Community Bankers of Michigan Regulatory Dispatch

June 14, 2023

Timely news and resources community bankers can use

to better stay on top of a rapidly changing world.

CBM Insights

Interagency Guidance on Risks Associated with Third-Party Relationships

Federal bank regulatory agencies today issued final joint guidance designed to help banking organizations manage risks associated with third-party relationships, including relationships with financial technology companies.

The final guidance describes principles and considerations for banking organizations' risk management of third-party relationships. The final guidance covers risk management practices for the stages in the life cycle of third-party relationships: planning, due diligence and third-party selection, contract negotiation, ongoing monitoring, and termination.

The final guidance includes illustrative examples to help banking organizations, particularly community banks, align their risk management practices with the nature and risk profile of their third-party relationships. The agencies plan to engage with community banks immediately and develop additional resources in the near future to assist them in managing relevant third-party risks.

The final guidance replaces each agency's existing general third-party guidance and promotes consistency in the agencies' supervisory approaches toward third-party risk management. The final guidance reflects streamlined language and improved clarity based on the agencies' consideration of public comments on the proposed guidance released in July 2021.

Comment: The agencies indicate that the term "business arrangement" is meant to be interpreted broadly and is synonymous with the term "third-party relationship." The proposal had stated that the term "business relationship" generally excluded a customer relationship. The guidance also addresses oversight and accountability as part of governance. It distinguishes the board's responsibilities from those of management and lists various factors that a board of directors (or a designated board committee) typically considers throughout the third-party risk management life cycle in carrying out its responsibility for providing oversight of third-party risk management and holding management accountable.

Items of Interest

Bank Management

	OCC Requests Comment for Survey on Trust in Banking (06/09/2023) – WASHINGTON—The Office of the Comptroller of the Currency (OCC) announced a request for information to gather input on a proposed annual trust survey with the goal of understanding, measuring, and tracking the public's trust in banking and bank supervision by the OCC and other banking regulators over time. The OCC invites interested members of the public, including financial industry participants, other government agencies, academic and research organizations, consumer advocacy and financial education organizations, trade associations, and financial services customers, to comment on the scope of the survey, components, and drivers of trust, and ways to track and assess trust over time. Responding to the survey is voluntary. The OCC recognizes the public's trust in banks is an important aspect of a thriving and stable banking system. By surveying the public, the OCC can use the results to identify areas where trust can be further enhanced and gain insight into the many aspects that are important to consider in working to maintain and enhance trust in banking and bank supervision. The OCC intends to publish the main results of the annual survey in an OCC report, and the results may be used to inform policymakers, bankers, and researchers about the trends and drivers of public trust in banking and bank supervision. Related Link Request for Information (PDF)
	FDIC CONSUMER NEWS - JUNE 2023 EDITION (06/05/2023) – Property appraisals and the potential impact to your finances. Whether you are buying a new home, refinancing your existing home loan, or selling your home, it is important to understand how an appraisal is used to assess the value for the property. A lender uses an appraisal not only to assess the value of the property, but also to determine such things as your interest rate, required down payment, and whether you will be approved for the loan. This article provides important information you should know about the home loan process, the role of an appraisal in determining the value of your property, and what you can do if you believe an appraisal is not accurate. ***Comment: Consider sharing with a link on your bank's web site to help educate your customers on the purpose and use of appraisals.***

BSA / AML

	No news to report this week.

Deposit / Retail Operations

	FRB Pioneers of Now: Growing Anticipation for Instant Payments (06/08/2023) – The July launch of the FedNowSM Service is nearing as members across the payments industry continue to prepare. Read about the recent Pioneers of Now in this series showcasing leaders from financial institutions and service providers, to learn about their progress and perspectives on instant payments implementation. ***Comment: The current Fed payment rails are only available on weekdays, with transactions potentially taking several business days to be finalized. When FedNow goes live, any bank with an account at one of the Fed's regional banks will be able to use the service to process payments at any time, 24/7 365.***
	CFPB Issue Spotlight Analyzes "Artificial Intelligence" Chatbots in Banking (06/06/2023) - The Consumer Financial Protection Bureau (CFPB) released a new issue spotlight on the expansive adoption and use of chatbots by financial institutions. Chatbots are intended to simulate human-like responses using computer programming and help institutions reduce the costs of customer service agents. These chatbots sometimes have human names and use popup features to encourage engagement. Some chatbots use more complex technologies marketed as "artificial intelligence," to generate responses to customers. The CFPB has received numerous complaints from frustrated customers trying to receive timely, straightforward answers from their financial institutions or raise a concern or dispute. Working with customers to resolve a problem or answer a question is an essential function for financial institutions – and is the basis of relationship banking. "To reduce costs, many financial institutions are integrating artificial intelligence technologies to steer people toward chatbots," said CFPB Director Rohit Chopra. "A poorly deployed chatbot can lead to customer frustration, reduced trust, and even violations of the law." The spotlight found the use of chatbots raised several risks, including: • Noncompliance with federal consumer financial protection laws. Financial institutions run the risk that when chatbots ingest customer communications and provide responses, the information chatbots provide may not be accurate, the technology may fail to recognize that a consumer is invoking their federal rights, or it may fail to protect their privacy and data. • Diminished customer service and trust. When consumers require assistance from their financial institution, the circumstances could be dire and urgent. Instead of finding help, consumers can face repetitive loops of unhelpful jargon. Consumers also can struggle to get the response they need, including an inability to access a human customer service representative. Overall, their chatbot interactions can diminish their confidence and trust in their financial institutions.

	• Harm to consumers. When chatbots provide inaccurate information regarding a consumer financial product or service, there is potential to cause considerable harm. It could lead the consumer to select the wrong product or service that they need. There could also be an assessment of fees or other penalties should consumers receive inaccurate information on making payments. ***Comment: The CFPB pronounced last April that with regard to its policy statement on abusive acts or practices, the prohibition on abusive conduct "would cover abusive uses of AI technologies to, for instance, obscure important features of a product or service or leverage gaps in consumer understanding."***
	CFPB New Lessons Learned in the Fight Against Elder Fraud (06/05/2023) – We're highlighting new lessons learned from Elder Fraud Prevention and Response Networks over the past few years. The CFPB helps state and local organizations to create and develop new networks and expand the capacity of existing networks. Learn how the CFPB and elder justice advocates adapted to meet the moment by convening virtually, target traditionally underserved populations, by focusing on building collaboration between diverse stakeholders to increase prevention and improve response to elder financial exploitation. Learn more about our Elder Fraud Prevention and Response Networks and find resources and tools you can use to plan a convening in your community at consumerfinance.gov/eldernetworks. ***Comment: Consider education events to educate customers on this continuing challenge.***

Human Resources

	No news to report this week.

Lending

	Joint Agencies Propose Interagency Guidance on Reconsiderations of Value for Residential Real Estate Valuations (06/08/2023) – Five federal regulatory agencies requested public comment on proposed guidance addressing reconsiderations of value (ROV) for residential real estate transactions. The proposed guidance advises on policies that financial institutions may implement to allow consumers to provide financial institutions with information that may not have been considered during an appraisal or if deficiencies are identified in the original appraisal. ROVs are requests from a financial institution to an appraiser or other preparer of a valuation report to reassess the value of residential real estate. An ROV may be warranted if a consumer provides information to a financial institution about potential deficiencies or other information that may affect the estimated value. The proposed guidance shows how ROVs intersect with appraisal independence requirements and compliance with applicable laws and regulations. The proposed guidance describes how financial institutions may create or enhance their existing ROV

	processes while remaining consistent with safety and soundness standards, complying with applicable laws and regulations, preserving appraiser independence, and remaining responsive to consumers. Additionally, the proposed guidance would describe the risks of deficient residential real estate valuations and how financial institutions may incorporate ROV processes into established risk management functions. Deficient collateral valuations can contain inaccuracies due to errors, omissions, or discrimination that affect the value conclusion. The proposed guidance would also provide examples of ROV policies and procedures that a financial institution may establish to help identify, address, and mitigate valuation discrimination risk. Comments must be received within 60 days of the proposed guidance's publication in the Federal Register. ***Comment: The proposed guidance notes that the appraisal regulations of the OCC, FDIC, Board and NCUA require that appraisals be subject to appropriate review for compliance with the Uniform Standards of Professional Appraisal Practice (USPAP), and that an appraisal does not comply with USPAP if it relies on a prohibited basis set forth in the Equal Credit Opportunity Act or Fair Housing Act, or includes material errors, including errors of omission or commission.***
	FRB Consumer Credit - G.19 (06/07/2023) - In April, consumer credit increased at a seasonally adjusted annual rate of 5.7 percent. Revolving credit increased at an annual rate of 13.1 percent, while nonrevolving credit increased at an annual rate of 3.2 percent.

Technology / Security

	CISA and Partners Release Joint Guide to Securing Remote Access Software (06/06/2023) - CISA, Federal Bureau of Investigation (FBI), the National Security Agency (NSA), Multi-State Information Sharing and Analysis Center (MS-ISAC), and the Israel National Cyber Directorate (INCD) released the Guide to Securing Remote Access Software. This new joint guide is the result of a collaborative effort to provide an overview of legitimate uses of remote access software, as well as common exploitations and associated tactics, techniques, and procedures (TTPs), and how to detect and defend against malicious actors abusing this software. Remote access software provides organizations with a broad array of capabilities to maintain and improve information technology (IT), operational technology (OT), and industrial control system (ICS) services; however, malicious actors often exploit this software for easy and broad access to victim systems. CISA encourages organizations to review this joint guide for recommendations and best practices to implement in alignment with their specific cybersecurity requirements to better detect and defend against exploitation. Additionally, please refer to the additional information below on guidance for MSPs and small- and mid-sized businesses and on malicious use of remote monitoring and management software in using remote software and implementing mitigations.

	Comment: Remote access software allows someone, typically a member of the IT or support team, to access a computer from a remote location to troubleshoot technical issues. Remote access software can also be used for remote management and administration.

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.**