

# Compliance Journal

## Special Focus

### Payable on Death Accounts in Wisconsin

#### Notice 2017-3

Chapter 705 of the Wisconsin Statutes governs Payable on Death (P.O.D.) accounts. A P.O.D. account is an account payable on request to one person during lifetime and on the person's death to one or more P.O.D. beneficiaries, or to one or more persons during their lifetimes and on the death of all of them to one or more P.O.D. beneficiaries. It includes an account in the name of one or more parties as trustee for one or more beneficiaries where the relationship is established by the form of the account and the deposit agreement with the financial institution and there is no subject of the trust other than the sums on deposit in the account. It includes a marital account for which a party named one or more P.O.D. beneficiaries for that party's interest; however, marital P.O.D. accounts are not discussed in this article.

Only natural persons can hold P.O.D. accounts. Deposit accounts held by certain trusts and business entities are not governed by chapter 705; therefore, a P.O.D. designation may not be made on such accounts. In fact, Wis. Stat. §705.01(1) specifically excludes the following from being defined as an "account": contracts established for the deposit of funds of a partnership, joint venture, or other association for business purposes, accounts controlled by one or more persons as the duly authorized agents or trustees for a corporation, limited liability

company, unincorporated association, or charitable or civic organization, or regular fiduciary or trust accounts where the relationship is established other than by deposit agreement. However, a P.O.D. designation is permitted on a sole proprietor deposit account. Legally, a sole proprietorship is inseparable from the individual. That is, a sole proprietor account is an account held by an individual in his or her individual capacity even though the account is used for business purpose.

#### Creation of P.O.D. Account

Wis. Stat. §705.02 states the way one may create a P.O.D. account. P.O.D. accounts with a **single party** are created with the following language: THIS ACCOUNT/ CERTIFICATE OF DEPOSIT IS OWNED BY THE PARTY NAMED HEREON. UPON THE DEATH OF SUCH PARTY, OWNERSHIP PASSES TO THE P.O.D. BENEFICIARY(IES) NAMED HEREON.

P.O.D. accounts with **multiple parties** are created with the following language: THIS ACCOUNT/ CERTIFICATE OF DEPOSIT IS JOINTLY OWNED BY THE PARTIES NAMED HEREON. UPON THE DEATH OF ANY OF THEM, OWNERSHIP PASSES TO THE SURVIVOR(S). UPON THE DEATHS OF ALL OF SUCH PARTIES, OWNERSHIP PASSES TO THE P.O.D. BENEFICIARY(IES) NAMED HEREON.

Note the applicable language, stated above, creates a P.O.D. account when it is contained in a signature card, passbook, contract, or instrument evidencing an account, and is conspicuously printed or typewritten immediately above or adjacent to the place for the signatures of the parties to the account. WBA forms users will find the stated language within the WBA P.O.D. forms. If your institution is not a WBA forms user, consult with your forms vendor regarding the mentioned language.

#### Right of Survivorship

By a P.O.D. account's nature, institutions will eventually be tasked with paying beneficiaries upon the accountholder's death. While some situations will be straightforward, some will be more complex. Wis. Stat. §705.04(2) governs the right of survivorship. If there is one P.O.D. beneficiary and he/she survives the accountholder, the beneficiary is entitled to payment of all sums remaining on deposit. If there are 2 or more P.O.D. beneficiaries and they all survive, they are entitled to payment of the sums on deposit in accordance with any written instructions that the owner filed with the financial institution or, if the owner left no written instructions, to payment in equal shares. However, if 2 or more persons succeed to ownership of the account, there is no further right of survivorship unless the terms of the account expressly provide for survivorship or for the account's continuance as a joint account.

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Subject to the rights of financial institutions under Wis. Stat. §705.06(1)(c), which will be discussed below, if any P.O.D. beneficiary predeceases the original payee (accontholder) or the survivor of 2 or more original payees, the amount to which the predeceased P.O.D. beneficiary would have been entitled passes to any of his or her issue (children, grandchildren, etc.) who would take under the Transfers at Death statute, Wis. Stat. § 854.06 (3). If there are no P.O.D. beneficiaries or predeceased P.O.D.

beneficiary's issue, who would take under Wis. Stat. §854.06(3), the account belongs to the estate of the deceased sole owner or the estate of the last to die of multiple owners.

## Protection of Financial Institutions

In accordance with the terms of an account, the Wisconsin Statutes gives financial institutions certain protections under Wis. Stat. §705.06. Specifically, Wis. Stat. §705.06(1)(c) allows financial institutions to pay sums on deposit in a P.O.D. account, on request, to the P.O.D. beneficiary upon presentation of proof of death, typically a certified death certificate, showing that the P.O.D. beneficiary survived all persons named as original payees of the account.

Additionally, the protections afforded under Wis. Stat. §705.06 shields the institution from claims made by other individuals, identified in a will or other legally valid document.

If more than one P.O.D. beneficiary is named and at least one of them is predeceased, sums in the account may be paid to the surviving P.O.D. beneficiary or beneficiaries upon presentation of proof of death of the other beneficiary, without regard to claims by the issue of a predeceased beneficiary under Wis. Stat. §705.04(2)(d). As an example: John names Mary and Kate as beneficiaries of the account. Mary and Kate can take in equal shares, upon John's death. However, now assume that Mary died before John, and Mary's son, Don, has a claim to Mary's share of the P.O.D. account funds under Wis. Stat. §705.04(2)(d). In this situation, Wis. Stat. §705.06(1)(c) protects the institution when, upon John's death, it exclusively pays the P.O.D. account funds to Kate, the surviving beneficiary, after Kate has given the institution proof of Mary's death.

Following the previous example, the situation could get complex if Mary and Kate both died before the accountholder. In such situations, Wis. Stat. §705.06(1)(c) allows the institution to pay the sums in the account to the estate of the deceased sole owner or the estate of the owner who was the last to die of multiple owners, without regard to claims by the issue of a predeceased beneficiary. This removes the institution from being involved in the potential familial disputes that these situations often cause.

## Frequently Asked Questions

P.O.D. accounts can result in a variety of situations and may lead to a diverse set of questions. Below, please find the answers to common questions related to P.O.D. accounts.

**Q1:** Can a checking account that already has a P.O.D. listed also name a successor P.O.D.?

**A1:** No. In Wisconsin Bankers Association's view, Wisconsin law does not permit the naming of contingent beneficiaries on accounts governed by subchapter 1 of Chapter 705 (e.g. most standard checking, savings, and CD accounts). The P.O.D. statute specifies who is entitled to payment on a P.O.D. account on the death of the last surviving accountholder. Under the first of two options, the funds are paid to the beneficiaries who survive the death of the last accountholder. If none of the beneficiaries survive, the funds are paid to the estate of the last accountholder who died. This option is outlined in Wis. Stat. §705.06(1)(c).

**Q2:** What if the Beneficiary is a minor?

**A2:** Wisconsin law requires payment of a P.O.D. account to a minor beneficiary to be made in accordance with provisions found in Chapter 54 of the Wisconsin Statutes. Chapter 54 includes Wisconsin's Uniform Transfer to Minors Act accounts (WUTMA) and guardianship provisions. This is required under Wis. Stat. §705.04(2)(f).

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**Q3:** Can a P.O.D. beneficiary transact on an account during the lifetime of the accountholder?

**A3:** No. As the name states, payable on death, the beneficiary receives the funds upon proof of the accountholder's death. The beneficiary has no right to conduct transactions on that account.

**Q4:** Is my LLC allowed to designate a P.O.D. beneficiary? What if my LLC is a "disregarded entity"?

**A4:** No. Only natural person depositors can establish P.O.D. accounts. Though an LLC may be treated as a "disregarded entity" for tax purposes, an LLC is still a non-natural depositor and therefore cannot establish a P.O.D. account.

**Q5:** Can an individual designate a P.O.D. beneficiary to a safe deposit box?

**A5:** A P.O.D. beneficiary cannot be designated for a safe deposit box. Safe

deposit boxes are not an account, as defined under Wis. Stat. §705.01(1). Additionally, a safe deposit box lease is a contract for access to the box and does not confer ownership in the items placed in the box.

**Q6:** Can P.O.D. accounts be categorized as revocable trust accounts for FDIC insurance coverage purposes.

**A6:** Yes. In addition to other requirements, FDIC requires that the intention to pay funds to one or more beneficiaries, upon the owner's death, be manifested in the title of the account. The intent must be manifested in the title of the account by using commonly accepted terms such as, but not limited to, "in trust for," "as trustee for," "payable-on-death to," or any acronym, such as Wisconsin's use of P.O.D. In its definition of "title," FDIC includes the electronic deposit account records of the institution. That is, the

FDIC would recognize an account as a revocable trust account even if the title of the account on the signature card does not designate the account as a revocable trust account, if the institution's electronic deposit account records identify (through a code or otherwise) the account as a revocable trust account. For more information, please see 12 C.F.R. §330.10(b) of FDIC's regulations.

**Q7:** Where can I find information about P.O.D. accounts?

**A7:** Chapter 705 of the Wisconsin Statutes is the primary source for P.O.D. inquires. As a resource to its members, Wisconsin Bankers Association's legal department provides information related to banking laws and regulations. Please email [wbalegal@wisbank.com](mailto:wbalegal@wisbank.com) or call (608)441-1200. ■

# Regulatory Spotlight

## Agencies Request Comment on Risk-Based Capital Reporting for Institutions Subject to the Advanced Capital Adequacy Framework.

The Board of Governors of the Federal Reserve System (FRB), Department of the Treasury (Treasury), Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC) have issued a notice to announce they are seeking comment on the information collection titled Risk-Based Capital Reporting for Institutions Subject to the Advanced Capital Adequacy Framework. The agencies are also giving

notice that they have sent the collection to OMB for review. Comments are due **05/01/2017**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-03-01/pdf/2017-03943.pdf>. *Federal Register*, Vol. 82, No. 39, 03/01/2017, 12274-12276.

## CFPB Requests Information Regarding Use of Alternative Data and Modeling Techniques in the Credit Process.

The Consumer Financial Protection Bureau (CFPB) has issued a notice seeking information about the use or potential use of alternative data and

modeling techniques in the credit process. CFPB seeks to learn more about current and future market developments, including existing and emerging consumer benefits and risks, and how these developments could alter the marketplace and the consumer experience. CFPB also seeks to learn how market participants are or could be mitigating certain risks to consumers, and about consumer preferences, views, and concerns. Comments are due **05/19/2017**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-02-21/pdf/2017-03361.pdf>. *Federal Register*, Vol. 82, No. 33, 02/21/2017, 11183-11191.



# Regulatory Spotlight

## **CFPB Requests Information Regarding Consumer Credit Card Market.**

CFPB has issued a notice seeking information from the public about a number of aspects of the consumer credit card market as part of its review under the Credit Card Accountability Responsibility and Disclosure Act. Comments are due **06/08/2017**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-03-10/pdf/2017-04797.pdf>. *Federal Register*, Vol. 82, No. 46, 03/10/2017, 13313-13315.

## **CFPB Requests Comment on Student Loan Servicing Market Monitoring.**

CFPB has issued a notice to announce it seeks comment on the information collection titled Student Loan Servicing Market Monitoring. CFPB is also giving notice that it has sent the collection to OMB for review. Comments are due **04/24/2017**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-02-23/pdf/2017-03501.pdf>. *Federal Register*, Vol. 82, No. 35, 02/23/2017, 11440.

## **FRB Finalizes Rule on Capital Stock.**

The Board of Governors of the Federal Reserve System (FRB) has finalized a rule that applies an inflation adjustment to the \$10 billion total consolidated asset threshold in Regulation I, which implements the provision of the Fixing America's Surface Transportation Act (FAST Act) that sets the dividend rate that member banks with more than \$10 billion in total consolidated assets earn on their Federal Reserve Bank stock. The FAST Act requires that FRB annually adjust the \$10 billion total consolidated

asset threshold to reflect the change in the Gross Domestic Product Price Index, published by the Bureau of Economic Analysis. Based on the change in the Gross Domestic Product Price Index as of **09/29/2016**, the total consolidated asset threshold will be \$10,122,000,000 through **12/31/2017**. The final rule is effective **03/27/2017**. The final rule may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-02-24/pdf/2017-03568.pdf>. *Federal Register*, Vol. 82, No. 36, 02/24/2017, 11501-11502.

## **FDIC Issues Updated Listing of Financial Institutions in Liquidation.**

The Federal Deposit Insurance Corporation (FDIC) has issued a notice to announce it has been appointed the sole receiver for Proficio Bank, Cottonwood Heights, **Utah**. The appointment is effective **03/03/2017**. The list (as updated from time to time in the *Federal Register*) may be relied upon as of record notice that FDIC has been appointed receiver for purposes of the statement policy published in the **07/02/1992**, issue of the *Federal Register*. For further information concerning the identification of any institutions which have been placed in liquidation, please visit FDIC's website at: [www.fdic.gov/bank/individual/failed/banklist.html](http://www.fdic.gov/bank/individual/failed/banklist.html) or contact the Manager of Receivership Oversight in the appropriate service center. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-03-10/pdf/2017-04730.pdf>. *Federal Register*, Vol. 82, No. 46, 03/10/2017, 13350-13351.

## **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](http://www.treas.gov/offices/enforcement/ofac/actions).

## **Treasury Requests Applications for Membership on its Financial Research Advisory Committee.**

The Department of the Treasury (Treasury) has issued a notice seeking applications from individuals representative of a constituency within the fields of economics, financial institutions and markets, statistical analysis, financial markets analysis, econometrics, applied sciences, risk management, data management, information standards, technology, or other areas related to the Office of Financial Research's duties and authorities. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-03-09/pdf/2017-04532.pdf>. *Federal Register*, Vol. 82, No. 45, 03/09/2017, 13204-13205.

## **HUD Issues Notice Announcing Funding Awards for Community Compass Technical Assistance and Capacity Building Program.**

The Department of Housing and Urban Development (HUD) has announced funding decisions for its Community Compass Technical Assistance and Capacity Building program for Fiscal Year 2016. The announcement contains the names of the awardees and amounts of the awards made available by HUD. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-02-27/pdf/2017-03781.pdf>. *Federal Register*, Vol. 82, No. 37, 02/27/2017, 11935-11937.



# Regulatory Spotlight

## HUD Requests Comment on Information Collections.

- HUD has issued a notice to announce it seeks comment on the information collection titled Condominium Project Approval Document Collection. HUD is also giving notice that it has sent the collection to OMB for review. Comments are due **04/17/2017**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-02-14/pdf/2017-02936.pdf>. *Federal Register*, Vol. 82, No. 29, 02/14/2017, 10586-10587.
- HUD has issued a notice to announce it seeks comment on the information collection titled Implementation Phase Review of the Lesbian, Gay, Bisexual, Transgender and Queer Youth Homelessness Prevention Initiative. HUD is also giving notice that it has sent the collection to OMB for review. Comments are due **03/27/2017**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-02-23/pdf/2017-03523.pdf>. *Federal Register*, Vol. 82, No. 35, 02/23/2017, 11479-11480.
- HUD has issued a notice to announce it seeks comment on the information collection titled Semi-Annual Labor Standards Enforcement Report Local Contracting Agencies. HUD is also giving notice that it has sent the collection to OMB for review. Comments are due **03/27/2017**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-02-23/pdf/2017-03524.pdf>. *Federal Register*, Vol. 82, No. 35, 02/23/2017, 11478-11479.
- HUD has issued a notice to announce it seeks comment on the information collection titled Multifamily Project

Monthly Accounting Reports. HUD is also giving notice that it has sent the collection to OMB for review. Comments are due **04/25/2017**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-02-24/pdf/2017-03522.pdf>. *Federal Register*, Vol. 82, No. 36, 02/24/2017, 11595-11596.

- HUD has issued a notice to announce it seeks comment on the information collection titled Section 811 Project Rental Assistance for Persons with Disabilities. HUD is also giving notice that it has sent the collection to OMB for review. Comments are due **03/30/2017**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-02-28/pdf/2017-03872.pdf>. *Federal Register*, Vol. 82, No. 38, 02/28/2017, 12113.
- HUD has issued a notice to announce it seeks comment on the information collection titled Family Options Study: Long-Term Tracking. HUD is also giving notice that it has sent the collection to OMB for review. Comments are due **03/30/2017**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-02-28/pdf/2017-03871.pdf>. *Federal Register*, Vol. 82, No. 38, 02/28/2017, 12114-12115.
- HUD has issued a notice to announce it seeks comment on the information collection titled 2017 American Housing Survey. HUD is also giving notice that it has sent the collection to OMB for review. Comments are due **03/30/2017**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-02-28/pdf/2017-03874.pdf>. *Federal Register*, Vol. 82, No. 38, 02/28/2017, 12113-12114.

## HUD Withdraws Information Collections.

- HUD has issued a notice to announce its withdrawal of the information collection titled Notice on Equal Access Regardless of Sexual Orientation, Gender Identity, or Marital Status for HUD's Community Planning and Development Programs. The withdrawal is effective **03/10/2017**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-03-10/pdf/2017-04787.pdf>. *Federal Register*, Vol. 82, No. 46, 03/10/2017, 13359.
- HUD has issued a notice to announce its withdrawal of the information collection, noted earlier in this document, titled Implementation Phase Review of the Lesbian, Gay, Bisexual, Transgender and Queer Youth Homelessness Prevention Initiative. The withdrawal is effective **03/10/2017**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-03-10/pdf/2017-04788.pdf>. *Federal Register*, Vol. 82, No. 46, 03/10/2017, 13359-13360.

## FHFA Issues Notice of Opportunity to Comment on Members Subject to Review under Community Support Program.

The Federal Housing Finance Agency (FHFA) has issued a notice inviting public comment on the community support performance of individual Federal Home Loan Bank members subject to review under FHFA's community support requirements regulation during the 2017 review cycle. Comments are due **03/31/2017**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-02-15/pdf/2017-03064.pdf>. *Federal Register*, Vol. 82, No. 30, 02/15/2017, 10771-10772.



# Regulatory Spotlight

## SBA Requests Comment on Information Collections.

- The Small Business Administration (SBA) has issued a notice to announce it seeks comment on the information collection titled Form of Detached Assignment for U.S. Small Business Administration Loan Pool or Guaranteed Interest Certificate. SBA is also giving notice that it has sent the collection to OMB for review. Comments are due **04/28/2017**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-02-27/pdf/2017-03750.pdf>. *Federal Register*, Vol. 82, No. 37, 02/27/2017, 11990.
- SBA has issued a notice to announce it seeks comment on the information collection titled Immediate Disaster Assistance Loan Program Application and Eligibility Data. SBA is also giving notice that it has sent the collection to OMB for review. Comments are due **04/28/2017**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-02-27/pdf/2017-03760.pdf>. *Federal Register*, Vol. 82, No. 37, 02/27/2017, 11991.
- SBA has issued a notice to announce it seeks comment on the information collection titled Guaranteed Disaster Assistance Program—Payment Reporting. SBA is also giving notice that it has sent the collection to OMB for review. Comments are due **04/28/2017**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-02-27/pdf/2017-03774.pdf>. *Federal Register*, Vol. 82, No. 37, 02/27/2017, 11990-11991.

- SBA has issued a notice to announce it seeks comment on the information collection titled Intermediary Lending Pilot Program Application and Reporting Requirements. SBA is also giving notice that it has sent the collection to OMB for review. Comments are due **05/01/2017**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-03-02/pdf/2017-04052.pdf>. *Federal Register*, Vol. 82, No. 40, 03/02/2017, 12389-12390.

## SEC Amends Interim Final Rule on Exemptions for Security-Based Swaps.

The Securities and Exchange Commission (SEC) has adopted amendments to the expiration dates in its interim final rules that provide exemptions under the Securities Act of 1933, the Securities Exchange Act of 1934, and the Trust Indenture Act of 1939 for those security-based swaps that prior to July 16, 2011, were security-based swap agreements and are defined as securities under the Securities Act and the Exchange Act as of July 16, 2011, due solely to the provisions of Title VII of the Dodd-Frank Act. The amendments change the expiration dates in the interim final rules to **02/11/2018**. The amendments are effective **02/15/2017**. The amendments may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-02-15/pdf/2017-03121.pdf>. *Federal Register*, Vol. 82, No. 30, 02/15/2017, 10703-10707.

## SEC Issues Correction to Final Rule on Exemptions to Facilitate Intrastate and Regional Securities Offerings.

SEC has made a technical correction to the amendments to Rule 504 of Regulation

D which inadvertently omitted the word “or” from the last sentence of the rule. The correction is effective **02/28/2017**. The correction may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-02-28/pdf/2017-03848.pdf>. *Federal Register*, Vol. 82, No. 38, 02/28/2017, 12067.

## SEC Requests Comment on Possible Changes to Statistical Disclosure by Bank Holding Companies.

SEC has issued a request for comment seeking public input on the disclosures called for by Industry Guide 3, Statistical Disclosure by Bank Holding Companies. SEC seeks comment to the extent that its disclosure guidance may not in all cases reflect recent industry developments or changes in accounting standards related to financial and other reporting requirements. Comments are due **05/08/2017**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-03-07/pdf/2017-04329.pdf>. *Federal Register*, Vol. 82, No. 43, 03/07/2017, 12757-12781.

## SEC Requests Comment on Internet Investment Advisers.

SEC has issued a notice to announce it seeks comment on the information collection related to Internet Investment Advisers. Comments are due **05/01/2017**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-03-02/pdf/2017-04022.pdf>. *Federal Register*, Vol. 82, No. 40, 03/02/2017, 12389.

## DOL Issues Proposed Rule Extending Applicability Date of Fiduciary Rule.

The Department of Labor (DOL) has issued a proposed rule to extend for 60 days the applicability date defining who is a fiduciary under the Employee



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Retirement Income Security Act and the Internal Revenue Code of 1986, and the applicability date of related prohibited transaction exemptions including the Best Interest Contract Exemption and amended prohibited transaction exemptions (PTE) to address questions of law and policy. The final rule has an applicability date of **04/10/2017**. The President by Memorandum to the Secretary of Labor, dated February 3, 2017, directed DOL to examine whether the final fiduciary rule may adversely affect the ability of Americans to gain access to retirement information and financial advice, and to prepare an updated economic and legal analysis concerning the likely impact of the final rule as part of that examination. The proposed rule invites comments on the 60-day delay of the final rule's applicability date, on the questions raised in the Presidential Memorandum, and generally on questions of law and policy concerning the final rule and PTEs. The proposed 60-day delay would be effective on the date of publication of a final rule in the *Federal Register*. Comments on the delay are due **03/17/2017**. Comments regarding the examination described in the President's Memorandum are due **04/17/2017**. The proposed rule may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-03-02/pdf/2017-04096.pdf>. *Federal Register*, Vol. 82, No. 40, 03/02/2017, 12319-12326.

## VA Issues Correction to Final Rule Regarding Loan Guaranty.

The Department of Veterans Affairs (VA) has amended its final rule eliminating redundant provisions from its loan guaranty regulations following the implementation of a new electronic reporting system and redesignating the section numbers of those regulations. The amendment updates the remaining

non-substantive, cross-reference citations for clarity and accuracy. The correction is effective **02/21/2017**. The correction may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-02-21/pdf/2017-03329.pdf>. *Federal Register*, Vol. 82, No. 33, 02/21/2017, 11153-11154.

## CDFI Issues Notices Announcing Availability of Funds for Programs.

- The Community Development Financial Institutions Fund (CDFI) has issued an announcement of a funding opportunity for the Bank Enterprise Award Program (BEA Program). The BEA Program is administered by the U.S. Department of the Treasury's Community Development Financial Institutions Fund (CDFI Fund). Through the BEA Program, the CDFI Fund awards formula-based grants to depository institutions that are insured by FDIC for increasing their levels of loans, investments, service activities, and technical assistance within distressed communities, and financial assistance to Community Development Financial Institutions through equity investments, equity-like loans, grants, stock purchases, loans, deposits, and other forms of financial and technical assistance, during a specified period. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-02-24/pdf/2017-03684.pdf>. *Federal Register*, Vol. 82, No. 36, 02/24/2017, 11693-11704.
- CDFI has issued a notice of funds availability providing financial assistance awards of up to \$2 million to Certified Community Development Financial Institutions (CDFIs) to build their financial capacity to lend to their Target Markets, and technical assistance grants of up to \$125,000 to build Certified, Certifiable, and Emerging CDFIs' organizational capacity to serve their Target Markets. All awards provided through the notice are subject to funding availability. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-02-27/pdf/2017-03743.pdf>. *Federal Register*, Vol. 82, No. 37, 02/27/2017, 11991- 12008.
- CDFI has issued a notice of funds availability for Financial Assistance Awards or Technical Assistance Grants Under the Community Development Financial Institutions Program Fiscal Year 2017 Funding Round. The CDFI Fund provides: Financial Assistance awards of up to \$1 million to Certified Community Development Financial Institutions serving Native American, Alaska Native, or Native Hawaiian populations or Native American areas defined as Federally-designated reservations, Hawaiian homelands, Alaska Native Villages and U.S. Census Bureau-designated Tribal Statistical Areas to build their financial capacity to lend to their Target Markets, and Technical Assistance grants of up to \$150,000 to build Certified, Certifiable, and Emerging CDFIs' organizational capacity to serve their Target Markets and Sponsoring Entities ability to create Certified CDFIs that serve Native Communities. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-02-27/pdf/2017-03744.pdf>. *Federal Register*, Vol. 82, No. 37, 02/27/2017, 12008-12026. ■



# Compliance Notes

▲ On February 24, 2017, President Trump signed an Executive Order requiring every federal agency to establish a Regulatory Reform Task Force to alleviate unnecessary regulatory burden. Each task force is required to evaluate its existing regulations and make recommendations regarding the repeal, replacement, or modification, consistent with applicable law, of regulations that: eliminate jobs, or inhibit job creation; are outdated, unnecessary, or ineffective; impose costs that exceed benefits; create a serious inconsistency or otherwise interfere with regulatory reform initiatives and policies; that rely in whole or in part on data, information, or methods that are not publicly available or that are insufficiently transparent to meet the standard for reproducibility; or derive from or implement Executive Orders or other Presidential directives that have been subsequently rescinded or substantially modified. Within 90 days of this Order, each task force shall provide a report to the agency head, detailing the agency's progress toward the goals of improving implementation of regulatory reform initiative and policies under this Order, and identifying regulations for repeal, replacement, or modification. The Order may be viewed at: [www.whitehouse.gov/the-press-office/2017/02/24/presidential-executive-order-enforcing-regulatory-reform-agenda](http://www.whitehouse.gov/the-press-office/2017/02/24/presidential-executive-order-enforcing-regulatory-reform-agenda).

▲ FDIC has amended its CRA Notice requirements contained in Appendix B to Part 345 of its regulations. The amended notices should be posted immediately in the main office and branches of FDIC-regulated institutions. Prior to the amendment, the notice requirements stated that Regional Managers were the proper agency officials responsible for both making available, upon request, lists of the banks scheduled

for CRA examination in any particular quarter and receiving any public comment regarding the CRA performance of any of those banks. Since that language was published, a technical change was made to the responsible official's title from Regional Manager to Regional Director. In addition, since the previous notice requirements were first published, there has been the creation of a Web page to receive public comments electronically. The amendments to the notice requirements reflect these two changes. The notices may be found at: <https://www.gpo.gov/fdsys/pkg/FR-2017-01-18/pdf/2016-31928.pdf>.

▲ CFPB has issued a guide to the short-form prepaid disclosure. The guide is based on Regulation E's Model Form A-10(c) and provides basic "how to" instructions to help financial institutions (FIs) prepare short form disclosures for prepaid accounts other than government benefit accounts or payroll card accounts. This disclosure guide provides general instructions about how to complete the short form disclosure for such prepaid accounts, and does not address other requirements under Regulation E, as amended by the Prepaid Rule. The guide may be viewed at: [https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/Prepaid\\_preparingtheshortformdisclosure\\_v1\\_030117.pdf](https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/Prepaid_preparingtheshortformdisclosure_v1_030117.pdf).

▲ OCC has issued Bulletin 2017-11 to announce the "Changes in Directors and Senior Executive Officers" booklet of the *Comptroller's Licensing Manual*. This revised booklet replaces the booklet of the same title issued in October 2009. The revised booklet updates procedures and requirements following the integration of the Office of Thrift Supervision into the OCC in 2011, and it incorporates

revised regulations (12 CFR 5) that became effective July 1, 2015, addressing changes in directors and senior executive officers of national banks, federal savings associations, and federal branches. The bulletin may be viewed at: [www.occ.gov/news-issuances/bulletins/2017/bulletin-2017-11.html](http://www.occ.gov/news-issuances/bulletins/2017/bulletin-2017-11.html).

▲ OFAC is now offering a compressed version of its SDN.XML file in order to provide bandwidth savings for users that frequently download this file. This new file compresses the SDN.XML file by approximately 92%. The new file can be found at: [https://www.treasury.gov/ofac/downloads/sdn\\_xml.zip](https://www.treasury.gov/ofac/downloads/sdn_xml.zip). This file will be updated at the same time as all other SDN-related files.

▲ OCC has issued NR 2017-31 to announce additional detail on evaluating national bank charter applications from financial technology (fintech) companies that engage in the business of banking. The detail came in a draft supplement to the agency's existing Licensing Manual. The news release may be found at: [www.occ.gov/news-issuances/news-releases/2017/nr-occ-2017-31.html](http://www.occ.gov/news-issuances/news-releases/2017/nr-occ-2017-31.html).

▲ FDIC has issued its Winter 2016 edition of *Supervisory Insights*. The focus of the edition is Credit Risk Trends and Supervisory Expectation Highlights. The lead article identifies trends in credit risk and emphasizes to bankers and examiners that now is the time to heed long-standing principles of sound risk management practices. The article examines growth on bank balance sheets and effective risk management practices related to commercial real estate, agriculture, and oil and gas-related lending. The *Supervisory Insights* may be found at: [www.fdic.gov/regulations/examinations/supervisory/insights/siwin16/si\\_winter\\_16.pdf](http://www.fdic.gov/regulations/examinations/supervisory/insights/siwin16/si_winter_16.pdf).



# Compliance Notes

▲ FDIC has made enhancements to its *Money Smart for Older Adults* curriculum that provide new information and resources to help older adults and their caregivers avoid financial exploitation through fraud and scams. *Money Smart for Older Adults* identifies common types of elder financial exploitation, such as imposter scams and identity theft, and is designed to inform adults age 62 or older and their caregivers about ways to prevent, identify, and respond to financial exploitation. Also included is information on how older adults can plan for a secure financial future and make informed financial decisions. The announcement may be found at: [www.fdic.gov/news/news/press/2017/pr17021.html](http://www.fdic.gov/news/news/press/2017/pr17021.html).

▲ FRB has introduced a new website design and additional features to improve the experience of visitors seeking information about the Federal Reserve and its actions. Visitors will now find the site easier to view on mobile devices, and restructured navigation menus make information easier to find. The “News & Events” section now includes a comprehensive events and publications calendar and filters to search press releases, speeches, and testimony. The “About the Fed” section has been restructured to include updated information from the Board’s Purposes & Functions publication. The Fed’s website may be accessed at: [www.federalreserve.gov/](http://www.federalreserve.gov/).

▲ FinCEN has posted its SAR Stats-Issue 3. The document contains SAR data arranged by filing industry type and ranking. Value Summary Reports containing geographic summaries at the county and Metropolitan Statistical Area (MSA) level, as well as a yearly breakdown of suspicious activities for all states and territories, are accessible through highlighted hyperlinks in the document. The issue may be viewed at:

[www.fincen.gov/sites/default/files/sar-report/2017-03-09/SAR%20Stats%203.pdf](http://www.fincen.gov/sites/default/files/sar-report/2017-03-09/SAR%20Stats%203.pdf).

▲ FTC has issued its annual summary of consumer complaints. Imposter scam complaints surpassed identity theft for the first time as the second most common category of consumer complaints received by the Federal Trade Commission’s Consumer Sentinel Network in 2016, according to the agency’s new Data Book. Although debt collection complaints declined slightly between 2015 and 2016, they remained the top consumer complaint category, comprising 28 percent of all complaints. The high number of reported debt collection complaints was due in part to complaints submitted by a data contributor who collects complaints via a mobile app. The summary may be viewed at: [www.ftc.gov/news-events/press-releases/2017/03/ftc-releases-annual-summary-consumer-complaints](http://www.ftc.gov/news-events/press-releases/2017/03/ftc-releases-annual-summary-consumer-complaints).

▲ FTC recently released tips and a video for businesses on how to respond if they are impersonated as part of a phishing scam. Among the steps businesses should take include notifying customers as soon as possible through social media, email or letters; contacting law enforcement; providing resources for affected consumers; and reviewing the company’s security practices. The resources may be found at: [www.ftc.gov/news-events/press-releases/2017/03/ftc-offers-tips-businesses-impersonated-part-phishing-scam](http://www.ftc.gov/news-events/press-releases/2017/03/ftc-offers-tips-businesses-impersonated-part-phishing-scam).

▲ CFPB has released a report detailing the problems in the credit reporting industry that the Bureau has uncovered and corrected through its “oversight” work. Since launching its supervision of the credit reporting market, CFPB has identified significant issues with the quality of the credit information being provided by furnishers and maintained by

credit reporting companies. CFPB’s report outlines the actions that the Bureau has taken to address these ongoing problems such as fixing data accuracy at credit reporting companies, repairing the broken dispute process, and cleaning up information being reported. The announcement and corresponding report may be accessed at: [www.consumerfinance.gov/about-us/newsroom/cfpb-oversight-uncovers-and-corrects-credit-reporting-problems/](http://www.consumerfinance.gov/about-us/newsroom/cfpb-oversight-uncovers-and-corrects-credit-reporting-problems/).

▲ FDIC has issued PR 15-2017 to encourage consumers to commemorate America Saves Week by taking advantage of automatic savings to achieve financial goals. Over time, small automatic deposits into a retirement or savings account can add up with compounded interest, helping consumers cover unexpected expenses and build wealth. There are a number of ways to take advantage of automatic savings. Consumers who use direct deposit might ask their employers to direct some of their paychecks to retirement accounts or savings accounts. They also might ask their financial institutions to set up recurring transfers from checking accounts to savings accounts. The release may be found at: [www.fdic.gov/news/news/press/2017/pr17015.html](http://www.fdic.gov/news/news/press/2017/pr17015.html).

▲ FRFS has posted the March 2017 issue of *FedFlash*. Topics include Same Day ACH debits and credits on the Same Day Originated Batch Report, and the fee to be charged for stale-dated ACH debits. The *FedFlash* may be found at: [www.frbervices.org/fedflash/index.html](http://www.frbervices.org/fedflash/index.html).

▲ FRFS has issued the March 2017 issue of *FedFocus*, featuring articles on the FedPayments Reporter Service, strengthening an organization’s physical security, and how the various Reserve Banks work together. The *FedFocus* may be found at: [www.frbervices.org/fedfocus/index.html](http://www.frbervices.org/fedfocus/index.html). ■



# Compliance Calendar

April 2017 – September 2017

## Advocacy

ICBA 2017 Washington  
Policy Summit  
April 30-May 3 | Washington, DC

WBA Capitol Day  
May 10 | Madison

## Conferences

WBA 2017 Women in  
Banking Conference  
April 12 | Wisconsin Dells

WBA Human Resources  
Conference  
May 16 | Wisconsin Dells

WBA BSA/AML Conference  
May 22-23 | Stevens Point

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

## FIPCO Events

Threat Intelligence Briefings  
April 12 | Hudson  
May 18 | Wisconsin Dells

FIPCO Compliance & Software  
Forum – Deposit  
May 11 | Stevens Point

(Visit [www.fipco.com/events](http://www.fipco.com/events).)

## Peer Group Meeting

WBA BOLT Peer  
Group Meetings  
April 5 | West Bend  
April 18 | La Crosse  
April 20 | Madison

## Schools

WBA Analyzing Business  
Financial Statements School  
April 26-27 | Wisconsin Dells

WBA Compliance  
Officer School  
May 2-4 | Wisconsin Dells

WBA School of Bank  
Management  
May 7-12 | Madison

Lending Boot Camp  
May 15 | Wisconsin Dells

## Seminars/Workshops

Train the Trainer Workshop:  
Listening for Opportunities  
April 6 | Madison

HSA Workshops  
April 27 | Wisconsin Dells

Analyzing Personal  
Financial Statements & Tax  
Returns Seminar  
April 28 | Wisconsin Dells

## Summits

WBA/WACHA's Executive  
Payments Summit  
May 3 | Wisconsin Dells

WBA Bank Directors Summit  
May 24 | Eau Claire  
May 25 | Stevens Point

WBA BOLT Summer  
Leadership Summit  
June 12 | Wisconsin Dells

## Webinars (online training)

Reg E Compliance – Five  
Best Practices for Handling  
Disputes Webinar  
April 5 | 10 a.m.-Noon

Human Resources Dos &  
Don'ts for Supervisors Webinar  
April 5 | 2-3:30 p.m.

Flood Insurance  
Compliance Webinar  
April 6 | 10 a.m.-Noon

Loan Participations: What You  
Should Know Webinar  
April 6 | 1:30-3:30 p.m.

Regulation CC – Check  
Holds Webinar  
April 11 | 10 a.m.-Noon

Basic Bankruptcy  
for Bankers Webinar  
April 13 | 10 a.m.-Noon

Robbery Prevention &  
Response Webinar  
April 19 | 1:30-3:30 p.m.

FFIEC Mobile Services  
Guidance Review Webinar  
April 20 | 10 a.m.-Noon

CRA Review and  
Update Webinar  
April 26 | 10 a.m.-Noon

Credit Card  
Compliance Webinar  
April 27 | 1:30-3:30 p.m.

Compliance in Handling Private  
Mortgage Insurance (PMI),  
Including Recent Rule  
Changes Webinar  
April 27 | 2-3:30 p.m.

(Register online at [www.wisbank.com/education](http://www.wisbank.com/education).)