



Community Bankers of Michigan Regulatory Dispatch

January 10, 2024

Timely news and resources community bankers can use

to better stay on top of a rapidly changing world.

JD Supra Series Explores Impact of New CRA Rule on Intermediate and Large Banks – And It’s Not Good

In a four-part series, JD Supra and Len Suzio from GeoDataVison explore the impact of the CRA final rule and the impact it will have on Intermediate and Large Banks.

[New CRA Rule is a Disaster for Banks: Part I – And the Numbers Prove it!](#)

[New CRA Rule is a Disaster for Banks Part II: Key Regulator says Goal was “to raise the bar for CRA performance”](#)

[The Disastrous New CRA: Part III – It’s worse than you think and which banks are hurt the most](#)

[The Disastrous New CRA Rule: Part IV – Is the 80% Retail Lending Assessment Area Exemption Really a Break for Large Banks?](#)

Comment: This series is a very troubling read for Intermediate and Large Banks. After reading the entire series now, Part III seems to point out the culprit is the two new Assessment Areas thus impacting Intermediate Banks and Large Banks - more so Intermediate Banks.

Items of Interest

Bank Management

No news to report this week.

BSA / AML

FinCEN [U.S. Beneficial Ownership Information Registry Now Accepting Reports](#) (01/01/2024) – WASHINGTON -- The U.S. Department of the Treasury’s Financial Crimes Enforcement Network (FinCEN) began accepting beneficial ownership information reports. The bipartisan Corporate Transparency Act, enacted in 2021 to curb illicit finance, requires many companies doing business in the United States to report information about the individuals who ultimately own or control them.

Filing is simple, secure, and free of charge. Companies that are required to comply (“reporting companies”) must file their initial reports by the following deadlines:

- Existing companies: Reporting companies created or registered to do business in the United States before January 1, 2024, must file by January 1, 2025.
- Newly created or registered companies: Reporting companies created or registered to do business in the United States in 2024 have 90 calendar days to file after receiving actual or public notice that their company’s creation or registration is effective.

Beneficial ownership information reporting is not an annual requirement. A report only needs to be submitted once, unless the filer needs to update or correct information. Generally, reporting companies must provide four pieces of information about each beneficial owner:

- name
- date of birth
- address
- the identifying number and issuer from either a non-expired U.S. driver’s license, a non-expired U.S. passport, or a non-expired identification document issued by a State (including a U.S. territory or possession), local government, or Indian tribe. If none of those documents exist, a non-expired foreign passport can be used. An image of the document must also be submitted.

The company must also submit certain information about itself, such as its name(s) and address. In addition, reporting companies created on or after January 1, 2024, are required to submit information about the individuals who formed the company (“company applicants”).

FinCEN is committed to providing America’s small businesses with the resources and information they need to make filing as quick and easy as possible. FinCEN’s Small Entity Compliance Guide walks small businesses through the requirements in plain language. Filers can also view informational videos and webinars, find answers to frequently asked questions, connect to the contact center, and learn more about how to report at www.fincen.gov/boi.

Comment: Direct your staff and accountholders to FinCEN’s FAQ page for information on reporting. Beneficial ownership information reporting is not an annual requirement. A report only needs to be submitted once, unless the filer needs to update or correct information. And as a reminder, nothing changes with regard to existing bank responsibilities under the current CDD rule. FinCEN has yet to reconcile the current CDD rule with the CTA. Look for that part of the process in 2024.

Deposit / Retail Operations

FTC [No Love for Romance Scammers in 2024](#) (01/05/2024) – As your social media and mailboxes fill up with new year’s greetings, you might see some unfamiliar names. Are the messages from long-lost friends or romance scammers trying to get close? Read the alert for things to watch for.

Comment: Community banks can help to educate accountholders about romance and dating scams by sharing information from sources like the FTC. Typically, these scams involve three phases: 1) the catfish stage; 2) grooming the victim; and 3 the money request. The FTC gives examples of spotting each stage.

Human Resources

No news to report this week.

Lending

CFPB [2023 HMDA Data Filing Period is Open](#) (01/04/2024) – The CFPB is pleased to announce that the filing period for HMDA data collected in 2023 opened on January 1, 2024. Submissions will be considered timely if received on or before Friday, March 1, 2024. The HMDA Platform provides financial institutions an opportunity to determine whether their loan/application register (LAR) data comply with the reporting requirements outlined in the [Filing Instructions Guide for HMDA data collected in 2023](#).

Submit your data

Access the HMDA Platform to begin the filing process for data collected in 2023 here: <https://ffiec.cfpb.gov/filing/>.

Users will receive a confirmation email upon submission of their HMDA data. The confirmation email will be sent to the email account of the user that has submitted the data.

Testing your submission?

The Beta Platform found at <https://ffiec.beta.cfpb.gov/filing/> will remain available on an ongoing basis for filers wishing to test their submissions. Please note that the Beta Platform is for testing purposes only. No data submitted on the Beta Platform will be considered for compliance with HMDA data reporting requirements. To officially submit your HMDA Data for 2023, visit the live HMDA Platform at <https://ffiec.cfpb.gov/filing/>.

[HMDA Platform Tools](#) provide institutions with assistance in creating their HMDA LAR file. The [Online LAR Formatting Tool](#) helps financial institutions, typically those with small volumes of covered loans and applications, create an electronic file that can be submitted to the HMDA Platform. Filers can create their transmittal sheet and LAR rows, entering values for each data field, and use this tool to download the entire LAR file. Filers can also easily edit an existing file by uploading their file to the tool. The Online LAR Formatting Tool does not save any user data.

Comment: Scrub your data and test your submissions.

OCC [Releases CRA Evaluations for 25 National Banks and Federal Savings Associations](#) (01/02/2024) – WASHINGTON -- The Office of the Comptroller of the Currency (OCC) released a list of Community Reinvestment Act (CRA) performance evaluations that became public during the period of December 1, 2023, through December 31, 2023. The list contains only national banks, federal savings associations, and insured federal branches of foreign banks that have received ratings. The possible ratings are outstanding, satisfactory, needs to improve, and substantial noncompliance.

Of the 25 evaluations made public this month, 18 are rated satisfactory, and 7 are rated outstanding.

A list of this month's evaluations is available [here](#). Click on the institution's charter number to view a pdf of the evaluation. The OCC's website (<https://www.occ.gov>) also offers access to a searchable list of all public [CRA evaluations](#). Copies of the evaluations may also be obtained by submitting a request electronically through the OCC's Freedom of Information Act (FOIA) website <https://foia-pal.occ.gov/palMain.aspx> or by writing to the Office of the Comptroller of the Currency, Communications Division, Suite 3E-218, Washington, DC 20219. When requests are made electronically, remember to include your postal mail address.

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 RULES WITH REQUEST FOR PUBLIC COMMENT

- 10.25.2023** **FRB** [Requests Comment on a Proposal to Lower the Maximum Interchange Fee That a Large Debit Card Issuer Can Receive For a Debit Card Transaction](#) SUMMARY: Regulation II implements a provision of the Dodd-Frank Act that requires the Board to establish standards for assessing whether the amount of any interchange fee received by a debit card issuer is reasonable and proportional to the cost incurred by the issuer with respect to the transaction. Under the current rule, for a debit card transaction that does not qualify for a statutory exemption, the interchange fee can be no more than the sum of a base component of 21 cents, an ad valorem component of 5 basis points multiplied by the value of the transaction, and a fraud-prevention adjustment of 1 cent if the issuer meets certain fraud-prevention standards. The Board developed the current interchange fee cap in 2011 using data voluntarily reported to the Board by large debit card issuers concerning transactions performed in 2009. Since that time, data collected by the Board every other year on a mandatory basis from large debit card issuers show that certain costs incurred by these issuers have declined significantly; however, the interchange fee cap has remained the same. For this reason, the Board proposes to update all three components of the interchange fee cap based on the latest data reported to the Board by large debit card issuers. Further, the Board proposes to update the interchange fee cap every other year going forward by directly linking the interchange fee cap to data from the Board’s biennial survey of large debit card issuers. Initially, under the proposal, the base component would be 14.4 cents, the ad valorem component would be 4.0 basis points (multiplied by the value of the transaction), and the fraud-prevention adjustment would be 1.3 cents for debit card transactions performed from the effective date of the final rule to June 30, 2025. The Board also proposes a set of technical revisions to Regulation II. **DATES: Comments must be received on or before February 12, 2024.**
- 10.11.2023** **FTC** [Trade Regulation Rule on Unfair or Deceptive Fees](#) - SUMMARY: The Federal Trade Commission commences a rulemaking to promulgate a trade regulation rule entitled “Rule on Unfair or Deceptive Fees,” which would prohibit unfair or deceptive practices relating to fees for goods or services, specifically, misrepresenting the total costs of goods and services by omitting mandatory fees from advertised prices and misrepresenting the nature and purpose of fees. The Commission finds these unfair or deceptive practices relating to fees to be prevalent based on prior enforcement, the comments it received in response to an Advance Notice of Proposed Rulemaking, and other information discussed in this proposal. The Commission now solicits written comment, data, and arguments concerning the utility and scope of the trade regulation rule proposed in this Notice of Proposed Rulemaking to prevent the identified unfair or deceptive practices. **DATES: Comments must be received on or before February 7, 2024. (Extended from January 8, 2024)**
- 10.11.2023** **FDIC** [Guidelines Establishing Standards for Corporate Governance and Risk Management for Covered Institutions With Total Consolidated Assets of \\$10 Billion or More](#) - SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is seeking comment on proposed corporate governance and risk management guidelines (Guidelines) that would apply to all insured state nonmember banks, state-licensed insured branches of foreign banks, and insured state savings associations that are subject to Section 39 of the Federal Deposit Insurance Act (FDI Act), with total consolidated assets of \$10 billion or more on or after the effective date of the final Guidelines. These proposed Guidelines would be issued as Appendix C to FDIC’s standards for safety and soundness regulations in part 364, pursuant to Section 39 of the FDI Act, and would be enforceable under Section 39. The FDIC also proposes to make corresponding amendments to parts 308 and 364 of its regulations to implement the proposed Guidelines. **DATES: Comments on the proposed Guidelines must be received by February 9, 2024. (Extended from December 11, 2023)**