: Comments must be received on or before April 11, 2025.**

01.13.2025 **CFPB** Prohibited Terms and Conditions in Agreements for Consumer Financial Products or Services (Regulation AA) SUMMARY: The Consumer Financial Protection Bureau (CFPB) is proposing to prohibit certain contractual provisions in agreements for consumer financial products or services. The proposal would prohibit covered persons from including in their contracts any provisions purporting to waive substantive consumer legal rights and protections (or their remedies) granted by State or Federal law. The proposal would also prohibit contract terms that limit free expression, including with threats of account closure, fines, or breach of contract claims, as well as other contract terms. The proposal would also codify certain longstanding prohibitions under the Federal Trade Commission's (FTC) Credit Practices Rule. **DATES: Comments must be received on or before April 1, 2025.**