



Compliance Journal

Special Focus

Department of Defense Amends Military Lending Act Interpretive Rule.

In mid-December, with little warning or fanfare, the Department of Defense (DoD) issued clarifications to its interpretive rules regarding the Military Lending Act (MLA). The clarifications will impact creditors. What follows is a brief overview of some recent developments regarding the MLA, and the interpretive rules and clarifications.

In July 2015, the DoD issued a final rule (2015 Final Rule or Rule) amending its regulation implementing the MLA primarily for the purpose of extending the protections of the MLA to a broader range of closed-end and open-end credit products, rather than the limited credit products that were covered prior to the amendments.

In addition, the 2015 Final Rule amended other provisions such as those relating to the optional mechanism a creditor may use when assessing whether a consumer is a “covered borrower,” and the disclosures that a creditor must provide to a covered borrower. It also implemented the enforcement provisions of the MLA.

Following issuance of the 2015 Final Rule, the DoD received requests from the financial services industry to provide interpretations of certain points raised by the Rule. The DoD addressed some of these points by issuing an interpretive rule in the form of 19 questions and answers. The DoD issued this first set of interpretations on August 26, 2016 (2016 Interpretive Rule). However, in the industry’s view, the 2016 Interpretive Rule did not adequately address some of the points previously raised. In response, the DoD issued another interpretive rule (2017 Interpretive

Rule) to provide clarification to several of the existing questions and answers (#2, #17, #18, and #19). The 2017 Interpretive Rule also added a new question and answer (#20).

As with the 2016 Interpretive Rule, the DoD took the position that the 2017 Interpretive Rule did not change the regulation implementing the MLA, but merely stated the DoD’s preexisting interpretations of an existing regulation. Thus, under provisions in the Administrative Procedure Act, the DoD asserted that the 2017 Interpretive Rule was exempt from notice and comment requirements, and, was effective immediately upon publication in the *Federal Register*. The 2017 Interpretive Rule was published in the *Federal Register* on December 14, 2017.

Creditors should review their MLA procedures in light of the 2017 Interpretive Rule, and make adjustments, as applicable. This may require a review of all three documents noted above. The 2015 Final Rule may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2015-07-22/pdf/2015-17480.pdf>; the 2016 Interpretive Rule may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2016-08-26/pdf/2016-20486.pdf>; and the 2017 Interpretive Rule may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-12-14/pdf/2017-26974.pdf>.

For your convenience, the questions and answers portion of the 2017 Interpretive Rule is reprinted below.

2. *Does credit that a creditor extends for the purpose of purchasing a motor vehicle or personal property, which secures the*

credit, fall within the exception to “consumer credit” under 32 CFR 232.3(f)(2) (ii) or (iii) where the creditor simultaneously extends credit in an amount greater than the purchase price of the motor vehicle or personal property?

Answer: The answer will depend on what the credit beyond the purchase price of the motor vehicle or personal property is used to finance. Generally, financing costs related to the object securing the credit will not disqualify the transaction from the exceptions, but financing credit-related costs will disqualify the transaction from the exceptions. Section 232.3(f)(1) defines “consumer credit” as credit offered or extended to a covered borrower primarily for personal, family, or household purposes that is subject to a finance charge or payable by written agreement in more than four installments. Section 232.3(f)(2) provides a list of exceptions to paragraph (f) (1), including an exception for any credit transaction that is expressly intended to finance the purchase of a motor vehicle when the credit is secured by the vehicle being purchased and an exception for any credit transaction that is expressly intended to finance the purchase of personal property when the credit is secured by the property being purchased.

A credit transaction that finances the object itself, as well as any costs expressly related to that object, is covered by the exceptions in § 232.3(f)(2)(ii) and (iii), provided it does not also finance any credit-related product or service. For example, a credit transaction that finances the purchase of a motor vehicle (and is secured by that vehicle), and also finances optional

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leather seats within that vehicle and an extended warranty for service of that vehicle is eligible for the exception under § 232.3(f)(2)(ii). Moreover, if a covered borrower trades in a motor vehicle with negative equity as part of the purchase of another motor vehicle, and the credit transaction to purchase the second vehicle includes financing to repay the credit on the trade-in vehicle, the entire credit transaction is eligible for the exception under § 232.3(f)(2)(ii) because the trade-in of the first motor vehicle is expressly related to the purchase of the second motor vehicle. Similarly, a credit transaction that finances the purchase of an appliance (and is secured by that appliance), and also finances the delivery and installation of that appliance, is eligible for the exception under § 232.3(f)(2)(iii).

In contrast, a credit transaction that also finances a credit-related product or service rather than a product or service expressly related to the motor vehicle or personal property is not eligible for the exceptions under § 232.3(f)(2)(ii) and (iii). For example, a credit transaction that includes financing for Guaranteed Auto Protection insurance or a credit insurance premium would not qualify for the exception under § 232.3(f)(2)(ii) or (iii). Similarly, a hybrid purchase money and cash advance credit transaction is not expressly intended to finance the purchase of a motor vehicle or personal property because the credit transaction provides additional financing that is unrelated to the purchase. Therefore, any credit transaction that provides purchase money secured financing of a motor vehicle or personal property along with additional “cashout” financing is not eligible for the exceptions under § 232.3(f)(2)(ii) and (iii) and must comply

with the provisions set forth in the MLA regulation.

17. Does the limitation in § 232.8(e) on a creditor using a check or other method of access to a deposit, savings, or other financial account maintained by the covered borrower prohibit the borrower from granting a security interest to a creditor in the covered borrower's checking, savings or other financial account?

Answer: No. The prohibition in § 232.8(e) does not prohibit covered borrowers from granting a security interest to a creditor in the covered borrower's checking, savings, or other financial account, provided that it is not otherwise prohibited by other applicable law and the creditor complies with all other provisions of the MLA regulation, including the limitation on the MAPR to 36 percent. As discussed in Question and Answer #16 of these Interpretations, § 232.8(e) prohibits a creditor from using the borrower's account information to create a remotely created check or remotely created payment order in order to collect payments on consumer credit from a covered borrower or using a postdated check provided at or around the time credit is extended.

Section 232.8(e)(3) further clarifies that covered borrowers may convey security interests in checking, savings, or other financial accounts by describing a permissible security interest granted by covered borrowers. Borrowers may convey security interests for all types of consumer credit covered by the MLA regulation.

Creditors should also note, however, that 32 CFR 232.7(a) provides that the MLA does not preempt any State or Federal law, rule or regulation to the extent

that such law, rule or regulation provides greater protection to covered borrowers than the protections provided by the MLA. For example, although the MLA regulation does not prohibit borrowers from conveying security interests in all types of consumer credit covered by the regulation, including credit card accounts, such accounts may also be subject to other laws, rules and regulations governing offsets and security interests. See, e.g., 12 CFR 1026.12(d).

18. Does the limitation in § 232.8(e) on a creditor using a check or other method of access to a deposit, savings, or other financial account maintained by the covered borrower prohibit a creditor from exercising a statutory right, or a right arising out of a security interest a borrower grants to a creditor, to take a security interest in funds deposited within a covered borrower's account at any time?

Answer: No. In addition to the security interests granted by borrowers to creditors, as discussed in Question and Answer #17 of these Interpretations, above, under certain circumstances Federal or State statutes may grant creditors statutory liens on funds deposited within covered borrowers' asset accounts. Section 232.8(e) does not prohibit a creditor from exercising rights to take a security interest in funds deposited into a covered borrower's account at any time, including enforcing statutory liens, provided that it is not otherwise prohibited by other applicable law and the creditor complies with all other provisions of the MLA regulation, including the limitation on the MAPR to 36 percent. For example, under 12 U.S.C. 1757(11) Federal credit unions may “enforce a lien upon the shares and dividends of any

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member, to the extent of any loan made to him and any dues or charges payable by him.”

As discussed in Question and Answer #16 of these Interpretations, § 232.8(e) serves to prohibit a creditor from using the borrower’s account information to create a remotely created check or remotely created payment order in order to collect payments on consumer credit from a covered borrower or using a postdated check provided at or around the time credit is extended. Section 232.8(e)(3) describes a permissible activity under § 232.8(e). However, the fact that § 232.8(e)(3) specifies a particular time when a creditor may take a security interest in funds deposited in an account does not change the general effect of the prohibition in § 232.8(e). Therefore, § 232.8(e) does not impede a creditor from—for example—exercising a statutory right to take a security interest in funds deposited in an account at any time, provided that the security interest is not otherwise prohibited by other applicable law and the creditor complies with all other provisions of the MLA regulation,

including the limitation on the MAPR to 36 percent.

Creditors may exercise the right to take a security interest in funds deposited into a covered borrower’s account in connection with all types of consumer credit covered by the MLA regulation, including credit card accounts, provided the creditor’s actions are not prohibited by other State or Federal law, rule or regulation that provides greater protection to covered borrowers than the protections provided in the MLA. For example, although the MLA regulation does not prohibit borrowers from conveying security interests in all types of consumer credit covered by the regulation, including credit card accounts, such accounts may also be subject to other laws, rules and regulations governing offsets and security interests. See, e.g., 12 CFR 1026.12(d).

20. To qualify for the optional safe harbor under 32 CFR 232.5(b)(3), must the creditor determine the consumer’s covered borrower status simultaneously with the consumer’s submission of an application

for consumer credit or exactly 30 days prior?

Answer: No. Section 232.5(b)(3)(i) and (ii) permit the creditor to qualify for the safe harbor when it makes a timely determination regarding the status of a consumer at the time the consumer either initiates the transaction or submits an application to establish an account, or anytime during a 30-day period of time prior to such action. Therefore, a creditor qualifies for the safe harbor under § 232.5(b) when the qualified covered borrower check that the creditor relies on is conducted at the time a consumer initiates a credit transaction or applies to establish an account, or up to 30 days prior to the action taken by the consumer. Similarly, the timing provisions in § 232.5(b)(3)(i) and (ii) permit a creditor to qualify for the safe harbor when it conducts a qualified covered borrower check simultaneously with the initiation of the transaction or submission of an application by the consumer or during the course of the creditor’s processing of that application for consumer credit. ■

Recently Enacted Legislation Expands Who May Receive Property Through Transfer by Affidavit

On December 1, 2017, 2017 Wisconsin Act 90 amended Wisconsin Statute Section 867.03 relating to the transfer by affidavit option for small estates. The Act added a category of affiants who may receive property left by a decedent.

Generally speaking, Wisconsin Statute Section 867.03 provides for classifications of persons (known as affiants) who may receive property less than or equal to \$50,000 in value left by a decedent. Prior to Act 90 those affiants were limited to: any heir of the decedent, trustee of a revocable trust created by the decedent, or person who was guardian of the decedent at the time of the decedent’s death.

As of December 1, 2017, a person named in the will to act as personal representative may also receive property of a decedent subject to certain requirements.

Act 90 also created 867.03(1j) requiring that a person who receives an affidavit from a person named in the will to act as personal representative may not transfer any money due the decedent until 30 days after receiving the affidavit. If, during the 30-day period, the person who received the affidavit receives an affidavit for the same decedent from another person, the person who received the affidavits may not transfer any money due the decedent unless ordered to do so by a court.

Meaning, that if a financial institution receives a transfer by affidavit from a person named in a will to act as personal representative, the institution should have procedures in place to wait 30 days before transferring property. If, during that 30-day period, the financial institution receives another valid transfer by affidavit, no property should be transferred to any party until instructed by court order.

2017 Wisconsin Act 90 may be viewed at: <http://docs.legis.wisconsin.gov/2017/related/acts/90> ■



Tax Reform Impact on Home Equity Loans

There continues to be much confusion around the impact of the new tax law on home equity lines of credit and home equity loans. While bankers should not be providing tax advice as taxpayers should be consulting with their own professional advisor, WBA realizes it is helpful for bankers to have a general understanding of the impact their loan products have on borrowers to not only answer general questions but also to guide bank product development and marketing strategies. This article will attempt to explain the tax law changes as it relates to home equity loans.

The general rule for taxpayers itemizing deductions is that effective for tax years beginning after December 31, 2017, and before January 1, 2026, the Tax Cuts and Jobs Act (TCJA) no longer allows a deduction for interest on home equity debt regardless of when the home equity debt was originally incurred, and regardless of the lien position of the home equity debt. In other words, there is no grandfathering treatment for existing home equity loans and the rules apply whether the loan is a first, first-lien equivalent, or true second mortgage on a principal residence and/or second home. For taxpayers who will not benefit from itemizing deductions under the new law, this analysis is inapplicable.

The only important exception to this general rule for home equity debt is if the purpose of the debt qualifies under the tax code as “acquisition indebtedness.” Under the tax code, acquisition indebtedness of a principal residence and/or second home is debt that is incurred in acquiring, constructing, or substantially improving a qualified residence. “Qualified residence” is also a defined term under the tax code but generally includes the taxpayer’s principal residence and one and one other residence of the taxpayer. Acquisition indebtedness also includes indebtedness from the refinancing of other acquisition

indebtedness, but only to the extent of the amount of the refinanced indebtedness. It is the responsibility of the taxpayer, not the bank, to keep track of debt that is acquisition indebtedness compared to debt that is for other purposes.

Under the new law, the aggregate amount a taxpayer may treat as acquisition indebtedness can’t exceed \$750,000 (\$375,000 for married persons filing separately). Any acquisition debt (whether a traditional closed-end mortgage or home equity debt qualifying as acquisition indebtedness) incurred on or before December 15, 2017 is instead subject to the \$1,000,000 (\$500,000 for married persons filing separately) acquisition debt limit. Note that in applying the \$750,000/\$375,000 acquisition debt limit to any indebtedness incurred after December 15, 2017, the \$750,000/\$375,000 limit must be reduced (but not below zero) by the amount of any indebtedness incurred on or before December 15, 2017 that is treated as acquisition indebtedness for purposes of the qualified residence interest (QRI) deduction for the tax year.

As an example, assume a taxpayer had a first mortgage of \$150,000 of which \$100,000 was from refinancing the original acquisition mortgage and \$50,000 was cash taken out for college costs. The \$100,000 would be acquisition debt and the \$50,000 would be home equity debt. Assume that same taxpayer also took out a \$25,000 home equity line of credit for the sole purpose of remodeling the kitchen. That debt would qualify as acquisition debt because it is for the purpose of improving a qualified residence. In this example, the total acquisition debt would be \$125,000 – the portion of the mortgage loan used for acquisition and the home equity line of credit. The interest on the portion of the mortgage loan (\$50,000) that was used for college costs would be nondeductible. Tracing rules apply that

consider the least advantageous debt to be paid off first, so principal on the first mortgage would be applied to the home equity portion first.

Again, it is important to not give your customers tax advice as often bankers do not know how debt proceeds, particularly home equity debt proceeds, are spent by borrowers. It is expected that the IRS will issue guidance on this and other aspects of the TCJA. WBA will inform the membership as such guidance is published. ■



Regulatory Spotlight

Agencies Finalize 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) amended their Community Reinvestment Act (CRA) regulations to adjust the asset-size thresholds used to define “small bank” or “small savings association” and “intermediate small bank” or “intermediate small savings association.” As required by the CRA regulations, the adjustment to the threshold amount is based on the annual percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W). FDIC is also amending its definition of “consumer loan” to correct a typographical error included in a CRA final rule issued on **11/24/2017**. The final rule is effective **01/01/2018**. The final rule may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-12-27/pdf/2017-27813.pdf>. *Federal Register*, Vol. 82, No. 247, 12/27/2017, 61143-61145.

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 The Consolidated Reports of Condition and Income. The Agencies also gave notice that they have sent the collection to OMB for review. Comments are due **02/07/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-01-08/pdf/2018-00122.pdf>. *Federal Register*, Vol. 83, No. 5, 01/08/2018, 939-966.

CFPB Finalizes Amendments to Regulation C Official Commentary.

The Bureau of Consumer Financial Protection (CFPB) issued a final rule amend-

ing the official commentary that interprets the requirements of CFPB’s Regulation C (Home Mortgage Disclosure) to reflect the asset-size exemption threshold for banks, savings associations, and credit unions based on the annual percentage change in the average of the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W). Based on the 2.1 percent increase in the average of the CPI-W for the 12-month period ending in November 2017, the exemption threshold is adjusted to increase to \$45 million from \$44 million. Therefore, banks, savings associations, and credit unions with assets of \$45 million or less as of **12/31/2017**, are exempt from collecting data in 2018. The final rule is effective **01/01/2018**. The final rule may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-12-27/pdf/2017-27879.pdf>. *Federal Register*, Vol. 82, No. 247, 12/27/2017, 61145-61147.

CFPB Finalizes Amendments to Regulation Z Official Commentary.

CFPB issued a final rule amending the official commentary that interprets the requirements of CFPB’s Regulation Z (Truth in Lending) to reflect a change in the asset-size threshold for certain creditors to qualify for an exemption to the requirement to establish an escrow account for a higher-priced mortgage loan based on the annual percentage change in the average of the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) for the 12-month period ending in November. The exemption threshold is adjusted to increase to \$2.112 billion from \$2.069 billion. The adjustment is based on the 2.1 percent increase in the average of the CPI-W for the 12-month period ending in November 2017. Therefore, creditors with assets of less than \$2.112 billion (including assets of certain affiliates) as of **12/31/2017**, are exempt, if other requirements of Regulation Z also are met, from establishing escrow accounts for higher-priced mortgage loans in 2018. This asset limit will also apply during a grace period, in certain circumstances, with respect to transactions with applications

received before 04/01/2019. The adjustment to the escrow asset-size exemption threshold will also increase a similar threshold for small-creditor portfolio and balloon-payment qualified mortgages. Balloon-payment qualified mortgages that satisfy all applicable criteria, including being made by creditors that have (together with certain affiliates) total assets below the threshold, are also excepted from the prohibition on balloon payments for high-cost mortgages. The final rule is effective **01/01/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-12-27/pdf/2017-27897.pdf>. *Federal Register*, Vol. 82, No. 247, 12/27/2017, 61147-61151.

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 also gave notice that it sent the collection to OMB for review. Comments are due **01/29/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-12-29/pdf/2017-28204.pdf>. *Federal Register*, Vol. 82, No. 249, 12/29/2017, 61754.

FRB Finalizes Rule on Regulation C.

The Board of Governors of the Federal Reserve System (FRB) is repealing its Regulation C, which was issued to implement the Home Mortgage Disclosure Act (HMDA). Title X of the Dodd-Frank Act transferred rulemaking authority for a number of consumer financial protection laws, including HMDA, from FRB to the Bureau of Consumer Financial Protection (CFPB). HMDA requires covered financial institutions to collect and report loan data in connection with residential mortgage applications and loans. Although FRB retains authority to issue some consumer financial protection rules, all rulemaking authority under HMDA concerning mortgage loan transactions was trans-



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ferred to CFPB. The final rule is effective **01/22/2018**. The final rule may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-12-22/pdf/2017-27491.pdf>. *Federal Register*, Vol. 82, No. 254, 12/22/2017, 60673-60674.

FRB Finalizes Rules of Practice for Hearings.

FRB issued a final rule amending its rules of practice and procedure to adjust the amount of each civil money penalty provided by law within its jurisdiction to account for inflation as required by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. The final rule is effective **01/10/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-01-10/pdf/2018-00227.pdf>. *Federal Register*, Vol. 83, No. 7, 01/10/2018, 1182-1184.

FRB Proposes Amendments to Policy on Payment System Risk.

FRB issued proposed amendments to part II of the Federal Reserve Policy on Payment System Risk (PSR policy) related to procedures for determining the net debit cap and maximum daylight overdraft capacity of a U.S. branch or agency of a foreign banking organization (FBO). Under the PSR policy, an FBO's strength of support assessment (SOSA) ranking can affect its eligibility for a positive net debit cap, the size of its net debit cap, and its eligibility to request a streamlined procedure to obtain maximum daylight overdraft capacity. Additionally, an FBO that is a financial holding company (FHC) can generally receive a higher net debit cap than an FBO that is not an FHC, and is generally eligible to request a streamlined procedure to obtain maximum daylight overdraft capacity. The proposed changes to the PSR policy would remove references to the SOSA ranking; remove references to FBOs' FHC status; and adopt alternative methods for determining an FBO's eligibility for a positive net debit cap, the size of its net debit cap, and its eligibility to request a streamlined procedure to obtain maximum daylight overdraft

capacity. Comments are due **02/12/2018**. The proposed amendments may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-12-14/pdf/2017-26923.pdf>. *Federal Register*, Vol. 82, No. 239, 12/14/2017, 58764-58772.

FRB Proposes Amendments to its Policy Statement on the Scenario Design Framework for Stress Testing.

FRB proposed amendments to its policy statement on the scenario design framework for stress testing. The proposed amendments to the policy statement would clarify when FRB may adopt a change in the unemployment rate in the severely adverse scenario of less than 4 percentage points; institute a countercyclical guide for the change in the house price index in the severely adverse scenario; and provide notice that FRB plans to incorporate wholesale funding costs for banking organizations in the scenarios. FRB would continue to use the policy statement to develop the macroeconomic scenarios and additional scenario components that are used in the supervisory and company-run stress tests conducted under FRB's stress test rules and the FRB's capital plan rule. Comments are due **01/22/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-12-15/pdf/2017-26858.pdf>. *Federal Register*, Vol. 82, No. 240, 12/15/2017, 59533-59547.

FRB Proposes Amendments to Regulation M.

FRB proposed to revise its Regulation M, which was issued to implement the Consumer Leasing Act (CLA). Title X of the Dodd-Frank Act transferred rulemaking authority for a number of consumer financial protection laws, including the CLA, from FRB to the Bureau of Consumer Financial Protection (CFPB). Under section 1029 of the Dodd-Frank Act, however, FRB retains authority to issue rules for motor vehicle dealers that are predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both, and

are otherwise not subject to the CFPB's regulatory authority. FRB is proposing to revise its Regulation M and the accompanying Official Staff Commentary to reflect this change in the persons covered by the regulation. Comments are due **03/05/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-01-03/pdf/2017-27325.pdf>. *Federal Register*, Vol. 83, No. 2, 01/03/2018, 286-291.

FRB Proposes Stress Testing Policy Statement.

FRB issued a proposed policy statement on the approach to supervisory stress testing conducted under FRB's Regulation YY pursuant to the Dodd-Frank Act and FRB's capital plan rule. The proposed policy statement outlines the key principles and policies governing the FRB's approach to the development, implementation, and validation of models used in the supervisory stress test. Comments are due **01/22/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-12-15/pdf/2017-26857.pdf>. *Federal Register*, Vol. 82, No. 240, 12/15/2017, 59528-59533.

FRB Issues Aggregate Global Indicator Amounts.

FRB issues notice of the aggregate global indicator amounts for purposes of a calculation for 2017, which is required under FRB's rule regarding risk-based capital surcharges for global systemically important bank holding companies. The amounts are applicable **12/18/2017**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-12-18/pdf/2017-27161.pdf>. *Federal Register*, Vol. 82, No. 241, 12/18/2017, 60014-60015.

FRB Announces Production of Rates Based on Data for Repurchase Agreements.

FRB announced the production and publication of three rates by the Federal Reserve Bank of New York, in coordination with the U.S. Office of Financial Research, based on data for overnight



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repurchase agreement transactions on Treasury securities. FRB intends to begin publishing the three rates during the second quarter of 2018. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-12-12/pdf/2017-26761.pdf>. *Federal Register*, Vol. 82, No. 237, 12/12/2017, 58397-58400.

FRB Requests Comment on Stress Test Models.

FRB has issued an enhanced disclosure of the models used in the Federal Reserve's supervisory stress test conducted under FRB's Regulation YY pursuant to the Dodd-Frank Act and FRB's capital plan rule. FRB requests comment on the enhanced disclosure of the models. Comments are due **01/22/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-12-15/pdf/2017-26856.pdf>. *Federal Register*, Vol. 82, No. 239, 12/15/2017, 59547-59555.

FRB Issues Correction to Regulatory Capital Rules.

FRB has issued corrections to a final rule published in the *Federal Register* on **10/11/2013**, regarding Regulatory Capital Rules. This publication corrects a typographical error in those rules whereby a transition provision was unintentionally deleted. The Board also published inconsistent amendments to Regulation Q in final rules published in the *Federal Register* on **05/01/2014**, and **08/14/2015**, that pertain to firms identified as global systemically important bank holding companies (GSIBs). The correction resolves these inconsistencies. The correcting amendments are effective **01/08/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-01-08/pdf/2018-00062.pdf>. *Federal Register*, Vol. 82, No. 5, 01/08/2018, 705-709.

FRB Requests Comment on Information Collections.

- FRB announced it seeks comment on the information collection titled Report of Assets and Liabilities

of U.S. Branches and Agencies of Foreign Banks; Report of Assets and Liabilities of a Non-U.S. Branch that is Managed or Controlled by a U.S. Branch or Agency of a Foreign (Non-U.S.) Bank. FRB also gave notice that it sent the collection to OMB for review. Comments are due **02/26/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-12-27/pdf/2017-27942.pdf>. *Federal Register*, Vol. 82, No. 247, 12/27/2017, 61294-61300.

- FRB announced it seeks comment on the information collection titled Consolidated Financial Statements for Holding Companies, Parent Company Only Financial Statements for Large Holding Companies, Parent Company Only Financial Statements for Small Holding Companies, Financial Statement for Employee Stock Ownership Plan Holding Companies, and the Supplement to the Consolidated Financial Statements for Holding Companies. FRB also gave notice that it sent the collection to OMB for review. Comments are due **03/05/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-01-02/pdf/2017-28290.pdf>. *Federal Register*, Vol. 83, No. 1, 01/02/2018, 123-125.

FRB Announces Approval of Information Collections.

- FRB announced it is adopting a proposal to extend for three years, without revision, the Reporting Requirements Associated with Regulation XX Concentration Limit (FR XX) and Financial Company (as defined) Report of Consolidated Liabilities (FR XX-1). The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-12-14/pdf/2017-26962.pdf>. *Federal Register*, Vol. 82, No. 239, 12/14/2017, 58807-58808.
- FRB announced it is adopting a proposal to extend for three years, with revision, the mandatory Capital Assessments and Stress Testing

information collection. The revisions are applicable as of 12/31/2017, or 03/31/2018 as described in the notice. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-12-15/pdf/2017-26960.pdf>. *Federal Register*, Vol. 82, No. 240, 12/15/2017, 59608-59619.

FDIC Announces Designated Reserve Ratio for 2018.

The Federal Deposit Insurance Corporation (FDIC) has announced that the Designated Reserve Ratio (DRR) for the Deposit Insurance Fund shall remain at 2 percent for 2018. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-12-22/pdf/2017-27539.pdf>. *Federal Register*, Vol. 82, No. 245, 12/22/2017, 60724.

FDIC Proposes Amendments to Statement of Policy in Relation to Section 19 of the Federal Deposit Insurance Act.

FDIC issued a proposal to revise and reissue an updated Statement of Policy pursuant to Section 19 of the Federal Deposit Insurance Act (FDI Act). Section 19 prohibits, without the prior written consent of the FDIC, any person from participating in banking who has been convicted of a crime of dishonesty or breach of trust or money laundering, or who has entered a pretrial diversion or similar program in connection with the prosecution for such an offense. Notably, in addition to minor format and technical changes, as well as clarifying changes, FDIC is proposing to expand its current de minimis exception to encompass insufficient funds checks of aggregate moderate value; small dollar, simple theft; and isolated, minor offenses committed by young adults. Comments are due **03/09/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-01-08/pdf/2017-28222.pdf>. *Federal Register*, Vol. 83, No. 5, 01/08/2018, 807-813.



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FDIC Requests Comment on Information Collections.

- FDIC announced it seeks comment on the information collection titled Account Based Disclosures in Connection with Consumer Financial Protection Bureau Regulations E and DD and Federal Reserve Regulation CC. FDIC also gave notice that it sent the collection to OMB for review. Comments are due **02/26/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-12-28/pdf/2017-28067.pdf>. *Federal Register*, Vol. 82, No. 248, 12/28/2017, 61567-61569.
- FDIC announced it seeks comment on the information collection titled Uniform Application and Termination Notice for Municipal Securities Principal or Representative Associated with a Bank Municipal Securities Dealer. FDIC also gave notice that it sent the collection to OMB for review. Comments are due **02/26/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-12-28/pdf/2017-28068.pdf>. *Federal Register*, Vol. 82, No. 248, 12/28/2017, 61566-61567.
- FDIC announced it seeks comment on the information collection titled Prompt Corrective Action. FDIC also gave notice that it sent the collection to OMB for review. Comments are due **02/27/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-12-29/pdf/2017-28138.pdf>. *Federal Register*, Vol. 82, No. 249, 12/29/2017, 61758-61759.

FDIC Issues Correction to Final Restrictions on Qualified Financial Contracts and Revisions to the Definition of Qualified Master Netting Agreement.

FDIC issued technical corrections to regulations that were published in the *Federal Register* on **10/30/2017**. FDIC added Part 382 to its regulations to

improve the resolvability of systemically important U.S. banking organizations and systemically important foreign banking organizations and enhance the resilience and the safety and soundness of certain State savings associations and State-chartered banks and made certain conforming changes to Part 329. The corrections are published to make technical corrections to certain rules under Parts 329 and 382 and make effective amendatory instruction 6 in the previously published regulation. The corrections may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-12-28/pdf/2017-27971.pdf>. *Federal Register*, Vol. 82, No. 248, 12/28/2017, 61443.

FDIC Issues Terminations of Receiverships.

- FDIC announced it has been authorized to take all actions necessary to terminate the receivership estate of Northern Star Bank, Mankato, **Minnesota** (Receivership Estate). The Receiver has made all dividend distributions required by law. The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds. Effective **12/01/2017**, the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-12-11/pdf/2017-26648.pdf>. *Federal Register*, Vol. 82, No. 236, 12/11/2017, 58197-58198.
- FDIC announced it has been authorized to take all actions necessary to terminate the receivership estate of Riverview Community Bank, Otsego, **Minnesota** (Receivership Estate). The Receiver has made all dividend distributions required by law. The Receiver has further irrevocably authorized

and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds. Effective **12/01/2017**, the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-12-11/pdf/2017-26635.pdf>. *Federal Register*, Vol. 82, No. 236, 12/11/2017, 58199-58200.

- FDIC announced it has been authorized to take all actions necessary to terminate the receivership estate of Second Federal Savings and Loan Association of Chicago, Chicago, **Illinois** (Receivership Estate). The Receiver has made all dividend distributions required by law. The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds. Effective **12/01/2017**, the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-12-11/pdf/2017-26644.pdf>. *Federal Register*, Vol. 82, No. 236, 12/11/2017, 58200.
- FDIC announced it has been authorized to take all actions necessary to terminate the receivership estate of Bank of Wausau, Wausau, **Wisconsin** (Receivership Estate). The Receiver has made all dividend distributions required by law. The Receiver has further irrevocably authorized and ap-



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pointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds. Effective **12/01/2017**, the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-12-14/pdf/2017-26980.pdf>. *Federal Register*, Vol. 82, No. 239, 12/14/2017, 58807.

- FDIC announced it intends to terminate the receivership of Bank of Illinois, Normal, Illinois. FDIC was appointed receiver of Bank of Illinois on **03/05/2010**. The liquidation of the receivership assets has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors. The Receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of the notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date of the notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 32.1, 1601 Bryan Street, Dallas, TX 75201. No comments concerning the termination of this receivership will be considered which are not sent within this timeframe. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-12-29/pdf/2017-28142.pdf>. *Federal Register*, Vol. 82, No. 249, 12/29/2017, 61758.

HUD Issues Interim Final Rule Regarding Multifamily Housing Programs and Implementing the FAST Act.

The Department of Housing and Urban Development (HUD) issued an interim final rule amending regulatory language to implement the Fixing America's Surface Transportation Act (FAST Act) and to align current regulatory flexibilities to those provided in the FAST Act. Additionally, the interim final rule seeks to extend to certain multi-family housing programs some of the streamlining changes made to the Housing Choice Voucher, and Public Housing programs in a final rule published **03/08/2016**. The interim final rule is effective **03/12/2018**, comments are due **01/11/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-12-12/pdf/2017-26697.pdf>. *Federal Register*, Vol. 82, No. 237, 12/12/2017, 58335-58341.

HUD Announces Withdrawal of Proposed Rules.

HUD has determined not to pursue five proposed rules published in the *Federal Register* and, as a result, is withdrawing the rules from HUD's Unified Agenda of Regulatory and Deregulatory Actions. HUD is taking this action consistent with Executive Order 13771 entitled "Reducing Regulation and Controlling Regulatory Costs" which, among other things, require that the cost of planned regulations be prudently managed and controlled. The proposed rules are withdrawn effective 12/22/2017. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-12-22/pdf/2017-27615.pdf>. *Federal Register*, Vol. 82, No. 245, 12/22/2017, 60693.

HUD Extends Submission Deadline for Assessment of Fair Housing.

HUD is extending the deadline for submission of an Assessment of Fair Housing (AFH) by local government consolidated plan program participants to their next

AFH submission date that falls after **10/31/2020**. Such program participants will not be required to submit an AFH using the current OMB-approved version of the Assessment of Fair Housing Tool for Local Governments (OMB Control No: 2529-0054), but must continue to comply with existing obligations to affirmatively further fair housing. Local government program participants that have already submitted an AFH that has been accepted by HUD must continue to execute the goals of that AFH. The extension is applicable **01/05/2018**, comments are due **03/06/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-01-05/pdf/2018-00106.pdf>. *Federal Register*, Vol. 83, No. 4, 01/05/2018, 683-685.

HUD Requests Comment on Information Collections.

- HUD announced it seeks comment on the information collection titled Continuation of Interest Reduction Payments After Refinancing Section 236 Projects. HUD also gave notice that it sent the collection to OMB for review. Comments are due **01/17/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-12-18/pdf/2017-27191.pdf>. *Federal Register*, Vol. 82, No. 241, 12/18/2017, 60027-60028.
- HUD announced it seeks comment on the information collection titled Housing Counseling Program—Biennial Agency Performance Review. HUD also gave notice that it sent the collection to OMB for review. Comments are due **01/17/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-12-18/pdf/2017-27193.pdf>. *Federal Register*, Vol. 82, No. 241, 12/18/2017, 60028.
- HUD announced it seeks comment on the information collection titled Performing Loan Servicing for the Home Equity Conversion Mortgage (HECM). HUD also gave notice that it sent the collection to OMB for review. Comments are due **01/17/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-12-18/pdf/2017-27195.pdf>. *Federal Register*, Vol. 82, No. 241, 12/18/2017, 60028.



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www.gpo.gov/fdsys/pkg/FR-2017-12-18/pdf/2017-27195.pdf. *Federal Register*, Vol. 82, No. 241, 12/18/2017, 60032.

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 states of **Michigan**, and **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 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-2017-12-13/pdf/2017-26808.pdf>. *Federal Register*, Vol. 82, No. 238, 12/13/2017, 58634-58636.
- 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 states of **Illinois**, **Minnesota**, and **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 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-2017-12-13/pdf/2017-26812.pdf>. *Federal Register*, Vol. 82, No. 238, 12/13/2017, 58632-58634.

- 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 **Illinois**. 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 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-2017-12-29/pdf/2017-28174.pdf>. *Federal Register*, Vol. 82, No. 249, 12/29/2017, 61771-61773.
- 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 states of **Illinois**, **Indiana**, **Minnesota**, and **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 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-2017-12-29/pdf/2017-28183.pdf>. *Federal Register*, Vol. 82, No. 249, 12/29/2017, 61784-61787.

- 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 states of **Illinois**, **Indiana**, **Iowa**, **Michigan**, and **Minnesota**. 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 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-2018-01-02/pdf/2017-28187.pdf>. *Federal Register*, Vol. 83, No. 1, 01/02/2018, 138-141.

FEMA Issues Proposed Flood Hazard Determinations.

- FEMA has requested comments 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 **Illinois**. 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 qual-



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ified for participation in the National Flood Insurance Program (NFIP). Comments are due **03/13/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-12-13/pdf/2017-26806.pdf>. *Federal Register*, Vol. 82, No. 238, 12/13/2017, 58628-58629.

- FEMA has requested comments 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 **Michigan**. 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 **03/29/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-12-29/pdf/2017-28173.pdf>. *Federal Register*, Vol. 82, No. 249, 12/29/2017, 61782-61784.

FEMA Requests Comment on Information Collections.

- FEMA announced it seeks comment on the information collection titled Application for Participation in the National Flood Insurance Program (NFIP). FEMA also gave notice that it sent the collection to OMB for review. Comments are due **02/12/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-12-13/pdf/2017-26815.pdf>. *Federal Register*, Vol. 82, No. 238, 12/13/2017, 58631-58632.
- FEMA announced it seeks comment on the information collection titled Revision to National Flood Insurance Program Maps: Application

Forms and Instructions for LOMRs and CLOMRs. FEMA also gave notice that it sent the collection to OMB for review. Comments are due **02/27/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-12-29/pdf/2017-28188.pdf>. *Federal Register*, Vol. 82, No. 249, 12/29/2017, 61787-61788.

FinCEN Requests Nominations for Bank Secrecy Act Advisory Group.

The Financial Crimes Enforcement Network (FinCEN) is inviting the public to nominate financial institutions, trade groups, and non-federal regulators or law enforcement agencies for membership on the Bank Secrecy Act Advisory Group. New members will be selected for three-year membership terms. Nominations are due **01/26/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-12-27/pdf/2017-27846.pdf>. *Federal Register*, Vol. 82, No. 247, 12/27/2017, 61365.

OFAC Finalizes Additions to Magnitsky Act.

The Office of Foreign Assets Control (OFAC) added regulations to implement certain provisions of the Sergei Magnitsky Rule of Law Accountability Act of 2012. The regulations are effective **12/21/2017**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-12-21/pdf/2017-27499.pdf>. *Federal Register*, Vol. 82, No. 244, 12/21/2017, 60507-60517.

OFAC Makes Changes to Lists.

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.

Treasury Requests Comment on Information Collection.

The Department of the Treasury (Treasury) announced it seeks comment on the information collection titled Limitations on Net Operating Loss Carry-Forwards and Certain Built-In Losses and Credits Following an Ownership Change of a Consolidated Group. Treasury also gave notice that it sent the collection to OMB for review. Comments are due **02/12/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-12-13/pdf/2017-26877.pdf>. *Federal Register*, Vol. 82, No. 238, 12/13/2017, 58693-58694.

Treasury Issues Corrections.

Treasury issued corrections to final regulations that were published in the *Federal Register* on 10/19/2017. The final regulations are under section 597 of the Internal Revenue Code and amend existing regulations that address the federal income tax treatment of transactions in which federal financial assistance is provided to banks and domestic building and loan associations, and they clarify the federal income tax consequences of those transactions to banks, domestic building and loan associations, and related parties. The corrections are applicable **10/19/2017**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-12-27/pdf/2017-27862.pdf>. *Federal Register*, Vol. 82, No. 247, 12/27/2017, 61177-61178.

FHFA Requests Comment on Information Collection.

The Federal Housing Finance Agency (FHFA) announced it seeks comment on the information collection titled Federal Home Loan Bank Directors. FHFA also gave notice that it sent the collection to OMB for review. Comments are due **01/22/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-12-22/pdf/2017-27629.pdf>. *Federal Register*, Vol. 82, No. 245, 12/22/2017, 60724-60741.



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FCA Finalizes Amendments Regarding Assessment and Apportionment of Administrative Expenses.

The Farm Credit Administration (FCA) issued a final rule adopting technical amendments to eliminate language that is obsolete, confusing, and unnecessary to determine the annual assessment amount of Farm Credit System institutions. The amendments are effective **12/13/2017**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-12-13/pdf/2017-26835.pdf>. *Federal Register*, Vol. 82, No. 23, 12/13/2017, 58533.

FCIC Issues Correction to Catastrophic Risk Protection Endorsement, Area Risk Protection Insurance Regulations, and the Common Crop Insurance Regulations.

The Federal Crop Insurance Corporation (FCIC) issued corrections to catastrophic risk protection endorsement, area risk protection insurance regulations, and the common crop insurance regulations rule published in the *Federal Register* on **11/24/2017**. The corrections may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-12-14/pdf/C1-2017-25330.pdf>. *Federal Register*, Vol. 82, No. 239, 12/14/2017, 58707.

RBC Issues Guarantee Fee Rates for Guaranteed Loans for Fiscal Year 2018.

The Rural Business-Cooperative Service has issued a notice to announce the Guarantee Fee rates for Guaranteed Loans for fiscal year (FY) 2018, Maximum Portion of Guarantee Authority Available for FY 2018, Annual Renewal Fee for FY 2018 when applying for guaranteed loans under the Business and Industry (B&I) Guaranteed Loan Program. The Agency is establishing an initial guarantee fee rate of 3 percent and an annual renewal fee rate of one-half of 1 percent for the B&I Guaranteed Loan Program. The rates are

applicable **01/09/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-01-09/pdf/2018-00209.pdf>. *Federal Register*, Vol. 82, No. 6, 01/09/2018, 1013-1014.

RHS Requests Application for Loan Guarantees Under the Guaranteed Rural Rental Housing Program.

The Rural Housing Service (RHS) announced it is soliciting competitive lender submissions regarding proposed projects for the Section 538 Guaranteed Rural Rental Housing Program (GRRHP). The amount of program dollars available for the GRRHP will be determined by the Appropriations Act for each fiscal year that the notice is open. Applications will be accepted until **12/31/2021**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-12-21/pdf/2017-27527.pdf>. *Federal Register*, Vol. 82, No. 244, 12/21/2017, 60579-60584.

NCUA Requests Comment on Information Collections.

- The National Credit Union Administration (NCUA) announced it seeks comment on the information collection titled Requirements for Insurance—Interest Rate Risk Policy. NCUA also gave notice that it sent the collection to OMB for review. Comments are due **02/12/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-12-19/pdf/2017-27254.pdf>. *Federal Register*, Vol. 82, No. 242, 12/19/2017, 60219.
- NCUA announced it seeks comment on the information collection titled Golden Parachute and Indemnification Payments, 12 CFR part 750. NCUA also gave notice that it sent the collection to OMB for review. Comments are due **02/12/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-12-19/pdf/2017-27254.pdf>. *Federal Register*, Vol. 82, No. 242, 12/19/2017, 60219.

NCUA Issues Correction to Agency Reorganization Rule.

NCUA is correcting a final rule that appeared in the *Federal Register* on **12/20/2017**. The document implemented certain features of NCUA reorganization that the NCUA Board announced in 2017. The correction amends one reference within the document. The correction is effective **01/06/2017**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-12-27/pdf/2017-27962.pdf>. *Federal Register*, Vol. 82, No. 247, 12/27/2017, 61145.

VA Announces Specially Adapted Housing Program Assistance Availability.

The Department of Veterans Affairs (VA) announced that the aggregate amounts of assistance available under the Specially Adapted Housing grant program will increase by 4.88 percent for Fiscal Year 2018. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-12-18/pdf/2017-27162.pdf>. *Federal Register*, Vol. 82, No. 241, 12/18/2017, 60096-60097.

SSA Issues Rate for Assessment on Direct Payment of Fees.

The Social Security Administration (SSA) announced that the assessment percentage rate under the Social Security Act, is 6.3 percent for 2018. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2017-12-29/pdf/2017-28218.pdf>. *Federal Register*, Vol. 82, No. 249, 12/29/2017, 61808-61809.

DOL Issues Proposed Rule Regarding Association Health Plans.

The Department of Labor (DOL) proposed a regulation under Title I of the Employee Retirement Income Security Act (ERISA) that would broaden the criteria under ERISA section 3(5) for determining when employers may join together in an employer group or association that is treated



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as the “employer” sponsor of a single multiple-employer “employee welfare benefit plan” and “group health plan” as those terms are defined in Title I of ERISA. By treating the association itself as the employer sponsor of a single plan, the regulation would facilitate the adoption and administration of such arrangements. The regulation would modify the definition of “employer,” in part, by creating a more flexible “commonality of interest” test for the employer members than DOL had adopted in sub-regulatory interpretive rulings under ERISA section 3(5). At the same time, the regulation would continue to distinguish employment-based plans, the focal point of Title I of ERISA, from mere commercial insurance programs and administrative service arrangements marketed to employers. For purposes of Title I of ERISA, the proposal would also permit working owners of an incorporated or unincorporated trade or business, including partners in a partnership, to elect to act as employers for purposes of participating in an employer group or association spon-

soring a health plan and also to be treated as employees with respect to a trade, business or partnership for purposes of being covered by the employer group’s or association’s health plan. The goal of the rulemaking is to expand access to affordable health coverage, especially among small employers and self-employed individuals, by removing undue restrictions on the establishment and maintenance of association health plans under ERISA. The proposed regulation would affect such association health plans, health coverage under these health plans, groups and associations of employers sponsoring such plans, participants and beneficiaries with health coverage under these plans, health insurance issuers, and purchasers of health insurance not purchased through association health plans. Comments are due **03/06/2018**. The proposed rule may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-01-05/pdf/2017-28103.pdf>. *Federal Register*, Vol. 83, No. 4, 01/05/2018, 614-636.

DOL Requests Comment on Information Collection.

DOL announced it seeks comment on the information collection titled Investment Advice Participants and Beneficiaries. DOL also gave notice that it sent the collection to OMB for review. Comments are due **02/05/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-01-04/pdf/2017-28444.pdf>. *Federal Register*, Vol. 83, No. 3, 01/04/2018, 540-541. ■

Compliance Notes

▲ The federal government issued shut-down procedures last Saturday morning. Thus, the NFIP has lapsed and FEMA no longer possesses authority to issue policies under the program. In December FEMA issued guidance on how to handle a potential lapse. Additionally, during the 2010 lapse, the agencies issued guidance. Both of these resources have been included below and may be useful to consider. FEMA’s guidance: <https://nfip-iservice.com/Stakeholder/pdf/bulletin/w-17069.pdf> FDIC FIL: <https://www.fdic.gov/news/news/financial/2010/fil10023.pdf>

▲ CFPB, OCC, and FDIC announced that they do not intend to require data resubmission for HMDA data collected in 2018 and reported in 2019, unless data errors are material. The announcements also state that the Agencies will not assess penalties for errors in HMDA data collected in 2018 and reported in 2019. These announcements were made in recognition of the January 1, 2018 effective

date of amendments to Regulation C and the operational challenges to implement the revised regulation.

CFPB’s Announcement: http://files.consumerfinance.gov/f/documents/cfpb_statement-with-respect-to-hmda-implementation_122017.pdf

OCC’s Bulletin: <https://www.occ.gov/news-issuances/bulletins/2017/bulletin-2017-62.html>

FDIC’s Guidance: <https://www.fdic.gov/news/news/financial/2017/fil17063.pdf>

▲ FDIC has issued its Winter 2017 Supervisory Insights featuring “Credit Management Information Systems: A Forward-Looking Approach” which illustrates how banks can strengthen credit MIS by incorporating forward-looking risk indicators and establishing a sound governance framework. “Underwriting Trends and Other Highlights from the FDIC’s Credit and Consumer Products/Services Survey” shares recent Credit Survey results with a focus on lending activity—including

trends in underwriting, loan growth, and funding. The results suggest that credit risk and liquidity risk are increasing, as reflected in a higher frequency of surveys that report risks associated with loan growth, out-of-territory lending, and credit and funding concentrations. Supervisory Insights may be viewed at: <https://www.fdic.gov/regulations/examinations/supervisory/insights/index.html>

▲ CFPB released a statement to announce that it intends to engage in a rulemaking process so that CFPB may reconsider the Payday, Vehicle Title, and Certain High-Cost Installment Loans final rule. The statement may be viewed at: <https://www.consumerfinance.gov/about-us/newsroom/cfpb-statement-payday-rule/>

▲ FASB stated it plans to address concerns about community bank accounting complications that have arisen following passage of the Tax Cuts and Jobs Act. Following an ICBA comment



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letter, FASB said at a board meeting that it will soon issue an exposure draft on classifying deferred tax assets related to accumulated other comprehensive income. The draft will address amounts in AOCI that become trapped when a change in tax rate occurs.

▲ Treasury and IRS issued new withholding guidance in order to implement tax cuts and other provisions of the Tax Cuts and Jobs Act. Employers are encouraged to implement the new withholding tables expeditiously but should do so no later than 02/15/2018. Workers will see changes in their February paychecks once employers adopt the new guidance. The guidance may be viewed at: <https://www.irs.gov/pub/irs-pdf/n1036.pdf>

▲ FRB has added three new interactive tools to its website as part of a project to provide new and more technologically advanced ways of sharing data with the public. The tools allow users to interact with FRB data on household net worth, household debt, and state and local pensions in the US. The tools may be viewed at: <https://www.federalreserve.gov/data/dataviz.htm>

▲ SEC announced that Robert J. Jackson Jr. and Hester M. Peirce were sworn into office as SEC Commissioners by SEC Chairman Jay Clayton on 01/11/2018. The press release may be viewed at: <https://www.sec.gov/news/press-release/2018-5>

▲ CFPB will be conducting an email course titled Get a Handle on Debt Boot Camp to provide strategies for budgeting and paying down debt. Information about the course may be viewed at: <https://www.consumerfinance.gov/about-us/blog/sign-our-email-course-and-get-your-finances-shape/>

▲ FRB announced the designation of the chairs and deputy chairs of the 12 Federal Reserve Banks for 2018. Each Reserve Bank has a nine-member board of directors. The Board of Governors in Washington appoints three of these directors and each year designates one of its

appointees as chair and a second as deputy chair. The appointments may be viewed at: <https://www.federalreserve.gov/newsevents/pressreleases/other20180110b.htm>

▲ FFIEC has issued the 2018 CRA File Specifications which describes the formats used when sending automated CRA data to FRB for institutions that are a FDIC, FRB, or OCC reporter. The specifications may be viewed at: <https://www.ffiec.gov/cra/pdf/2018Specs.pdf>

▲ CFPB issued its 2017 Report on College Credit Card Agreements. Amongst its findings, the report notes that the number of agreements between credit card issuers and colleges, universities, and affiliated organizations sponsoring credit card programs decreased in 2016, as did the number of accounts open pursuant to such agreements and the total amount paid by issuers to counterparties pursuant to such agreements. The full report may be viewed at: https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/cfpb_college-credit-card-agreements-report_2017.pdf

▲ OCC announced that Norman Williams has been appointed Deputy Comptroller for Economic and Policy Analysis effective January 7, 2018. The announcement may be viewed at: <https://www.occ.gov/news-issuances/news-releases/2018/nr-occ-2018-1.html>

▲ FFIEC has updated its rate spread calculator page to reflect changes that when into effect on 01/01/2018. The page may be viewed at: <https://www.ffiec.gov/ratespread/newcalc.aspx>

▲ CFPB has launched a HMDA Check Digit Tool and Rate Spread Calculator. Users of the new Rate Spread Calculator need to be aware that the calculator is currently unable to calculate rate spreads for rate-set dates between 12/25/2017 and 12/31/2017. CFPB reports it is working to resolve this issue. The tools are available at: <https://www.consumerfinance.gov/data-research/hmda/for-filers>

▲ CFPB issued its report on the consumer credit card market for 2017. The report shows that total outstanding credit card debt has continued to grow since the 2015 report and is now at pre-recession levels among other findings. The full report may be viewed at: http://files.consumerfinance.gov/f/documents/cfpb_consumer-credit-card-market-report_2017.pdf

▲ OCC issued its Quarterly Report on Bank Trading and Derivatives Activities for Third Quarter 2017. In the third quarter of 2017 Insured U.S. commercial banks and savings associations reported trading revenue of \$6.4 billion in the third quarter of 2017, \$0.2 billion less (3.6 percent) than in the previous quarter and \$0.02 billion less (0.4 percent) than a year earlier. The full report may be viewed at: <https://www.occ.gov/topics/capital-markets/financial-markets/derivatives/dq317.pdf>

▲ FDIC issued a resource guide for collaborative relationships with Minority Depository Institutions (MDIs) which describes some of the ways that financial institutions, including community banks, can partner with MDIs to the benefit of all institutions involved, as well as the communities they serve. The guidance may be viewed at: <https://www.fdic.gov/news/news/financial/2017/fl17064.pdf>

▲ OCC issued its Mortgage Metrics Report for Third Quarter 2017 which showed 94.8 percent of mortgages included in the report were current and performing at the end of the quarter, the same as a year earlier. The report also showed that foreclosure activity has decreased from the previous quarter. The full report may be viewed at: <https://www.occ.gov/publications/publications-by-type/other-publications-reports/mortgage-metrics/mortgage-metrics-q3-2017.pdf>

▲ FHFA issued its Foreclosure Prevention Report for Third Quarter 2017. The report shows Fannie Mae and Freddie Mac completed 41,465 foreclosure prevention actions in the third quarter of 2017, bringing the total to 3,972,689 since the start of conservatorships in September



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2008. The full report may be viewed at: https://www.fhfa.gov/AboutUs/Reports/ReportDocuments/3Q2017_FPR.pdf

▲ HUD released a foreclosure prevention guide titled Homeowner's Guide to Success. The guide provides information to struggling consumers who may not be able to pay their mortgage. The guide may be viewed at: <https://www.hud.gov/sites/dfiles/Housing/documents/RevUp-dHmownSuc121518fnl.pdf>

▲ The latest edition of the Fed360 has been released featuring articles on improving the security of the US payment system, the Federal Reserve Payments Study, and savings bonds. The Fed360 may be viewed at: <https://www.frbserVICES.org/news/fed360/index.html>

▲ FRB, FDIC, OCC, and NCUA issued the Major Disaster Examiner Guidance which outlines the supervisory practices to be followed in assessing the

financial condition of insured depository institutions and branches and agencies of foreign banking organizations affected by a disaster that results in the President declaring an area a major disaster with individual assistance. The guidance may be viewed at: <https://www.fdic.gov/news/news/financial/2017/fil17062.html>

▲ DOJ has rescinded previous nationwide guidance specific to marijuana enforcement, including banking guidance. The memorandum and list of rescinded guidance may be viewed at: <https://www.justice.gov/opa/press-release/file/1022196/download>

▲ FTC has posted an article for consumers on the Equifax data breach and credit monitoring. The article reminds consumers that the deadline to sign up for Equifax's free credit monitoring is 01/31/2018. After 01/31/2018, Equifax will offer a free lock-for-life product that will allow you to lock and unlock

your credit file, at no cost, from a mobile phone or computer. The article may be viewed at: <https://www.consumer.ftc.gov/blog/2018/01/equifaxs-free-credit-monitoring-time-ticking> ■

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 Calendar

January 2018 – April 2018

Conferences

Agricultural Bankers Conference
April 11-12 | Wisconsin Dells

Women in Banking Conference
April 17 | Wisconsin Dells

FIPCO Events

Threat Intelligence Briefing
Feb. 15 | Stevens Point
(Visit www.fipco.com/events.)

Forums

Compliance Forums
Feb. 20 | Stevens Point
Feb. 21 | Wisconsin Dells
Feb. 22 | Pewaukee

Peer Group Meetings

2018 Retail Banking Peer
Group Meetings
April 10 | Monona
April 17 | Brookfield
April 18 | Appleton
April 18 | Eau Claire

Summits

ICBA 2018 Capital Summit
April 8-11 | Washington, DC
2018 ABA Government
Relations Summit
April 23-25 | Washington, DC

Schools

Commercial Lending School
Feb. 19-23 | Wisconsin Dells

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

Real Estate Compliance School
March 13-15 | Wisconsin Dells

Introduction to
Commercial Lending School
March 20-22 | Wisconsin Dells

Seminars/Workshops

Call Report Update
& Review Workshop
Feb. 15 | Wisconsin Dells
March 26 | Live Streaming

Agricultural Price Risk
Management Workshop
Feb. 21 | Wisconsin Dells

HR for Managers
March 1 | Madison

Advanced IRA Workshops
March 14 | Wausau/Rothschild
March 15 | Madison
(See WBA Featured Events.)

Security Officer Workshops
March 20 | Neenah
March 21 | Eau Claire
March 22 | Wisconsin Dells

Webinars (online training)

Loan Documentation Series
(Three-Part) | 8:30-10:30 a.m.
Jan. 9 | Feb. 13 | March 13

Employment Law for HR
Professionals
(Four-Part) | 8:30-10:30 a.m.
Jan. 17 | Feb. 14 | Mar. 14 | Apr. 18

Dealing with Subpoenas,
Summonses, Garnishments, Tax
Levies, Etc.
Jan. 31 | 1:30-3:30 p.m.

CRE Appraisals: Regulations
and the Review Process
Feb. 5 | 1:30-3:30 p.m.

GSB Loan Structure,
Documentation and Compliance
Training - a Comprehensive
Approach
Feb. 6 | 10-11:30 a.m.

Simplifying the Compliance
Function: Tools and Checklists to
Keep You on Track
Feb. 6 | 2-3:30 p.m.

Call Report for Banks - Recent
Changes, Highlights, and Pitfalls
Feb. 16 | 10 a.m.-Noon

Safe Deposit Liability
March 8 | 8:30-10:30 a.m.

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

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