



## Community Bankers of Michigan Regulatory Dispatch

May 10, 2023

*Timely news and resources community bankers can use  
to better stay on top of a rapidly changing world.*

### **CSBS 2023 Annual Community Bank Survey Is Open**

The Conference of State Bank Supervisors encourages community banks to participate in its tenth annual [National Community Bank Survey](#), open now through June 30.

This is an important opportunity for community banks to share their perspectives on community banking, the economy, regulation, and supervision with state and federal policymakers. This year's questions focus on current bank conditions and emerging issues, including inflation, product service design and offerings, banking expenses and the future of community banking.

The survey takes approximately 20-30 minutes to complete, and responses may be entered during multiple sessions now through June 30. Participating community banks will need to provide their FDIC certificate number, but all information collected is for research purposes only and will not be linked to any institution.

Survey results will be released at the annual Community Banking Research Conference, sponsored by CSBS, the Federal Reserve and the FDIC. Last year's survey of nearly 500 community banks showed that economic conditions and net interest margins rank as the top external risk while cybersecurity is the top internal risk for community banks.

***Comment: Have your bank's concerns 'on the record' by responding to the survey. This will be the first survey post recent bank failures and it will be interesting to gage the mood of community bankers across the country.***

## Items of Interest

### Bank Management

FDIC [Consumer News – May 2023 Edition](#) (05/01/2023) - Need a Loan for Your New Small Business?

Get the one that is right for you!

New small business owners typically need to borrow money to buy equipment and supplies, pay employees, and otherwise finance their operations. To help you get a loan that fits your needs, these are some basics to consider on your road to success.

***Comment: Consider posting this link and information to your bank's webpage.***

### BSA / AML

No news to report this week.

### Deposit / Retail Operations

CFPB [Webinar Series: Combatting Elder Financial Exploitation Series - May 2023](#) (05/03/2023) - The Consumer Financial Protection Bureau (CFPB) is observing Older Americans Month by offering a series of four webinars on building elder fraud prevention and response networks. Following up on the success of our February webinar series, we invite elder justice professionals, networks, and intermediaries, as well as financial institutions and law enforcement, to join us. Please share this invitation with colleagues. Attend one or all sessions, live or on demand.

Register [now!](#)

***Comment: May is Older Americans Month. Consider highlighting information on your bank website with information to protect our elders.***

FDIC [Releases Comprehensive Overview of Deposit Insurance System, Including Options for Deposit Insurance Reform](#) (05/01/2023) - The Federal Deposit Insurance Corporation (FDIC) released a comprehensive overview of the deposit insurance system and options for reform to address financial stability concerns stemming from recent bank failures. The report, Options for Deposit Insurance Reform, examines the role of deposit insurance in promoting financial stability and preventing bank runs, as well as policies and tools that may complement changes to deposit insurance coverage.

The FDIC released the following materials today:

- FDIC's Options for Deposit Insurance Reform
- Press Release
- Statement by FDIC Chairman Martin J. Gruenberg

***Comment: The report titled Options for Deposit Insurance Reform, outlines three options for deposit insurance reform:***

- ***Limited Coverage. Maintaining the current deposit insurance framework, which provides insurance to depositors up to a specified limit (possibly higher than the current \$250,000 limit) by ownership rights and capacities.***
- ***Unlimited Coverage. Extending unlimited deposit insurance coverage to all depositors.***

- **Targeted Coverage.** *Offering different deposit insurance limits across account types, where business payment accounts receive significantly higher coverage than other accounts.*

## Human Resources

**SHRM** [Employers Should Purge Old I-9s](#) (05/04/2023) - I-9s must be retained either one year after the date of termination or three years after the date of hire, whichever is later.

"Some employers have read that requirement and mistakenly interpreted it to mean that they could destroy I-9 forms of their current employees after a three-year period," Fay said. But the retention period for an I-9 comes into play only after the employment is terminated, he explained.

"Figuring out the Form I-9 retention period has long been a source of frustration for employers, primarily because the actual purge date varies based on how long the employee had been with the organization," he said.

**Comment:** *Good reminder from SHRM.*

## Lending

**CFPB** [Proposes New Consumer Protections for Homeowners Seeking Clean Energy Financing](#) (05/05/2023) - The Consumer Financial Protection Bureau (CFPB) proposed a rule to implement a Congressional mandate to establish consumer protections for residential Property Assessed Clean Energy (PACE) loans. PACE loans, secured by a property tax lien on the borrower's home, are often promoted as a way to finance clean energy improvements such as solar panels. The proposed rule would require lenders to assess a borrower's ability to repay a PACE loan and would provide a framework for how these loans will be treated under the Truth in Lending Act. The CFPB also published a report on residential PACE loans, which found that the loans cause an increase in borrowers falling behind on their mortgage payments, along with other negative credit outcomes.

"When unscrupulous companies bait homeowners into unaffordable loans with exaggerated promises of energy bill savings, this can lead to serious financial distress," said CFPB Director Rohit Chopra. "We are proposing new rules that would require sensible safeguards on these clean energy loans."

Residential PACE loans finance home improvements for borrowers, who pay back the loans through increased property tax payments over time. Eligible upgrades can include energy and water efficiency projects, or projects to prepare homes for natural disasters. From 2014-2020, a majority of PACE loans were for home improvements for natural disaster preparedness. The obligation of paying the loan back through higher property tax payments remains with the property even if the borrower sells the property. Although PACE lending is authorized by local governments, private companies typically administer the programs, which can include marketing of the loans, managing originations, and making the lending decisions.

In October 2022, the FTC and State of California sued one of these private PACE administrators, Ygrene Energy Fund Inc., to force it to stop deceptive, coercive, and fraudulent sales practices.

This proposed rule comes five years after President Trump signed the Economic Growth, Regulatory Relief, and Consumer Protection Act of 2018, which directed the CFPB to prescribe ability-to-repay rules for PACE financing and to apply the civil liability provisions of the Truth in Lending Act for violations.

If finalized, the proposed rule would require PACE creditors and PACE companies to consider a consumer's ability to repay when issuing a new PACE loan, and it would amend Regulation Z to address how the Truth in Lending Act applies to PACE transactions. Among other amendments, the proposed rule would adjust disclosure requirements to better fit PACE loans and to help consumers understand the loans' impact on their property tax payments.

Public comments on the proposal are due by July 26, 2023, or 30 days after publication in the Federal Register, whichever is later.

## 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.**