

Community Bankers of Michigan Regulatory Dispatch

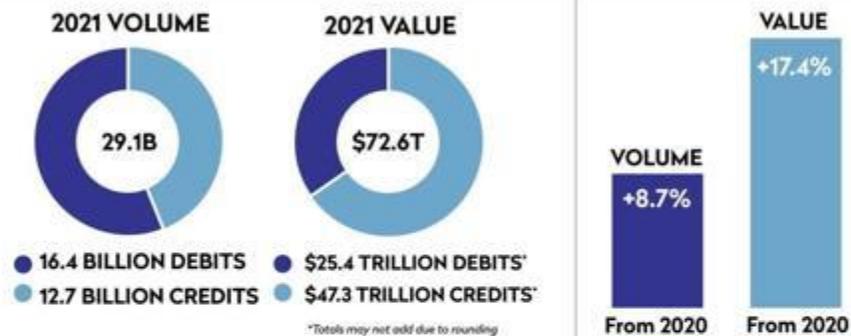
February 8, 2022

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

ACH Network Sees 29.1 Billion Payments in 2021, Led by Major Gains in B2B and Same Day ACH

2021 ACH NETWORK VOLUME AND VALUE

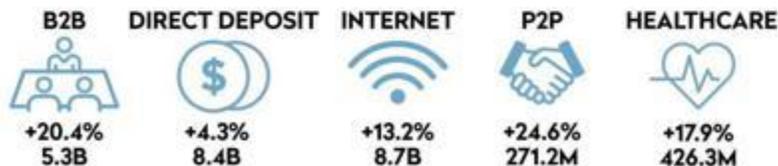
29.1B TRANSACTIONS TOTALING \$72.6T



87

Think about it:
The total volume of 2021's ACH payments translates to approximately 87 payments per American.

2021 VOLUME BREAKDOWN



Volume has increased by **MORE THAN 1B** every year for the last 7 years
Value has increased by **MORE THAN \$1T** every year for the last 9 years

This is the seventh straight year that ACH Network payment volume grew by at least one billion payments year-over-year, with 2021 seeing an increase of 2.3 billion payments over 2020 (up 8.7%). The value of the payments jumped \$10.8 trillion (17.4%) in 2021, the ninth consecutive year with a payment value increase of at least \$1 trillion, the data shows.

Read the entire report [here](#).

Comment: As payments shift, it's important that banks have a 'payment channel strategy' to manage both risk and customer expectations. And remember, effective March 18, 2022 the Same Day ACH dollar limit is increased to \$1 million per payment.

CBM Insights

Q: We have an EVP who was just promoted into a position that makes him an Executive Officer (EO) of the Bank. Prior to the recent appointment, he was NOT considered an EO of the Bank (specifically excluded). The EVP has debts with the bank that were incurred prior to becoming an EO. Are the loans he had prior to becoming EO now subject to Regulation O?

A: The Federal Reserve Board (FRB) addressed 'transition loans' in a specific question added to the Regulation O FAQs in 2021. Generally, the provisions of Regulation O would not apply until existing loans are 'renewed, revised, or extended.' However, these loans must be taken into consideration in applying the quantitative limits under §215.5. In addition, lines of credit must be approved every 14 months. Thus, these must conform to the restrictions within 14 months of the borrower becoming an insider.

Below is from the FRB's *Frequently Asked Questions about Regulation O*. Note the specific passages below (underlined for emphasis.)

Q2: When do the requirements of Regulation O apply to extensions of credit to a person that becomes an insider after the member bank made the extension of credit (transition loans)?

A2: Transition loans need not conform to the requirements of Regulation O until such extensions of credit are renewed, revised, or extended, at which time the extensions of credit would be treated as a new extension of credit and therefore subject to all of the requirements of Regulation O. However, transition loans must be counted toward the individual and aggregate lending limits of Regulation O as soon as the borrower becomes an insider.

This same treatment would apply to extensions of credit to a director or principal shareholder that later becomes an executive officer. Such extensions of credit need not conform to the provisions of Regulation O that apply only to executive officers until such extensions of credit are renewed, revised, or extended. However, the amount of any such extensions of credit count toward the quantitative limits for loans to executive officers in section 215.5 of Regulation O as soon as the director or principal shareholder becomes an executive officer.

Many lines of credit by a member bank to an insider must be approved by the bank's board of directors every 14 months. Each such approval constitutes a new extension of credit. Accordingly, transition loans that are lines of credit generally must conform to the requirements of Regulation O within 14 months of the borrower becoming an insider.

Notwithstanding the general principles noted above, the treatment described here does not apply to extensions of credit made by a member bank in contemplation of the borrower becoming an insider or executive officer. Under such circumstances, the extension of credit should comply with all requirements of Regulation O at the time it is made.

Source: FRRS 3-1036 (citing 1936 Fed. Res. Bull. 121); Letter from J. Virgil Mattingly, Jr., to N. P. Van Maren, Jr. (September 16, 1992), available here; 62 Fed. Reg. 13294, 13296 n. 11 (March 20, 1997).

Posted: 3/31/2021

Source [link](#).

Items of Interest

Bank Management

FDIC [Reflections from Chairman McWilliams](#) (02.03.2022) - In a new episode of the FDIC Podcast, we sit down for a final time with departing Chairman Jelena McWilliams to reflect upon her leadership of this agency.

Chairman McWilliams was sworn in as the 21st chairman of the FDIC on June 5, 2018. During her tenure, Chairman McWilliams steered the FDIC through an unprecedented moment in the history of our banking system.

From her approach to regulation and supervision to the need for financial institutions to innovate, Chairman McWilliams discusses a broad range of issues and challenges that will continue to confront bankers and their customers.

[Listen Here](#)

Comment: Jelena McWilliams was appointed by President Trump in 2018 for a five-year term. Her (rather contentious) resignation was effective February 4. FDIC board member Martin Gruenberg will become acting chair, assuming the FDIC leadership role for the third time. Gruenberg has already issued his priorities for the FDIC, which include strengthening CRA, addressing financial risks posed by climate change, reviewing bank merger process, evaluating crypto-asset risks, and finalizing the Basel III capital rule.

CSBS [Adapting to the Digital Age: Community Bankers' Perspectives on Technology](#) (02.01.2022) - Blog 1 of 7: Macroeconomic Forces

By CSBS Chief Economist Thomas F. Siems, Temple University Professor of Finance and CSBS Adjunct Research Scholar Jonathan A. Scott and Federal Reserve Bank of St. Louis Supervision Policy, Research and Analysis Manager Meredith A. Covington

ADAPTING TO THE DIGITAL AGE SERIES

[Blog 1: Macroeconomic Forces](#)

Blog 2: Coming Soon

Each blog in this series will contain an updated table of contents. Bookmark this page and come back here to read more as the series continues.

In this seven-part blog series, we explore how community banks are adapting to a changing digital landscape by analyzing banking and technology questions from the 2021 CSBS National Survey of Community Banks. Survey results are presented each fall at the annual Community Banking in the 21st Century Research and Policy Conference, sponsored by CSBS, the Federal Reserve and the Federal Deposit Insurance Corp.

The first installment in this series sets the stage by putting the most recent survey responses within the context of current macroeconomic conditions.

Current Macroeconomic Conditions

The 2020 recession—caused by the COVID-19 pandemic and subsequent economic lockdowns—changed customer behaviors and provided an opportunity for community banks to reevaluate their digital banking strategies. Many banks accelerated their plans for full-service digital banking to give their customers more control over their banking

relationships. Internally, community bankers also evaluated how their digital strategy can support high levels of security, improved workflow and process automation, and the use of data analytics for both marketing and risk management. In summary, since early 2020, community bankers learned to quickly adapt to a remote work environment that necessitated meeting customer needs using new technologies and/or embracing ones that were previously underused.

One of the key findings in the 2021 CSBS National Survey of Community Banks is that maintaining and growing net interest margins (“NIMs”) was community bankers’ top challenge. Among 10 possible responses to the question, “How important are the following external challenges facing your bank today?” Chart 1 shows that compressed NIMs was on top with 65% of respondents saying it is “very important.” The next most important challenge was declining loan demand with 52% of community bankers citing it as a “very important” challenge. In 2020, community bankers said that “business conditions” was their single greatest challenge, while a year earlier (2019) community bankers identified “core deposit growth” as the single greatest challenge.

Comment: It’s important that community banks began to understand how new technologies and Fintech were impacting business models for various customer segments. A strategic approach to ‘digital banking’ should be seen as a way to enhance customer service.

[CSBS Understanding How Congress Included State Bank Supervisors in the FDIC Board \(01.31.2022\)](#) – The CSBS sent a [letter to Senate leadership](#) calling for the nomination and confirmation of a state bank commissioner to serve on the FDIC Board as required by law. This post explaining the relevant law and its purpose has been updated to reflect the current nomination process.

Sometimes legislative history tells a fuller story of a bill’s provisions.

In 1996, Congress amended the Federal Deposit Insurance Act (FDI Act) to require that at least one of the FDIC’s three independent directors have state bank supervisory experience. I want to make clear why this requirement can only be met with an individual who has served as a state official responsible for supervising state banks. And understanding this is especially important right now, with one and possibly two vacancies on the board.

Section 2 of the FDI Act requires that the FDIC Board be made up of the following:

- The Comptroller of the Currency
- The director of the Consumer Financial Protection Bureau
- Three other directors (including the chairman and vice chairman), one of whom “shall have state bank supervisory experience.”

The plain language of the law and its legislative history clearly contemplate that one of the directors (not including the Comptroller or the CFPB director) have experience as a state official responsible for supervising state-chartered banks.

Comment: Amen. This state supervision experience is critical to more rational and effective regulation.

BSA / AML

No news to report this week.

Deposit / Retail Operations

FDIC Expands #GetBanked Campaign in Los Angeles, Dallas, and Detroit (02.01.2022) - WASHINGTON — As part of its ongoing work to expand financial inclusion to unbanked individuals and families, the Federal Deposit Insurance Corporation (FDIC) announced it will expand its #GetBanked public awareness campaign into the Los Angeles, Dallas, and Detroit metropolitan areas.

The FDIC's #GetBanked campaign is focused on areas where research finds that a significant number of Black and Hispanic households are unbanked. The goal of this targeted campaign is to encourage unbanked consumers to consider opening a checking account. Many banks offer a variety of accounts, including low-cost accounts. Last year, the FDIC launched this campaign in Atlanta and Houston.

Through a series of English- and Spanish-language digital, audio, and video advertisements, the FDIC hopes to reach unbanked consumers, particularly during the tax filing season, when they can benefit from early and direct deposit of their refund.

Comment: Although this campaign is targeted to these three cities, the effort to get unbanked customers into the banking system has been an ongoing focus for many years.

Human Resources

No news to report this week.

Lending

Joint [Appraisal Discrimination is Illegal Under Federal Law](#) (02.04.2022) - Home ownership is one of the best paths for building intergenerational wealth. But for some homebuyers and owners, a home's valuation may be skewed by one's skin color or the demographics of the surrounding community. A biased home appraisal can worsen racial inequities and distort the housing market. That's why, for more than 50 years, federal law has forbidden racial, religious, and other discrimination in home appraisals. But we still see reports of appraisers who don't follow the law and base their value judgments on biased, unfounded assumptions about borrowers and the neighborhoods in which they live.

We have also seen the organization that sets the standards for appraisers, The Appraisal Foundation (TAF), fail to include clear warnings about the requirements of federal law in the standards it sets, and in the training it provides for appraisers. TAF is a private, non-governmental organization, and the only entity with the power to set professional standards for appraisers. However, TAF has yet to highlight these important laws even though it frequently revises its standards. These actions undermine a fair and competitive market free of bias and discrimination.

We joined senior staff from across the federal government to submit a joint letter to TAF emphasizing that federal prohibitions against discrimination under the Fair Housing Act and Equal Credit Opportunity Act extend to appraisals.

Comment: In late 2021, a black couple in Northern California sued when an appraisal on their home came in significantly lower than expected. In a subsequent appraisal done on the same home with a white friend posing as the owner, the appraisal was nearly \$500,000 higher. The couple filed a lawsuit in federal court in San Francisco, arguing that racial discrimination played a role in the low valuation of their home. That action appears to have drawn the attention of the agencies.

Joint Federal Bank Regulatory Agencies to Host the 2022 National Interagency Community Reinvestment Conference (02.04.2022) - The three federal bank regulatory agencies and the Federal Reserve Banks of Chicago and San Francisco will host the 2022 National Interagency Community Reinvestment Conference on March 15-17.

The biennial conference offers participants from around the country the opportunity to learn about the Community Reinvestment Act (CRA); participate in regulator-led training on CRA examinations; and discuss best practices, emerging ideas, and challenges in community development. This year's program, "Reimagine, Reinvest, Rebuild," will be held online.

For the full agenda and to register for the conference, visit the National Interagency Community Reinvestment Conference [website](#).

Comment: The event may be more informative on the agencies perspectives now that the OCC has 'rejoined the fold' on a coordinated approach to CRA.

OCC State Community Reinvestment Laws; Consumer Complaints: Input From State Officials and Consumer Complaint Referrals From States (02.02.2022) - This bulletin addresses the Office of the Comptroller of the Currency's (OCC) processes for considering input from state banking commissioners regarding national banks' performance under state community reinvestment laws, including implementation of community reinvestment-related provisions of the Riegle–Neal Interstate Banking and Branching Efficiency Act (Riegle–Neal Act). (Note that the Riegle–Neal Act does not apply to federal savings associations.)

This bulletin also addresses expectations regarding the handling of consumer complaints that state officials refer to national banks and federal savings associations (collectively, banks) and state referrals of complaints to the OCC.1

Rescissions

This bulletin rescinds:

- OCC Advisory Letter 99-1, "State CRA Laws," dated January 26, 1999 (applicable to national banks).
- OCC Advisory Letter 2004-2, "Consumer Complaints Referred to National Banks by State Officials," dated February 26, 2004 (applicable to national banks).

Note for Community Banks

This bulletin applies to all community banks subject to evaluation under the Community Reinvestment Act (CRA). The sections of this bulletin that address state referrals of complaints apply to all OCC-supervised community banks regardless of whether they are subject to the CRA.

	<p><u>Highlights</u></p> <p>This bulletin:</p> <ul style="list-style-type: none"> • outlines OCC policy and procedures for considering state input on CRA performance of OCC-supervised banks. • includes an email address for state banking commissioners to submit input regarding a national bank’s record of performance under applicable state community reinvestment laws. • provides general guidance for banks on handling consumer complaints that state officials refer to banks and addresses state referrals of complaints to the OCC. • provides updated mailing addresses for the OCC’s Customer Assistance Group and the OCC’s Chief Counsel’s Office.
	<p>FRB January 2022 Senior Loan Officer Opinion Survey on Bank Lending Practices (01.31.2022) - The January 2022 Senior Loan Officer Opinion Survey on Bank Lending Practices addressed changes in the standards and terms on, and demand for, bank loans to businesses and households over the past three months, which generally correspond to the fourth quarter of 2021.¹</p> <p>Regarding loans to businesses, respondents to the survey reported, on balance, easier standards and stronger demand for commercial and industrial (C&I) loans to firms of all sizes over the fourth quarter.² Banks also reported easier standards and stronger demand for all commercial real estate (CRE) loan categories.</p> <p>For loans to households, banks eased standards across most categories of residential real estate (RRE) loans and home equity lines of credit (HELOCs) over the fourth quarter while also reporting weaker demand for most types of RRE loans on net. In addition, banks eased standards for all consumer loan categories—that is, credit card loans, auto loans, and other consumer loans. Meanwhile, changes in demand were mixed across consumer loan types.</p> <p>The survey also included a set of special questions inquiring about banks' expectations for changes in lending standards, borrower demand, and loan performance over 2022. Banks, on balance, reported expecting lending standards to ease and demand to strengthen across most loan types. At the same time, banks reported mixed expectations about loan quality.</p>

Technology / Security

	No news to report this week.
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[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.**

