Community Bankers of Michigan Regulatory Dispatch

January 11, 2022

Timely news and resources community bankers can use

to better stay on top of a rapidly changing world.

1071 Comment Period Ends

The comment period ended January 6, 2022, after a whooping 1702 comments were received. Thank you to all the community bankers that filed comments on this critical proposal.

The proposal would impose significant new data collection and reporting requirements, similar to the Home Mortgage Disclosure Act, upon lenders in connection with credit applications made by women- or minority-owned businesses as well as small businesses.

This rule as proposed will clearly increase the cost to our community banks, limit the availability of credit to small business borrowers and have a significant negative impact upon borrowers in rural areas, especially as the cost and aggravation of additional regulatory burden will prove to be a "tipping point" for a number of smaller banks who will opt to sell to a larger institution.

Once the CFPB has had time to digest the voluminous comments, we will wait for a timeline on the issuance of a final rule and compliance deadlines. Any final rule and compliance deadline could be challenged in the courts based upon, among other things, how the data collection requirements differ from what was outlined.

CBM Insights

Q: One of the few findings during a recent exam was that we did not perform an 'evaluation' for a 6-month extension on a construction loan. We completed an extensive in-house appraisal renewal checklist for all real estate renewals to determine if a new 'appraisal' is required, however, the examiners insist that an 'evaluation' is still required. Is an 'evaluation' always required for renewals where we have an existing appraisal in file?

A: The agencies address this in the *Frequently Asked Questions on the Appraisal Regulations and the Interagency Appraisal and Evaluation Guidelines* October 16, 2018. Notice the underlined passage below.

Q: Does a financial institution always need to obtain a new appraisal or evaluation for a renewal of an existing loan at the financial institution, particularly where the property is located in a market that has not changed materially?

A: No. A financial institution may use an existing appraisal or evaluation to support the renewal of an existing loan at the financial institution when the market value conclusion within the appraisal or evaluation remains valid.

Example 3. Consider the same scenario in Example 2 above; however, the financial institution's credit analysis concluded that there had not been a material change in market conditions or physical aspects of the property that threatened the adequacy of the real estate collateral protection. Based on this conclusion, the agencies' appraisal regulations would require an appropriate evaluation to support the transaction. The financial institution could use a valid existing evaluation or appraisal or could choose to obtain a new evaluation to support the transaction. Alternatively, a financial institution could choose to obtain a new appraisal, but a new appraisal would not be required.

Source link.

Items of Interest

Bank Management

	FFIEC Consolidated Reports of Condition and Income for Fourth Quarter 2021 (01.07.2022) The attached materials pertain to the Consolidated Reports of Condition and Income (Call Report) for the December 31, 2021, report date and provide guidance on certain reporting issues. This Financial Institution Letter and the attached Supplemental Instructions should be shared with the individual responsible for preparing the Call Report at your institution. Please plan to complete as early as possible the preparation, editing, and review of your institution's Call Report data and the submission of these data to the agencies' Central Data Repository (CDR). Starting your preparation early will help you identify and resolve any edit exceptions before the submission deadline. If you later find that certain information needs to be revised, please make the appropriate changes to your Call Report data, and promptly submit the revised data file to the CDR. Except for certain institutions with foreign offices, your completed Call Report must be received by Sunday, January 30, 2022, in accordance with the filing requirements discussed below. An institution with more than one foreign office, other than a "shell" branch or an International Banking Facility, is permitted an additional five calendar days to submit its Call Report data. Such an institution must electronically file its data to the CDR no later than Friday, February 4, 2022.
	CSBS Data Analytics Contest Focus: Community Banks' Role in Pandemic (01.04.2022) Washington, D.C. – The Conference of State Bank Supervisors (CSBS) has opened the 2022 Data Analytics Competition for applications. This year, students are asked to develop a data analytics model that demonstrates the role community banks played during the pandemic using data from the Paycheck Protection Program.

	This is the second year of the competition, designed to give both undergraduate and graduate students an opportunity to conduct a rigorous economic research project to better understand community banking and regulation through a pre-defined, comprehensive data analytics project. Students derive data-driven insights to help policymakers, regulators, scholars, and others understand the role that community banks have in the U.S. economy, and, at the same time, develop skills in data science, finance and accounting and communications. ***Comment: From the FDIC report THE IMPORTANCE OF COMMUNITY BANKS IN PAYCHECK PROTECTION PROGRAM LENDING 'Banks hold the vast majority of the $525 billion in PPP loans made by banks and nonbanks. Community banks' participation in the PPP outpaced noncommunity banks. As of June 30, 2020, banks held $482 billion, or 92 percent of total PPP loans. Community banks held $148 billion—28 percent of total PPP loans and 31 percent of PPP loans held by banks. This share is significant, as community banks held 12 percent of total industry assets and 15 percent of total industry loans as of June 30, 2020 (Chart 1).'***

BSA / AML

	No news to report this week.

Deposit / Retail Operations

	No news to report this week.

Human Resources

	Reminder - On December 17, 2021, the U.S. Court of Appeals for the 6th Circuit dissolved the stay of the OSHA Emergency Temporary Standards (ETS) for COVID-19 Vaccine and Testing. As a result, OSHA announced that it would move forward with the ETS implementation. OSHA indicated that it would not issue citations for noncompliance if covered employers complied with the ETS (except the COVID-19 testing requirement) by **January 10, 2022** and with the weekly COVID-19 testing requirement for unvaccinated employees by **February 9, 2022. Because Michigan has their own MIOSHA, the ETS will not go into effect until MIOSHA adopts the ETS and has until January 24 to do so.**

Lending

	FRB Consumer Credit - G.19 (01.07.2021) - November 2021 In November, consumer credit increased at a seasonally adjusted annual rate of 11.0 percent. Revolving credit increased at an annual rate of 23.4 percent, while nonrevolving credit increased at an annual rate of 7.2 percent.

	CFPB Releases Report Detailing Consumer Complaint Response Deficiencies of the Big Three Credit Bureaus (01.05.2022) - WASHINGTON, D.C. — A new analysis by the Consumer Financial Protection Bureau (CFPB) reveals how changes in complaint responses provided by nationwide consumer reporting companies resulted in fewer meaningful responses and less consumer relief. In 2021, Equifax, Experian, and TransUnion together reported relief in response to less than 2% of covered complaints, down from nearly 25% of covered complaints in 2019. "America's credit reporting oligopoly has little incentive to treat consumers fairly when their credit reports have errors," said CFPB Director Rohit Chopra. "Today's report is further evidence of the serious harms stemming from their faulty financial surveillance business model." Credit reporting plays a critical role in consumers' lives and has an enormous reach beyond consumer financial services. More than 200 million Americans have credit files, and lenders rely on this information to decide whether to approve loans and on what terms. Consumer reporting also informs decisions about employment, insurance, housing, and even essential utilities. For consumers, inaccuracies on credit reports drive up the cost of credit and severely limit opportunities, such as starting a small business or buying a new home. Consumers submitted more than 700,000 complaints to the CFPB regarding Equifax, Experian, and TransUnion from January 2020 through September 2021, which represented more than 50% of all complaints received by the agency for that period. Consumers submit more complaints about inaccurate information on their credit and consumer reports than about any other problem. Consumers most frequently assert that the inaccurate information belongs to someone else, and consumers often describe being victims of identity theft. The CFPB found the three companies often failed to provide substantive responses, especially when they alleged the complaints were sent in by third parties. However, consumers can authorize third-party representatives to submit complaints on their behalf. ***Comment: We expect that the CFPB will consider amendments to the FCRA rules. The dispute resolution will impact creditors, of course, so we will be monitoring and commenting as appropriate. Candidly, we are inclined to believe the credit bureaus' allegations regarding credit repair businesses' filings.***
	FDIC Issues List of Banks Examined for CRA Compliance (01.04.2022) - WASHINGTON - The Federal Deposit Insurance Corporation (FDIC) today issued its list of state nonmember banks recently evaluated for compliance with the Community Reinvestment Act (CRA). The list covers evaluation ratings that the FDIC assigned to institutions in October 2021. The CRA is a 1977 law intended to encourage insured banks and thrifts to meet local credit needs, including those of low- and moderate-income neighborhoods, consistent with safe and sound operations. As part of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), Congress mandated the public disclosure of an evaluation and rating for each bank or thrift that undergoes a CRA examination on or after July 1, 1990.

	You may obtain a consolidated list of all state nonmember banks whose evaluations have been made publicly available since July 1, 1990, including the rating for each bank, or obtain a hard copy from FDIC's Public Information Center, 3501 Fairfax Drive, Room E-1002, Arlington, VA 22226 (877-275-3342 or 703-562-2200). A copy of an individual bank's CRA evaluation is available directly from the bank, which is required by law to make the material available upon request, or from the FDIC's Public Information Center. Attachments: • January 2022 List of Banks Examined for CRA Compliance • Monthly List of Banks Examined for CRA Compliance ***Comment: There were three 'outstanding' ratings.***
	OCC Releases CRA Evaluations for 23 National Banks and Federal Savings Associations (01.03.2022) - WASHINGTON—The Office of the Comptroller of the Currency (OCC) today released a list of Community Reinvestment Act (CRA) performance evaluations that became public during the period of December 1, 2021 through December 31, 2021. 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 23 evaluations made public this month, 16 are rated satisfactory, and seven 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. ***Comment: There were seven 'outstanding' ratings.***
	CFPB 2021 HMDA Data Filing Period Open (01.04.2022) - The CFPB is pleased to announce that the filing period for HMDA data collected in 2021 opened on January 1, 2022. Submissions will be considered timely if received on or before Tuesday, March 1, 2022. 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 2021. Submit your data Access the HMDA Platform to begin the filing process for data collected in 2021 here: https://ffiec.cfpb.gov/filing/.

	In accordance with CFPB policy, please note that passwords are reset every 90 days. If you have forgotten your password, you can use the “Forgot Password?” link on the log in page to reset your password. 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 2021 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 submit your HMDA Data for 2021, visit the live HMDA Platform at https://ffiec.cfpb.gov/filing/. We encourage financial institutions to continue providing feedback on their experience using the HMDA Platform and to direct any questions regarding the HMDA Platform to https://hmdahelp.consumerfinance.gov/.

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

12.08.2021 Beneficial Ownership Information Reporting Requirements - FinCEN is promulgating proposed regulations to require certain entities to file reports with FinCEN that identify two categories of individuals: The beneficial owners of the entity; and individuals who have filed an application with specified governmental authorities to form the entity or register it to do business. The proposed regulations would implement Section 6403 of the Corporate Transparency Act (CTA), enacted into law as part of the National Defense Authorization Act for Fiscal Year 2021 (NDAA), and describe who must file a report, what information must be provided, and when a report is due. Requiring entities to submit beneficial ownership and company applicant information to FinCEN is intended to help prevent and combat money laundering, terrorist financing, tax fraud, and other illicit activity. Once finalized, these proposed regulations will affect a large number of entities doing business in the United States. This document also invites comments from the public regarding all aspects of the proposed regulations as well as comments in response to specific questions. **DATES: Written comments on this proposed rule may be submitted on or before February 7, 2022.**