Community Bankers of Michigan Regulatory Dispatch

June 7, 2023

Timely news and resources community bankers can use

to better stay on top of a rapidly changing world.

CBM Insights

Q. What are the timing requirements for delivery of a Revised Loan Estimate?

A. See the rule and the Official Interpretation at §1026.19(e)(4) Provision and Receipt of Revised Disclosures.

1. You **can't** provide a Revised Loan Estimate after you have provided a Closing Disclosure – ever.
2. Any Revised Loan Estimate must be '**received'** by the applicant not fewer than 4 business days prior to closing.
3. If you mail the Revised Loan Estimate, it is considered '**received'** three business days after it was delivered or placed in the mail. Total of seven days.
4. The seven days can be shortened to as few as 4 business days if you can positively demonstrate receipt was earlier than the third business day.

(i) General rule. *Subject to the requirements of paragraph (e)(4)(ii) of this section, if a creditor uses a revised estimate pursuant to paragraph (e)(3)(iv) of this section for the purpose of determining good faith under paragraphs (e)(3)(i) and (ii) of this section, the creditor shall provide a revised version of the disclosures required under paragraph (e)(1)(i) of this section or the disclosures required under paragraph (f)(1)(i) of this section (including any corrected disclosures provided under paragraph (f)(2)(i) or (ii) of this section) reflecting the revised estimate within three business days of receiving information sufficient to establish that one of the reasons for revision provided under paragraphs (e)(3)(iv)(A) through (F) of this section applies.*

*1. **Three-business-day requirement.** Section 1026.19(e)(4)(i) provides that, subject to the requirements of § 1026.19(e)(4)(ii), if a creditor uses a revised estimate pursuant to § 1026.19(e)(3)(iv) for the purpose of determining good faith under § 1026.19(e)(3)(i) and (ii), the creditor shall provide a revised version of the disclosures required under § 1026.19(e)(1)(i) or the disclosures required under § 1026.19(f)(1)(i) (including any corrected disclosures provided under § 1026.19(f)(2)(i) or (ii)) reflecting the revised estimate within three business days of receiving information sufficient to establish that one of the reasons for revision provided under § 1026.19(e)(3)(iv)(A) through (F) has occurred. The following examples illustrate these requirements:*

i. Assume a creditor requires a pest inspection. The unaffiliated pest inspection company informs the creditor on Monday that the subject property contains evidence of termite damage, requiring a further inspection, the cost of which will cause an increase in estimated settlement charges subject to § 1026.19(e)(3)(ii) by more than 10 percent. The creditor must provide revised disclosures by Thursday to comply with § 1026.19(e)(4)(i).

ii. Assume a creditor receives information on Monday that, because of a changed circumstance under § 1026.19(e)(3)(iv)(A), the title fees will increase by an amount totaling six percent of the originally estimated settlement *charges subject to § 1026.19(e)(3)(ii). The creditor had received information three weeks before that, because of a changed circumstance under § 1026.19(e)(3)(iv)(A), the pest inspection fees increased by an amount totaling five percent of the originally estimated settlement charges subject to § 1026.19(e)(3)(ii). Thus, on Monday, the creditor has received sufficient information to establish a valid reason for revision and must provide revised disclosures reflecting the 11 percent increase by Thursday to comply with § 1026.19(e)(4)(i).*

iii. Assume a creditor requires an appraisal. The creditor receives the appraisal report, which indicates that the value of the home is significantly lower than expected. However, the creditor has reason to doubt the validity of the appraisal report. A reason for revision has not been established because the creditor reasonably believes that the appraisal report is incorrect. The creditor then chooses to send a different appraiser for a second opinion, but the second appraiser returns a similar report. At this point, the creditor has received information sufficient to establish that a reason for revision has, in fact, occurred, and must provide corrected disclosures within three business days of receiving the second appraisal report. In this example, in order to comply with §§ 1026.19(e)(3)(iv) and 1026.25, the creditor must maintain records documenting the creditor's doubts regarding the validity of the appraisal to demonstrate that the reason for revision did not occur upon receipt of the first appraisal report.

Source link.

Items of Interest

Bank Management

	FRB At a Fed Listens Event on Transitioning to the Post-Pandemic Economy, Federal Reserve Bank of Boston, Boston, Massachusetts - *Governor Michelle W. Bowman (05/31/2023) - Since the pandemic, and with the onset of high inflation, we have seen shifts in the availability of affordable housing and in the housing market more generally. I'm interested to hear how these impacts are being felt in New England. The availability and affordability of housing are critical for families and for communities seeking to attract new jobs and the workers to fill those new employment opportunities. Distinguishing between the short-term effects of the pandemic and longer-term structural shifts in the economy is crucial in making the near-term policy decisions to achieve our dual-mandate goals.* *In the near term, higher interest rates intended to lower inflation work most directly in the housing market. While we expect lower rents will eventually be reflected in inflation data as new leases make their way into the calculations, the residential real estate market appears to be rebounding, with home prices leveling out recently, which has implications for our fight to lower inflation.* *The pandemic abruptly changed the lives of most Americans and their families, and it fed a surge of demand for those who sought larger homes. It ushered in a wave of homebuilding and renovation that was a significant contributing factor for inflation and supply chain challenges. Much of that initial inflation has moderated, but it will be important to understand the long-term effect of the pandemic environment on household formation and housing demand going forward.*
	FDIC Insured Institutions Reported Net Income of $79.8 Billion in First Quarter 2023 (05/31/2023) - Reports from 4,672 commercial banks and savings institutions insured by the Federal Deposit Insurance Corporation (FDIC) reflect aggregate net income of $79.8 billion in first quarter 2023. Though first-quarter net income increased by $11.5 billion (16.9 percent) from fourth quarter 2022, after excluding the effects on acquirers' incomes of their acquisition of two failed banks, quarter-over-quarter net income would have been roughly flat. Strong growth in noninterest income, reflecting the accounting treatment of the acquisition of two failed institutions and record-high trading revenue at large banks, outpaced lower net interest income and higher noninterest expense. These and other financial results for first quarter 2023 are included in the FDIC's latest Quarterly Banking Profile released today.

	"The banking industry has proven to be quite resilient during this period of stress. Net income still remains high in relation to historical measures, asset quality metrics remain favorable, and the industry remains well capitalized. However, the industry continues to face significant downside risks from the effects of inflation, rising market interest rates, slowing economic growth, and geopolitical uncertainty." — FDIC Chairman Martin J. Gruenberg
	FRB Beige Book (05/31/2023) – This report was prepared at the Federal Reserve Bank of Chicago based on information collected on or before May 22, 2023. This document summarizes comments received from contacts outside the Federal Reserve System and is not a commentary on the views of Federal Reserve officials. Overall Economic Activity Economic activity was little changed overall in April and early May. Four Districts reported small increases in activity, six no change, and two slight to moderate declines. Expectations for future growth deteriorated a little, though contacts still largely expected a further expansion in activity. Consumer expenditures were steady or higher in most Districts, with many noting growth in spending on leisure and hospitality. Education and healthcare organizations saw steady activity on balance. Manufacturing activity was flat to up in most Districts, and supply chain issues continued to improve. Demand for transportation services was down, especially in trucking, where contacts reported there was a "freight recession." Residential real estate activity picked up in most Districts despite continued low inventories of homes for sale. Commercial construction and real estate activity decreased overall, with the office segment continuing to be a weak spot. Outlooks for farm income fell in most districts, and energy activity was flat to down amidst lower natural gas prices. Financial conditions were stable or somewhat tighter in most Districts. Contacts in several Districts noted a rise in consumer loan delinquencies, which were returning closer to pre-pandemic levels. High inflation and the end of Covid-19 benefits continued to stress the budgets of low- and moderate-income households, driving increased demand for social services, including food and housing. Labor Markets Employment increased in most Districts, though at a slower pace than in previous reports. Overall, the labor market continued to be strong, with contacts reporting difficulty finding workers across a wide range of skill levels and industries. That said, contacts across Districts also noted that the labor market had cooled some, highlighting easier hiring in construction, transportation, and finance. Many contacts said they were fully staffed, and some reported they were pausing hiring or reducing headcounts due to weaker actual or prospective demand or to greater uncertainty about the economic outlook. Staffing firms reported slower growth in demand. As in the last report, wages grew modestly. Prices Prices rose moderately over the reporting period, though the rate of increase slowed in many Districts. Contacts in most Districts expected a similar pace of price increases in the coming months. Consumer prices continued to move up due to solid demand and rising costs, though several Districts noted greater price sensitivity by consumers than in the prior report. Overall, nonlabor input costs rose, but many contacts said cost pressures had eased and noted price declines for some inputs, such as shipping and certain raw materials. Home prices and rents rose slightly on balance in most Districts, after little growth in the prior period.

BSA / AML

	CSBS Cannabis Job Aid (05/31/2023) – Industrial hemp was legalized federally by the 2018 Farm Bill. States across the country are now establishing regulatory schemes for hemp production. The job aid is an examiner reference tool providing background as well as state-specific information, such as

	legalization status and related topics, on both hemp and marijuana. As federal and state cannabis laws change, we expect that frequent updates will be necessary to keep this job aid up to date. The CSBS State Supervisory Processes Committee approved the release of this job aid to assist state examiners in the examination of a financial institution that may be banking cannabis-related businesses. ***Comment: This was revised after Minnesota Recreational Marijuana bill was signed by the governor May 30, 2023.***

Deposit / Retail Operations

	FDIC Summary of Deposits Survey and Filing for June 30, 2023 (06/01/2023) - The Summary of Deposits (SOD) is the annual survey of branch office deposits as of June 30 for all FDIC-insured institutions, including insured U.S. branches of foreign banks. All institutions with branch offices are required to submit the survey; institutions with only a main office are exempt. All survey responses are required by July 31, 2023. No filing extensions will be granted.
	CFPB Finds that Billions of Dollars Stored on Popular Payment Apps May Lack Federal Insurance (06/01/2023) - The Consumer Financial Protection Bureau (CFPB) published an issue spotlight on digital payment apps heavily used by consumers and businesses. The analysis finds that funds stored on these apps may not be safe in the event of financial distress, since the funds may not be held in accounts with federal deposit insurance coverage. The CFPB also issued a consumer advisory for customers holding funds in these apps and how they can make sure their funds remain safe. "Popular digital payment apps are increasingly used as substitutes for a traditional bank or credit union account but lack the same protections to ensure that funds are safe," said CFPB Director Rohit Chopra. "As tech companies expand into banking and payments, the CFPB is sharpening its focus on those that sidestep the safeguards that local banks and credit unions have long adhered to." Use of nonbank payment apps such as PayPal, Venmo, and Cash App have rapidly grown in the past few years. These apps allow people to quickly pay retailers and others, while providing the option to store funds. Unlike traditional bank and credit union accounts which have deposit insurance, funds stored in these nonbank payment companies may be unprotected. In recent months, many Americans were reminded that funds deposited with banks and credit unions enjoy the safety afforded by federal deposit insurance through the FDIC or NCUA. Americans witnessed the failure of large systemically important banks such as Silicon Valley Bank, Signature Bank, and First Republic Bank. These banks experienced a run, but insured depositors could have confidence their money was safe. However, similar protection would not be guaranteed to customers that store money on nonbank payment apps. ***Comment: Many P2P apps — the CFPB lists PayPal, Venmo, Cash App, Apple Pay and Google Pay as examples — offer stored value services "that closely resemble deposit accounts." And even in the event that customer funds were held in an FDIC-insured account, the customer's eligibility for pass-through deposit coverage is only determined after a failure has occurred, the CFPB said.***

Human Resources

	No news to report this week.

Lending

	Joint Request for Comments on Real Estate Valuations: Quality Control Standards for Automated Valuation Models (06/01/2023) - The Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the National Credit Union Administration, the Federal Housing Finance Agency, and the Consumer Financial Protection Bureau (the agencies) jointly issued a Notice of Proposed Rulemaking (NPR) seeking 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. ***Comment: Different AVMs can provide different estimates for the same home, depending on how they're programmed, and according to the agencies there is a need to have some 'quality control standards.'***

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

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.**