Community Bankers of Michigan Regulatory Dispatch

July 19, 2023

Timely news and resources community bankers can use

to better stay on top of a rapidly changing world.

FDIC CONSUMER NEWS - JULY 2023 EDITION

Is My Money Insured by the FDIC?

What to consider about using a nonbank

When considering where to hold their money, consumers have traditionally opened deposit accounts directly with banks (whether in-person, online, or through the bank's mobile app). The easiest way for most consumers to have confidence that their money is safe continues to be depositing it in insured bank accounts. A newer option is for consumers to open accounts with nonbank companies (typically just online or through apps) that may or may not have a relationship with a bank. However, if and how a bank is involved is key for deposit insurance purposes.

Comment: There certainly is additional focus on FDIC insurance after the fall of SVB and Signature Bank. When the FDIC opted to protect all depositors at those banks, it sent a message that if your deposits where at some but not all banks, it would be safe. In actuality, the agency never said that, so the limit of $250,000 still exists and uninsured deposits are still uninsured. In May, the FDIC published 'Options for Deposit Insurance Reform' that is worth reading as the FDIC mulls ways to address deposit insurance reform that will be critical for community banks seeking a level playing field.

CBM Insights

Q. We're new to escrowing for mortgage loans and prepping to send our first (ever) annual escrow statement. Just so I understand the timing correctly, is this example accurate?

- Escrow account computation year ends on 7/28/23
- Send annual escrow statement to borrower before 8/27/23

A. That works – but you actually have more flexibility. The wording of the specific section of RESPA is particularly bad. Notice the underlined passages below.

(i) Annual escrow account statements. For each escrow account, a servicer shall submit an annual escrow account statement to the borrower within 30 days of the completion of the escrow account computation year. The servicer shall also submit to the borrower the previous year's projection or initial escrow account statement. The servicer shall conduct an escrow account analysis before submitting an annual escrow account statement to the borrower.

(1) Contents of annual escrow account statement. The annual escrow account statement shall provide an account history, reflecting the activity in the escrow account during the escrow account computation year, and a projection of the activity in the account for the next year. In preparing the statement, the servicer may assume scheduled payments and disbursements will be made for the final 2 months of the escrow account computation year. The annual escrow account statement must include, at a minimum, the following (the items in paragraphs (i)(1)(i) through (i)(1)(iv) must be clearly itemized):

Source link.

Basically, the translation of that is you have a 90-day window to provide the borrower with the annual statements. You can 'submit' the analysis/statements anywhere from 60 days prior (and assume the final two months are paid) or up to 30 days after the anniversary of the Escrow Account Computation Year.

Items of Interest

Bank Management

	FRB Big Shocks Travel Fast: Why Policy Lags May Be Shorter Than You Think - Governor Christopher J. Waller (07/13/2023) – *Economic Outlook - Let me now turn to my third topic: how I see things standing today. Economic activity reportedly grew 2 percent in the first quarter, and based on economic data through early July, the Atlanta Fed's GDP projection suggests growth was a touch higher in the second quarter. Recent Institute for Supply Management surveys suggest some continued slowing in the manufacturing sector, but activity outside that sector is still growing at a solid pace.* *Turning to the labor market, it has been very tight for a long time and the most recent jobs report showed that employers added 209,000 jobs in June. This number came in a little lower than expected, and it is down noticeably from this time last year. Meanwhile, data on job openings showed some welcome signs of cooling. The ratio of job vacancies to the number of people counted as unemployed has declined on balance so far this year, and the number of people quitting their jobs, which I tend to think of as moving for higher wages, has moved down from its peak last year. However, despite these welcome signs of softening, the labor market is still very robust. Job growth is still well above the pre-pandemic average, the unemployment rate remains quite low, and wage growth continues to be above what would support returning inflation to 2 percent.* *Yesterday, we received new data on consumer price index (CPI) inflation. After 5 consecutive monthly readings of core inflation of 0.4 percent or above, this rate dropped by half in June, to 0.2 percent. This is welcome news, but one data point does not make a trend. Inflation briefly slowed in the summer of 2021 before getting much worse, so I am going to need to see this improvement sustained before I am confident that inflation has decelerated.* *In terms of the latest banking data, the Federal Reserve's weekly release of assets and liabilities of commercial banks (the H.8 data release) suggests that banks are responding in a way that is consistent*

with monetary policy tightening but not banking stress. For example, growth in core loans on banks' books has decelerated since late 2022, as banks tightened lending standards and demand slowed amid lagged effects from monetary policy tightening. The deceleration in core loan balances was especially pronounced in early 2023 even before the Silicon Valley Bank collapse and has continued afterwards. And we did see discrete effects in deposit outflows in mid-March, but those flows have stabilized. Moreover, banks have been able to replace core deposit outflows with large time deposits, Federal Home Loan Bank advances and other sources of funding. These actions are leading to a slowdown in credit growth, but one that is in line with monetary policy tightening.

So, what does this mean for monetary policy? With the banking sector sound and resilient, fighting inflation remains my top priority, and I believe we will get there. What will get us there is setting the stance of policy at a level that will continue to help bring supply and demand in the economy into better balance. While I expect inflation to eventually settle near our 2 percent target because of our policy actions, we have to make sure what we saw in yesterday's inflation report feeds through broadly across goods and services and that we do not revert back to what has been persistently high core inflation. The robust strength of the labor market and the solid overall performance of the U.S. economy gives us room to tighten policy further.

As things stand now, my outlook for the stance of monetary policy that will get inflation near the FOMC's 2 percent target is roughly consistent with the FOMC's economic projections in June. I see two more 25-basis-point hikes in the target range over the four remaining meetings this year as necessary to keep inflation moving toward our target. Furthermore, I believe we will need to keep policy restrictive for some time in order to have inflation settle down around our 2% target. Since the June meeting, with another month of data to evaluate lending conditions, I am more confident that the banking turmoil is not going to result in a significant problem for the economy, and I see no reason why the first of those two hikes should not occur at our meeting later this month. From there, I will need to see how the data come in. If inflation does not continue to show progress and there are no suggestions of a significant slowdown in economic activity, then a second 25-basis-point hike should come sooner rather than later, but that decision is for the future.

Comment: In May, Governor Waller alluded to skipping a rate hike in June, but no stop until inflation was at or below the 2% objective. On June 30th, that inflation number was 2.97%.

FRB Beige Book (07/12/2023) – **Overall Economic Activity** - Overall economic activity increased slightly since late May. Five Districts reported slight or modest growth, five noted no change, and two reported slight and modest declines. Reports on consumer spending were mixed; growth was generally observed in consumer services, but some retailers noted shifts away from discretionary spending. Tourism and travel activity was robust, and hospitality contacts expected a busy summer season. Auto sales remained unchanged or exhibited moderate growth across most Districts. Manufacturing activity edged up in half of the Districts and declined in the other half. Transportation activity was down or flat in most Districts that reported on it, as some contacts reported reduced demand due to high inventory levels and others noted continued challenges from labor shortages. Banking conditions were mostly subdued, as lending activity continued to soften. Despite higher mortgage rates, demand for residential real estate remained steady, although sales were constrained by low inventories. Construction for both residential and commercial units was slightly lower on balance. Agricultural conditions were mixed geographically but softened slightly on balance, with some contacts expecting further softening for the remainder of 2023. Energy activity decreased. Overall economic expectations for the coming months generally continued to call for slow growth.

Labor Markets - Employment increased modestly this period, with most Districts experiencing some job growth. Labor demand remained healthy, though some contacts reported that hiring was getting more targeted and selective. Employers continued to have difficulty finding workers, particularly in health care, transportation, and hospitality, and for high-skilled positions in general. However, many Districts reported that labor availability had improved and that some employers were having an easier time hiring than they

	were having previously. Employers also reported that the unusually high turnover rates in recent years appear to be returning to pre-pandemic norms. Wages continued to rise, but more moderately. Contacts in multiple Districts reported that wage increases were returning to or nearing pre-pandemic levels. **Prices** - Prices increased at a modest pace overall, and several Districts noted some slowing in the pace of increase. Consumer prices generally increased, though reports differed in the extent to which firms were able to pass along input cost increases. Contacts in some Districts noted reluctance to raise prices because consumers had grown more sensitive to prices, while others reported that solid demand allowed firms to maintain margins. Input cost pressures remained elevated for services firms but eased notably in the manufacturing sector. Freight rates continued to decrease, along with the prices for many construction inputs, though concrete prices increased. Price expectations were generally stable or lower over the next several months.
	FRB Holistic Capital Review Vice Chair for Supervision Michael S. Barr (07/10/2023) - Multiple Measures of Risk - Our system of capital requirements uses multiple measures of risk, which work collectively to achieve an overall level of resilience. We have a set of risk-based requirements that are based on the risk of a bank's activities to its safety and soundness and to the financial system, and a set of non-risk-sensitive backstops, which are simple measures the market and regulators can use to understand and protect against the possibility that the risk-sensitive measures get the risk wrong and result in capital requirements that are too low. And we use stress testing as a complement to point-in-time capital requirements. Stress tests measure bank resilience against a hypothetical shock. These equity capital requirements are complemented by long-term debt requirements, which help provide an additional cushion to restructure, sell, or wind down a bank that has entered resolution. These multiple ways of measuring and mitigating risk are helpful for the resiliency of banks and the robustness of the system. Any single way of measuring bank risk would miss or underplay some aspect of risk, and each of the different approaches tends to measure risks not captured or measured as well by the others. Further, a capital framework with multiple ways of measuring risk is harder for banks to game. Of course, there are also downsides to having multiple approaches to measuring risk in calculating capital requirements. The greater complexity itself introduces risk. But on balance, I think multiple approaches are warranted.

BSA / AML

	CFPB Takes Action Against Bank of America for Illegally Charging Junk Fees, Withholding Credit Card Rewards, and Opening Fake Accounts (07/11/2023) –The Consumer Financial Protection Bureau (CFPB) ordered Bank of America to pay more than $100 million to customers for systematically double-dipping on fees imposed on customers with insufficient funds in their account, withholding reward bonuses explicitly promised to credit card customers, and misappropriating sensitive personal information to open accounts without customer knowledge or authorization. The Office of the Comptroller of the Currency (OCC) also found that the bank's double-dipping on fees was illegal. Bank of America will pay a total of $90 million in penalties to the CFPB and $60 million in penalties to the OCC. ***Comment: Rarely do we point on enforcement action against the largest banks, but often they are worth reading because of the trickle-down effect. Say what you do, and do what you say.***

Deposit / Retail Operations

No news to report this week.

Human Resources

FDIC 2022 Financial Institution Diversity Self-Assessments: Voluntary Self-Assessments Accepted Now through September 30, 2023 (07/13/2023) – In accordance with Section 342 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, FDIC-supervised financial institutions are encouraged to voluntarily conduct and submit self-assessments of their diversity policies and practices by September 30, 2023.

Statement of Applicability: The contents of, and material referenced in, this FIL apply to all FDIC-supervised financial institutions.

Highlights:

- FDIC-supervised financial institutions are encouraged to voluntarily conduct and submit self-assessments of their diversity policies and practices to the agency by September 30, 2023.
- The FDIC gathers and analyzes diversity self-assessment information pursuant to Section 342 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, using interagency standards for the following areas:
    - Organizational commitment to diversity and inclusion,
    - Workforce profile and employment practices,
    - Procurement and business practices/supplier diversity,
    - Practices to promote transparency of organizational diversity and inclusion, and
    - Entities' self-assessment.
- The FDIC provides a user guide, submission demonstration video, and other resources to help institutions assess and identify ways to strengthen their diversity policies and practices in a manner that reflects their size and unique characteristics.
- The self-assessment is not an examination requirement; results are not shared with examiners and have no impact on an institution's safety and soundness or consumer compliance ratings, or Community Reinvestment Act (CRA) performance evaluation.
- The FDIC treats all information gathered through the self-assessments as confidential commercial information to the extent permitted by law. Requests for disclosure of data or information will be processed in accordance with applicable law, including the Freedom of Information Act.
- The diversity self-assessment form is fully automated and accessible online through the secure FDICconnect portal. Multiple authorized users can complete the self-assessment electronically, view previous submissions, and easily import content from a previous submission for the current reporting period.
- If you need to obtain access to the FDICconnect portal, contact your institution's FDICconnect Coordinator. If you do not know who your institution's coordinator is, send an email to FDICconnect@fdic.gov or contact the FDICconnect helpdesk at 703-516-1069.

See Final Interagency Policy Statement Establishing Joint Standards for Assessing the Diversity Policies and Practices of Entities Regulated by the Agencies, 80 Fed. Reg. 33016 (June 10, 2015).

When reviewing self-assessments, OMWI considers an individual entity's size and other characteristics.

FID-SA Diversity Self-Assessment Portal Page

	Related Resources: Interagency Policy Statement Establishing Joint Standards for Assessing the Diversity Policies and Practices of Entities Regulated by the Agencies The Standards for Assessing the Diversity Policies and Practices Analyses of Diversity Self-Assessments

Lending

	FRB Consumer Credit - G.19 (07/10/2023) – May 2023 - In May, consumer credit increased at a seasonally adjusted annual rate of 1.8 percent. Revolving credit increased at an annual rate of 8.2 percent, while nonrevolving credit decreased at an annual rate of 0.4 percent.

Technology / Security

	CISA Cisco Releases Security Update for SD-WAN vManage API (07/13/2023) – Cisco has released a security update to address a critical vulnerability affecting SD-WAN vManage API. A remote attacker can exploit this vulnerability to take control of an affected system. CISA encourages users and administrators to review the Cisco security release Cisco SD-WAN vManage Unauthenticated REST API Access Vulnerability and apply the necessary updates. ***Comment: Share these updates with you IT staff.***
	CISA and FBI Release Cybersecurity Advisory on Enhanced Monitoring to Detect APT Activity Targeting Outlook Online (07/12/2023) – The Cybersecurity and Infrastructure Security Agency (CISA) and Federal Bureau of Investigation (FBI) have released a joint Cybersecurity Advisory (CSA), Enhanced Monitoring to Detect APT Activity Targeting Outlook Online, to provide guidance to agencies and critical infrastructure organizations on enhancing monitoring in Microsoft Exchange Online environments. In June 2023, a Federal Civilian Executive Branch (FCEB) agency observed unexpected events in Microsoft 365 (M365) audit logs. After reporting the incident to Microsoft, network defenders deemed the activity malicious. The goal of this CSA is to enhance organizational cybersecurity posture and position organizations to detect similar malicious activity via implementing the listed logging recommendations. Organizations that identify suspicious, anomalous activity should contact Microsoft for proceeding with mitigation actions due to the cloud-based infrastructure affected, as well as report to CISA and the FBI. For mitigations that are classified as preventative measures (e.g., steps to take to reduce the risk of network categorized exposure), CISA and FBI strongly encourage that FCEB agencies and critical infrastructure organizations ensure Audit Logging is enabled. Note: See CISA's Microsoft Exchange Online Microsoft 365 Minimum Viable Secure Configuration Baselines. These minimum viable secure configuration baselines are part of CISA's Secure Cloud Business Applications (SCuBA) project. For additional information and guidance, CISA and the FBI encourage network defenders to take the measures listed in this CSA to reduce the likelihood of similar activity and posture for detection. ***Comment: Share these updates with you IT staff.***

	CISA Microsoft Releases July 2023 Security Updates (07/11/2023) – Microsoft has released updates to address multiple vulnerabilities in Microsoft software. An attacker can exploit some of these vulnerabilities to take control of an affected system. CISA encourages users and administrators to review Microsoft's July 2023 Security Update Guide and Deployment Information and apply the necessary updates. ***Comment: Share these updates with you IT staff.***

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

05.01.2023 CFPB Residential Property Assessed Clean Energy Financing (Regulation Z) - SUMMARY: Section 307 of the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA) directs the Consumer Financial Protection Bureau (CFPB or Bureau) to prescribe ability-to-repay rules for Property Assessed Clean Energy (PACE) financing and to apply the civil liability provisions of the Truth in Lending Act (TILA) for violations. PACE financing is financing to cover the costs of home improvements that results in a tax assessment on the real property of the consumer. In this notice of proposed rulemaking, the Bureau proposes to implement EGRRCPA section 307 and to amend Regulation Z to address how TILA applies to PACE transactions to account for the unique nature of PACE. **DATES: Comments must be received on or before July 26, 2023.**

05.22.2023 Special Assessment Pursuant to Systemic Risk Determination - SUMMARY: The FDIC is seeking comment on a proposed rule that would impose special assessments to recover the loss to the Deposit Insurance Fund (DIF or Fund) arising from the protection of uninsured depositors in connection with the systemic risk determination announced on March 12, 2023, following the closures of Silicon Valley Bank, Santa Clara, CA, and Signature Bank, New York, NY, as required by the Federal Deposit Insurance Act (FDI Act). The assessment base for the special assessments would be equal to an insured depository institution's (IDI) estimated uninsured deposits, reported as of December 31, 2022, adjusted to exclude the first $5 billion in estimated uninsured deposits from the IDI, or for IDIs that are part of a holding company with one or more subsidiary IDIs, at the banking organization level. The FDIC is proposing to collect special assessments at an annual rate of approximately 12.5 basis points, over eight quarterly assessment periods, which it estimates will result in total revenue of $15.8 billion. Because the estimated loss pursuant to the systemic risk determination will be periodically adjusted, the FDIC would retain the ability to cease collection early, extend the special assessment collection period one or more quarters beyond the initial eight-quarter collection period to collect the difference between actual or estimated losses and the amounts collected, and impose a final shortfall special assessment on a one-time basis after the receiverships for Silicon Valley Bank and Signature Bank terminate. The FDIC is proposing an effective date of January 1, 2024, with special assessments collected beginning with the first quarterly assessment period of 2024 (i.e., January 1 through March 31, 2024, with an invoice payment date of June 28, 2024). **DATES: Comments must be received on or before July 21, 2023.**

06.21.2023 Interagency Guidance on Reconsiderations of Value of Residential Real Estate Valuations- SUMMARY: The OCC, Board, FDIC, NCUA, CFPB, and FHFA (collectively, the agencies) invite comment on a proposed rule to implement the quality control standards mandated by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) for the use of automated valuation models (AVMs) by mortgage originators and secondary market issuers in determining the collateral worth of a mortgage secured by a consumer's principal dwelling. Under the proposal, the agencies would require institutions that engage in certain credit decisions or securitization determinations to adopt policies, practices, procedures, and control systems to ensure that AVMs used in these transactions to determine the value of mortgage collateral adhere to quality control standards designed to ensure a high level of confidence in the estimates produced by AVMs; protect against the manipulation of data; seek to avoid conflicts of interest; require random sample testing and reviews; and comply with applicable nondiscrimination laws. **DATES: Comments must be received by August 21, 2023.**