



Community Bankers of Michigan Regulatory Dispatch

May 4, 2022

Timely news and resources community bankers can use

to better stay on top of a rapidly changing world.

Consumer Compliance Outlook Latest Issue is Now Available

The latest [issue](#) of Consumer Compliance Outlook is now available for download. This issue includes the following articles and features:

- An Overview of Community Development Financial Institutions
- The Bureau's Final Rule Under Regulation Z to Address LIBOR's Sunset
- News from Washington: Regulatory Updates
- On the Docket: Recent Federal Court Opinions
- [Regulatory Calendar](#)
- Entire [Issue](#) (pdf download)

We welcome your suggestions for topics for articles or webinars, or any other feedback you wish to provide, at outlook@phil.frb.org.

Comment: The 'Recent Federal Court Opinions is always interesting reading and can foreshadow agency actions. For example, in a decision from the Ninth Circuit, the court noted that "[w]hen notified by a consumer that an unauthorized transfer has taken place, most banks have procedures in place to prevent subsequent unauthorized transfers, such as freezing the consumer's account or changing the account number and password." The banks failure to act in this case and block subsequent unauthorized transactions raises questions about who is liable for those transactions.

CBM Insights

Q: We have a medical doctor that would like to bank with us that treats and prescribes to medicinal marijuana patients. If we elect to open this account, would we have to file SARs on this doctor?

A: If that doctor is a 'Qualified' physician under §169.002 of the Occupations Code, they are legally allowed to treat and prescribe to medicinal marijuana patients. That same doctor could write a prescription for a controlled substance like a narcotic, so the fact they could write a prescription for marijuana would not require filing a SAR '...so long as there is not any other suspicious activity that would otherwise warrant the filing of a SAR.

FinCEN does not expect a financial institution to file SARs in accordance with FIN-2014-G001 on the basis that a customer relationship indirectly involves a state-regulated marijuana-related business, so long as there is not any other suspicious activity that would otherwise warrant the filing of a SAR. For example, a bank providing account services to an individual

who is an employee of a state-regulated marijuana-related business does not need to file a SAR on that individual solely because he or she is an employee of that business. Similarly, a bank providing services to a state, such as Colorado or Washington, for purposes of collecting fees or taxes from marijuana-related businesses regulated by that state does not need to file a SAR solely because the fees or taxes are being paid by those businesses. While a financial institution may file SARs in such circumstances, the activity associated with these indirect relationships is not the focus of the Marijuana Guidance, and such reports may be of limited value with respect to the priorities of FinCEN and its stakeholders. However, to be clear, financial institutions should file SARs in circumstances when there is other suspicious activity that would serve as an independent basis for filing SARs.

Regards,
FinCEN's Resource Center

Logically, the same would hold true for those involved in the 'consumable hemp product' (CHP) business because that is also a 'state regulated' business (hemp) that is allowed to operate legally in states that have legalized hemp and CHPs under the 2018 Farm Bill.

Items of Interest

Bank Management

	<p>CFPB Provides Spanish Translations for Certain Prepaid Rule and Regulation B Model and Sample Forms; Encourages Use of Translations (04/29/2022) - The CFPB has released Spanish translations for certain model and sample forms included in the Prepaid Rule in Regulation E and for certain adverse action model and sample notices included in Regulation B. This release is part of the CFPB's ongoing emphasis on ensuring fair access to competitive and transparent markets for all consumers, including those with limited English proficiency. The CFPB is also taking this opportunity to remind financial institutions of their obligation to serve the communities where they do business, including communities with limited English proficiency – as well as to encourage them to use the translations as they work with Spanish-speakers in their community.</p> <p>You can access the translated Prepaid Rule forms here:</p> <p>www.consumerfinance.gov/compliance/compliance-resources/consumer-cards-resources/prepaid-cards/prepaid-model-forms-samples/.</p> <p>You can access the translated ECOA/Regulation B forms here:</p> <p>http://www.consumerfinance.gov/compliance/compliance-resources/other-applicable-requirements/equal-credit-opportunity-act/model-credit-application-and-sample-notification-forms/.</p> <p><i>Comment: Remember that there is no legal requirement to provide translations...yet! And a bank opting to providing these Spanish disclosures should have qualified employees who can discuss the forms.</i></p>
	<p>FDIC Names Seven New Members to Advisory Committee on Community Banking (04/27/2022) - WASHINGTON – The Federal Deposit Insurance Corporation (FDIC) announced seven new members of the agency's Advisory Committee on Community Banking:</p> <ul style="list-style-type: none"> • Troy Campbell, President & CEO, Altoona First Savings Bank, Altoona, Pennsylvania • Robert James II, Executive Vice President, Carver State Bank, Savannah, Georgia • Trey Maust, Executive Chairman, Lewis & Clark Bank, Oregon City, Oregon

- Dominik Mjartan, President & CEO, Optus Bank, Columbia, South Carolina
- Arlen Osterbuhr, Chairman & CEO, Minden Exchange Bank and Trust Company, Minden, Nebraska
- Shane Pilarski, President & CEO, Alliance Bank, Francesville, Indiana
- Kim Reigelsberger, President, Preferred Bank, Rothville, Missouri

Composed of a cross-section of community bankers from around the country, the FDIC's Advisory Committee shares input on a broad range of community bank policy and regulatory matters. On May 3, 2022, the Advisory Committee will meet to discuss local banking conditions. FDIC senior staff will also provide updates on supervision and policy matters and the FDIC's Small Business Lending Survey. Read the full agenda [here](#).

The new members join the following Advisory Committee members:

- Mike Bock, CEO, Dairy State Bank, Rice Lake, Wisconsin
- Anthony Capobianco, President & CEO, American Community Bank, Glen Cove, New York
- Harold Horvat, President, CEO & Chairman, Centreville Bank, West Warwick, Rhode Island
- Betsy Johnson, President & CEO, Solutions Bank, Forreston, Illinois
- Cindy Kitner, President & CEO, Jefferson Security Bank, Shepherdstown, West Virginia
- Bruce Lowry, President & CEO, Ireland Bank, Malad City, Idaho
- Teri Messerschmitt, President & CEO, South Ottumwa Savings Bank, Ottumwa, Iowa
- Neil McCurry, Jr., Sarasota and Manatee County Market President, Seacoast National Bank, Stuart, Florida
- Gilbert Narvaez, Jr., President & CEO, Falcon International Bank, Laredo, Texas
- Margaret Oldner, CEO, Stone Bank, Mountain View, Arkansas
- Andrew West, President & CEO, Eagle Bank, Polson, Montana
- John Wharton V, President & CEO, Yampa Valley Bank, Steamboat Springs, Colorado

Information about the Advisory Committee on Community Banking, which was established in 2009, is available on the Committee's webpage. The virtual meeting is open to the public via live webcast.

Comment: Congratulations to these community bankers for their service to the industry.

OCC [Announces Workshops for Directors of National Community Banks and Federal Savings Associations](#) (04/27/2022) - WASHINGTON—The Office of the Comptroller of the Currency (OCC) announced its schedule of workshops for board directors of national community banks and federal savings associations for the second half of 2022.

The OCC examiner-led workshops provide practical training and guidance to directors of national community banks and federal savings associations to support the safe and sound operation of community-based financial institutions.

The OCC offers five workshops at a cost of \$99 each:

- Building Blocks: Keys to Success for Directors and Senior Management
- Risk Governance: Improving Director Effectiveness

- Compliance Risk: What Directors Need to Know
- Credit Risk: Directors Can Make a Difference
- Operational Risk: Navigating Rapid Changes

Senior management and other key executives of national community banks and federal savings associations supervised by the OCC are also eligible to attend the Building Blocks workshop.

Workshops are limited to 35 participants. Attendees will receive course materials, supervisory publications, and lunch.

To view the schedule and locations of workshops, and register online, visit the [OCC's website](#). If you have additional questions about the workshops, please contact the OCC Bank Director Workshop Team at (202) 649-6490 or bankdirectorworkshop@occ.treas.gov.

Comment: These workshops are designed to allow community bank directors to quickly develop an understanding of their role in performing bank oversight responsibilities.

OCC [Acting Comptroller Issues Statement on Standards for Stablecoins](#) (04/27/2022) - WASHINGTON—Acting Comptroller of the Currency Michael J. Hsu issued the following statement after his appearance at the Artificial Intelligence and the Economy: Charting a Path for Responsible and Inclusive AI symposium hosted by the U.S. Department of Commerce, National Institute of Standards and Technology (NIST), FinRegLab, and the Stanford Institute for Human-Centered Artificial Intelligence.

Well-designed standards can promote inclusive and responsible innovation. Take the internet, for instance. The technical foundations of the internet provide for an open, royalty-free network – something we take for granted today. Those foundations did not emerge on their own. They were developed by standard setting bodies like IETF (Internet Engineering Task Force) and W3C (World Wide Web Consortium), which had representatives with differing perspectives, a shared public interest ethos, and a strong leader committed to the vision of an open and inclusive internet.

Emerging technologies such as AI and stablecoins enable transactions in blockchain-based systems. Stablecoins lack shared standards and are not interoperable. To ensure that stablecoins are open and inclusive, I believe a standard setting initiative similar to that undertaken by IETF and W3C needs to be established, with representatives not just from crypto/Web3 firms, but also including academics and government. My conversation today with Deputy Secretary Graves underscored that need and reflected the willingness of governmental bodies like NIST and the OCC to engage in such efforts.

Related Link

[Acting Comptroller of the Currency Michael J. Hsu](#)

Comment: Without some standards, can stablecoins adequately function?

CSBS [Data Corner: Core Deposit Surge Drives Increase in Bank Balance Sheets](#) (04/26/2022) - Total bank assets surged in the last two years during the COVID-19 pandemic recession and recovery, increasing at a rate higher than in previous years, according to recent analysis of fourth quarter 2021 bank call report data. This surge was driven primarily by a large increase in core deposits as consumers saved more, spent less and tapped into stimulus funds. Banks deployed the increase in funding created by the core deposit surge into investments and, to a lesser extent, loans.

Our recent analysis focuses on breaking down the balance sheets of state and national banks into broad categories (similar to how they are categorized in the Federal Financial Institutions Examination Council's Uniform Bank Performance Report) and measuring changes in these categories on both sides of the balance sheet. This analysis does not adjust for mergers or banks that may have converted their charter type over the measurement period.

Comment: The massive injection of liquidity from the Paycheck Protection Program and other relief and stimulus programs inflated deposits. And while there were initial concerns about substantial credit losses, especially in 2020, It seems many community banks are experiencing lower than expected default rates.

BSA / AML

FinCEN [Renews and Expands Real Estate Geographic Targeting Orders](#) (04/29/2022) - The Financial Crimes Enforcement Network (FinCEN) announced the renewal and expansion of its Geographic Targeting Orders (GTOs) that require U.S. title insurance companies to identify the natural persons behind shell companies used in all-cash purchases of residential real estate.

The terms of the GTOs are effective beginning April 30, 2022 and ending on October 26, 2022. The GTOs continue to provide valuable data on the purchase of residential real estate by persons possibly involved in various illicit enterprises. Renewing the GTOs will further assist in tracking illicit funds and other criminal or illicit activity, as well as inform FinCEN's future regulatory efforts in this sector.

FinCEN renewed the GTOs that cover certain counties within the following major U.S. metropolitan areas: Boston; Chicago; Dallas-Fort Worth; Honolulu; Las Vegas; Los Angeles; Miami; New York City; San Antonio; San Diego; San Francisco; and Seattle. FinCEN, working in conjunction with our law enforcement partners, identified additional regions that present greater risks for illicit finance activity through all-cash purchases of residential real estate. Accordingly, FinCEN expanded the geographic coverage of the GTOs to parts of the District of Columbia, Northern Virginia, and Maryland (DMV) metropolitan area, the Hawaiian Islands of Maui, Hawaii, and Kauai, and Fairfield County, Connecticut. The purchase amount threshold remains \$300,000 for each covered metropolitan area, with the exception of the City and County of Baltimore, where the purchase threshold is \$50,000.

FinCEN appreciates the continued assistance and cooperation of title insurance companies and the American Land Title Association in protecting real estate markets from abuse by illicit actors.

Any questions about the Orders should be directed to FinCEN's Regulatory Support Section at FRC@FinCEN.gov.

A copy of the GTO is available [here](#).

Frequently asked questions regarding these GTOs are available [here](#).

Comment: As noted, real estate and money laundering has been a long-simmering issue.

FinCEN [Acting Director Himamauli Das before the House Committee on Financial Services](#) (04/28/2022) - Testimony for the Record of Himamauli Das, Acting Director, Financial

Crimes Enforcement Network, U.S. Department of the Treasury Committee on Financial Services, U.S. House of Representatives

April 28, 2022

FinCEN Acting Director Himamauli Das provided the following statement before the U.S. House Committee on Financial Services:

<https://financialservices.house.gov/uploadedfiles/hhrg-117-ba00-wstate-dash-20220428.pdf>.

Comment: In testimony, the Acting Director requested additional funding so that FinCEN can staff up to meet its objectives. At this time, it is significantly behind on implementation of the Corporate Transparency Act. The much-ballyhooed regulatory relief for banks has yet to come about.

Deposit / Retail Operations

No news to report this week.

Human Resources

SHRM [U.S. Labor Costs Rose 1.4% in First Quarter and 4.5% Year Over Year](#) (04/29/2022) - U.S. labor costs for compensation, including benefits, rose 1.4 percent for the first quarter of the year, the U.S. Bureau of Labor Statistics (BLS) reported. Year over year, compensation costs for civilian workers rose 4.5 percent for the 12-month period ending in March, up from a 2.6 percent rise a year earlier.

Compensation cost increases for the 12-month period ending in March ranged from 4 percent for construction and maintenance occupations to 7.8 percent for service occupations.

Rising pay and benefit expenses, while significantly higher than the increases employers were familiar with just a year ago, are still trailing the rate of inflation by a fairly wide margin. The consumer price index rose 8.5 percent year over year in March, the highest inflation rate since 1981, the BLS reported on April 12.

SHRM [Fidelity to Allow Bitcoin Investments in 401\(k\) Accounts](#) (04/26/2022) - Fidelity Investments will give companies that use the firm to administer their retirement plans the option to put bitcoin on the investment menu, becoming the first major retirement plan provider to do so. The U.S. Department of Labor has warned 401(k) plans to "exercise extreme care" before including a cryptocurrency option.

Comment: Really? Are bitcoins (or other cryptocurrencies) a stable source of investment for retirement?

Lending

No news to report this week.

Technology / Security

ICBA [New Podcast: Why Cybersecurity Goes Beyond IT](#) (04/28/2022) - The latest episode of ICBA's Communities of Innovation podcast focuses on why cybersecurity is no longer simply an IT issue for community banks.

Details: On the podcast, Jeff Newgard of Bank of Idaho and Kevin Piette of State Bank of Cross Plains discuss why having a multifaceted security and technology approach should include everyone within the organization.

Previous: Launched last year, the podcast series features previous episodes on demystifying fintech, finding and keeping talent, fraud prevention, cryptocurrency, banking as a service, and more.

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

03.25.2022 [FDIC Request for Information on Bank Merger Act](#) - The Federal Deposit Insurance Corporation sent for publication in the Federal Register a Request for Information (RFI) seeking information and comments regarding the application of the laws, practices, rules, regulations, guidance, and statements of policy (together, regulatory framework) that apply to merger transactions involving one or more insured depository institution, including the merger between an insured depository institution and a noninsured institution. **Dates: Comments are due May 31, 2022.**

03.22.2021 [Rules to Enhance and Standardize Climate-Related Disclosures for Investors](#) - The Securities and Exchange Commission today proposed rule changes that would require registrants to include certain climate-related disclosures in their registration statements and periodic reports, including information about climate-related risks that are reasonably likely to have a material impact on their business, results of operations, or financial condition, and certain climate-related financial statement metrics in a note to their audited financial statements. The required information about climate-related risks also would include disclosure of a registrant's greenhouse gas emissions, which have become a commonly used metric to assess a registrant's exposure to such risks. The proposing release will be published on SEC.gov and in the Federal Register. **DATES: Comments should be received on or before May 20, 2022.**