

Compliance Journal

Special Focus

HMDA: Bankers Should Use 2017 to Prepare for Large-Scale Changes

Notice 2016-15

In October 2015, the Consumer Financial Protection Bureau (CFPB) issued the long-anticipated Final Rule amending the Home Mortgage Disclosure Act's (HMDA) implementing regulation – Regulation C. The Rule, which takes effect in multiple stages beginning in January 2017, has vast impacts ranging from coverage under the Rule to data submission. Bankers should take note of the impactful changes and timeline for implementation. First and foremost, a bank should determine whether it is a reportable financial institution under the new coverage test which takes effect in January 2017, and if so, use the 2017 year to prepare for large-scale changes to data collection requirements which take effect in January 2018.

The 2015 HMDA Rule changes primarily affect the following areas, which are summarized below¹:

- Institutions subject to Regulation C
- Transactions subject to Regulation C
- Data collection and reporting requirements
- Process for reporting and disclosing data
- Posted Notices

¹This article addresses HMDA changes for banks only. Furthermore, this article presents a summary of the Rule. Readers should review the Rule in its entirety.

Institutions subject to Regulation C

The 2015 HMDA Rule, first and foremost, modifies those financial institutions subject to HMDA reporting requirements. Overall, the revisions, which will take effect in two phases beginning in January 2017, attempt to limit the number of financial institutions subject to the Rule by adding new criteria that must be met before a bank becomes HMDA-reportable.

By way of background, existing Regulation C requires a bank meet the following criteria in order to be subject to HMDA requirements:

- (1) **Asset-Size Test.** As of the preceding December 31, had assets in excess of \$44 million²;
- (2) **Location Test.** As of the preceding December 31, had a home or branch office in an Metropolitan Statistical Area (MSA);
- (3) **Loan Activity Test.** In the preceding calendar year, originated at least one home purchase loan (excluding temporary financing such as a construction loan) or a refinancing thereof, secured by a first lien on a one-to-four family dwelling; and
- (4) **Federally Related Test.** Meet one of the following criteria:

²This asset threshold is set each year by the CFPB.

- a. The Bank is Federally insured or regulated; or
- b. The mortgage loan (described in (3)) was insured, guaranteed, or supplemented by a Federal agency; or
- c. The mortgage loan (described in (3)) was intended for sale to Fannie Mae or Freddie Mac

The new HMDA Rule adds a 5th criterion, called the “Loan Volume” test, to the unchanged criteria, as described above. The addition of the Loan Volume test, which is being implemented in two phases, serves to narrow the scope of banks covered by the regulation. The first phase, which becomes effective in January 2017, adds the following criterion to those listed above:

- (5) In each of the two preceding calendar years, originated at least 25 covered home purchase loans, including refinancings of home purchase loans

Thus, if a bank previously met the financial institution coverage test but does not meet this additional criteria based on 2015 and 2016 loan data, the bank will no longer be subject to HMDA requirements beginning in January 2017.

The second phase, which becomes effective in January 2018, modifies the Loan Volume test, as follows:

Special Focus

- (5) Meets at least one of the following criteria:
- A. In each of the two preceding calendar years, originated at least 25 covered closed-end mortgages; or
- B. In each of the two preceding calendar years, originated at least 100 covered open-end lines of credit

Thus, if a bank previously met the financial institution coverage test but does not meet this additional criteria based on 2016 and 2017 loan data, the bank will no longer be subject to HMDA requirements beginning in January 2018.

The addition of these criteria will only serve to narrow the list of HMDA-reportable financial institutions. Therefore, a bank should determine if the addition of this 5th criterion will impact the institution's coverage under HMDA in 2017. Furthermore, even if the bank is required to report 2017 HMDA data, it should determine, assuming it's close to new loan volume thresholds, whether or not it should limit its transactions in 2017 and beyond in order to avoid HMDA compliance in the future. Additionally, for those banks who will no longer be subject to HMDA requirements, along with those originating loans near new loan volume thresholds, it would be prudent to monitor loan volume on an ongoing basis. Monitoring

loan volume for these purposes will help facilitate ongoing compliance with HMDA, as loan volume thresholds can easily be surpassed without proper tracking.

Transactions subject to Regulation C

Additionally, the new HMDA Rule modifies the types of covered transactions. Beginning on January 1, 2018 for data collected on that date or later, the following types of loans, absent an exclusion, are subject to HMDA coverage:

- Consumer-purpose, closed-end loans and open-end lines of credit secured by a dwelling; and
- Business-purpose, closed-end loans and open-end lines of credit secured by a dwelling that are home purchase loans, home improvement loans, or refinancings ONLY.

To elucidate, a Dwelling is defined broadly under the HMDA Rule as a residential structure. Examples of dwellings and non-dwellings are as follows:

Dwellings

- Principle residence
- Second homes and vacation homes
- Investment properties
- Residential structures attached to real property
- Detached residential structures

- Individual condominium and cooperative units
- Manufactured homes or other factory-built homes
- Multifamily residential structures or communities. For example, apartment buildings, condominium complexes, cooperative buildings or complexes, and manufactured home communities
- Structures used for both residential and commercial purposes if the primary use is residential

Not Dwellings

- Recreational Vehicles (RVs), such as a boat, camper, travel trailer
- Houseboats or floating homes
- Mobile homes constructed before June 15, 1976
- Transitory residences, such as hotels, hospitals, college dorms, or RV parks
- Structures originally designed as a dwelling but used exclusively for commercial purposes (e.g. conversion of a home to an office).

When assessing whether a transaction is a covered transaction under the HMDA rules, banks should first determine if a loan meets these criteria described above. If so, the bank should next assess whether the loan is excluded under the Rule.

**November 2016
Volume 21, Number 6**

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Subscription Rate:

\$195/year for non-members. For subscription orders and inquiries, please contact the Wisconsin Bankers Association at the above address, by phone at 608/441-1200 or e-mail at WBAlegal@wisbank.com. WBA Compliance Journal may also be seen online at: www.wisbank.com.



Special Focus

The 2015 HMDA Rule retains existing exclusions and also expands the types of excluded transactions. Beginning in 2018, the following loans are excluded from coverage:

- Closed-end Mortgage Loans or Open-End Lines of Credit (“Covered Transactions”)³ originated or purchased in a fiduciary capacity (e.g. as a trustee);
- Covered Transactions secured by a lien on vacant or unimproved land (except if the bank is aware that loan proceeds will be used within two years of closing/account opening to construct or purchase a dwelling to be placed on the land);
- A Covered Transaction that is temporary financing – that is, a loan designed to be replaced with permanent financing at a later time;
- The purchase of an interest in a pool of Covered Transactions (such as mortgage-backed securities);
- The purchase solely of the right to service Covered Transactions;
- The purchase of Covered Transactions via a merger or acquisition or acquisition of all of a Branch Office’s assets and liabilities;
- Covered Transactions or applications for Covered Transactions in a total dollar amount less than \$500;
- The purchase of a partial interest in a Covered Transaction;
- Covered Transactions if the proceeds are used primarily for agricultural purposes;

- Covered Transactions in which the secured dwelling is located on property that is used primarily for agricultural purposes;
- Covered Transactions that are or will be made primarily for business or commercial purposes, unless it is a Home Improvement Loan, a Home Purchase Loan, or a Refinancing;
- A Closed-End mortgage loan if the bank originated fewer than 25 Closed-end mortgages in each of the two preceding calendar years; and
- An Open-End Line of Credit if the bank originated fewer than 100 Open-End Lines of Credit in each of the two preceding calendar years

Bankers should note that although not listed as an exclusion, if a transaction modifies, renews, extends, or amends the terms of an existing debt obligation without satisfying and replacing the existing debt obligation, the transaction is not a covered loan. On the other hand, loan assumptions will continue to be covered loans under the new HMDA Rule.

If a transaction meets coverage criteria and is not excludable, the loan will be a covered transaction. The bank must then determine if the transaction is required to be reported. Pursuant to HMDA requirements, a transaction is required to be reported if it’s an application for, origination of, or a purchase of a covered loan, as defined by the regulation. An application may include a preapproval request if it meets certain criteria, but it will not include a prequalification request.

As of January 1, 2018, those banks subject to HMDA will be required to collect, record, and report information for those covered transactions (and only those covered transactions) as described

above and as further described in the regulation itself.

Data collection and reporting requirements

Effective January 1, 2018, HMDA amends certain existing data points and requires new data points be collected, recorded, and reported for covered loans. Altogether, banks will now be required to submit up to 48 data points, of which 25 of those new. In order to successfully report this data in 2019, a bank should ensure it is properly collecting new and amended data for the calendar year 2018.

According to the CFPB, the data points required to be reported under the final rule can be grouped into four broad categories:

- *Information about applicants, borrowers, and the underwriting process.* For example, age, credit score, debt-to-income ratio, and automated underwriting system results;
- *Information about the property securing the loan.* For example, construction method, property value, and additional information about manufactured and multifamily housing;
- *Information about the features of the loan.* For example, additional pricing information, loan term, interest rate, introductory rate period, non-amortizing features, and the type of loan; and
- *Certain unique identifiers.* For example, universal loan identifier, property address, loan originator identifier, and a legal entity identifier for the financial institution

In addition, the Final Rule amends existing requirements related to the collection of an applicant’s or borrower’s ethnicity, race, and sex. The new rule requires a bank to identify how such information

³For purposes of this article, in describing exclusions from the Rule, “Covered Transactions” refers to a closed-end mortgage loan or open-end line of credit that is otherwise subject to the Rule, absent an exclusion.



Special Focus

was collected – on the basis of visual observation or surname—for in-person applications for which the applicant has not supplied the information. Additionally, where the borrower does provide information related to race and ethnicity, the Rule requires banks to permit applicants and borrowers to self-identify using disaggregated ethnic and racial categories. Aggregation of such information will be appropriate when race and ethnicity data is completed by the financial institution.

All HMDA data points can be found in the 2015 Rule or, for a Summary Reference Chart, visit the CFPB's HMDA Implementation Page, provided below.

Process for reporting and disclosing data

A bank's recording responsibilities remain largely unchanged under the new HMDA rule. A bank is required to record information quarterly for covered loans. More specifically, recording must be completed on one or more LARs within 30 calendar days after the end of the calendar quarter in which the bank took final action on a reportable transaction.

Likewise, the new Rule retains the existing annual reporting requirement. That is, a bank must submit its annual LAR to the appropriate federal agency by March 1 of the year following the calendar year for which data are collected. This submission, however, must now be electronic and submitted in accordance with procedures published by the Bureau. Information related to electronic submission is available on the Bureau's HMDA implementation page. Furthermore, effective in January 2019, a bank must submit certain information about the institution when submitting its 2018 HMDA data (by March 1, 2019), such as its Taxpayer Identification Number (TIN), total number of entries in the submission, and its appropriate federal agency.

Although all banks will continue to be subject to annual reporting requirements, certain banks will be required to report data quarterly. Effective January 1, 2020, banks that reported at least 60,000 Covered Loans and Applications (combined) for the preceding calendar year will be required to report HMDA data on a quarterly basis, in addition to its annual reporting requirement. This quarterly reporting requirement entails submission of required data points within 60 calendar days after the end of the calendar quarter. A bank subject to this quarterly reporting requirement will only be required to submit quarterly data for the first three quarters of the year; it need not submit 4th quarter data, as this information will be reported as part of its annual submission. The annual submission for these banks will include a resubmission of the data previously submitted for the first three quarters of the year (including any corrections to the data), as well as its fourth quarter data.

Disclosure Statement and Modified LAR

The 2015 HMDA Rule does provide some additional regulatory relief for banks in that it is no longer required to publicly provide a disclosure statement and LAR (modified for privacy purposes). Effective in January 2018, banks must now only provide a notice to consumers, upon request of data, that the information is available on the Bureau's website. More specifically, after receiving notification from the FFIEC that a bank's disclosure statement is available, the bank is required, within three business days, to make a written notice available to the public, upon request, conveying that the bank's disclosure statement may be obtained on the Bureau's website. A Sample Notice is provided by the Bureau. These changes apply to data collected in 2017 and beyond.

Additionally, beginning in 2018, written notice must be provided, upon request, regarding the availability of a bank's modified LAR. A Sample Notice is provided by the Bureau. Furthermore, a combined notice can be used to satisfy both disclosure statements. A Sample Notice is provided to do so.

Posted Notices

The new HMDA Rule modifies the existing posting requirement. Effective January 1, 2018, a bank must post a general notice about the availability of HMDA data on the Bureau's website in the lobby of its home office and each branch office physically located in a Metropolitan Statistical Area (MSA) or Metropolitan Division (MD). A Sample Notice is provided by the Bureau. These changes apply to data collected in 2017 and beyond.

As bankers prepare for the upcoming year, it's imperative to consider HMDA. First and foremost, a bank should determine if the financial institution coverage criteria, which become effective in January 2017, serve to exclude the bank from HMDA coverage. If the bank is HMDA-reportable, it would be prudent to use 2017 to prepare for data collection requirements that become effective in 2018 (to be reported in 2019). There will be significant people, process, and technology impacts to address throughout the year, including updating systems requirements, staff training, and updating policies and procedures. Banks should begin addressing these as soon as possible.

Additional information can be found at www.consumerfinance.gov/regulatory-implementation/hmda.

WBA wishes to thank Atty. Lauren C. Capitini, Boardman & Clark, llp for providing this article. ■



Regulatory Spotlight

Agencies Finalize Rule for Qualified Financial Contracts Recordkeeping Related to Orderly Liquidation.

The Secretary of the Treasury (Treasury) and the Federal Deposit Insurance Corporation (FDIC) are adopting final rules to implement the qualified financial contract (QFC) recordkeeping requirements of the Dodd-Frank Act. The final rules require recordkeeping with respect to positions, counterparties, legal documentation, and collateral. This information is necessary and appropriate to assist the FDIC as receiver to: Fulfill its obligations under the Dodd-Frank Act in deciding whether to transfer QFCs; assess the consequences of decisions to transfer, disaffirm or repudiate, or allow the termination of, QFCs with one or more counterparties; determine if any risks to financial stability are posed by the transfer, disaffirmance or repudiation, or termination of such QFCs; and otherwise exercise its rights under the Act and fulfill its obligations under sections 210(c)(8), (9), or (10) of the Act. The final rules are effective **12/30/2016**. The final rule may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2016-10-31/pdf/2016-25329.pdf>. *Federal Register*, Vol. 81, No. 210, 10/31/2016, 75624-75670.

Agencies Issue Proposed Rule on Private Flood Insurance.

The Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (FRB), the Federal Deposit Insurance Corporation (FDIC), the Farm Credit Administration (FCA), and the National Credit Union Administration (NCUA) are issuing a new proposal to amend their regulations regarding loans in areas having special

flood hazards to implement the private flood insurance provisions of the Biggert-Waters Flood Insurance Reform Act of 2012 (BiggertWaters Act). Specifically, the proposed rule would require regulated lending institutions to accept policies that meet the statutory definition of private flood insurance in the Biggert-Waters Act and permit regulated lending institutions to accept flood insurance provided by private insurers that does not meet the statutory definition of private flood insurance on a discretionary basis, subject to certain restrictions. Comments are due by **01/06/2017**. The proposed rule may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2016-11-07/pdf/2016-26411.pdf>. *Federal Register*, Vol. 81, No. 215, 11/07/2016, 78063-78080.

Agencies Issue Advance Notice of Proposed Rulemaking on Enhanced Cyber Risk Management Standards.

The Board of Governors of the Federal Reserve System (FRB), the Office of the Comptroller of the Currency (OCC), and the Federal Deposit Insurance Corporation (FDIC) are inviting comment on an advance notice of proposed rulemaking regarding enhanced cyber risk management standards (enhanced standards) for large and interconnected entities under their supervision and those entities' service providers. The agencies are considering establishing enhanced standards to increase the operational resilience of these entities and reduce the impact on the financial system in case of a cyber event experienced by one of these entities. The proposed rule addresses five categories of cyber standards: Cyber risk governance; cyber risk management; internal dependency management; external dependency

management; and incident response, cyber resilience, and situational awareness. The agencies are considering implementing the enhanced standards in a tiered manner, imposing more stringent standards on the systems of those entities that are critical to the functioning of the financial sector. Comments are due by **01/17/2017**. The proposed rule may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2016-10-26/pdf/2016-25871.pdf>. *Federal Register*, Vol. 81, No. 207, 10/26/2016, 74315-74326.

CFPB Finalizes Rule Amending Mortgage Servicing Rules.

The Consumer Financial Protection Bureau (CFPB) has issued a final rule amending the 2013 mortgage rules under the Real Estate Settlement Procedures Act and the Truth in Lending Act. The final rule clarifies, revises, or amends provisions regarding force-placed insurance notices, policies and procedures, early intervention, and loss mitigation requirements under Regulation X's servicing provisions; and prompt crediting and periodic statement requirements under Regulation Z's servicing provisions. The final rule also addresses proper compliance regarding certain servicing requirements when a person is a potential or confirmed successor in interest, is a debtor in bankruptcy, or sends a cease communication request under the Fair Debt Collection Practices Act. The final rule also makes technical corrections to several provisions of Regulations X and Z. The final rule is effective **10/19/2017**. The final rule may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2016-10-19/pdf/2016-18901.pdf>. *Federal Register*, Vol. 81, No. 202, 10/19/2016, 72160-72401.



Regulatory Spotlight

CFPB Issues Interpretive Rule on Safe Harbors from Liability under Fair Debt Collection Practices Act.

CFPB has issued an interpretive rule under the Fair Debt Collection Practices Act (FDCPA) to clarify the interaction of the FDCPA and specified mortgage servicing rules in Regulations X and Z. This interpretive rule constitutes an advisory opinion for purposes of the FDCPA and provides safe harbors from liability for servicers acting in compliance with specified mortgage servicing rules in three situations: Servicers do not violate FDCPA section 805(b) when communicating about the mortgage loan with confirmed successors in interest in compliance with specified mortgage servicing rules in Regulation X or Z; servicers do not violate FDCPA section 805(c) with respect to the mortgage loan when providing the written early intervention notice required by Regulation X to a borrower who has invoked the cease communication right under FDCPA section 805(c); and servicers do not violate FDCPA section 805(c) when responding to borrower initiated communications concerning loss mitigation after the borrower has invoked the cease communication right under FDCPA section 805(c). The interpretive rule is effective **10/19/2017**. The interpretive rule may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2016-10-19/pdf/2016-18902.pdf>. *Federal Register*, Vol. 81, No. 202, 10/19/2016, 71977-71981.

CFPB Corrects Reg. E Errors.

CFPB has issued a correction to Regulation E to implement certain clerical and non-substantive changes. This correction is effective **11/14/2016**. The correction may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2016-10-12/pdf/2016-24506.pdf>. *Federal Register*, Vol. 81, No. 197, 10/12/2016, 70319-70320.

CFPB Re-Issues Compliance Bulletin and Policy Guidance on Service Providers.

CFPB is re-issuing its guidance on service providers, formerly titled CFPB Bulletin 2012-03, Service Providers. CFPB is clarifying that the depth and formality of the risk management program for service providers may vary depending upon the service being performed—its size, scope, complexity, importance and potential for consumer harm—and the performance of the service provider in carrying out its activities in compliance with Federal consumer financial laws and regulations. This amendment is needed to clarify that supervised entities have flexibility and to allow appropriate risk management. The compliance bulletin may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2016-10-26/pdf/2016-25856.pdf>. *Federal Register*, Vol. 81, No. 207, 10/26/2016, 74410-74412.

FRB Approves Private Sector Adjustment Factor for 2017.

The Board of Governors of the Federal Reserve System (FRB) has approved the private sector adjustment factor for 2017 of \$16.6 million and the 2017 fee schedules for Federal Reserve priced services and electronic access. The new fee schedules are effective **01/03/2017**. The fee schedules may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2016-10-28/pdf/2016-26068.pdf>. *Federal Register*, Vol. 81, No. 209, 10/28/2016, 75058-75088.

FRB Revises Annual Reports.

FRB is adopting a proposal to revise, with extension for three years, the Annual Report of Holding Companies (FR Y-6), the Annual Report of Foreign Banking Organizations (FR Y-7), and the Report of

Changes in Organizational Structure (FR Y-10). The revisions to the mandatory FR Y-6 and FR Y-7 information collections are effective with fiscal year-ends beginning **10/31/2016**. The revisions to the mandatory FR Y-10 information collection are effective **10/14/2016**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2016-10-19/pdf/2016-25203.pdf>. *Federal Register*, Vol. 81, No. 202, 10/19/2016, 72053-72055.

FDIC Finalizes Rule on Regulatory Capital Rules.

The Federal Deposit Insurance Corporation (FDIC) has issued a final rule that amends the definition of qualifying master netting agreement under the regulatory capital rules and the liquidity coverage ratio rule. In this final rule, the FDIC also is amending the definitions of collateral agreement, eligible margin loan, and repo-style transaction under the regulatory capital rules. These amendments are designed to ensure that the regulatory capital and liquidity treatment of certain financial contracts generally would not be affected by implementation of special resolution regimes in non-U.S. jurisdictions that are substantially similar to the U.S. resolution framework or by changes to the International Swaps and Derivative Association Master Agreement that provide for contractual submission to such regimes. The Office of the Comptroller of the Currency and the Board of Governors of the Federal Reserve System issued in December 2014, a joint interim final rule that is substantially identical to this final rule. The final rule is effective **10/17/2016**. The final rule may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2016-10-17/pdf/2016-25021.pdf>. *Federal Register*, Vol. 81, No. 200, 10/17/2016, 71348-71356.



Regulatory Spotlight

FDIC Issues Proposed Rule on Restrictions on Qualified Financial Contracts.

FDIC has proposed a rule whereby covered financial institutions would be required to ensure that covered qualified financial contracts (QFCs) to which they are a party provide that any default rights and restrictions on the transfer of the QFCs are limited to the same extent as they would be under the Dodd-Frank Act and the Federal Deposit Insurance Act (FDI Act). In addition, covered institutions would generally be prohibited from being party to QFCs that would allow a QFC counterparty to exercise default rights against the covered institution based on the entry into a resolution proceeding under the FDI Act, or any other resolution proceeding of an affiliate of the covered institution. The proposal would also amend the definition of qualifying master netting agreement in the FDIC's capital and liquidity rules, and certain related terms in the FDIC's capital rules. The requirements of this proposed rule are substantively identical to those contained in the notice of proposed rulemaking issued by the Board of Governors of the Federal Reserve System on May 3, 2016 regarding covered entities, and the notice of proposed rulemaking issued by the Office of the Comptroller of the Currency on August 19, 2016 regarding covered banks. Comments are due **12/12/2016**. The proposed rule may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2016-10-26/pdf/2016-25605.pdf>. *Federal Register*, Vol. 81, No. 207, 10/26/2016, 74326-74347.

FDIC Issues Proposed Rule on Removal of Transferred OTS Regulations.

FDIC has issued a proposed rule to rescind and remove a part from the

Code of Federal Regulations entitled Security Procedures and to amend FDIC regulations to make the removed Office of Thrift Supervision regulations applicable to state savings associations. Comments are due **01/03/2017**. The proposed rule may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2016-11-01/pdf/2016-26062.pdf>. *Federal Register*, Vol. 81, No. 211, 11/01/2016, 75753-75757.

FDIC Requests Comment on Application Pursuant to Section 19 of Federal Deposit Insurance Act.

FDIC has issued a notice to announce it seeks comment on the information collection titled Application Pursuant to Section 19 of the Federal Deposit Insurance Act. FDIC is also giving notice that it has sent the collection to OMB for review. Comments are due **12/27/2016**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2016-10-27/pdf/2016-25953.pdf>. *Federal Register*, Vol. 81, No. 208, 10/27/2016, 74802-74803.

FDIC Issues Notices of Terminations of Receiverships.

- FDIC has issued a notice to announce it has been authorized to take all actions necessary to terminate the receivership estate of AztecAmerica Bank, Berwyn, **Illinois**. (Receivership Estate). The Receiver has made all dividend distributions required by law. The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements,

assignments and deeds. Effective **10/01/2016**, the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2016-10-11/pdf/2016-24437.pdf>. *Federal Register*, Vol. 81, No. 196, 10/11/2016, 70111.

- FDIC has issued a notice to announce it has been authorized to take all actions necessary to terminate the receivership estate of DuPage National Bank, West Chicago, **Illinois**. (Receivership Estate). The Receiver has made all dividend distributions required by law. The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds. Effective **10/01/2016**, the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2016-10-11/pdf/2016-24435.pdf>. *Federal Register*, Vol. 81, No. 196, 10/11/2016, 70112.
- FDIC has issued a notice to announce it has been authorized to take all actions necessary to terminate the receivership estate of Community National Bank, Lino Lakes, **Minnesota**. (Receivership



Regulatory Spotlight

Estate). The Receiver has made all dividend distributions required by law. The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds. Effective **11/01/2016**, the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2016-11-09/pdf/2016-27084.pdf>. *Federal Register*, Vol. 81, No. 217, 11/09/2016, 78811.

OCC Renews Charter of Mutual Savings Association Advisory Committee.

The Office of the Comptroller of the Currency (OCC) has determined that the renewal of the charter of the OCC Mutual Savings Association Advisory Committee is necessary and in the public interest. The charter has been renewed for a two-year period that began on **09/21/2016**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2016-10-18/pdf/2016-25073.pdf>. *Federal Register*, Vol. 81, No. 201, 10/18/2016, 71790-71791.

HUD Finalizes Rule on Reviews of Prospective Multifamily Housing and Healthcare Programs Participants.

The Department of Housing and Urban Development (HUD) has issued a final rule revising regulations for reviewing the previous participation in federal programs

of certain participants seeking to take part in multifamily housing and healthcare programs administered by HUD's Office of Housing. The final rule clarifies and simplifies the process by which HUD reviews the previous participation of participants that have decision-making authority over their projects as one component of HUD's responsibility to assess financial and operational risk to the projects in these programs. The final rule, together with an accompanying Processing Guide, clarifies which individuals and entities will undergo review, HUD's purpose in conducting such review, and describe the review to be undertaken. Through this rule, HUD replaces the current previous participation regulations in their entirety. The final rule is effective **11/14/2016**. The final rule may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2016-10-14/pdf/2016-24619.pdf>. *Federal Register*, Vol. 81, No. 199, 10/14/2016, 71244-71275.

HUD Issues Proposed Rule on Tenant-Based Assistance Vouchers.

HUD has proposed a rule to codify its policy regarding enhanced vouchers, a type of tenant-based voucher provided for under section 8 of the U.S. Housing Act of 1937 in four scenarios: The prepayment of certain mortgages, the voluntary termination of the insurance contract for the mortgage, the termination or the expiration of a project-based section 8 rental assistance contract, and the transaction under which a project that receives or has received assistance under the Flexible Subsidy Program is preserved as affordable housing. The proposed rule would codify existing policy concerning the eligibility criteria for enhanced vouchers, as well as provide rental payment standards and subsidy standards applicable to enhanced vouchers, the right

of enhanced voucher holders to remain in their units, procedures for addressing over-housed families, and the calculation of the enhanced voucher housing assistance payment. Comments are due **12/27/2016**. The final rule may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2016-10-26/pdf/2016-25520.pdf>. *Federal Register*, Vol. 81, No. 207, 10/26/2016, 74372-74382.

HUD Increases Annual Premium for Indian Housing Loan Guarantee Program.

HUD is increasing the annual premium to the borrower from 0.15 to 0.25 percent of the remaining loan balance for the Section 184 Indian Housing Loan Guarantee program. This annual premium will continue until the unpaid principal balance, excluding the upfront loan guarantee fee, reaches 78 percent of the lower of the initial sales price or appraised value based on the initial amortization schedule. The increase is effective **12/01/2016**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2016-11-01/pdf/2016-26331.pdf>. *Federal Register*, Vol. 81, No. 211, 11/01/2016, 75836-75837.

HUD Issues Guidance on Housing Opportunity through Modernization Act of 2016.

HUD has issued guidance to advise HUD program participants of those statutory provisions related to the Housing Opportunity through Modernization Act of 2016 (HOTMA). Specifically, HUD seeks to advise the public of statutory provisions that are effective immediately and advise of actions that may or should be taken now to comply with the changes, and identify those provisions of HOTMA that are not effective until HUD subsequently issues a notice or regulation. The guidance is effective **10/24/2016**. The guidance may



Regulatory Spotlight

be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2016-10-24/pdf/2016-25147.pdf>. *Federal Register*, Vol. 81, No. 205, 10/24/2016, 73030-73034.

FinCEN Finalizes Rule For Technical Amendments to BSA Regulations.

The Financial Crimes Enforcement Network (FinCEN) has issued a final rule to make a number of technical amendments. This final rule updates various sections of the regulations implementing the Bank Secrecy Act (BSA) by removing or replacing outdated references to obsolete BSA forms, removing references to outdated recordkeeping storage media, and replacing several other outdated terms and references. The final rule is effective **11/04/2016**. The final rule may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2016-11-04/pdf/2016-26557.pdf>. *Federal Register*, Vol. 81, No. 214, 11/04/2016, 76863-76865.

OFAC Makes Changes to Lists.

The Office of Foreign Assets Control (OFAC) has amended its lists of Specially Designated Global Terrorists, Specially Designated Nationals and Blocked Persons, and Specially Designated Narcotics Trafficker Kingpins. The documents listing these changes may be viewed at: www.treas.gov/offices/enforcement/ofac/actions.

IRS Finalizes Regulation Removing 36-Month Non-Payment Testing Period Rule.

The Internal Revenue Service (IRS) has issued final regulations that remove the rule that a deemed discharge of indebtedness for which a Form 1099-C, Cancellation of Debt, must be filed

occurs at the expiration of a 36-month non-payment testing period. The final regulations are effective **11/10/2016**. The final rule may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2016-11-10/pdf/2016-27160.pdf>. *Federal Register*, Vol. 81, No. 218, 11/10/2016, 78908-78911.

IRS Finalizes Rule on Treatment of Certain Interests in Corporations as Stock or Indebtedness.

IRS has issued final regulations under section 385 of the Internal Revenue Code that establish threshold documentation requirements that ordinarily must be satisfied in order for certain related party interests in a corporation to be treated as indebtedness for federal tax purposes, and treat as stock certain related-party interests that otherwise would be treated as indebtedness for federal tax purposes. The final regulations generally affect corporations, including those that are partners of certain partnerships, when those corporations or partnerships issue purported indebtedness to related corporations or partnerships. The final rule is effective **10/21/2016**. The final rule may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2016-10-21/pdf/2016-25105.pdf>. *Federal Register*, Vol. 81, No. 204, 10/21/2016, 72858-72984.

IRS Issues Temporary Regulation on Treatment of Certain Interests in Corporations as Stock or Indebtedness.

IRS has issued temporary regulations that affect corporations and partnerships that issue purported indebtedness to related corporations or partnerships. The temporary regulations provide rules addressing the treatment of instruments issued by partnerships, consolidated

groups, and certain transactions involving qualified cash-management arrangements. The text of the temporary regulations also serves as the text of these proposed regulations. Comments are due by **01/19/2017**. The temporary rule may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2016-10-21/pdf/2016-25104.pdf>. *Federal Register*, Vol. 81, No. 204, 10/21/2016, 72751-72753.

IRS Issues Proposed Rule on User Fees for Offers in Compromise.

IRS has issued a proposed rule regarding amendments to the regulations that provide user fees for offers in compromise. The proposed amendments affect taxpayers who wish to pay their liabilities through offers in compromise. Comments are due **11/28/2016**. The proposed rule may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2016-10-13/pdf/2016-24666.pdf>. *Federal Register*, Vol. 81, No. 198, 10/13/2016, 70654-70658.

Treasury Updates Fee Schedule for Transfer of U.S. Treasury Book-Entry Securities.

The Secretary of the Treasury (Treasury) is announcing a new fee schedule applicable to transfers of U.S. Treasury book-entry securities maintained on the National Book-Entry System that occur on or after January 3, 2017. For each Treasury securities transfer or reversal sent or received on or after **01/03/2017**, the basic fee will increase from \$0.81 to \$0.93. The surcharge for an off-line Treasury book-entry securities transfer will increase from \$50.00 to \$70.00. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2016-10-31/pdf/2016-26079.pdf>. *Federal Register*, Vol. 81, No. 210, 10/31/2016, 75487-75488.



Regulatory Spotlight

FHFA Finalizes Rule Correcting Regulations.

The Federal Housing Finance Agency (FHFA) is amending its rules to make a number of conforming changes and corrections intended to fix citations, provide for consistent use of terminology, and remove duplicative definitions. FHFA is also removing provisions that are no longer applicable, clarifying other provisions by incorporating language to implement existing FHFA regulatory interpretations, and making other changes and corrections. The final rule is effective **12/02/2016**. The final rule may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2016-11-02/pdf/2016-26022.pdf>. *Federal Register*, Vol. 81, No. 212, 11/02/2016, 76291-76300.

FHFA Issues Proposed Rule on Minority and Women Inclusion.

FHFA has proposed amendments to its regulations on minority and women inclusion. Those regulations require the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Federal Home Loan Banks and the Bank System's Office of Finance to promote diversity and ensure the inclusion and utilization of minorities, women, and individuals with disabilities and minority-, women-, and disabled-owned businesses in all business and activities at all levels, including management, employment, and contracting. The proposed amendments would clarify the scope of the regulated entities' obligation to promote diversity and ensure the inclusion and utilization of minorities, women, and individuals with disabilities in all business and activities; require each regulated entity to develop and adopt strategies for promoting diversity and ensuring the inclusion of

minorities, women, and individuals with disabilities; and improve the usefulness and comparability of the information the regulated entities report to FHFA about their efforts to advance diversity and inclusion. Comments are due by **12/27/2016**. The proposed rule may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2016-10-27/pdf/2016-25726.pdf>. *Federal Register*, Vol. 81, No. 208, 10/27/2016, 74730-74738.

FHFA Issues Correction to Proposed Rule on Indemnification Payments and Extends Comment Period.

FHFA is correcting the regulatory text, and extending the comment period for, the proposed rule published in the *Federal Register* on **09/20/2016** regarding Golden Parachute and Indemnification Payments. In the proposed rule, on page 64360, in the right column, in paragraph (b)(3) of § 1231.4, it should correctly read: Amounts due under an indemnification agreement entered into with a named entity affiliated party on or prior to September 20, 2016. The comment period on the proposed rule is extended so that comments are due by **12/21/2016**. The correction may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2016-10-27/pdf/2016-26028.pdf>. *Federal Register*, Vol. 81, No. 208, 10/27/2016, 74739.

FSA Finalizes Rule for EZ Guarantee Program and Micro Lender Program Status.

The Farm Service Agency (FSA) has issued a final rule amending the guaranteed Farm Loan Programs regulations to implement an EZ Guarantee Program and establish an additional lender status. The intended effects of the rule are to make guaranteed loan programs more widely available and attractive to

small farm operations and the lenders who work with those farm operations through a more flexible underwriting analysis process, reduced application requirements, and faster FSA approval. In addition, FSA is amending the regulations to make a technical correction related to chattel appraisal appeals related to both guaranteed and direct loans. The final rule is effective **10/21/2016**. Comments are due by **12/20/2016**. The final rule may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2016-10-21/pdf/2016-25492.pdf>. *Federal Register*, Vol. 81, No. 204, 10/21/2016, 72686-72692.

FCA Issues Amendments on Federal Agricultural Mortgage Corporation's Risk Governance.

The Farm Credit Administration (FCA) has issued a notice of amendments to regulations regarding the Federal Agricultural Mortgage Corporation's risk governance and to existing disclosure and reporting requirements. The changes to disclosure and reporting requirements remove repetitive reporting and allow for electronic filing of reports. FCA has also finalized rules on the examination and enforcement authorities held by the FCA Office of Secondary Market Oversight over the Corporation. The amendments are effective no earlier than 30 days from the date of publication in the *Federal Register* during which either or both Houses of Congress are in session. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2016-10-17/pdf/2016-25050.pdf>. *Federal Register*, Vol. 81, No. 200, 10/17/2016, 71356.

FCA Issues Board Policy Statements.

FCA has issued a notice of an index of the 18 Board policy statements currently in existence. Most of the policy statements remain unchanged since FCA's last



Regulatory Spotlight

Federal Register notice on November 2, 2015, except for one related to Equal Employment Opportunity and Diversity. The policy was slightly edited at the Equal Employment Opportunity Commission's recommendation to indicate that FCA begins prompt, thorough, and impartial investigations within 10 days of receiving notice of harassment allegations. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2016-10-14/pdf/2016-24680.pdf>. *Federal Register*, Vol. 81, No. 199, 10/14/2016, 70925.

RBC Requests Comment on Proposed Changes to Rural Business Investment Program.

The Rural Business-Cooperative Service (RBC) is giving notice of a public webinar on the Agriculture Reform, Food, and Jobs Act of 2012; TITLE VI—RURAL DEVELOPMENT; Subtitle A—Reorganization of the Consolidated Farm and Rural Development Act; CHAPTER 2—RURAL BUSINESS AND COOPERATIVE DEVELOPMENT; Sec. 3602. Rural Business Investment Program. The webinar will be held **11/17/2016**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2016-10-14/pdf/2016-24680.pdf>. *Federal Register*, Vol. 81, No. 199, 10/14/2016, 70925.

CFTC Issues Order Establishing De Minimis Threshold Phase-In Termination Date.

The Commodity Futures Trading Commission (CFTC) has issued an order with respect to the de minimis exception to the swap dealer definition to establish **12/31/2018**, as the de minimis threshold phase-in termination date. The order may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2016-10-18/pdf/2016-25143.pdf>. *Federal Register*, Vol. 81, No. 201, 10/18/2016, 71605-71610.

CFTC Issues Proposed Rule for Cross-Border Application of Registration Thresholds and External Business Conduct Standards Applicable to Swap Dealers and Major Swap Participants.

CFTC has issued a proposed rule addressing the cross-border application of certain swap provisions of the Commodity Exchange Act (CEA). Specifically, the proposed rule defines key terms for purposes of applying the CEA's swap provisions to cross-border transactions and addresses the cross-border application of the registration thresholds and external business conduct standards for swap dealers and major swap participants, including the extent to which they would apply to swap transactions that are arranged, negotiated, or executed using personnel located in the United States. Comments are due **12/19/2016**. The proposed rule may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2016-10-18/pdf/2016-24905.pdf>. *Federal Register*, Vol. 81, No. 201, 10/18/2016, 71946-71975.

SEC Finalizes Rule on Standards for Covered Clearing Agencies.

The Securities and Exchange Commission (SEC) has issued a final rule adopting amendments to Rule 17Ad-22 and adding new Rule 17Ab2-2 pursuant to Section 17A of the Securities Exchange Act of 1934 and the Payment, Clearing, and Settlement Supervision Act of 2010, enacted in Title VIII of the Dodd-Frank Act. Among other things, the rules establish enhanced standards for the operation and governance of those clearing agencies registered with SEC that meet the definition of covered clearing agency. The final rule is effective **12/12/2016** with a compliance date of **04/11/2017**. The final rule may be viewed at:

<https://www.gpo.gov/fdsys/pkg/FR-2016-10-13/pdf/2016-23891.pdf>. *Federal Register*, Vol. 81, No. 198, 10/13/2016, 70786-70906.

SEC Issues Proposed Rule on Definition of Covered Clearing Agency.

SEC has issued a proposed rule to amend the definition of covered clearing agency under Rule 17Ad-22 to mean a registered clearing agency that provides the services of a central counterparty, central securities depository, or a securities settlement system. SEC also proposes a definition of securities settlement system and proposes to amend the definitions of central securities depository services to facilitate the proposed amendment to covered clearing agency. In addition, SEC proposes to amend the definition of sensitivity analysis under Rule 17Ad-22 to expand the scope of covered clearing agencies subject to requirements thereunder. These amendments are proposed pursuant to Section 17A of the Securities Exchange Act of 1934 and the Payment, Clearing, and Settlement Supervision Act of 2010, enacted in Title VIII of the Dodd-Frank Act. Comments are due **12/12/2016**. The proposed rule may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2016-10-13/pdf/2016-23892.pdf>. *Federal Register*, Vol. 81, No. 198, 10/13/2016, 70744-70784.

VA Issues Proposed Rule on Loan Guaranty Vendee Loan Fees.

The Department of Veterans Affairs (VA) has proposed a rule to amend its Loan Guaranty Service regulations to establish reasonable fees that VA may charge in connection with the origination and servicing of vendee loans made by VA. Fees proposed in this rulemaking are consistent with those charged in the private mortgage industry, and such fees would help VA to ensure the sustainability



Regulatory Spotlight

of this vendee loan program. The loans that would be subject to the fees are not veterans' benefits. This rule would also ensure that all direct and vendee loans made by VA are safe harbor qualified mortgages. Comments are due **12/27/2016**. The proposed rule may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2016-10-26/pdf/2016-25738.pdf>. *Federal Register*, Vol. 81, No. 207, 10/26/2016, 74382-74388.

NCUA Finalizes Rule on Office Name Change.

The National Credit Union Administration (NCUA) has issued a final rule to rename its Office of Consumer Protection to provide additional clarity about the function and role of the office. The new name will be the Office of Consumer Financial Protection and Access. The final rule is effective **11/03/2016**. The final rule may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2016-11-03/pdf/2016-26495.pdf>. *Federal Register*, Vol. 81, No. 213, 11/03/2016, 76495-76496.

NCUA Issues Proposed Rule on Chartering and Field of Membership Manual.

NCUA proposes to amend its chartering and field of membership rules to give applicants for community charter approval, expansion or conversion the option, in lieu of a presumptive community, to submit a narrative to establish common interests or interaction among residents of the area it proposes to serve, thus qualifying the area as a well-defined local community. NCUA also proposes to increase up to 10 million the population limit on a community consisting of a statistical area or a portion thereof. Finally, when such an area is subdivided into metropolitan divisions, NCUA will permit a credit union to designate a portion of the area as its community without regard to division boundaries. Comments are due **12/09/2016**. The final rule may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2016-11-09/pdf/2016-26921.pdf>. *Federal Register*, Vol. 81, No. 217, 11/09/2016, 78748-78756.

NCUA Adopts Final Rule for Adjustments to Civil Monetary Penalties.

On June 21, 2016, NCUA published an interim final rule amending its regulations to adjust the maximum amount of each civil monetary penalty (CMP) within its jurisdiction to account for inflation. This action, including the amount of the adjustments, is required under the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996 and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. This final rule confirms those amendments while making a clarification regarding the prospective effect of the 2015 legislation. The final rule is effective **11/07/2016**. The final rule may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2016-11-07/pdf/2016-26712.pdf>. *Federal Register*, Vol. 81, No. 215, 11/07/2016, 78028-78029. ■

Compliance Notes

▲ The Wisconsin Department of Financial Institutions, Division of Banking, has announced the interest rate required to be paid on escrow accounts for residential mortgage loans subject to s. 138.052 (5), Stats., to be **0.14%** for 2017. This interest rate shall remain in effect through December 31, 2017, and is unchanged from the 2016 rate. The announcement may be found at: <http://wdfi.org/resources/indexed/site/fi/banks/EscrowNotice2017.pdf>.

▲ CFPB has published on its website a list of counties determined to be "rural" and a list of counties determined

to be "rural or underserved" during 2016 for purposes of applying certain regulatory provisions related to mortgage loans during 2017 (2017 lists). Rural counties are generally defined by using the USDA Economic Research Service's urban influence codes, and underserved counties are defined by reference to data collected under the Home Mortgage Disclosure Act. The 2017 lists can be found at: http://www.consumerfinance.gov/policy-compliance/guidance/implementation-guidance/rural-and-underserved-counties-list/?utm_source=GovDelivery&utm_campaign=RegImp&utm_medium=email&utm_term=111716_a1.

▲ FFIEC is holding an upcoming webinar on complying with the Military Lending Act. Scheduled for 2 p.m. CT on Thursday, December 1, the webinar will cover the history and recent updates to the MLA regulation. In particular, it will focus on the amended regulation's scope, its optional safe harbor processes, the cost of credit limitations (including the calculation of the Military Annual Percentage Rate, or MAPR), and other required disclosures and limitations. Registration may be completed at: www.webcaster4.com/Webcast/Page/583/18548.



Compliance Notes

▲ The Defense Manpower Data Center (DMDC) recently reported that in an effort to improve the SCRA website's ability to accommodate the recent dramatic increases in usage, it made changes to the SCRA database that will allow the website to better handle large traffic volumes. These changes went into effect at approximately 4:30 p.m. on Friday, October 7. As a result users may notice some changes to the results they receive from the SCRA website. If a search conducted prior to October 7, 2016 reflects that the servicemember was on active duty, and conflicts with the results of a search conducted after October 7, 2016, DMDC recommends the user retain the pre-October 7, 2016 certificate as the conclusive document. If the user has actual knowledge differing from search results or has questions or concerns with search results, they are instructed to contact the SCRA Help Desk at dodhra.dodc-mb.dmdc.mbx.skra@mail.mil for instructions on how to verify their results. For more information, visit: <https://scra.dmdc.osd.mil/>.

▲ CFPB has issued its most recent semi-annual "Snapshot of Consumer Complaints" report. This time the report focuses on issues related to VA refinancing. The report indicates that as of November 2016, CFPB had received over 12,500 mortgage complaints from servicemembers, veterans, and their dependents, 14% of which concerned the topic of refinance. The report may be found at: http://s3.amazonaws.com/files.consumerfinance.gov/f/documents/112016_cfpb_OSA_VA_refinance_snapshot.pdf.

▲ FTC recently announced the launch of its Military Consumer—Your Tool for Financial Readiness website. The website is intended to help members of the military community

navigate personal financial decisions in light of the unique challenges they face, such as frequent relocations and deployment. Among other things, the website includes a new toolkit, called "Tools for Financial Managers," which provides personal financial managers, counselors, command, and others in the military community practical financial tips they can share with servicemembers. The toolkit resources are in the public domain so individuals and organizations can share them with friends, family, colleagues and customers. They can also use the information in newsletters or on social media sites. The website may be accessed at: www.military.consumer.gov.

▲ DOJ recently announced a new program, the Servicemembers Civil Relief Act Enforcement Support Pilot Program, to support enforcement efforts related to protecting the rights of current and former military personnel as part of the department's Servicemembers and Veterans Initiative. The pilot program funds Assistant U.S. Attorney and trial attorney positions to assist with SCRA enforcement, and also designates military judge advocates currently serving as legal assistance attorneys to serve as Special Assistant U.S. Attorneys to support the department's enforcement efforts related to the SCRA. U.S. Attorneys throughout the country will also be appointing Initiative Liaisons to work with local military and veteran communities. The pilot program provides full-time support for SCRA enforcement efforts through the end of Fiscal Year 2018. The announcement may be found at: www.justice.gov/opa/pr/justice-department-announces-pilot-program-provide-military-communities-across-country.

▲ FFIEC has issued final revisions to the Uniform Interagency Consumer Compliance Rating System to reflect the regulatory, supervisory, technological, and market changes that occurred in the years since the system was established. The revisions are designed to more fully align the rating system with the FFIEC Agencies' current risk-based, tailored examination approaches. The revisions were not developed to set new or higher supervisory expectations for financial institutions and their adoption will represent no additional regulatory burden. The announcement may be found at: www.fdic.gov/news/news/financial/2016/fil16075.pdf.

▲ An interagency webinar has been scheduled for **11/29/2016**, which will focus on the recently revised Interagency Questions and Answers regarding Community Reinvestment. The announcement along with additional information about the webinar may be found at: www.fdic.gov/news/news/financial/2016/fil16077.pdf.

▲ CFPB recently issued a reminder to highlight one of the changes to the submission process described in the Filing Instructions Guide for HMDA data collected in 2017, as institutions prepare to collect HMDA data in 2017 for submission beginning in 2018. Beginning with the HMDA data collected in 2017, filers will submit their HMDA data to CFPB using a web interface referred to as the HMDA Platform. HMDA filers will interact directly with the HMDA Platform to file their HMDA data. *The Data Entry Software currently provided by the FFIEC (DES) will no longer be available as a method of data entry or data submission.* The announcement may be viewed at: <http://www.consumerfinance.gov/data-research/hmda/des-update-2017>.



Compliance Notes

▲ OCC issued NR 2016-138 to announce it has notified Congress and other federal agencies of a major information security incident, as required by the Federal Information Security Modernization Act. The incident involves a former OCC employee who downloaded a large number of files onto two removable thumb drives prior to his retirement and, when contacted, was unable to locate or return the thumb drives to the agency. The downloads occurred in November 2015 and were first detected on September 1, 2016, during an OCC-initiated retrospective review of employee downloads to removable media that occurred over the last two years. The News Release may be found at: <https://occ.gov/news-issuances/news-releases/2016/nr-occ-2016-138.html>.

▲ DOL has issued FAQs on its “Conflict of Interest” rule, commonly referred to as the “Fiduciary Rule”. The rule and related exemptions are intended to protect investors by requiring all who provide retirement investment advice to plans, plan fiduciaries and IRAs to abide by a “fiduciary” standard—putting their clients’ best interest before their own profits. The FAQs provide supplemental guidance to the rule. The FAQs may be found at: www.dol.gov/sites/default/files/ebsa/about-ebsa/our-activities/resource-center/faqs/coi-rules-and-exemptions-part-1.pdf.

▲ OCC has issued NR 2016-135 to announce it will establish an office dedicated to responsible innovation and implement a formal framework to improve the agency’s ability to identify, understand, and respond to financial innovation affecting the federal banking system. The office, which is expected to begin operations in the first quarter of 2017, will be the central point of contact and a clearinghouse for requests and

information related to innovation. It will also implement other aspects of the OCC’s framework for responsible innovation, which includes: establishing an outreach and technical assistance program for banks and nonbanks; conducting awareness and training activities for OCC staff; encouraging coordination and facilitation; establishing an innovation research function; and promoting interagency collaboration. The News Release may be found at: <https://occ.gov/news-issuances/news-releases/2016/nr-occ-2016-135.html>.

▲ FDIC has issued FIL-71-2016 to announce the launch of a program that provides insured depository institutions subject to Part 363 of the FDIC’s regulations the option to electronically file the annual reports and other reports and notices required under Part 363, using FDICconnect (FCX), rather than in paper form. Institutions are encouraged to file their Part 363 Annual Reports and other required reports and notices electronically using FCX-SBC. The results of the program will be evaluated to determine whether to propose amendments to Part 363 to mandate electronic filing with the FDIC. The FIL may be viewed at: www.fdic.gov/news/news/financial/2016/fil16071.html.

▲ FinCEN has issued FIN-2016-A005 regarding cyber-events and cyber-related crime. In addition, FinCEN has issued FAQs regarding the reporting of cyber-events, cyber-enabled crime, and cyber-related information through Suspicious Activity Reports. FIN-2016-A005 may be viewed at: www.fincen.gov/sites/default/files/advisory/2016-10-25/Cyber%20Threats%20Advisory%20-%20FINAL%20508_2.pdf. The FAQs may be viewed at: www.fincen.gov/sites/default/files/shared/FAQ_Cyber_Threats_508_FINAL.PDF.

▲ CFPB has released the Fall 2016 issue of *Supervisory Highlights*. Topics covered in the document include supervisory observations on automobile lending, leasing and servicing, debt collection, mortgage origination and student loan servicing. In addition, several fair lending topics are covered including provision of language services to limited English proficient consumers and HMDA data collection and reporting reminders for 2017. The *Supervisory Highlights* may be viewed at: http://files.consumerfinance.gov/f/documents/Supervisory_Highlights_Issue_13_Final_10.31.16.pdf.

▲ FDIC and SBA recently announced enhancements to Money Smart for Small Business, a resource that provides practical guidance for starting and managing a small business. Money Smart for Small Business is a free curriculum available on the FDIC website. It was jointly developed by the FDIC and SBA in 2012. The agencies expanded the program in response to feedback from the small business community. Three new modules were added, focusing on managing cash flow, planning for a healthy business, and helping learners to determine if owning a business is a good fit. The announcement may be found at: <https://www.fdic.gov/news/news/press/2016/pr16102.html>.

▲ FRFS has posted the November 15, 2016 issue of *FedFlash*. Topics covered in the bulletin include Check 21 services, same-day ACH, and a schedule for special holiday currency orders. The bulletin may be viewed at: www.frbervices.org/fedflash/index.html. In addition, FRFS has posted the November 2016 issue of *FedFocus* to announce its 2017 pricing schedule. The *FedFocus* may be found at: www.frbervices.org/fedfocus/index.html.



Compliance Notes

▲ FRB has issued an updated Reserve Maintenance Manual. The manual provides information regarding reserve calculations and account maintenance for depository institutions that file an FR 2900 (Report of Transaction Accounts, Other Deposits and Vault Cash) with the Federal Reserve, either weekly or quarterly. The Federal Reserve updates this manual when necessary, but in particular toward the end of each calendar year to reflect the annual indexing of values used in the calculation of reserve requirements on the FR 2900. The manual may be found at: www.federalreserve.gov/monetarypolicy/files/reserve-maintenance-manual.pdf.

▲ OCC has issued Bulletin 2016-37 to announce its plans to roll out, in three stages, its new central application tracking system (CATS) beginning in January 2017. The CATS will enable authorized national banks, federal savings associations (FSA), and federal branches and agencies (collectively, banks) to draft, submit, and track their licensing and public welfare investment applications and notices in a secure, electronic system. The system will also allow OCC analysts to receive, process, and manage those applications and notices. CATS, which will be available through BankNet, replaces the existing e-Corp

and CD-1 Invest application tools. The Bulletin may be viewed at: <https://occ.gov/news-issuances/bulletins/2016/bulletin-2016-37.html>.

▲ OCC recently issued Bulletin 2016-36 to announce its update of the asset quality core assessment procedures in the Community Bank Supervision booklet of the Comptroller's Handbook. The Bulletin may be viewed at: <https://occ.gov/news-issuances/bulletins/2016/bulletin-2016-36.html>. ■



Compliance Calendar

December 2016 – May 2017

Advocacy

WBA Washington Visit
March 20-22 | Washington, DC

Conferences

WBA 2017 Bank Executives
Conference
Feb. 6-8 | Milwaukee

WBA Agricultural
Bankers Conference
April 5-6 | Wisconsin Dells

WBA 2017 Women in
Banking Conference
April 12 | Wisconsin Dells

WBA 2017 Management
Conference & Expo
Sept. 12-13 | Wisconsin Dells

FIPCO Events

FIPCO *Compliance Concierge*[™]
Software Suite Demo Webinars
Dec. 1 | Wisconsin
Dec. 13 | Iowa
Dec. 15 | Minnesota

Threat Intelligence Briefing
Dec. 14 | Madison

(Visit www.fipco.com/events.)

Luncheon

2017 Wisconsin Economic
Forecast Luncheon
Jan. 5 | Madison

Schools

WBA Residential Mortgage
Lending School (2017)
Feb. 13-17 | Wisconsin Dells

WBA Commercial
Lending School (2017)
Feb. 19-24 | Wisconsin Dells

WBA Real Estate
Compliance School
March 13-15 | Wisconsin Dells

WBA Introduction to
Commercial Lending School
March 21-23 | Wisconsin Dells

Seminars/Workshops

WBA/CFT 2017 Branch Manager
Series: The Evolving Role of
the Branch Manager (4 sessions)
Waukesha:

Jan. 10 | Feb. 7 | April 4 | May 9
Wisconsin Dells:

Jan. 11 | Feb. 8 | April 5 | May 10

Call Report Update Workshop
March 9 | Wisconsin Dells

Summit

WBA 2017 BOLT Summer
Leadership Summit
June 12-13 | Wisconsin Dells

Webinars (online training)

The CFPB's Four Ds of Fair
Lending: Deceptive Marketing,
Debt Traps, Dead Ends &
Discrimination Webinar
Dec. 6 | 2-3:30 p.m.

HR Series: Rewarding & Retain-
ing the Best Employees Webinar
Dec. 6 | 2-3:30 p.m.

Ten Simple Rules for Tellers to
Save You Thousands Webinar
Dec. 6 | 2-3:30 p.m.

7 Habits of Highly Successful
Supervisors Webinar
Dec. 7 | 1:30-3:30 p.m.

Business Accounts:
Advanced Issues Webinar
Dec. 8 | 10 a.m.-Noon

Lending Compliance: 2016
Year-End Wrap Up Webinar
Dec. 8 | 1:30-3:30 p.m.

IRA Audit and
Compliance Webinar
Dec. 9 | 10 a.m.-Noon

Core Management
Skills Webinar
Dec. 13 | 1:30-3:30 p.m.

Officer Calling: Prospecting, Pre-
paring & Presentation Webinar
Dec. 15 | 1:30-3:30 p.m.

Regulation E Error Resolutions
and Disputes Webinar
Dec. 20 | 1:30-3:30 p.m.

Essential Compliance Training
for the Board & Senior
Management Webinar
Dec. 21 | 2-3:30 p.m.

(Register online for webinars at
www.wisbank.com/education.)