Community Bankers of Michigan Regulatory Dispatch
January 15, 2025

Timely news and resources community bankers can use

to better stay on top of a rapidly changing world.

CFPB Issues Final Rule on Consumer Reporting of Medical Information

Today, the CFPB issued a final rule on consumer reporting of medical debt under the Fair Credit Reporting Act (FCRA) and Regulation V.

The final rule removes a regulatory exception in Regulation V that previously permitted a creditor to obtain or use medical information, including medical debt information, and amends existing exceptions for using medical information related to credit eligibility determinations. The final rule generally prohibits consumer reporting agencies from including medical debt information in consumer reports to creditors making credit determinations.

The CFPB also issued an unofficial redline and executive summary of the final rule.
You can access the final rule, the unofficial redline, and the executive summary here:

www.consumerfinance.gov/compliance/compliance-resources/other-applicable-requirements/fair-credit-reporting-act/.

Comment: The final rule was published in the Federal Register on January 14, 2025, and go into effect on March 17, 2025. While there are still exceptions to the prohibition on creditors' use of medical debt information to determine credit eligibility, they are narrow in scope. Banks need to review their lending policy and consider how their underwriting standards currently treat medical debt information and whether this treatment goes beyond the pared-down exceptions in the final rule once the rule becomes effective in March.

CBM Insights

Q: We have an unconditionally cancellable flag to generate the appropriate risk-weighted reserve for the Call Report. The flag produced a demand clause. Is that the same thing?

A: Not necessarily. The language in the clause is what matters rather than what we call or label that 'clause.' Depending on the language in that 'demand clause' it could qualify as unconditionally cancellable.

See the Interagency FAQs on Regulatory Capital Rule – page 13, question #2 below. See below:

2. Is a loan that has a "due on demand" clause considered unconditionally cancellable?

The incorporation of a demand clause, by itself, does not meet the definition of unconditionally cancellable under section 2 of the regulatory capital rule because it may not extinguish the borrower's ability to make future draws on the credit facility. Under section 2 of the regulatory capital rule, the term "unconditionally cancellable" means that the banking organization "may, at any time, with or without cause, refuse to extend credit under the commitment (to the extent permitted under applicable law)."

Source link.

Bank Management

	FDIC Remarks by Vice Chairman Travis Hill at the American Bar Association "Charting a New Course: Preliminary Thoughts on FDIC Policy Issues" (01/10/2025) – *Supervision - I'll start with bank supervision. Bank regulators have been tasked by Congress with an important mission: to promote the safety and soundness of banks. To achieve this objective, we promulgate rules that banks must follow and supervise banks through on-site examinations.* *Following the regional bank failures in 2023, the public release of the Silicon Valley Bank (SVB) exam reports and supervisory findings drew attention to bank regulators' emphasis on process rather than core financial risks. At the time of failure, SVB was subject to a long list of supervisory criticisms, but most were unrelated to financial risks, and the one criticism related to interest rate risk was focused on the bank's modeling, not on the actual hole in the bank's balance sheet.* *There are times when institutions have obvious, well-known management, governance, or control issues that can potentially threaten the safety and soundness of the institution. But today, these are outlier cases. What is far more common is for examiners to focus on a litany of process-related issues that have little bearing on a bank's core financial condition or solvency.* *One example is our approach to "sensitivity to market risk," the "S" prong of the CAMELS rating system. Recently, some banks have experienced downgrades of the S rating despite being relatively resilient to interest rate shocks. These downgrades can occur for a variety of process-related reasons, ranging from inadequate documentation, to an inability to explain assumptions in models used by outside vendors, to insufficient focus in minutes at Board of Directors meetings. Meanwhile, leading up to the Federal Reserve's interest rate increases, some banks that were relatively vulnerable to interest rate shocks nonetheless maintained a satisfactory S rating because they had checked all the process-related boxes. These are opposite sides of the same coin.* ***Comment: Vice Chairman Hill also noted the need to have greater balance between banking supervision process and the core financial risks faced by banks, which were overlooked with the collapse of Silicon Valley Bank. His comments on the FDIC's proposed rule on custodial accounts mirrors those same concerns.***
	FRB Speech By Governor Bowman on Monetary Policy, Economic Performance, And Lessons for Banking Regulation (01/03/2025) – *Approach to Bank Regulatory Policy -* *Turning to banking, I will start by sharing my thoughts on bank supervision and regulation. This year will see a transition in leadership at the banking agencies, and I expect that this will translate into a shift in priorities and approach. I am optimistic that by working collaboratively to focus on our statutory mandates, the banking agencies can improve how we fulfill our responsibilities in a fair, efficient, and accountable way. Adopting a more pragmatic approach to policymaking, one that imposes discipline in the exercise of the extensive powers and important responsibilities granted by Congress, would be most effective.* *Public debates about the bank regulatory framework routinely focus on whether regulators are being "hard enough" on banks, or whether the framework is too "lenient." Framing the debate this way*

suggests a binary approach that ignores the known tradeoffs in any regulatory action—like raising capital requirements or downgrading a bank's management rating for minor issues to show "toughness." This approach interprets a rational prioritization of regulatory matters as being too bank friendly. While policy views may differ, policy debates should not misinterpret the dynamic of how banks and regulators should operate. In short, bank regulation and supervision need not be an adversarial system, with banks and regulators acting in opposition. Rather, banks and regulators often have the shared goal of a banking system that is safe, sound, and effective, with each serving an important role in furthering these objectives.

As we move away from this type of binary thinking, that leaves the question of how regulators can best accomplish their statutory objectives. As a starting point, we must identify the objectives we are trying to achieve. In conducting bank regulation and supervision, the Federal Reserve has the important responsibility of promoting the safe and sound operation of individual banks and the stability of the broader financial system. In many cases, these goals are complementary. When individual banks operate in a safe and sound manner, the banking system generally promotes the stability of the U.S. financial system.

Of course, these objectives require a degree of balance if we want the banking system to serve the U.S. economy and facilitate economic growth. When we promote safety and soundness—for example by raising capital requirements—that has an effect on the aggregate lending capacity of the banking system and the availability of credit, particularly for less qualified borrowers. We must approach the task of bank regulation with an understanding and appreciation of these tradeoffs, coupled with an affirmative acknowledgment that the banking system is an important driver of business formation, economic expansion, and opportunity. We have the same responsibility to understand and appreciate the tradeoffs when we exercise our supervisory authority.

I am optimistic about the future of banking in the United States and believe that the banking regulators can support the banking system by adopting a more pragmatic approach. While this is a non-exclusive list, I continue to believe the areas that we should focus on should include (1) prioritizing safety and soundness, (2) renewing our commitment to regulatory tailoring, and (3) increasing transparency.

Comment: Governor Bowman is seen as the candidate most likely to replace Governor Barr as the Federal Reserve's vice chair for supervision and has pushed for a more 'pragmatic regulatory and supervisory approach' as reported by BankingDive.

FRB Announces Michael S. Barr Will Step Down From His Position as Federal Reserve Board Vice Chair for Supervision, Effective February 28, 2025, and Will Continue to Serve as Governor (01/06/2025) – The Federal Reserve Board announced on Monday that Michael S. Barr will step down from his position as Federal Reserve Board Vice Chair for Supervision, effective February 28, 2025, or such earlier time as a successor is confirmed. Barr will continue to serve as a member of the Federal Reserve Board of Governors.

Barr, who has served as vice chair for supervision since July 19, 2022, submitted his letter of resignation to President Joseph R. Biden.

"It has been an honor and a privilege to serve as the Federal Reserve Board's vice chair for supervision, and to work with colleagues to help maintain the stability and strength of the U.S. financial system so it can meet the needs of American families and businesses," Vice Chair for Supervision Barr said. "The position of vice chair for supervision was created after the Global Financial Crisis to create greater responsibility, transparency, and accountability for the Federal Reserve's supervision and regulation of the financial system. The risk of a dispute over the position

could be a distraction from our mission. In the current environment, I've determined I would be more effective in serving the American people from my role as governor."

The Board does not intend to take up any major rulemakings until a vice chair for supervision successor is confirmed.

As vice chair for supervision, Barr oversaw the supervision and regulation of financial firms in the Board's jurisdiction and collaborated with other bank regulators to ensure the banking system remained a source of strength, despite stresses in early 2023.

BSA / AML

Deposit / Retail Operations

CFPB Seeks Input on Digital Payment Privacy and Consumer Protections (01/10/2025) – WASHINGTON, D.C. — The CFPB announced it is seeking public input on strengthening privacy protections and preventing harmful surveillance in digital payments, particularly those offered through large technology platforms. The agency is requesting comment on implementing existing financial privacy laws and how to address intrusive data collection and personalized pricing. Additionally, the CFPB requested comment on a proposed interpretive rule outlining how the Electronic Fund Transfer Act, which provides consumers with protections against errors and fraud, applies to new types of digital payment mechanisms, such as those currently offered through large technology companies and video gaming platforms, as well as stablecoins and other digital currencies that are not widely used today in consumer transactions.

"When people pay for their family expenses using new forms of digital payments, they must be confident their transactions are not tainted by harmful surveillance or errors," said CFPB Director Rohit Chopra. "The CFPB is seeking public input on how to apply longstanding consumer and privacy protections to new and emerging payment mechanisms."

Emerging Forms of Digital Payments:

While most consumer payments are transacted using accounts connected to banks and credit unions, new payment mechanisms have emerged for consumer use. For example, the CFPB has previously published research on new forms of digital payments used in video gaming platforms. Some video game platforms have proprietary currencies that players can use to purchase and sell items and services. The CFPB has also conducted extensive research into the digital payment offerings of Big Tech companies and popular person-to-person payment apps.

In addition, the Treasury Department and financial regulators have undertaken a multi-year effort to determine how existing law applies to stablecoins. Unlike certain crypto assets designed to fluctuate in value, stablecoins are typically marketed as pegged to the value of a sovereign currency, like the U.S. dollar. Stablecoins are heavily used today for the purposes of trading and investment and market participants have suggested consumer use of stablecoins will likely increase in the coming years.

The CFPB is publishing two notices for public comment.

Request for Information on Privacy of Consumer Payment Data and Other Financial Transactions:

First, the CFPB is requesting public comment to better understand how companies that offer or provide consumer financial products or services collect, use, share, and protect consumers' personal

financial data, including data harvested from consumer payments. The Request for Information published by the CFPB outlines some of the agency's prior research and monitoring of payment platforms, such as those offered by Big Tech companies. The CFPB found that these payment mechanisms collect and use data in excess of what is needed to initiate and complete a transaction. This data can be matched with a wide range of other data about a consumer, including their location, social networking, and browsing history. This data could be used in ways that allow payments companies to facilitate personalized pricing, where a price is based on factors specific to an individual consumer.

Currently, the federal framework for financial data privacy protections consists largely of the Gramm-Leach-Bliley Act (GLBA) and its implementing regulation, Regulation P, along with the Fair Credit Reporting Act (FCRA). The CFPB has also used its authority to address unfair or deceptive acts or practices related to the handling of consumer data. The GLBA's current regulatory framework is built around disclosures and opt-out requirements that scholars and others have noted may not fully address the challenges posed by modern data surveillance.

A recent Government Accountability Office (GAO) study noted "the consumer opt-out rate is generally low," and that consumers "may be largely unaware of how fintech apps use their personal information and the privacy risks that such usage poses." In particular, the GAO noted that the model privacy form widely adopted by the financial industry "may be out of date and may not accurately represent the increased and varied ways financial institutions share information compared to when the form was implemented over 10 years ago."

The Request for Information seeks comments about the effectiveness (or lack thereof) of existing regulations, including the existing model form, privacy notices, and opt-out mechanisms. The request solicits input on ways to strengthen the existing framework, as well as the types of data the public believes that the CFPB should monitor on a routine basis.

Comments on the Request for Information must be received on or before April 11, 2025.

Proposed Interpretive Rule on the Applicability of the Electronic Fund Transfer Act:

In addition, the CFPB has proposed an interpretive rule on how the Electronic Fund Transfer Act (EFTA) and Regulation E would apply to new and emerging digital payment mechanisms. Among other protections, EFTA gives consumers the right to dispute erroneous or fraudulent transactions. While courts have issued rulings on specific fact patterns, the proposed interpretive rule provides a framework for determining when EFTA's protections apply to emerging digital payment mechanisms. The CFPB's proposed interpretive rule would ensure that consumers can consistently invoke their rights under federal law, while also assisting market participants developing these payment mechanisms.

Comments on the proposed interpretive rule must be received by March 31, 2025.

In addition to these issuances, the CFPB is taking other steps to address emerging data privacy challenges. The CFPB also wants to ensure that traditional banks and credit unions are not put at a competitive disadvantage when new market entrants seek to circumvent federal law. The CFPB recently issued a final rule to ensure Big Tech companies and others offering digital funds transfer and payment wallet apps adhere to consumer financial protection laws, including restrictions related to consumer data. The agency also issued a final rule to give consumers more control over their personal financial data. Additionally, in December, the CFPB released a proposed rule to confirm that federal privacy protections apply to data brokers, reining in the sale of Americans' sensitive personal and financial information.

	Previously, the CFPB published a report highlighting carveouts for financial institutions in state data privacy laws. The report noted that many new state data privacy protections exempt financial institutions and consumer financial data covered by federal law, even though states generally have the authority to provide greater protection than federal law. The CFPB also published a blog asking video gamers and parents to comment on the interpretive rule and share their experiences with gaming assets and transactions. ***Comment: Regulation E is by far the most consumer-friendly regulation there is. In summation, this guidance makes it clear that market participants offering new types of payment mechanisms to facilitate electronic fund transfers must understand whether their account meets the definition of "other consumer asset account," including whether it is established for "personal, family, or household purposes."***
	CFPB Approves Application from Financial Data Exchange to Issue Standards for Open Banking (01/08/2025) – WASHINGTON, D.C. – The Consumer Financial Protection Bureau (CFPB) issued an order recognizing Financial Data Exchange, Inc. (FDX) as a standard-setting body under the CFPB's Personal Financial Data Rights rule. The order of recognition is the first to be issued under the rule. The Personal Financial Data Rights rule, released in October 2024, requires financial institutions, credit card issuers, and other financial providers to unlock an individual's personal financial data and transfer it to another provider at the consumer's request for free. The CFPB established a formal application process outlining the qualifications to become a recognized industry standard-setting body, which can issue standards that companies can use to help them comply with the CFPB's rules. The CFPB also issued updated procedures for companies seeking special regulatory treatment, such as through "no-action letters." FDX is a standard-setting organization operating in the United States and Canada. It has over 200 member organizations, including depository and non-depository commercial entities; data providers and data recipients; data aggregators; service providers to open banking participants; trade and industry organizations; and other non-commercial members, including consumer groups. FDX's stated primary purpose is to develop, improve, and maintain a common, interoperable standard for secure consumer and business access to financial records. In September 2024, the CFPB received the application for recognition from FDX. CFPB published the application from FDX for public comment later that month. The application was then the first to be published for public comment. The CFPB approved the application, subject to a number of conditions, including: • Ban on "pay-to-play" and other conflicts of interest: The approval order ensures that FDX will develop standards to promote open banking without regard to sponsorships or other financial incentives to give certain market players secret information or any other advantage. FDX would need to ensure the organization and its staff do not have any side arrangements that skew its financial incentives toward particular players in the industry. • Mandatory reporting on market adoption: The approval order would require FDX to report to the CFPB on market use of its consensus standards and/or maintain a publicly available resource where companies can disclose their use of standards as well as any certifications of adherence to standards, for the benefit of open banking participants, regulators, and the public. • Transparency and availability of standards: The approval order requires FDX to make any consensus standards that it adopts and maintains freely available to the public, subject to

reasonable safeguards, and to ensure that non-members have the same access as members do. FDX must also make publicly available information about its standards development and issuance processes.

In June 2024, the CFPB finalized a rule outlining the qualifications to become a recognized industry standard-setting body. The rule issued in June identifies the five key qualifications that standard-setting bodies must demonstrate in order to be recognized by the CFPB, including openness, transparency, balanced decision-making, consensus, and due process and appeals.

This order recognizes FDX as an industry standard-setting body for five years. The CFPB continues to evaluate other applications for recognition.

Comment: This is a very important step in the implementation of 1033 or 'Open Banking.' The organization expects to have the standards finalized for open banking in the U.S. in the coming months, FDX CEO Kevin Feltes said in an interview. "This recognition provides helpful clarity to the market at a critical time." Other organizations will likely also apply to be a standard-setting body, and in fact, the Digital Governance Standards Institute did so in late October of 2024.

FTC Identity Theft Awareness Week 2025 is coming! (01/08/2025) – Are you interested in learning more about how to protect yourself from identity theft? Check out Identity Theft Awareness Week. During the week, the FTC and its partners will host free webinars and other events to discuss how to spot, avoid, report, and recover from identity theft. Mark your calendars. Identity Theft Awareness Week starts Monday, January 27!

Comment: Find ways to inform your customers about the upcoming Identity Theft Awareness Week – perhaps plan a weeklong campaign aimed at education.

FDIC Consumer News - January 2025 Edition (01/06/2025) – Saving for the Unexpected and Your Future

Questions to ask yourself now:

Saving for emergencies, retirement, or other expenses can seem difficult, but there are some strategies that can make it easier. Saving can start with identifying your savings goals, finding unnecessary expenses to cut, and deciding where to put your savings. Start by asking yourself some of the questions found in this month's issue.

FRB Mobile Wallet Purchases Skyrocket (01/06/2025) – Mobile wallets are used to store digital versions of cards on a mobile device, typically a smart phone. Consumers can make in-person payments by tapping or waving their phone at a payment terminal and remote payments via apps and at websites. Mobile wallet payments can be transmitted over general-purpose card networks or made with private-label accounts or cards. As you can see from the charts below (and perhaps from your own behavior), purchases made using mobile wallets have skyrocketed since 2018. Growth in these purchases from 2021 to 2022 exceed that of prior periods—53 percent by number and 45 percent by value.

Comment: Does your bank have a digital payment strategy?

Human Resources

	No news to report this week.

Lending

	CFPB Issues HMDA and TILA Asset-Size Threshold Adjustments and Issues Civil Penalty Inflation Adjustments (01/03/2025)—The CFPB has issued several final rules for annual inflation adjustment. First, the CFPB has announced the asset-size exemption thresholds for depository institutions under Regulation C. Second, the CFPB has announced the asset-size exemption thresholds for certain creditors under the escrow requirements and small creditor portfolio and balloon-payment qualified mortgage requirements, and the small creditor exemption from the prohibition against balloon-payment high-cost mortgages under Regulation Z. These adjustments are effective on January 1, 2025, consistent with relevant statutory or regulatory provisions. Third, the CFPB announced the annual adjustments for inflation to the CFPB's civil penalty amounts, as required by the Federal Civil Penalties Inflation Adjustment Act, as amended. This final rule is effective on January 15, 2025. You can access the Regulation C notice at: http://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/home-mortgage-disclosure-regulation-c-adjustment-asset-size-exemption-threshold/. You can access the Regulation Z notice at: http://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/truth-lending-act-regulation-z-adjustment-asset-size-exemption-threshold/. You can access the CFPB's civil penalty amounts notice at: https://www.consumerfinance.gov/rules-policy/final-rules/civil-penalty-inflation-annual-adjustments/. ***Comment: Update your policies and procedures accordingly.***
	FRB G. 19 Consumer Credit (01/08/2025) – November 2024 - In November, consumer credit decreased at a seasonally adjusted annual rate of 1.8 percent. Revolving credit decreased at an annual rate of 12 percent, while nonrevolving credit increased at an annual rate of 2 percent.
	CFPB Sues Experian for Conducting Sham Investigations of Consumer Report Errors (01/07/2025) – WASHINGTON, D.C. — The Consumer Financial Protection Bureau (CFPB) sued Experian, the nationwide consumer reporting agency, for unlawfully failing to properly investigate consumer disputes. The CFPB alleges that Experian does not take sufficient steps to intake, process, investigate, and notify consumers about consumer disputes, resulting in the inclusion of incorrect information on consumer reports. Inaccurate or false information on consumer reports can threaten consumers' access to credit, employment, and housing. "When consumers disputed errors on their credit reports, Experian conducted sham investigations rather than properly reviewing the disputes as required by federal law," said CFPB Director Rohit Chopra. "Credit reporting errors can have serious consequences for a family's finances, and it is critical that credit reporting giants follow the law."

	Experian, based in Costa Mesa, California, is one of the nation's three largest credit reporting conglomerates. Experian is a subsidiary of Experian plc (LSE: EXPN), a global data broker and analytics company headquartered in Ireland. Experian maintains information on most families in America. Experian markets, advertises, sells, offers, and provides credit scores, credit reports, credit monitoring, and other related products to consumers and third parties. Information in consumer reports is provided to Experian by data furnishers, including banks, credit card companies, and debt collectors. The consumer reporting agency sells its consumer reports to creditors and businesses who are evaluating whether to offer a consumer various products, services, and opportunities—such as a loan, employment, or housing. The Fair Credit Reporting Act (FCRA) requires that consumer reporting agencies take steps to ensure consumer reports are accurate and to conduct investigations of information disputed by consumers. The FCRA provides people multiple ways to dispute inaccurate information on their consumer reports, including by contacting consumer reporting agencies directly. The FCRA also requires that consumer reporting agencies follow certain procedures before reinserting into consumer reports information that has previously been removed as the result of a dispute. The CFPB alleges that Experian has violated the FCRA's requirements for handling consumer disputes in numerous ways. Specifically, the CFPB alleges that Experian is harming consumers by: • Conducting sham investigations that fail to properly address consumer disputes: When handling disputes, Experian uses faulty intake procedures and does not accurately convey all relevant information about disputes to the original furnisher. Experian routinely and uncritically accepts the original furnisher's response to the disputed information, even when that response was improbable or illogical on its face, or when Experian has other information available that suggests the furnisher is unreliable. At the conclusion of the investigation, Experian sends consumers notices that fail to inform them of the investigation results, and instead provides information that is confusing, ambiguous, incorrect, or internally inconsistent. • Improperly reinserting inaccurate information on consumer reports: Experian has failed to implement basic matching tools that prevent or greatly reduce the likelihood of reinsertion by a new furnisher of a previously deleted tradeline. Instead, Experian improperly reinserts inaccurate information into consumer reports because it fails to match newly reported information with records of previously deleted information. Consumers who have disputed the accuracy of an account and thought that their consumer report had been corrected, instead see the same inaccurate information reappear on their consumer report without explanation under the name of a new furnisher. In addition to alleging violations of the FCRA's requirements, the CFPB alleges that Experian's faulty dispute intake procedures and failure to provide furnishers with consumer-submitted documentation, uncritical deference to furnishers' responses to disputed information, and failure to prevent improper tradeline reinsertions also violate the Consumer Financial Protection Act's prohibition on unfair acts or practices.
	CFPB Period for 2024 HMDA Data Open (01/07/2025) – The CFPB is pleased to announce that the filing period for HMDA data collected in 2024 opened on January 1, 2025. Submissions will be considered timely if received on or before Monday, March 3, 2025. 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 2024.

Login.gov Requirement
Starting January 1, 2025, users logging into the HMDA Platform will need to login via Login.gov, which utilizes multifactor authentication (MFA). Users will no longer have the option to sign in using the existing process. To facilitate this change, a Quick Reference Guide and Frequently Asked Questions have been created to help users establish a Login.gov account. Please note that users may only use business email addresses; accounts associated with a personal email domain will not be accepted.

Submit your data
Access the HMDA Platform to begin the filing process for data collected in 2024 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.

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 hmdahelp@cfpb.gov or https://hmdahelp.consumerfinance.gov/.

Comment: Be prepared for the login.gov requirement. No last-minute surprises.

Technology / Security

CISA Corporate Cyber Governance: Owning Cyber Risk at the Board Level (01/08/2025) – For decades, cyber risk was considered part of information technology (IT) risk and largely delegated to engineering and security teams within an organization. More recently, however, corporate leaders have begun to see cyber risk for what it is: a strategic, enterprise risk, which they—not their Chief Information Security Officer (CISO)—own. Given our complex, dynamic, and highly interconnected environment—an environment where nation-state adversaries are more active and capable than ever and where the private sector is on the front lines of the cyber fight—boards and company leadership must consider the critical role they play in national security and ensuring systemic resilience.

To help advance this effort, CISA partnered with the National Association of Corporate Directors (NACD) and the Internet Security Alliance to develop the NACD Director's Handbook on Cyber-Risk Oversight, laying out a framework for considering cyber risk as a function of board governance. As noted in the handbook's foreword, we need a new model of sustainable cybersecurity—one that starts with a commitment at the board level to incentivize a culture in which managing cyber risk is treated as a fundamental matter of good governance. Indeed, Board members have unique power to drive such a culture through their actions and decisions:

- They should ensure that CISOs are fully empowered, with the influence and resources necessary to drive decisions where cybersecurity is effectively prioritized. Decisions to prioritize cost, features, or speed to market over security must be made transparently, with clear ownership by the Chief Executive Officer and Board and visibility by potentially impacted customers. Cybersecurity, as a matter of safety, should not be allowed to significantly lag behind innovation.

- They should ensure their peers and the senior executives they oversee are well-educated on cyber risk, that cybersecurity considerations are appropriately prioritized in every business, technology, and software acquisition decision, and that decisions to accept rather than mitigate cyber risks are scrutinized and revisited often. Relatedly, boards should carefully

consider which committee oversees cyber risk: while cyber risk has traditionally been the purview of the audit committee and treated largely as a matter of compliance, a small number of boards are establishing cybersecurity or technology risk committees to more effectively manage cyber risk.

- They should review their company's cyber-risk management framework and ensure the development of a common set of standards which the organization can use to determine and measure their exposure to cybersecurity risk.

- They should ensure that the thresholds for reporting potential malicious activity to senior management are not set too high; rather, they should be briefed on "near misses" as well as those intrusion attempts that succeed, as such near misses are among the most important signals to assess the quality of a company's defenses and its reaction to incidents.

- Finally, board members should actively champion a model of collaboration over self-preservation—one where information about malicious activity is shared proactively with expectations that the government will be responsive and add value, and that industry will not suffer punitive sanction for sharing.

As the nation's cyber defense agency, CISA's goal is to advance a new model of sustainable cybersecurity by working collaboratively with our partners to drive down risk to our nation, enabling the broader safety of consumers. The time is now for CEOs and Boards to actively embrace corporate cyber responsibility as a matter of good governance, recognizing that every organization has an obligation to reasonably assure the safety of their employees, partners, and customers. This movement can start by ensuring that CEOs and Board Members are held personally accountable for effectively managing cyber risk and directly engaged when it comes to corporate cybersecurity decisions and the cybersecurity of their companies. As NACD notes, security isn't an IT function, but rather a culture and set of repeatable practices driven by the CEO and senior executives to reduce risk, wherein cyber literacy is considered like financial literacy: "Not everyone on the board is an auditor, but everyone should be able to read a financial statement and understand the financial language of business."

Comment: While not directed at banks – or any other industry – the proposed framework is universally applicable. Consider a board policy on 'Cyber-Risk Oversight' using this framework tailored to your bank.

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.

09.17.2024 **FDIC** Recordkeeping for Custodial Accounts Summary: SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is proposing requirements that would strengthen FDIC-insured depository institutions' (IDI) recordkeeping for custodial deposit accounts with transactional features and preserve beneficial owners' and depositors' entitlement to the protections afforded by Federal deposit insurance. The proposal is intended to promote the FDIC's ability to promptly make deposit insurance determinations and, if necessary, pay deposit insurance claims "as soon as possible" in the event of the failure of an IDI holding custodial accounts with transactional features. The proposed requirements also are expected to result in depositor and consumer protection benefits, such as promoting timely access by consumers to their funds, even in the absence of the failure of an IDI. The requirements described in

this document would only apply to IDIs offering custodial accounts with transactional features and that are not specifically exempted as provided in this NPR. **DATES: Comments must be received by the FDIC on or before January 16, 2025 (extended by the FDIC from the original December 2, 2024 deadline.)**

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.**