



Compliance Journal

Special Focus

Another UCC Filing Bites the Dust in Wisconsin: This Time For An Extra Space in Debtor's Name

Shockingly, but correctly under the circumstances, a court in Wisconsin declared a filed UCC financing statement invalid because the secured creditor left too much space between certain parts of the debtor's name. Really! The name was spelled right but it just contained too much space between certain parts of the debtor's name. The Court held that the secured creditor had incorrectly stated the name of the debtor on the UCC financing statement as ISC, Inc. (note the additional space between Inc and the period following Inc). The name on the filing should have been ISC, Inc. with a period immediately following the Inc, without a space, as the debtor's correct legal name. Unbelievably, this small and surely unintended additional space between Inc and the period following Inc was too much for the Court based on Wisconsin's UCC laws. *United States SEC v. ISC, Inc.*, 2017 WL 3736796, dated August 30, 2017, United States District Court for the Western District of Wisconsin.

Under Wisconsin UCC Statutes, a financing statement typically is effective even if it has a minor error, unless the error makes the financing statement "seriously misleading." A financing statement that fails to provide the name of the debtor in accordance with the requirements of Wisconsin UCC Statutes is legally deemed to be "seriously misleading". Therefore, the secured creditor normally loses if the debtor's name is incorrectly stated. Fortunately, Wisconsin's UCC law also creates a "safe harbor" that may save a

UCC financing statement containing an incorrect debtor name if a searcher of the UCC filing records using the debtor's correct name can find the incorrect filing using DFI's official search logic. Under DFI's official search logic, the extra space following the word "Inc" and before the period after the "c" prevented the financing statement with this additional space in the debtor's name from coming up in a search when using the debtor's correct legal name, which is ISC, Inc., without a space between the "c" and the period. In other words, the search using the DFI's official search logic and the debtor's correct legal name (without the space) did not find the filing using the debtor's incorrect legal name (with the space). So, the "safe harbor" did not save this particular UCC financing statement with an incorrect debtor name.

Again, as we have learned in other cases, the simplest of mistakes regarding a debtor's name on a UCC filing can be costly to a creditor. In this case, the creditor will now participate in the distributions by the receiver in the case as an unsecured creditor because of the invalid UCC filing. A UCC financing statement prepared for filing with DFI should be carefully reviewed to determine not only that the name of the debtor is correctly spelled, but also that it does not have an inadvertent space within one of the names (in this case an additional space in "Inc."). An inadvertent space proved costly to the secured creditor. It may be appropriate for DFI to determine whether its official search logic could

be modified to disregard inadvertent and inconsequential spaces and other punctuation for purposes of locating filed UCC financing statements. Apparently, some states have chosen to disregard spaces for purposes of their official search logic. This decision by the Court is another reminder that the effectiveness of a UCC financing statement where the debtor's name is incorrect for any reason will depend on the official search logic used by DFI to find the financing statement with the incorrect debtor's name. The best practice, of course, is to not make "any" mistake in the debtor's name.

WBA wishes to thank Atty. John Knight, Boardman & Clark, LLP for providing this article. ■

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Agencies Propose Amendments to Securities Transaction Settlement Cycle.

The Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC) proposed to shorten the standard settlement cycle for securities purchased or sold by national banks, federal savings associations, and FDIC-supervised institutions. The Agencies' proposal is consistent with an industry-wide transition to a two-business-day settlement cycle, which is designed to reduce settlement exposure and align settlement practices across all market participants. Comments are due **10/11/2017**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-09-11/pdf/2017-19008.pdf>. *Federal Register*, Vol. 82, No. 174, 09/11/2017, 42619-42623.

Agencies Propose Amendments to Community Reinvestment Act Regulations.

The Board of Governors of the Federal Reserve System (FRB), the Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC) propose to amend the regulations implementing the Community Reinvestment Act (CRA) to update the existing definitions of "home mortgage loan" and "consumer loan," related cross references, and the public file content requirements to conform recent revisions made by the Consumer Financial Protection Bureau (CFPB) to Regulation C, which implements the Home Mortgage Disclosure Act, and to remove obsolete references to the Neighborhood Stabilization Program. Comments are due **10/20/2017**. The notice

may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-09-20/pdf/2017-19765.pdf>. *Federal Register*, Vol. 82, No. 181, 09/20/2017, 43910-43920.

Agencies Request Comment on Information Collection.

The Board of Governors of the Federal Reserve System (FRB), the Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC) announced they seek comment on the information collection titled Annual Dodd-Frank Act Company-Run Stress Test Report for Depository Institutions and Holding Companies with \$10-\$50 Billion in Total Consolidated Assets. The agencies are also giving notice that it has sent the collection to OMB for review. Comments are due **12/05/2017**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-10-06/pdf/2017-21571.pdf>. *Federal Register*, Vol. 82, No. 193, 10/06/2017, 46887-46890.

CFPB Finalizes Payday, Vehicle Title, and Certain High-Cost Installment Loans Rule.

The Bureau of Consumer Financial Protection (CFPB) issued a final rule to establish 12 CFR 1041, which creates consumer protections for certain consumer credit products, and the official interpretations to the rule. The rule identifies it as an unfair and abusive practice for a lender to make covered short-term or longer-term balloon-payment loans, including payday and vehicle title loans, without reasonably determining that consumers have the ability to repay the loans according to their terms. The rule exempts small

dollar loans provided such loans are made by a lender that has made fewer than 2,500 in each of the current and previous years and for whom such loans account for less than 10 percent of revenues. The rule also exempts certain loans from the underwriting criteria prescribed in the rule if they have specific consumer protections. For the same set of loans along with certain other high-cost longer-term loans, the rule identifies it as an unfair and abusive practice to make attempts to withdraw payment from consumers' accounts after two consecutive payment attempts have failed, unless the consumer provides a new and specific authorization to do so. The rule prescribes notices to consumers before attempting to withdraw payments from their account, as well as processes and criteria for registration of information systems, for requirements to furnish and obtain information from them, and for compliance programs and record retention. The rule prohibits 2 evasions and operates as a floor leaving State and local jurisdictions to adopt further regulatory measures (whether a usury limit or other protections) as appropriate to protect consumers. The regulation is effective 21 months after date of publication in the *Federal Register*, except for §1041.11, which is effective 60 days after date of publication in the *Federal Register*. The notice may be viewed at: http://files.consumerfinance.gov/f/documents/201710_cfpb_final-rule_payday-loans-rule.pdf.

CFPB Finalizes Amendments to Regulation C.

CFPB is amending Regulation C to make technical corrections to and to clarify certain requirements adopted by CFPB's Home Mortgage Disclosure (Regulation C) final rule (2015 HMDA Final

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Rule), which was published in the *Federal Register* on 10/28/2015. CFPB is also amending Regulation C to increase the threshold for collecting and reporting data about open-end lines of credit for a period of two years so that financial institutions originating fewer than 500 open-end lines of credit in either of the preceding two years would not be required to begin collecting such data until 01/01/2020. CFPB is also adopting a new reporting exclusion. This rule is effective on 01/01/2018, except that the amendments to § 1003.5 in amendatory instruction 8, the amendments to § 1003.6 in amendatory instruction 9, and the amendments to supplement I to part 1003 in amendatory instruction 10 are effective on 01/01/2019; and the amendments to § 1003.2 in amendatory instruction 11, the amendments to § 1003.3 in amendatory instruction 12, the amendments to § 1003.5 in amendatory instruction 13, the amendments to § 1003.6 in amendatory instruction 14, and the amendments to supplement I to part 1003 in amendatory instruction 15 are effective on 01/01/2020. The final rule may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-09-13/pdf/2017-18284.pdf>. *Federal Register*, Vol. 82, No. 176, 09/13/2017, 43088-43149.

CFPB Finalizes Amendments to Equal Credit Opportunity Act Ethnicity and Race Information Collection.

CFPB issued a final rule amending Regulation B to permit creditors additional flexibility in complying with Regulation B in order to facilitate compliance with Regulation C, adds certain model forms and removes others from Regulation B, and makes various other amendments to Regulation B and its commentary to facilitate the collection and retention of information about the ethnicity, sex, and race of certain mortgage applicants. The rule is effective on 01/01/2018, except that the amendment to Appendix B removing the existing “Uniform Residential Loan Application” form in amendatory instruction 6 is effective 01/01/2022. The final rule may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-10-02/pdf/2017-20417.pdf>. *Federal Register*, Vol. 82, No. 189, 10/02/2017, 45680-45697.

[gov/fdsys/pkg/FR-2017-10-02/pdf/2017-20417.pdf](https://www.gpo.gov/fdsys/pkg/FR-2017-10-02/pdf/2017-20417.pdf). *Federal Register*, Vol. 82, No. 189, 10/02/2017, 45680-45697.

CFPB Proposes HMDA Policy Guidance.

CFPB proposed policy guidance that would describe modifications that CFPB intends to apply to the loan-level HMDA data that financial institutions will report under the Home Mortgage Disclosure (Regulation C) before the data is disclosed to the public. The proposal modifies the public loan-level HMDA data to exclude: the universal loan identifier; the date the application was received or the date shown on the application form; the date of action taken by the financial institution on a covered loan or application; the address of the property securing the loan or, in the case of an application, proposed to secure the loan; the credit score or scores relied on in making the credit decision; the unique identifier assigned by the Nationwide Mortgage Licensing System and Registry for the mortgage loan originator; and the result generated by the automated underwriting system used by the financial institution to evaluate the application. The proposal also modifies the public loan-level HMDA data to reduce the precision of most of the values reported for certain data fields. The proposed policy guidance applies to HMDA data to be reported under Regulation C effective 01/01/2018. CFPB will make this data available to the public beginning in 2019. Comments are due **11/24/2017**. The proposal may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-09-25/pdf/2017-20409.pdf>. *Federal Register*, Vol. 82, No. 184, 09/25/2017, 44586-44612.

CFPB Requests Comment on Information Collection.

CFPB announced it seeks comment on the information collection titled Generic Information Collection Plan for Studies of Consumers Using Controlled Trials in Field and Economic Laboratory Settings. CFPB is also giving notice that it has sent the collection to OMB for review. Com-

ments are due **12/04/2017**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-10-03/pdf/2017-21236.pdf>. *Federal Register*, Vol. 82, No. 190, 10/03/2017, 46042-46043.

FFIEC Finalizes Rule on Collection and Transmission of Annual AMC Registry Fees.

The Federal Financial Institutions Examination Council (FFIEC) adopted a final rule to implement collection and transmission of appraisal management company (AMC) annual registry fees. The rule is effective 11/24/2017. The final rule may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-09-25/pdf/2017-20400.pdf>. *Federal Register*, Vol. 82, No. 184, 09/25/2017, 44493-44502.

FFIEC Finalizes Rule on Information Disclosure Regulations.

FFIEC is adopting as a final rule the interim final rule, published 07/03/2017 in the *Federal Register*, regarding revisions and additions to FFIEC’s information disclosure regulations under the Freedom of Information Act (FOIA). The revisions in the interim final rule implement recent statutory amendments to the FOIA that are mandated by the FOIA Improvement Act of 2016, as well as update the language of FFIEC’s regulations to more closely mirror the language of the FOIA and to reflect FFIEC’s current FOIA procedures. The final rule is effective 10/02/2017. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-10-02/pdf/2017-21050.pdf>. *Federal Register*, Vol. 82, No. 189, 10/02/2017, 45697.

FFIEC Proposes Revision to Policy Statements.

FFIEC has proposed to revise the Appraisal Subcommittee Policy Statements. The proposed Policy Statements provide guidance to ensure State appraiser regulatory programs comply with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended, and the rules promulgated thereunder.



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Comments are due **11/20/2017**. The proposal may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-09-20/pdf/2017-19998.pdf>. *Federal Register*, Vol. 82, No. 181, 09/20/2017, 43966-43983.

FRB Finalizes Restrictions on Qualified Financial Contracts of Systemically Important U.S. Banking Organizations and the U.S. Operations of Systemically Important Foreign Banking Organizations.

The Board of Governors of the Federal Reserve System (FRB) adopted a final rule where any U.S. top-tier bank holding company identified by FRB as a global systemically important banking organization (GSIB), the subsidiaries of any U.S. GSIB (other than national banks, federal savings associations, state nonmember banks, and state savings associations), and the U.S. operations of any foreign GSIB (other than national banks, federal savings associations, state nonmember banks, and state savings associations) would be subjected to restrictions regarding the terms of their non-cleared qualified financial contracts (QFCs). First, a covered entity generally is required to ensure that QFCs to which it is 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. Second, a covered entity generally is prohibited from being party to QFCs that would allow a QFC counterparty to exercise default rights against the covered entity, directly or indirectly, based on the entry into a resolution proceeding under the Dodd-Frank Act or Federal Deposit Insurance Act, or any other resolution proceeding, of an affiliate of the covered entity. The final rule also amends certain definitions in FRB's capital and liquidity rules; these amendments are intended to ensure that the regulatory capital and liquidity treatment of QFCs to which a covered entity is party is not affected by the final rule's restrictions on such QFCs. The final rule is effective 11/13/2017. The final rule may be viewed at: <https://www.gpo.gov/fdsys/>

[pkg/FR-2017-09-12/pdf/2017-19053.pdf](https://www.gpo.gov/fdsys/pkg/FR-2017-09-12/pdf/2017-19053.pdf). *Federal Register*, Vol. 82, No. 175, 09/11/2017, 42882-42926.

FRB Issues Policy on Payment System Risk.

FRB revised part II of the Federal Reserve Policy on Payment System Risk related to the transaction posting times used for measuring balances intraday in institutions' accounts at the Federal Reserve Banks to conform to amendments to regulations governing the use of the Automated Clearing House (ACH) Network by Federal agencies announced by the Department of the Treasury, Bureau of the Fiscal Service (Fiscal Service). Specifically, the amended posting rules conform to the decision of the Fiscal Service to allow Federal agencies to originate and receive same-day entries beginning 09/15/2017. The policy may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-10-06/pdf/2017-21602.pdf>. *Federal Register*, Vol. 82, No. 193, 10/06/2017, 46668-46669.

FRB Requests Comment on Information Collection.

FRB announced it seeks comment on the information collection titled Recordkeeping Requirements Associated with the Real Estate Lending Standards Regulation for State Member Banks. FRB is also giving notice that it has sent the collection to OMB for review. Comments are due **11/27/2017**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-09-27/pdf/2017-20604.pdf>. *Federal Register*, Vol. 82, No. 186, 09/27/2017, 45025-45026.

FDIC Requests Comment on Information Collection.

- The Federal Deposit Insurance Corporation (FDIC) announced it seeks comment on the information collection titled Recordkeeping and Disclosure Requirements in Connection with Regulation M (Consumer Leasing). FDIC is also giving notice that it has sent the collection to OMB for review.

Comments are due **10/26/2017**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-09-26/pdf/2017-20593.pdf>. *Federal Register*, Vol. 82, No. 185, 09/26/2017, 44791-44792.

- FDIC announced it seeks comment on the information collection titled Record Keeping, Reporting and Disclosure Requirements in Connection with the Equal Credit Opportunity Act Regulation B. FDIC is also giving notice that it has sent the collection to OMB for review. Comments are due **10/30/2017**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-09-28/pdf/2017-20759.pdf>. *Federal Register*, Vol. 82, No. 187, 09/28/2017, 45285-45287.

OCC Requests Comment on Information Collection.

- The Office of the Comptroller of the Currency (OCC) announced it seeks comment on the information collection titled Debt Cancellation Contracts and Debt Suspension Agreements. OCC is also giving notice that it has sent the collection to OMB for review. Comments are due **11/27/2017**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-09-26/pdf/2017-20529.pdf>. *Federal Register*, Vol. 82, No. 185, 09/26/2017, 44875-44877.
- OCC announced it seeks comment on the information collection titled Regulation C; Fair Housing Home Loan Data System Regulation. OCC is also giving notice that it has sent the collection to OMB for review. Comments are due **11/27/2017**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-09-26/pdf/2017-20530.pdf>. *Federal Register*, Vol. 82, No. 185, 09/26/2017, 44873-44875.

HUD Announces Fees for Section 108 Loan Guarantee Program.

The Department of Housing and Urban Development (HUD) announced the fee to



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be collected from borrowers of loans guaranteed under HUD's Section 108 Loan Guarantee Program to offset the credit subsidy costs of the guaranteed loans pursuant to commitments awarded in FY 2018. The fee is applicable 10/25/2017. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-09-25/pdf/2017-20474.pdf>. *Federal Register*, Vol. 82, No. 184, 09/25/2017, 44518-44519.

HUD Requests Comment on Information Collections.

- HUD announced it seeks comment on the information collection titled Application for Fee or Roster Personnel (Appraisers and Inspectors) Designation and Appraisal Reports. HUD is also giving notice that it has sent the collection to OMB for review. Comments are due **11/13/2017**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-09-12/pdf/2017-19327.pdf>. *Federal Register*, Vol. 82, No. 175, 09/12/2017, 42831-42832.
- HUD announced it seeks comment on the information collection titled FHA-Insured Mortgage Loan Servicing of Delinquent, Default, and Foreclosure with Service Members Act. HUD is also giving notice that it has sent the collection to OMB for review. Comments are due **11/13/2017**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-09-12/pdf/2017-19326.pdf>. *Federal Register*, Vol. 82, No. 175, 09/12/2017, 42831.
- HUD announced it seeks comment on the information collection titled Application for Performing Loan Servicing for the Home Equity Conversion Mortgage (HECM). HUD is also giving notice that it has sent the collection to OMB for review. Comments are due **11/13/2017**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-09-13/pdf/2017-19437.pdf>. *Federal Register*, Vol. 82, No. 176, 09/13/2017, 43037.
- HUD announced it seeks comment on the information collection titled Multifamily Contractor's Mortgagor's Cost Breakdowns and Certifications. HUD is also giving notice that it has sent the collection to OMB for review. Comments are due **10/20/2017**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-09-20/pdf/2017-19940.pdf>. *Federal Register*, Vol. 82, No. 181, 09/20/2017, 43997-43998.
- HUD announced it seeks comment on the information collection titled Mortgage Record Change. HUD is also giving notice that it has sent the collection to OMB for review. Comments are due **10/25/2017**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-09-25/pdf/2017-20431.pdf>. *Federal Register*, Vol. 82, No. 184, 09/25/2017, 44649.
- HUD announced it seeks comment on the information collection titled HUD-Owned Real Estate Dollar Home Sales Program. HUD is also giving notice that it has sent the collection to OMB for review. Comments are due **10/27/2017**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-09-27/pdf/2017-20725.pdf>. *Federal Register*, Vol. 82, No. 186, 09/27/2017, 45040-45041.
- HUD announced it seeks comment on the information collection titled Loan Sales Bidder Qualification Statement. HUD is also giving notice that it has sent the collection to OMB for review. Comments are due **10/27/2017**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-09-27/pdf/2017-20728.pdf>. *Federal Register*, Vol. 82, No. 186, 09/27/2017, 45044.
- HUD announced it seeks comment on the information collection titled Multifamily Housing Mortgage and Housing Assistance Restructuring Program (Mark to Market). HUD is also giving notice that it has sent the collection to OMB for review. Comments are due **10/27/2017**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-09-27/pdf/2017-20730.pdf>. *Federal Register*, Vol. 83, No. 186, 09/27/2017, 45042-45043.
- HUD announced it seeks comment on the information collection titled Rehabilitation Mortgage Insurance Underwriting Program Section 203(k). HUD is also giving notice that it has sent the collection to OMB for review. Comments are due **10/27/2017**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-09-27/pdf/2017-20716.pdf>. *Federal Register*, Vol. 82, No. 186, 09/27/2017, 45044-45045.
- HUD announced it seeks comment on the information collection titled Multifamily Contractor's Mortgagor's Cost Breakdowns and Certifications. HUD is also giving notice that it has sent the collection to OMB for review. Comments are due **10/27/2017**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-09-27/pdf/2017-20717.pdf>. *Federal Register*, Vol. 82, No. 186, 09/27/2017, 45041.

FEMA Issues Final Notices of Changes in Flood Hazard Determinations.

The Federal Emergency Management Agency (FEMA) issued new or modified Base (1% annual-chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or regulatory floodways (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for communities in the state of **Wisconsin**. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities. The flood hazard determinations modified by each LOMR will be used to



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calculate flood insurance premium rates for new buildings and their contents. The effective date for each LOMR is indicated in the table in the final notice. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-09-26/pdf/2017-20584.pdf>. *Federal Register*, Vol. 82, No. 185, 09/26/2017, 44833-44835.

FEMA Issues Proposed Flood Hazard Determinations.

- FEMA requests comment on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for communities in the state of **Iowa**. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). Comments are due **12/11/2017**. The proposal may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-09-11/pdf/2017-19190.pdf>. *Federal Register*, Vol. 82, No. 174, 09/11/2017, 42689-42691.
- FEMA requests comment on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for communities in the states of **Illinois**, and **Indiana**. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order

to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). Comments are due **12/26/2017**. The proposal may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-09-25/pdf/2017-20468.pdf>. *Federal Register*, Vol. 82, No. 184, 09/25/2017, 44633-44634.

FinCEN Corrects Amendments to Customer Due Diligence Requirements.

The Financial Crimes Enforcement Network (FinCEN) is making technical corrections to a final rule published in the *Federal Register* on 05/11/2016. The final rule relates to certain customer due diligence standards applicable to covered financial institutions, defined as banks, brokers or dealers in securities, mutual funds, and futures commission merchants and introducing brokers in commodities. As published, the final rule contains technical errors that could cause confusion if not corrected. These corrections are effective **09/28/2017**. The correction may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-09-28/pdf/2017-20777.pdf>. *Federal Register*, Vol. 82, No. 187, 09/28/2017, 45182-45187.

Treasury Issues Notice of Funds Availability for Bank Enterprise Award Program.

The Department of the Treasury (Treasury) issued a Notice of Funds Availability for the fiscal year 2017 funding round of 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 certified 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 second column of the chart included in the notice contains relevant deadlines. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-09-29/pdf/2017-20922.pdf>. *Federal Register*, Vol. 82, No. 188, 09/29/2017, 45663-45674.

Treasury Proposes Amendments to Internal Revenue Code.

Treasury proposed amendments to the regulations under sections 6051 and 6052 of the Internal Revenue Code (Code). The proposed regulations would amend existing regulations to permit employers to voluntarily truncate employees' social security numbers (SSNs) on copies of Forms W-2, Wage and Tax Statement, that are furnished to employees so that the truncated SSNs appear in the form of IRS truncated taxpayer identification numbers (TTINs). The proposed regulations also would amend the regulations under section 6109 of the Code to clarify the application of the truncation rules to Forms W-2 and to add an example illustrating the application of these rules. Additionally, these proposed amendments would delete obsolete provisions and update cross references in the Code regulations under sections 6051 and 6052. Comments are due **12/18/2017**. The proposal may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-09-20/pdf/2017-19910.pdf>. *Federal Register*, Vol. 82, No. 181, 09/20/2017, 43920-43925.

Treasury Requests Comment on Information Collection.

Treasury announced it seeks comment on the information collection titled TARP Capital Purchase Program—Executive Compensation. Treasury is also giving notice that it has sent the collection to OMB for review. Comments are due **10/27/2017**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-09-27/pdf/2017-20677.pdf>. *Federal Register*, Vol. 82, No. 186, 09/27/2017, 45111.



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SBA Adopts 2017 North American Industry Classification System for Size Standards.

The Small Business Administration (SBA) is adopting, without change, its proposed revisions to small business size standards. With the adoption of the proposed changes, SBA incorporates OMB's North American Industry Classification System (NAICS) revision for 2017, identified as NAICS 2017, into its table of small business size standards. NAICS 2017 created 21 new industries by reclassifying, combining, or splitting 29 existing industries under changes made to NAICS in 2012 (NAICS 2012). SBA's size standards for these 21 new industries have resulted in an increase to size standards for six NAICS 2012 industries and part of one industry, a decrease to size standards for two, a change in the size standards measure from average annual receipts to number of employees for one, and no change in size standards for twenty industries and part of one industry. This rule is effective **10/01/2017**. The rule may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-09-27/pdf/2017-20705.pdf>. *Federal Register*, Vol. 82, No. 186, 09/27/2017, 44886-44895.

SBA Requests Comment on Information Collection.

SBA announced it seeks comment on the information collection titled Secondary Market for Section 504 First Mortgage Loan Pool Program. SBA is also giving notice that it has sent the collection to OMB for review. Comments are due **10/30/2017**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-09-29/pdf/2017-20897.pdf>. *Federal Register*, Vol. 82, No. 188, 09/29/2017, 45656.

FCIC Requests Comment on Information Collection.

The Federal Crop Insurance Corporation (FCIC) announced it seeks comment on the information collection titled General Administrative Regulations; Subpart V—Submission of Policies, Provisions of Pol-

icies, Rates of Premium, and Non-Reinsured Supplemental Policies. FCIC is also giving notice that it has sent the collection to OMB for review. Comments are due **12/04/2017**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-10-04/pdf/2017-20975.pdf>. *Federal Register*, Vol. 82, No. 191, 10/04/2017, 46211-46212.

SEC Issues Interim Final Temporary Rules on Regulation Crowdfunding and Regulation A.

The Securities and Exchange Commission (SEC) is adopting interim final temporary rules for issuers subject to reporting obligations pursuant to Regulation Crowdfunding and Regulation A in order to address the needs of companies directly or indirectly affected by Hurricane Harvey, Hurricane Irma, and Hurricane Maria. The temporary rules extend the filing deadlines for specified reports and forms due pursuant to Regulation Crowdfunding and Regulation A for certain issuers. The rules are effective from **09/28/2017** through **11/22/2017**. The rule may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-10-02/pdf/2017-21094.pdf>. *Federal Register*, Vol. 82, No. 189, 10/02/2017, 45722-45725.

SEC Issues Notice of Applications for Deregistration.

SEC issued a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940. A copy of each application may be obtained via SEC's Web site by searching for the file number, or for an applicant using the Company name box, at <http://www.sec.gov/search/search.htm> or by calling (202) 551-8090. An order granting each application will be issued unless the SEC orders a hearing. The notice includes all applications for the month of September. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-10-05/pdf/2017-21416.pdf>. *Federal Register*, Vol. 82, No. 192, 10/05/2017, 46587-46589.

FASB Issues Statement of Federal Financial Accounting Concepts 8.

The Federal Accounting Standards Advisory Board (FASB) issued Statement of Federal Financial Accounting Concepts 8, Federal Financial Reporting. The Statement is available on the FASB website at: <http://www.fasab.gov/accounting-standards/>. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-09-27/pdf/2017-20675.pdf>. *Federal Register*, Vol. 82, No. 186, 09/27/2017, 45023.

FASB Requests Comment on Proposed Statement of Federal Financial Accounting Standards.

FASB issued an exposure draft of a proposed Statement of Federal Financial Accounting Standards titled Amending Inter-Entity Cost Provisions. Comments are due **11/30/2017**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-09-14/pdf/2017-19064.pdf>. *Federal Register*, Vol. 82, No. 177, 09/14/2017, 43231.

NCUA Announces Early Closure of Temporary Corporate Credit Union Stabilization Fund.

The National Credit Union Administration (NCUA) announced the decision to close the Temporary Corporate Credit Union Stabilization Fund in 2017, prior to its scheduled closing date in June 2021, and raise the normal operating level of the National Credit Union Share Insurance Fund to 1.39 percent. The Stabilization Fund Closure is effective **10/01/2017**, the normal operating level of the Insurance Fund is effective **09/28/2017**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-10-04/pdf/2017-21305.pdf>. *Federal Register*, Vol. 82, No. 191, 10/04/2017, 46298-46309.



Regulatory Spotlight

NCUA Proposes Amendments to Advertising Rule.

NCUA proposed to revise certain provisions of its advertising rule to provide regulatory relief to federally insured credit unions (FICUs). The advertising rule requires FICUs to use NCUA's official advertisement statement when advertising. In addition to being permitted to use any of the three current versions of the official advertising statement, NCUA proposes to allow FICUs the option of using a fourth version, namely by stating "Insured by NCUA." To provide additional regulatory relief, NCUA proposes to expand a current exemption from the advertising statement requirement regarding radio and television advertisements, and eliminate the requirement to include the official advertising statement on statements of condition required to be published by law. Comments are due **12/04/2017**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-10-04/pdf/2017-21316.pdf>. *Federal Register*, Vol. 82, No. 191, 10/04/2017, 46173-46174.

NCUA Requests Comment on Strategic Plan.

NCUA requests comment on its 2018-2022 Draft Strategic Plan. The NCUA 2018-2022 Draft Strategic Plan summarizes the internal and external environment impacting NCUA; evaluates NCUA programs and risks; and provides goals and objectives for the next five years. While NCUA welcomes all comments from the public and stakeholders, it specifically invites comments and input on the proposed goals and objectives of the strategic plan. Comments are due **12/04/2017**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-10-04/pdf/2017-21304.pdf>. *Federal Register*, Vol. 82, No. 191, 10/04/2017, 46297-46298. ■

Are you a WBA member with a compliance question?

Contact the WBA Legal Call Program

This WBA member-exclusive program provides information in response to compliance questions.
call: 608-441-1200

Compliance Notes

▲ On 10/25/2017, the United States Senate voted to overturn CFPB's Arbitration Rule, under the authority of the Congressional Review Act. It was a narrow victory with Vice President Mike Pence casting the tie-breaking vote. The vote marks a hard-fought victory for the banking industry which has been vocally opposed to the rule since it was proposed in 2015. The resolution was passed in the House in July and will stop the 2019 effective date for the rule.

▲ Daylight Savings Time ends at 2:00 a.m. on 11/05/2017, lenders should be checking any loan estimates issued with expiration dates on or after 11/05/2017 to make sure the time zone abbreviation reflects the return to Standard Time (i.e. CST, EST, etc.).

▲ HUD has announced it awarded \$56 million to 80 Native American tribes throughout the country to improve housing

conditions and to stimulate economic development in their communities. HUD's Indian Community Development Block Grant (ICDBG) Program is a competitive program that supports a wide range of community development and affordable housing activities, from new housing for individual families to community amenities like rec centers or water lines. The announcement may be viewed at: https://www.hud.gov/press/press_releases_media_advisories/2017/HUDNo_17-074

▲ FRFS has released the October 2017 *FedFlash*, featuring articles on FedACH services and the year-end freeze period for production Check Services. The *FedFlash* may be viewed at: <https://www.frbserVICES.org/fedflash/index.html>

▲ CFPB has published an article titled "Understand Your Options: Tips for Student Loan Borrowers with Disabilities" to address concerns and challenges to student

loan borrowers with disabilities. The article provides information and resources for disabled borrowers. The article may be viewed at: <https://www.consumerfinance.gov/about-us/blog/understand-your-options-tips-student-loan-borrowers-disabilities/>

▲ FinCEN has issued an advisory to alert financial institutions of widespread public corruption in Venezuela and the methods Venezuelan senior political figures (and their associates and front persons) may use to move and hide corruption proceeds. The advisory also provides financial red flags to assist in identifying and reporting to FinCEN suspicious activity that may be indicative of Venezuelan corruption, including the abuse of Venezuelan government contracts, wire transfers from shell corporations, and real estate purchases. The advisory may be viewed at: <https://www.fincen.gov/resources/advisories/fincen-advisory-fin-2017-a006>



Compliance Notes

▲ CFPB has updated HMDA implementation resources, including adding a new chart titled “Reportable HMDA Data: A Regulatory and Reporting Overview Reference Chart.” All of CFPB’s HMDA Implementation Resources may be viewed at: <https://www.consumerfinance.gov/policy-compliance/guidance/implementation-guidance/hmda-implementation/>

▲ OCC has released its bank supervision operating plan for fiscal year 2018. The plan provides the foundation for policy initiatives and for supervisory strategies as applied to individual banks. Supervisory strategies for FY 2018 focus on cybersecurity and operational resiliency; commercial and retail credit loan underwriting, concentration risk management, and the allowance for loan and lease losses; business model sustainability and viability and strategy changes; bank Secrecy Act/anti-money laundering compliance management; change management to address new regulatory requirements. The plan may be viewed at: <https://www.occ.gov/news-issuances/news-releases/2017/nr-occ-2017-113a.pdf>

▲ FFIEC has announced the availability of 2016 HMDA data. The announcement may be viewed at: <https://www.ffiec.gov/press/pr092817.htm>

▲ FTC will host a workshop on 12/12/2017, to examine questions about the injury consumers suffer when information about them is misused. The workshop will address questions such as how to best characterize these injuries, how to accurately measure such injuries and their prevalence, and what factors businesses and consumers consider when evaluating the tradeoffs involved in collecting, using, or providing information while also potentially increasing their exposure to injuries. The workshop registration may be viewed at: <https://www.ftc.gov/news-events/events-calendar/2017/12/informational-injury-workshop>

▲ FDIC has released the results of its 2017 survey of branch office deposits for all FDIC-insured institutions, the data is current to 06/30/2017. The report may be viewed at: <https://www5.fdic.gov/sod/sod-MarketBank.asp?barItem=2>

▲ CFPB has published an article titled “eClosing and Buying a Home: Technology’s Role in Closing on a Mortgage” regarding technological changes in purchasing a home and consumer considerations when “eClosing” a mortgage. The article includes the results of a CFPB pilot on the costs and benefits of eClosing which found that borrowers had a higher measures of understanding the process, increased efficiency, and a higher perception of being “in control” of their closing experience, compared to borrowers who closed on their home loan just using paper disclosures. The article may be viewed at: <https://www.consumerfinance.gov/about-us/blog/eclosing-and-buying-home-technologys-role-closing-mortgage/>

▲ FRFS has released the October 2017 issue of *FedFocus*, featuring an article on the Federal Reserve Next Steps in the Payments Improvement Journey paper on advancing improvements in the U.S. payment system. The *FedFocus* may be viewed at: <https://www.frbervices.org/fedfocus/index.html>

▲ FDIC will be holding a teleconference to discuss implementation of the 2015 Home Mortgage Disclosure Act Final Rule regarding requirements that become effective beginning in 2018. The teleconference is scheduled for 10/26/2017, from 12:30 to 2:00. The teleconference is free to employees of all FDIC-supervised institutions and advance registration is required. Registration information may be viewed at: https://www.fdic.gov/news/conferences/other_events/2017-10-26-hmda.html

▲ FRFS has announced it will implement a Year-End Freeze period for Production Check Service changes. The freeze period will run from 12/22/2017 through 01/03/2018. This is the normal year-end freeze period to support year-end activities and 2018 changes. The announcement may be viewed at: <https://www.frbervices.org/files/communications/pdf/check/101117-2017-check-yearend-freeze.pdf>

▲ FDIC and SBA will be holding a virtual Town Hall on Money Smart for Small Business to showcase organizations that are using the program and learn about new product updates. The Town Hall will be 11/09/2017 from 1-2 p.m. CST.

Registration information may be viewed at: http://communityaffairsevents.fdic.gov/events/money-smart-for-small-business-town-hall-q4-2017/event-summary-b78e83c369604648884910828e2916b1.aspx?source=govdelivery&utm_medium=email&utm_source=govdelivery

▲ FRB, FDIC, and OCC have issued designated key HMDA data fields to support the efficient and effective evaluation of financial institutions’ compliance with HMDA’s requirements. The data fields may be viewed at: <https://www.fdic.gov/news/news/financial/2017/fil17051a.pdf>

▲ OCC has released Activities Permissible for National Banks and Federal Savings Associations, Cumulative, which updates the list of permissible activities for national banks and federal savings associations. The list may be viewed at: <https://www.occ.gov/publications/publications-by-type/other-publications-reports/pub-other-activities-permissible-october-2017.pdf>

▲ FTC along with 11 states and the District of Columbia, announced “Operation Game of Loans,” the first coordinated federal-state law enforcement initiative targeting deceptive student loan debt relief scams. The announcement may be viewed at: <https://www.ftc.gov/news-events/press-releases/2017/10/ftc-state-law-enforcement-partners-announce-nation-wide-crackdown>

▲ CFPB released a report that shows complaints by student loan borrowers have driven actions that have produced more than \$750 million in relief for student loan borrowers and strengthened the student loan repayment process for millions more. These changes include automatic student loan interest-rate reductions for eligible servicemembers, more protections around federal student loan repayment relief, and the elimination of surprise “auto defaults” from most new private student loan contracts. The report shows also that in the last year CFPB received more than 20,000 complaints from student loan borrowers, who report that widespread student loan servicing problems persist. The report may be viewed at: http://files.consumerfinance.gov/f/documents/cfpb_annual-report-student-loan-ombudsman_2017.pdf



Compliance Notes

▲ FHFA has issued its annual report on single-family guarantee fees to Congress for 2016. The report showed that for all loan products combined, the average single-family guarantee fee fell by 2 basis points from 59 basis points to 57 basis points in 2016. The upfront portion of the guarantee fee, which is based on the credit risk attributes, remained unchanged at 16 basis points. The ongoing portion of the guarantee fee, which is based on the product type (fixed-rate or ARM, and loan term) fell from 42 basis points to 40 basis points. Ongoing fees fell primarily because of competitive pressures between Fannie Mae and Freddie Mac, and less because of changes in the product type mix from 2015. The full report may be viewed at: <https://www.fhfa.gov/AboutUs/Reports/ReportDocuments/GFeeReport10172017.pdf>

▲ FHFA has announced the addition of a preferred language question to the redesigned Uniform Residential Loan Application (URLA). The question will

allow borrowers to specify if they wish to communicate in a language other than English and identify their preferred language. FHFA will publish the redesigned URLA that includes the preferred language question by the end of 2017. CFPB has assured that it will receive safe harbor approval under the Equal Credit Opportunity Act as part of CFPB's review of the revised URLA. The new question may be viewed at: https://www.fhfa.gov/PolicyProgramsResearch/Policy/Documents/Preferred_Language_Question.pdf?utm_campaign=ABA-Newsbytes-102317-HTML&utm_medium=email&utm_source=Eloqua

▲ FDIC has announced it will be cohosting a webinar with the CFPB on Financial Education and Financial Empowerment Resources that Support People with Disabilities. The webinar will explore financial educational resources that can help people with disabilities make more informed financial decisions. The webinar will be held 11/15/2017 from 1-3

p.m. CST Registration information may be viewed at: https://www.fdic.gov/news/conferences/other_events/2017-11-15.html

▲ NCUA has released second quarter 2017 Quarterly U.S. Map Review which showed federally insured credit unions have grown in nearly every category measured. Nationally, median loan growth in federally insured credit unions was 4.4 percent during the year ending in the second quarter. Median asset growth was 3.9 percent; the median rate of growth in deposits and shares was 4.1 percent; and the median loans-to-shares ratio was 63 percent. The report may be viewed at: <https://www.ncua.gov/analysis/Pages/industry/quarterly-map-review-second-quarter-2017.pdf> ■

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Compliance Calendar

November 2017 – February 2018

Conferences

2017 ABA National Agricultural Bankers Conference
Nov. 12-15 | Milwaukee

CFO Conference
Nov. 16 | Madison

Bank Executives Conference
Feb. 5-7 | Madison

FIPCO Events

FIPCO Compliance & Software Forum [Loan + Mortgage]
Nov. 14-15 | Stevens Point

Threat Intelligence Briefings
Dec. 14 | Madison

(Visit www.fipco.com/events.)

Luncheon

Wisconsin Economic Forecast Luncheon
Jan. 22 | Madison

Summit

BOLT Winter Leadership Summit
Nov. 9 | Stevens Point

Schools

Deposit Compliance School and Alumni Update Seminar
Nov. 6-8 | Wisconsin Dells

Commercial Lending School
Feb. 19-23 | Wisconsin Dells

Residential Mortgage Lending School
Feb. 19-23 | Wisconsin Dells

Seminars/Workshops

Branch Manager Series: Session Three – Business Development | Madison (Two remaining sessions)
Nov. 7 | Dec. 5

Introduction to Call Report Preparation Seminar
Nov. 7-8 | Wisconsin Dells

Principles of Banking Course
Nov. 15 | Mineral Point
Nov. 29 | Fond du Lac
Dec. 5 | Mineral Point

CECL Workshops
Nov. 15 | Madison

Insurance Continuing Education Seminar
Nov. 16 | Madison

Webinars (online training)

Untangling the Web of Fee Disclosures

Nov. 6 | 1:30-3:30 p.m.

Information Security Program Basics:

Create and Build Your Program
Nov. 7 | 10 a.m.-Noon

Lending 101

Nov. 7 | 1:30-3:30 p.m.

Required Compliance for Commercial Loans Secured by Real Estate

Nov. 7 | 2-3:30 p.m.

Violence in Your Workplace: Prevention and Response

Nov. 8 | 1:30-3:30 p.m.

Regulation E Series: Auditing for Regulation E Compliance

Nov. 8 | 2-3:30 p.m.

Countdown to CDD Rules: Where Are You Now?

Nov. 15 | 10 a.m.-Noon

Account Documentation Series:

Accepting Powers-of-Attorney on Deposit Accounts

Nov. 16 | 2-3:30

OFAC Sanctions Compliance: Update, Expectations & Best Practices

Nov. 28 | 2-3:30 p.m.

2017 TRID Final Rule Update

Nov. 30 | 10 a.m.-Noon

GSB Loan Structure, Documentation and Compliance Training - A Comprehensive Approach

Dec. 4 | 2-3:30 p.m.

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

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