



# Compliance Journal

## Special Focus

### Mortgage Servicing Rules on Successors in Interest

Beginning April 19, 2018, banks who service residential mortgage loans, including “small servicers” (“banks”), must be prepared to properly communicate with potential and confirmed successors in interest in accordance with the Consumer Financial Protection Bureau’s (CFPB) Final 2016 Mortgage Servicing Rule (“Rule”). In August 2016, CFPB issued the Rule, which amended certain mortgage servicing provisions under Regulation X and Regulation Z (altogether, these are referred to as the “**Mortgage Servicing Rules**”). Among those amendments were provisions related to communicating with potential and confirmed successors in interest. These amendments require a bank to implement policies and procedures to obtain proper documentation to confirm a person’s identity and ownership interest in the transferred property and communicate with such individuals. In addition to these policy/process changes, a bank’s personnel and technology will be affected, as well.

#### Who is a Successor in Interest?

Successors in interest under the Mortgage Servicing Rules are persons who have received an ownership interest in the mortgaged property, provided that ownership interest is transferred from a borrower via one of five types of transfers:

1. Transfer by devise, descent, or operation of law on the death of a joint tenant or tenant by the entirety;
2. Transfer to a relative resulting from the death of a borrower;
3. Transfer where the spouse or

children of the borrower become an owner of the property;

4. Transfer resulting from the decree of a dissolution of marriage, legal separation agreement, or from an incidental property settlement agreement by which the spouse of the borrower becomes an owner of the property; or
5. A transfer into an inter vivos trust in which the borrower is and remains a beneficiary and which does not relate to a transfer of rights of occupancy in the property.

For example, let’s assume Bob has a mortgage on his principal residence that is serviced by your Bank. When Bob dies, he leaves his home to his only child, Clara. Clara is a successor in interest.

It’s important to note that a successor in interest includes anyone who has received an ownership interest in the mortgaged property via one of the described transfer mechanisms and is not limited to individuals who have assumed the loan obligation. While some successors in interest may assume the loan obligation, some may not.

Furthermore, once a successor in interest is confirmed, the successor in interest is considered and must be treated as a borrower for purposes of the Mortgage Servicing Rules. In other words, the successor in interest “stands in the shoes” of the borrower and must now receive all required servicing-related notices and communications that would have otherwise been delivered to the transferor borrower, as required. For example, Clara must now

receive payoff statements, if requested, on the property transferred by Bob and is entitled to submit a loss mitigation application that the bank must review and evaluate in accordance with the Mortgage Servicing Rules.

During the rulemaking process, some commenters expressed concerns that sensitive information about the mortgage loan obligation will now be shared with successors in interest who have an ownership interest but do not assume the mortgage loan obligation. In response to this concern, banks are permitted, but not required, to withhold sensitive information about the borrower(s), such as location and contact information and specific personal financial information, in certain circumstances. If your bank is interested in withholding sensitive information, where available, be sure to familiarize yourself with the specificities in the Rule.

#### How will the Bank become aware of a potential Successor in Interest?

There are several ways in which a bank may become aware of a potential successor in interest. One example is that the bank becomes aware of the death of its customer. If the bank becomes aware of the death of a customer, the bank has no responsibility to search for a potential successor in interest. The Rule makes it clear that it is not incumbent on a bank to search for a potential successor in interest if it has not been made aware of the existence of that potential successor in interest. Alternatively, a bank may be notified by a potential successor in interest themselves. For example, a successor

in interest may call the bank to alert the bank of a transfer of ownership interest or, a person other than the borrower could submit a loss mitigation application. In both these instances, the bank should treat these individuals as potential successors in interest (even if the individual does not use the term “successor in interest”) and should adhere to its policy regarding communicating with such individuals, as discussed below. Additionally, and importantly, the bank should train its staff to (a) properly identify such communications as communications from potential successors in interest and (b) direct such individuals to key mortgage servicing staff.

## What is required of the Bank once there is a *potential* Successor in Interest?

Put simply, the bank must have policies and procedures in place to communicate with potential successors in interest. These policies and procedures must address the following:

- How to promptly respond to potential successors in interest;
- What information is required to identify a potential successor in interest’s identity and ownership interest and how such a request for documentation is made to potential successors in interest; and
- Upon receipt of such information, promptly make a determination and notify the person that the bank has:

- a) Confirmed the person’s status as a successor in interest;
- b) Determined that additional documents are required (and what those documents are) in order to determine if the individual is a successor in interest; OR
- c) Determined that the person is not a successor in interest

Banks should be aware that “prompt”/“promptly” is not defined in the Rule, as the CFPB recognized that a “prompt” communication would depend on the facts and circumstances at issue. A Bank should consider addressing how to “promptly” communicate by establishing reasonable timeframes in its policy, while retaining some flexibility for exceptional circumstances.

Furthermore, banks should carefully consider what information it will require to identify a potential successor in interest’s ownership interest in the mortgaged property and list such information in its policy. It is advised that a bank seek legal counsel to determine what documentation will properly identify a transfer of ownership (for all five types of transfers) in the jurisdictions in which the bank services mortgage loans. For example, in Wisconsin, where the mortgaged property is transferred at the borrower’s death to an individual who has survivorship rights in the property (e.g. the property automatically transferred to them through a Trust), a bank should request a death certificate and a copy of the recorded “Termination of Decedent’s Interest” form. This documentation will

likely vary outside the state of Wisconsin.

## What responsibilities does the Bank have once a Successor In Interest is confirmed?

Once a successor in interest is verified, a bank has the option of sending a Written Disclosure and Acknowledgment Form (“**Acknowledgment**”) (see 1024.32(c) for form requirements). This Acknowledgment indicates, among other things, that the individual has been confirmed as a successor in interest and requires that the successor in interest return a signed Acknowledgment before receiving certain notices and communications about the mortgage loan. This puts the onus on the confirmed successor in interest to notify the bank that he/she would like to receive notices and communications about the mortgage loan; the bank will not be required to provide the successor in interest with any notices and communications about the mortgage loan until a signed Acknowledgment is received. It’s important to note that this optional Acknowledgment will only apply to successors in interest who have not assumed the mortgage loan. If a successor in interest has assumed the mortgage loan obligation, those individuals must automatically receive notices and communications about the mortgage loan; in other words, the bank cannot require a successor in interest who is obligated on the loan to sign an Acknowledgment before receiving notices and communications about the mortgage loan. If a bank does not require an Acknowledgment, the bank should begin sending notices and communications, as appropriate, to the confirmed

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successor in interest as soon as successor in interest status is confirmed.

A bank should consider whether or not requiring an Acknowledgment is practical. For example, are systems set up to differentiate confirmed successors in interest – those who have signed an Acknowledgment, those who have not signed an Acknowledgment, and those who don't receive an Acknowledgment because they are obligated on the mortgage loan? Either way, whether or not a bank requires an Acknowledgment should be in the policy.

Finally, once a successor in interest is confirmed and the bank has received a signed Acknowledgment, if required, the successor in interest must be treated as a borrower and receive all notices and communications, as required, that would have been provided to the transferor borrower under the Mortgage Servicing Rules. Of course, some sensitive personal information related to the loan may be omitted, as described above.

## Are there any Small Servicers Exemptions from the Successor in Interest Requirements?

Generally speaking, there is no exemption for small servicers as it relates to the successor in interest provisions. Small servicers should be prepared to comply with the successor in interest requirements, as described above. Small servicers should note, however, that they retain the same exemptions with respect to confirmed successors in interest as they had when servicing the transferor borrower/customer. This is because confirmed successors in interest “stand in the shoes” of the borrower/customer. For example, small servicers are exempt from providing periodic statements to borrowers for covered mortgage loans. A small servicer retains this exemption from providing a successor in interest with a periodic statement. In contrast, small servicers must comply with requirements to provide a payoff statement when requested by a successor in interest, as there is no existing exemption for small servicers.

For additional information regarding these and other requirements under the Mortgage Servicing Rules, visit the CFPB's Mortgage Servicing Implementation Page at <https://www.consumerfinance.gov/policy-compliance/guidance/implementation-guidance/mortserv/>

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## Judicial Spotlight

# The Horizon Bank v. Musikantow Case: Unexpected Contract Interpretation Means Banks Need to Revisit Their Guaranty and Stipulation Language

On March 6, 2018, the Wisconsin Supreme Court issued its decision in the case of *Horizon Bank, NA v. Marshalls Point Retreat LLC*. The facts in the case, as well as the legal arguments raised, are somewhat complex, and the Court's decision raises some troubling issues for lenders in the state.

### The Case

This case involved a typical lending situation. The bank made a loan to a

borrower, secured by an upscale house in Sister Bay, Wisconsin. The owner of the borrower provided an unlimited guaranty of the debt. After multiple unsuccessful attempts to sell the property, the borrower defaulted. The bank brought one action under which it sought *both* to foreclose upon the property and to obtain a judgment on the guaranty. Importantly, before the sheriff's sale of the property, the parties (including the guarantor) entered into a negotiated stipulation in which they agreed in writing to resolve all issues in

one proceeding and agreed to the terms of an “order of judgment.”

The order for judgment stated that the borrower owed the bank approximately \$4 million, and granted the bank a money judgment in the same amount against the guarantor. The key language of the stipulation is the following:

“[t]he amount paid to [the bank] from the proceeds of [the] sale of the Premises, remaining after



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deduction by [the bank] of the amount of interest, fees, costs, expenses, disbursement and other charges paid or incurred by [the bank] not included in the monetary judgment against [the guarantor] . . . shall be credited by [the bank] on said monetary judgment.

Pursuant to the order, the property was sold at a sheriff's sale. The bank was the only bidder, with a credit bid of \$2,250,000. The bank then moved to have the trial court confirm the sale pursuant to §846.165 of the Wisconsin Statutes (the foreclosure statutes). The bank asserted that its credit bid represented the property's "fair value", and submitted two valuation affidavits in support. The guarantor voluntarily chose not to provide evidence that the fair value of the house was higher. As dictated by the stipulated judgment, the bank moved the trial court to reduce the amount of the money judgment against the guarantor by the amount of bank's winning credit bid. The trial court determined "fair value" for the property to be the \$2,250,000 sale value, and confirmed the sale. The sale of the property for \$2,250,000 by sheriff's sale to the bank is not being challenged in this case.

At issue is the amount to be credited against the money judgment under the guaranty. The guarantor, apparently not liking the amount of the bank's winning credit bid and, consequently, not liking the deal he struck in the stipulation, asked the trial court to not rule on the credit to be applied to the amount he owed on the guaranty. The trial court granted the guarantor's motion and left open the question of the amount of the credit against the guaranty. The bank argued that this should not have happened because the stipulation both (i) governs the question of how much to credit against the judgment under the guaranty, and (ii) requires the trial court to apply the credit bid amount to reduce the obligation due under the guaranty. The Court of Appeals agreed with the bank. The case was then appealed to the Wisconsin Supreme Court, and the

WBA filed an amicus brief in support of the bank.

At the Supreme Court, the guarantor raised various arguments under §846.165, along with constitutional due process claims. The foundational issue that underpins this case is this: the bank received the property for a credit bid of \$2,250,000, and the bank believed the stipulation requires the guarantor's obligation for the debt to be reduced by the \$2,250,000. The guarantor believed that the bank took possession of property worth much more than \$2,250,000, and that his obligation under the guaranty should be reduced by the (higher) actual value of the property. The bank, the WBA and the Court of Appeals all agree that this is really a contract interpretation case, and that under the stipulation signed by the guarantor, the trial court should have applied the sale proceeds to the guarantor's obligation.

## The Decision

In a long decision, the Wisconsin Supreme Court decided for the guarantor. The Court agreed that this is really a contract case, but interpreted the contract (the stipulation) very differently than the bank, the WBA and the Court of Appeals. The Court essentially re-wrote the stipulation into a different contract. The stipulation language is "[t]he amount paid to [the bank] from the proceeds of [the] sale of the Premises . . . shall be credited by [the bank] on said monetary judgment." The Court decided that this meant the "fair value" established in the foreclosure hearing was the *minimum amount* to be credited to the guaranty, even though the contract said nothing about "minimum amount." The Court sent the case back to the trial court to determine the value of the house for purpose of determining the amount to be credited to the guarantor's obligation. This means that Horizon Bank will have to litigate the value of the property twice, and potentially have one value for purposes of the mortgage debt and a totally different value for the guaranty. The Court stated that decoupling the confirmation of sale from

the guaranty credit determination was within the trial court's discretion. This creates uncertainty and makes it difficult for lenders to price loans, and raises concerns about how courts will interpret guarantees and stipulations already in place. The WBA is disappointed with the decision and believes that the stipulation, under standard contract principles, is clear.

## What the Decision Means for Wisconsin Lenders

Banks are not looking for "good deals" when they credit bid. Banks are not real estate companies. They are not looking to take back property. However, sometimes they end up having to bid at the sheriff's sale, as happened here, because no one else bid on the house. Banks will have to take the results of this case into account when they end up in a credit bid situation that also involves a guarantor.

Primarily, banks will have to think about the language of their stipulations and guarantees, and use language that is crystal clear about the amount that will be credited to the guarantor's obligation as a result of the sale of the borrower's collateral. The guaranty used in the *Horizon* case was a LaserPro form, which did not include any language specifically addressing the amount to be credited to the guarantor's obligation in the event of a credit bid. The existing WBA guaranty used by FIPCO already has language stating that "[i]f, in any action to realize upon any collateral securing the Obligations, the collateral that is the subject of such action is sold, the amount of the Obligations which is secured by such collateral shall be reduced by the price for which such collateral is sold, whether by credit bid of Lender or otherwise, even if the collateral sold is worth more than the sale price." We expect that a court, interpreting the WBA guaranty language as it is currently written, would apply the amount of the credit bid for collateral to the guaranty, and solely that amount. However, FIPCO will be reinforcing the WBA guarantees in light of the *Horizon* case.



Under current guarantees and stipulations, banks need to be aware that a guarantor may argue the value of the collateral for purposes of a foreclosure is different than the value of the collateral for purposes of reducing the guarantor's obligation under the guaranty. The result is that banks may have to litigate "fair value" twice in situations where they have a guarantor. When laying out the foreclosure/collection strategy, banks will need to decide with their counsel whether to join foreclosure claims with guaranty claims, or proceed separately, and if separately, which action to undertake first.

*WBA wishes to thank Atty. Kirsten E. Spira, Boardman & Clark, llp for providing this article. ■*

## Bankruptcy Trustee May Clawback Funds; Safe Harbor for Financial Institutions Preserved

On February 27, 2018 the United States Supreme Court reached a decision in *Merit Management Group, LP v. FTI Consulting, Inc.*, 2018 WL 1054879 (*Merit*). The case involves a bankruptcy trustee (trustee) attempting to recover money received as part of a transaction between financial institutions (also known as clawback provisions). Trustees have the ability under the Bankruptcy Code to avoid certain transfers based on the value of the property during the debtor's insolvency. A safe harbor to this avoidance prevents such transfers from being undone when made for the benefit of a financial institution. Both the avoidance and the safe harbor was interpreted by the Court in this case, making the decision important for financial institutions looking to protect certain transfers during bankruptcy proceedings.

In *Merit*, a financial institution made a loan to a business to buyout its competitor. The transfer of funds for the buyout was made between the lender and another financial institution acting as an escrow agent. The business seeking to buyout its competitor subsequently failed, and filed for bankruptcy. A bankruptcy trustee sued to clawback \$16.5 million of the transferred funds from the competitor's shareholders through the avoidance provision

of the Bankruptcy Code discussed above. The shareholder argued that the safe harbor protected the transfer under the theory it was made for the benefit of a financial institution.

The District Court ruled that the safe harbor applied because the financial institutions transferred or received funds in connection with a "settlement payment" or "securities contract." The Court of Appeals reversed on the grounds that the safe harbor did not protect transfers in which financial institutions "served as mere conduits." The United States Supreme Court affirmed the Court of Appeals decision, ruling that the transfer falls outside of the safe harbor.

The result of the ruling makes it easier for bankruptcy trustees to recover money received through certain transactions. However, in *Merit* the safe harbor for the benefit of a financial institution was asserted by shareholders not the financial institutions. The Court stressed that, while in this situation it did not apply, the safe harbor still applies to protect a trustee's avoidance that targets a financial institution.

Thus, while the Court limited the application of the safe harbor, it still remains intact for use by financial institutions. For example, if the trustee were to seek recovery from the financial institutions affecting the transfer, the financial institution may have found more success in asserting the safe harbor. ■



# Regulatory Spotlight

## Agencies Finalize Appraisal Threshold Increase to CRE Transactions.

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) issued a final rule to amend the agencies' regulations requiring appraisals of real estate for certain transactions. The final rule increases the threshold level at or below which appraisals are not required for commercial real estate transactions from \$250,000 to \$500,000. The final rule defines commercial real estate transaction as a real estate-related financial transaction that is not secured by a single 1-to-4 family residential property. It excludes all transactions secured by a single 1-to-4 family residential property, and thus construction loans secured by a single 1-to-4 family residential property are excluded. For commercial real estate transactions exempted from the appraisal requirement as a result of the revised threshold, regulated institutions must obtain an evaluation of the real property collateral that is consistent with safe and sound banking practices. The final rule is effect upon publication in the *Federal Register*. The notice may be viewed at: <https://www.fdic.gov/news/board/2018/2018-03-20-notice-sum-c-fr.pdf>.

## Agencies Propose Margin and Capital Requirements for Covered Swap Entities.

The Board of Governors of the Federal Reserve System (FRB), the Federal Deposit Insurance Corporation (FDIC), the Office of the Comptroller of the Currency (OCC), the Department of the Treasury (Treasury), the Federal Housing Finance Agency (FHFA), and the Farm Credit Administration (FCA) proposed amendments to the minimum margin requirements for registered swap dealers, major swap participants, security-based swap dealers, and major security-based swap participants for which one of the Agencies is the prudential regulator (Swap Margin Rule). The Agencies are proposing these amend-

ments in light of the rules recently adopted by FRB, OCC, and FDIC that impose restrictions on certain non-cleared swaps and non-cleared security-based swaps and other financial contracts (Covered QFCs) (the QFC Rules). The QFC Rules amend the definition of "Qualifying Master Netting Agreement" in the Federal banking agencies' regulatory capital and liquidity rules to ensure that a Covered QFC is not prevented from being part of a Qualifying Master Netting Agreement solely because the Covered QFC conforms to the new requirements in the QFC Rules. Comments are due **04/23/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-02-21/pdf/2018-02560.pdf>. *Federal Register*, Vol. 83, No. 35, 02/21/2018, 7413-7423.

## 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 also gave notice that they sent the collection to OMB for review. Comments are due **03/26/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-02-23/pdf/2018-03736.pdf>. *Federal Register*, Vol. 83, No. 37, 02/23/2018, 8149-8153.

## CFPB Finalizes Amendments to Regulation E and Regulation Z.

The Bureau of Consumer Financial Protection (CFPB) is amending Regulation E, which implements the Electronic Fund Transfer Act, and Regulation Z, which implements the Truth in Lending Act, and the official interpretations to those regulations. The rulemaking relates to a final rule published in the *Federal Register* on **11/22/2016**, as amended on **04/25/2017**, regarding prepaid accounts

under Regulations E and Z. CFPB is finalizing modifications to several aspects of that rule, including with respect to error resolution and limitations on liability for prepaid accounts where the financial institution has not successfully completed its consumer identification and verification process; application of the rule's credit-related provisions to digital wallets that are capable of storing funds; certain other clarifications and minor adjustments; technical corrections; and an extension of the overall effective date to **04/01/2019**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-02-13/pdf/2018-01305.pdf>. *Federal Register*, Vol. 83, No. 30, 02/13/2018, 6364-6449.

## CFPB Requests Comment on Enforcement Processes

CFPB announced it is seeking comment on its processes related to the enforcement of Federal consumer financial law to assist in assessing the efficiency and effectiveness of its enforcement processes. Comments are due **04/13/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-02-12/pdf/2018-02710.pdf>. *Federal Register*, Vol. 83, No. 29, 02/12/2018, 5999-6000.

## CFPB Requests Comment on Supervision Program.

CFPB announced it is seeking comment on its Supervision Program to assist in assessing the efficiency and effectiveness of the program. Comments are due **05/21/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-02-20/pdf/2018-03358.pdf>. *Federal Register*, Vol. 83, No. 34, 02/20/2018, 7166-7168.

## CFPB Requests Comment on External Engagements.

CFPB announced it is seeking comment on its public and non-public external engagements, including but not limited to field hearings, town halls, roundtables, and meetings of the Advisory Board and Councils. Comments are due **05/29/2018**. The



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notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-02-26/pdf/2018-03788.pdf>. *Federal Register*, Vol. 83, No. 38, 02/26/2018, 8247-8249.

## CFPB Requests Comment on Public Reporting Practices of Consumer Complaint Information.

CFPB announced it is seeking comment on its public reporting practices of consumer complaint information to assist in assessing potential changes. Comments are due **06/04/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-03-06/pdf/2018-04544.pdf>. *Federal Register*, Vol. 83, No. 44, 03/06/2018, 9499-9501.

## CFPB Requests Comment on Rulemaking Processes.

CFPB announced it is seeking comment on its rulemaking processes to assist in assessing potential changes. Comments are due **06/07/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-03-09/pdf/2018-04824.pdf>. *Federal Register*, Vol. 83, No. 47, 03/09/2018, 10437-10440.

## CFPB Requests Comment on Information Collection.

- CFPB announced it seeks comment on the information collection titled Financial Coaching Program for Veterans and Low-income Consumers. FRB also gave notice that it sent the collection to OMB for review. Comments are due **03/28/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-02-26/pdf/2018-03791.pdf>. *Federal Register*, Vol. 83, No. 38, 02/26/2018, 8246-8247.
- CFPB announced it seeks comment on the information collection titled Consumer and College Credit Card Agreements. FRB also gave notice that it sent the collection to

OMB for review. Comments are due **04/30/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-02-28/pdf/2018-04081.pdf>. *Federal Register*, Vol. 83, No. 40, 02/28/2018, 8656-8657.

## FFIEC Adopts Revised ASC Policy Statements.

The Federal Financial Institutions Examination Council (FFIEC) Appraisal Subcommittee (ASC) is adopting revised ASC Policy Statements. The ASC Policy Statements provide guidance to ensure State appraiser certifying and licensing agencies comply with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended, and the rules promulgated thereunder. The revised policy statements are applicable **03/05/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-03-05/pdf/2018-04410.pdf>. *Federal Register*, Vol. 83, No. 43, 03/05/2018, 9144-9162.

## FFIEC Receives Request for Temporary Waiver.

FFIEC's Appraisal Subcommittee has received from TriStar Bank of Dickson, Tennessee, a request for a temporary waiver of appraiser certification or licensing requirements pursuant to the Financial Institutions Reform, Recovery, and Enforcement Act, and the rules promulgated thereunder. FFIEC is requesting comment on the received request. Comments are due **04/09/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-03-09/pdf/2018-04756.pdf>. *Federal Register*, Vol. 83, No. 47, 03/09/2018, 10480-10481.

## FRB Finalizes Amendments to Rules Regarding Delegation of Authority.

The Board of Governors of the Federal Reserve System (FRB) finalized amendments to its rules regarding delegation of authority to delegate to the Secretary of the Board the authority to review and

determine an appeal of denial of access to FRB records under the Freedom of Information Act, the Privacy Act, and FRB's rules regarding such access. The rule is effective **03/06/2018**, the notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-03-06/pdf/2018-04385.pdf>. *Federal Register*, Vol. 83, No. 44, 03/06/2018, 9419.

## FRB Proposes Amendments to Internal Appeals Process.

FRB proposed amendments to its guidelines on an internal appeals process for institutions wishing to appeal an adverse material supervisory determination and to its policy regarding the Ombudsman for the FRB. In particular, the proposed revisions are designed to improve and expedite the appeals process, particularly for institutions that are in troubled condition. Comments are due **04/30/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-02-27/pdf/2018-03907.pdf>. *Federal Register*, Vol. 83, No. 39, 02/27/2018, 8391-8396.

## FRB Requests Comment on Information Collections.

- FRB announced it seeks comment on the information collection titled Senior Loan Officer Opinion Survey on Bank Lending Practices. FRB also gave notice that it sent the collection to OMB for review. Comments are due **04/23/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-02-21/pdf/2018-03532.pdf>. *Federal Register*, Vol. 83, No. 35, 02/21/2018, 7477-7478.
- FRB announced it seeks comment on the information collection titled Quarterly Report of Interest Rates on Selected Direct Consumer Installment Loans and the Quarterly Report of Credit Card Plans. FRB also gave notice that it sent the collection to OMB for review. Comments are due **04/23/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-02-21/pdf/2018->



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[03543.pdf](#). *Federal Register*, Vol. 83, No. 35, 02/21/2018, 7475-7476.

- FRB announced it seeks comment on the information collection titled Reports of Deposits. FRB also gave notice that it sent the collection to OMB for review. Comments are due **04/23/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-02-21/pdf/2018-03544.pdf>. *Federal Register*, Vol. 83, No. 35, 02/21/2018, 7474-7475.
- FRB announced it seeks comment on the information collection titled Quarterly Report of Assets and Liabilities of Large Foreign Offices of U.S. Banks. FRB also gave notice that it sent the collection to OMB for review. Comments are due **04/23/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-02-22/pdf/2018-03549.pdf>. *Federal Register*, Vol. 83, No. 36, 02/22/2018, 7725-7726.

## FDIC Finalizes Amendments to International Banking Regulations.

The Federal Deposit Insurance Corporation (FDIC) finalized amendments to its international banking regulations consistent with section 939A of the Dodd-Frank Wall Street Reform Act and the FDIC's authority under section 5(c) of the Federal Deposit Insurance Act (FDI Act). These revisions and amendments include: Replacing references to credit ratings in the regulation's definition of investment grade with an alternative standard of credit-worthiness; and making changes to the eligibility criteria for the types of assets that insured branches of foreign banks may pledge for the benefit of the FDIC. The final rule is effective **04/01/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-03-05/pdf/2018-04255.pdf>. *Federal Register*, Vol. 83, No. 43, 03/05/2018, 9135-9144.

## FDIC Requests Comment on Information Collections.

- The Federal Deposit Insurance Corporation (FDIC) announced it seeks comment on the information collection titled Conservator or Receiver of Financial Assets Transferred by an Insured Depository Institution in Connection With a Securitization or Participation After September 30, 2010. FDIC also gave notice that it sent the collection to OMB for review. Comments are due **03/19/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-02-16/pdf/2018-03198.pdf>. *Federal Register*, Vol. 83, No. 33, 02/16/2018, 7036-7038.
- FDIC announced it seeks comment on the information collection titled Recordkeeping, Disclosure and Reporting Requirements in Connection with Regulation Z. FDIC also gave notice that it sent the collection to OMB for review. Comments are due **03/22/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-02-20/pdf/2018-03426.pdf>. *Federal Register*, Vol. 83, No. 34, 02/20/2018, 7179-7183.
- FDIC announced it seeks comment on the information collections titled Interagency Biographical and Financial Report; Interagency Bank Merger Act Application; Interagency Notice of Change in Control; and Interagency Notice of Change in Director or Senior Executive Officer. FDIC also gave notice that it sent the collection to OMB for review. Comments are due **04/30/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-03-01/pdf/2018-04136.pdf>. *Federal Register*, Vol. 83, No. 41, 03/01/2018, 8867-8870.

## FDIC Issues Terminations of Receiverships.

- FDIC as Receiver for former depository institutions, intends to terminate its receivership for the institutions

listed in the notices. The liquidation of the assets for each receivership 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. Based upon the foregoing, the Receiver has determined that the continued existence of the receiverships will serve no useful purpose. Consequently, notice is given that the receiverships shall be terminated, to be effective no sooner than thirty days after the date of this notice. If any person wishes to comment concerning the termination of any of the receiverships, such comment must be made in writing, identify the receivership to which the comment pertains, and be sent within thirty days of the date of this notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 34.6, 1601 Bryan Street, Dallas, TX 75201. No comments concerning the termination of the above-mentioned receiverships will be considered which are not sent within this time frame. The notices may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-02-21/pdf/2018-03492.pdf>. *Federal Register*, Vol. 83, No. 35, 02/21/2018, 7473. <https://www.gpo.gov/fdsys/pkg/FR-2018-03-08/pdf/2018-04634.pdf>. *Federal Register*, Vol. 83, No. 46, 03/08/2018, 9854.

- FDIC as Receiver was charged with the duty of winding up the affairs of former depository institutions and liquidating all related assets. The Receiver has fulfilled its obligations and 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, assign-



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ments, and deeds. Effective on the termination dates listed in the final column of the chart in the notice, the Receiverships have been terminated, the Receiver has been discharged, and the Receiverships have ceased to exist as legal entities. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-03-08/pdf/2018-04634.pdf>. *Federal Register*, Vol. 83, No. 46, 03/08/2018, 9854.

## OCC Finalizes Amendments to Stress Testing Regulation.

The Office of the Comptroller of the Currency (OCC) finalized a rule making several revisions to stress testing regulation. The final rule changes the range of possible “as-of” dates used in the global market shock component to conform to changes already made by FRB to its stress testing regulations. The final rule also changes the transition process for covered institutions with \$50 billion or more in assets. Under the final rule, a covered institution that becomes an over \$50 billion covered institution, as that term is defined in the OCC stress testing regulation, before September 30 will become subject to the requirements applicable to an over \$50 billion covered institution beginning on January 1 of the second calendar year after the covered institution becomes an over \$50 billion covered institution, and a covered institution that becomes an over \$50 billion covered institution after September 30 will become subject to the requirements applicable to an over \$50 billion covered institution beginning on January 1 of the third calendar year after the covered institution becomes an over \$50 billion covered institution. The final rule also makes certain technical changes to clarify the requirements of OCC’s stress testing regulation. The final rule is effective **03/26/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-02-23/pdf/2018-03687.pdf>. *Federal Register*, Vol. 83, No. 37, 02/23/2018, 7951-7954.

## OCC Requests Comment on Information Collections.

- OCC announced it seeks comment on the information collection titled Investment Securities. OCC also gave notice that it sent the collection to OMB for review. Comments are due **03/19/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-02-16/pdf/2018-03253.pdf>. *Federal Register*, Vol. 83, No. 33, 02/16/2018, 7104-7106.
- OCC announced it seeks comment on the information collection titled Bank Appeals Follow-Up Questionnaire. OCC also gave notice that it sent the collection to OMB for review. Comments are due **04/27/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-02-26/pdf/2018-03825.pdf>. *Federal Register*, Vol. 83, No. 38, 02/26/2018, 8316.

## HUD Requests Comment on Information Collections.

- The Department of Housing and Urban Development (HUD) announced it seeks comment on the information collection titled Self-Help Homeownership Opportunity Program (SHOP). HUD also gave notice that it sent the collection to OMB for review. Comments are due **02/28/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-02-28/pdf/2018-04049.pdf>. *Federal Register*, Vol. 83, No. 40, 02/28/2018, 8696-8697.
- HUD announced it seeks comment on the information collection titled Single Family Mortgage Insurance for Hawaiian Homelands. HUD also gave notice that it sent the collection to OMB for review. Comments are due **04/30/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-02-28/pdf/2018-04047.pdf>. *Federal Register*, Vol. 83, No. 40, 02/28/2018, 8694-8695.

## HUD Issues Correction to Request for Comment on Information Collection.

HUD announced it seeks comment on the information collection titled Self-Help Homeownership Opportunity Program (SHOP) on **02/28/2018** in *Federal Register* which erroneously lists **02/28/2018** as the comment due date. HUD has announced the corrected comment due date is **05/07/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-03-06/pdf/2018-04530.pdf>. *Federal Register*, Vol. 83, No. 44, 03/06/2018, 9532-9533.

## HUD Announces Vacant Loan Sales.

HUD has announced its intention to competitively offer multiple residential reverse mortgage pools consisting of approximately 650 reverse mortgage notes secured by properties with a loan balance of approximately \$136 million. The sale will consist of due and payable Secretary-held reverse mortgage loans. The mortgage loans consist of first liens secured by single family, vacant residential properties, where all borrowers are deceased, and no borrower is survived by a non-borrowing spouse. Bids for the sale will be accepted on the Bid Date of 04/11/2018. HUD anticipates that award(s) will be made on or about 04/13/2018. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-03-06/pdf/2018-04528.pdf>. *Federal Register*, Vol. 83, No. 44, 03/06/2018, 9533-9535.

## FEMA Issues Final Flood Hazard Determinations.

The Federal Emergency Management Agency (FEMA) has issued a final notice which identifies communities in the states of **Illinois**, and **Ohio**, where flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate



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Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final. The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in FEMA's National Flood Insurance Program (NFIP). The final notice is effective 06/06/2018. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-02-22/pdf/2018-03575.pdf>. *Federal Register*, Vol. 83, No. 36, 02/22/2018, 7760-7761.

## FEMA Issues Final Notices of Changes in Flood Hazard Determinations.

- 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**, and **Indiana**. 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-2018-02-14/pdf/2018-03074.pdf>. *Federal Register*, Vol. 83, No. 31, 02/14/2018, 6609-6611.
- 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 **Iowa**. 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-2018-02-22/pdf/2018-03573.pdf>. *Federal Register*, Vol. 83, No. 36, 02/22/2018, 7757-7760.

- 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**, and **Indiana**. 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-2018-03-09/pdf/2018-04780.pdf>. *Federal Register*, Vol. 83, No. 47, 03/09/2018, 10508-10510.

## 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 states of **Indiana**, and **Ohio**. 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 **06/07/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-03-09/pdf/2018-04781.pdf>. *Federal Register*, Vol. 83, No. 47, 03/09/2018, 10507- 10508.

- 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 **Michigan**, and **Ohio**. 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 **06/07/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-03-09/pdf/2018-04782.pdf>. *Federal Register*, Vol. 83, No. 47, 03/09/2018, 10504-10507.

## FEMA Requests Comment on Information Collection.

FEMA announced it seeks comment on the information collection titled Revisions to National Flood Insurance Program Maps: Application Forms and Instructions for (C)LOMAs and (C)LOMR-Fs. FEMA also gave notice that it sent the collection



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to OMB for review. Comments are due **03/14/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-02-12/pdf/2018-02704.pdf>. *Federal Register*, Vol. 83, No. 29, 02/12/2018, 6046-6047.

## **FEMA Withdraws Proposed Amendments to Floodplain Management and Protection of Wetlands.**

FEMA is withdrawing a notice of proposed rulemaking that proposed changes to FEMA's Floodplain Management and Protection of Wetlands regulations. The proposed rule was originally published in *Federal Register* on **08/22/2016**. The withdrawal is effective **03/06/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-03-06/pdf/2018-04495.pdf>. *Federal Register*, Vol. 83, No. 44, 03/06/2018, 9473.

## **Treasury Proposes Elimination of Unnecessary Tax Regulations.**

The Department of the Treasury (Treasury) proposes to streamline Internal Revenue Service (IRS) regulations by removing 298 regulations that are no longer necessary because they do not have any current or future applicability under the Internal Revenue Code and by amending 79 regulations to reflect the proposed removal of the 298 regulations. The proposed removal and amendment of these regulations may affect various categories of taxpayers. Comments are due **05/14/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-02-15/pdf/2018-02918.pdf>. *Federal Register*, Vol. 83, No. 32, 02/15/2018, 6806-6821.

## **Treasury Requests Comment on Information Collection.**

Treasury announced it seeks comment on the information collection titled Terrorism Risk Insurance Program. Treasury also gave notice that it sent the collection to OMB for review. Comments are due **03/16/2018**. The notice may be viewed

at: <https://www.gpo.gov/fdsys/pkg/FR-2018-02-14/pdf/2018-03086.pdf>. *Federal Register*, Vol. 83, No. 31, 02/14/2018, 6731-6732.

## **FHFA Issues 2018-2020 Enterprise Housing Goals.**

The Federal Housing Finance Agency (FHFA) issued a final rule on the housing goals for Fannie Mae and Freddie Mac (the Enterprises) for 2018 through 2020. The housing goals include separate categories for single-family and multifamily mortgages on housing that is affordable to low-income and very low-income families, among other categories. The final rule establishes the benchmark levels for each of the housing goals and subgoals for 2018 through 2020. In addition, the final rule makes a number of clarifying and conforming changes, including revisions to the requirements for the housing plan that an Enterprise may be required to submit to FHFA in response to a failure to achieve one or more of the housing goals or subgoals. The final rule is effective **03/14/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-02-12/pdf/2018-02649.pdf>. *Federal Register*, Vol. 83, No. 29, 02/12/2018, 5878-5899.

## **FHFA Revises System of Records.**

FHFA is making a revision to an existing system of records entitled Suspended Counterparty System. The Suspended Counterparty System contains information that FHFA uses to implement the Suspended Counterparty Program by which Fannie Mae, Freddie Mac, and the eleven Federal Home Loan Banks are required to submit reports to FHFA when they become aware that an individual or institutions and any affiliates thereof, who are currently or have been engaged in a covered transaction with a regulated entity within three years of when the regulated entity becomes aware of covered misconduct, have engaged in fraud or other financial misconduct. Comments are due **04/05/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-03-08/pdf/2018-04693.pdf>. *Federal Register*, Vol. 83, No. 46, 03/08/2018, 9825-9828.

[www.gpo.gov/fdsys/pkg/FR-2018-03-06/pdf/2018-04527.pdf](https://www.gpo.gov/fdsys/pkg/FR-2018-03-06/pdf/2018-04527.pdf). *Federal Register*, Vol. 83, No. 44, 03/06/2018, 9518-9520.

## **SBA Finalizes Inflation Adjustments to Civil Monetary Penalties.**

The Small Business Administration (SBA) issued a final rule that implements inflation adjustments to civil money penalties that are within SBA's authority to impose. The final rule is effective **02/21/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-02-21/pdf/2018-03490.pdf>. *Federal Register*, Vol. 83, No. 35, 02/21/2018, 7361-7363.

## **FSA and CCC Announce Funds Availability for Cotton Ginning Cost-Share Program.**

The Farm Service Agency (FSA) and the Commodity Credit Corporation (CCC) announce the availability of cost-share funds to certain cotton producers of the United States, specifically for the 2016 cotton crop. Eligible Cotton Ginning Cost-Share Program participants will receive a one-time payment, calculated based on a cost-share not to exceed 20 percent of calculated ginning costs by region, the number of cotton acres that were planted, including failed acreage, for the 2016 crop year, and the percentage of share the participant had in such cotton. Applications are due **05/11/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-03-08/pdf/2018-04693.pdf>. *Federal Register*, Vol. 83, No. 46, 03/08/2018, 9825-9828.

## **CCC Requests Comment on Information Collection.**

The Commodity Credit Corporation (CCC) announced it seeks comment on the information collection titled Representations for Commodity Credit Corporation or Farm Service Agency Loans and Authorization to File a Financing Statement and Related Documents. CCC also gave notice that it sent the collection to OMB for re-



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view. Comments are due **04/13/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-02-12/pdf/2018-02741.pdf>. *Federal Register*, Vol. 83, No. 29, 02/12/2018, 5975.

## CFTC Finalizes Inflation Adjustments to Civil Monetary Penalties.

The Commodity Futures Trading Commission (CFTC) issued a final rule that implements inflation adjustments to civil money penalties assessable for violations of the Commodity Exchange Act and CFTC rules, regulations and orders thereunder. The final rule is effective **03/06/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-03-06/pdf/2018-04480.pdf>. *Federal Register*, Vol. 83, No. 44, 03/06/2018, 9426-9429.

## SEC Issues Statement and Guidance on Public Company Cybersecurity Disclosures.

The Securities and Exchange Commission published interpretive guidance to assist public companies in preparing disclosures about cybersecurity risks and incidents. The guidance is applicable **02/26/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-02-26/pdf/2018-03858.pdf>. *Federal Register*, Vol. 83, No. 38, 02/26/2018, 8166-8172.

## NCUA Finalizes Amendments to Requirements for Insurance.

The National Credit Union Administration (NCUA) is adopting amendments to its share insurance requirements rule to provide stakeholders with greater transparency regarding the calculation of each eligible financial institution's pro rata share of a declared equity distribution from the National Credit Union Share Insurance Fund (NCUSIF). NCUA is also adopting a temporary provision to govern all NCUSIF equity distributions related to the Corporate System Resolution Program (CSR), a special purpose program established by NCUA to stabilize the corporate credit union system following the 2007–2009 financial crisis. Furthermore, NCUA is making technical and conforming amendments to other aspects of the share insurance requirements rule to account for these changes. The rule is effective **03/26/2018**, except for the addition of §741.13, which is effective from **03/26/2018**, until **12/31/2022**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-02-23/pdf/2018-03622.pdf>. *Federal Register*, Vol. 83, No. 37, 02/23/2018, 7954-7964.

## NCUA Requests Comment on Information Collection.

- NCUA announced it seeks comment on the information collection titled Liquidity and Contingency Funding

Plans. NCUA also gave notice that it sent the collection to OMB for review. Comments are due **03/15/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-02-13/pdf/2018-02889.pdf>. *Federal Register*, Vol. 83, No. 30, 02/13/2018, 6215-6216.

- NCUA announced it seeks comment on the information collection titled Consumer Assistance Center. NCUA also gave notice that it sent the collection to OMB for review. Comments are due **03/28/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-02-26/pdf/2018-03857.pdf>. *Federal Register*, Vol. 83, No. 38, 02/26/2018, 8302.

## VA Finalizes Inflation Adjustments to Civil Monetary Penalties.

The Department of Veterans Affairs (VA) issued a final rule that implements inflation adjustments to civil money penalties assessed or enforced by VA. The final rule is effective **03/02/2018**. The notice may be viewed at: <https://www.gpo.gov/fdsys/pkg/FR-2018-03-02/pdf/2018-04241.pdf>. *Federal Register*, Vol. 83, No. 42, 03/02/2018, 8945-8946. ■

# Compliance Notes

▲ CFPB issued Mortgage Servicing FAQs pertaining to Regulation X and Regulation Z regarding bankruptcy-related topics. The regulations are effective 04/19/2018. The FAQs may be viewed at: [https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/cfpb-mortgage-servicing\\_frequently-asked-questions.pdf](https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/cfpb-mortgage-servicing_frequently-asked-questions.pdf)

▲ The US Senate voted 67 to 31 to pass S. 2155, the Economic Growth, Regulatory Relief, and Consumer

Protection Act which now goes to the US House of Representatives. The bill is a bipartisan effort to roll back certain parts of the Dodd-Frank Act to deliver regulatory relief to community banks. The bill may be viewed at: <https://www.congress.gov/115/bills/s2155/BILLS-115s2155rs.pdf>

▲ CFPB has published the 2018 list of rural and underserved counties and a separate 2018 list that only includes rural. CFPB also updated the rural and

underserved areas tools on its website for 2018. The lists may be viewed at: <https://www.consumerfinance.gov/policy-compliance/guidance/implementation-guidance/rural-and-underserved-counties-list/>

▲ FTC is mailing 72,836 checks totaling more than \$2.9 million to people who lost money to an alleged payday loan scheme. According to the FTC's lawsuit, CWB Services and related defendants created fake payday loan agreements and



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then debited finance fees from people's bank accounts without their permission. The FTC also alleged that—even in cases where people actually applied for the payday loans—the defendants charged more than they said they would. The notice may be viewed at: <https://www.ftc.gov/enforcement/cases-proceedings/refunds/cwb-services-refunds>

▲ OCC will be holding Community Bank Director Workshops in Minneapolis. The Credit Risk: Directors Can Make a Difference workshop will be held 03/27/2018, and the Operational Risk – Navigating Rapid Changes workshop will be held 03/28/2018. Course descriptions and registration information may be viewed at: <https://www.occ.gov/news-issuances/news-releases/2018/nr-occ-2018-19.html>

▲ SEC has charged BitFunder, a former bitcoin-denominated platform, and its operator, Jon E. Montroll, with fraud for operating an unregistered securities exchange and defrauding users. SEC also charged the operator with making false and misleading statements in connection with an unregistered offering of securities. In a parallel criminal case, the U.S. Attorney's Office for the Southern District of New York filed a complaint against Montroll for perjury and obstruction of justice during the SEC's investigation. The complaint may be viewed at: <https://www.sec.gov/litigation/complaints/2018/comp-pr2018-23.pdf>

▲ Treasury released a report regarding its review and recommendations on the Orderly Liquidation Authority (OLA). In the report, Treasury recommends a new Chapter 14 of the Bankruptcy Code for distressed financial companies. Treasury recommends significant reforms to make bankruptcy a more effective option for financial companies with the intent of making the likelihood of having to use OLA more remote. Since the bankruptcy of a large, complex financial company may not be feasible in some circumstances, Treasury also recommends retaining OLA as an emergency tool for use

under extraordinary circumstances. Treasury recommends making significant reforms to the OLA process to eliminate opportunities for ad hoc disparate treatment of similarly situated creditors, reinforce existing taxpayer protections, and strengthen judicial review. The report may be viewed at: [https://home.treasury.gov/sites/default/files/2018-02/OLA\\_REPORT.pdf](https://home.treasury.gov/sites/default/files/2018-02/OLA_REPORT.pdf)

▲ FTC has taken legal action against two deceptive schemes that targeted or affected senior citizens with phony sweepstakes offers and bogus computer technical support services that tricked consumers out of tens of millions of dollars. The two cases were brought in conjunction with an enforcement sweep led by the U.S. Department of Justice aimed at stopping illegal schemes that exploit older Americans. The release describing the cases may be viewed at: <https://www.ftc.gov/news-events/press-releases/2018/02/ftc-challenges-schemes-target-or-affect-senior-citizens>

▲ CFPB has released its quarterly consumer credit trends report, focusing on the removal of civil public records resulting from the National Consumer Assistance Plan (NCAP) affected consumers' credit records and their credit scores. A key finding of this report showed that the number of reported bankruptcies remained virtually unchanged after NCAP was implemented. The report may be viewed at: [https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/cfpb\\_consumer-credit-trends\\_public-records\\_022018.pdf](https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/cfpb_consumer-credit-trends_public-records_022018.pdf)

▲ CFPB Released the 2018 *Guide to HMDA Reporting: Getting It Right!* The guide provides a summary of certain key requirements for 2018 calendar year data due for submission 03/01/2019. The guide may be viewed at: <https://www.ffiec.gov/hmda/pdf/2018guide.pdf>

▲ FRB released the Semiannual Monetary Policy Report for February 2018. The report shows that economic activity increased at a solid pace over the second half of 2017, inflation has

remained below the longer-run objective of 2 percent, and the labor market has continued to strengthen. The report may be viewed at: <https://www.federalreserve.gov/monetarypolicy/files/20180223mprfullreport.pdf>

▲ FTC released its 2017 Consumer Sentinel Network Data Book 2017, a summary of consumer complaints received. The report found that while the number of complaints about fraud from consumers dropped in 2017, consumers reported losing more money than they did in 2016. Debt collection, identity theft, and imposter scams were the categories with the most number of consumer reports. The report may be viewed at: [https://www.ftc.gov/system/files/documents/reports/consumer-sentinel-network-data-book-2017/consumer\\_sentinel\\_data\\_book\\_2017.pdf](https://www.ftc.gov/system/files/documents/reports/consumer-sentinel-network-data-book-2017/consumer_sentinel_data_book_2017.pdf)

▲ NCUA released the Q4 2017 Credit Union System Performance Data. The performance data shows that the net interest margin for federally insured credit unions was \$39.9 billion in the fourth quarter of 2017 and credit unions added 4.5 million members over the year. NCUA's summary may be viewed at: <https://www.ncua.gov/newsroom/Pages/news-2018-march-ncua-releases-q4-2017-credit-union-system-performance-data.aspx>

▲ FRB issued the latest edition of the Fed360. This edition features articles on ACH reclamations, the Currency Education Program. The Fed360 may be viewed at: <https://www.frb-services.org/news/fed360/index.html>

▲ FRB issued a reminder that effective 12/31/2018, FRB will no longer offer print version or subscriptions for the Commercial Bank Examination Manual. The manual can still be accessed on FRB's website. The manual may be viewed at: [https://www.federalreserve.gov/publications/supervision\\_cbem.htm](https://www.federalreserve.gov/publications/supervision_cbem.htm)

▲ CFPB updated the Small Entity Compliance Guide and the Guide to Preparing the Short Form Disclosure for



# Compliance Notes

Prepaid Accounts on its Prepaid Rule resources page. The updates to the guides reflect the 2018 amendments to the rule. The resources may be viewed at: <https://www.consumerfinance.gov/policy-compliance/guidance/implementation-guidance/prepaid-rule/>

▲ IRS issued revised inflation adjustment amounts for health savings account contributions. Notably, the maximum family health savings account contribution limit has been revised downward from \$6,900 to \$6,850. The bulletin may be viewed at: <https://www.irs.gov/pub/irs-irbs/irb18-10.pdf>

▲ An increasing number of Wisconsin institutions have reported receiving demand letters from law firms representing disabled clients claiming they were denied access to goods and services in violation of the Americans with Disabilities Act (ADA). If you receive

such a letter WBA recommends working with legal counsel to determine if and how to respond. WBA also recommends even if you have not received such a letter that members work with their tech vendor to consider the accessibility of their websites. If you have received a letter, please consider sending it to WBA's Scott Birrenkott via email at [sbirrenkott@wisbank.com](mailto:sbirrenkott@wisbank.com).

ABA is now conducting a survey to highlight the extent of this problem to Congress and urge lawmakers to weigh in on the issue. The survey consists of six short questions and should take no more than 10 minutes to complete. The survey closes on March 30, and all responses will be kept confidential. If your institution did not receive an invitation to participate, contact ABA's Toni Cannady at [tcannady@aba.com](mailto:tcannady@aba.com). ABA also has resources available to members on its website: [www.aba.com](http://www.aba.com)

You can also find information on this topic from ICBA at: [www.icba.org/docs/default-source/default-document-library/20161219-icba-guidelines-for-responding-to-ada-demand-letters.pdf](http://www.icba.org/docs/default-source/default-document-library/20161219-icba-guidelines-for-responding-to-ada-demand-letters.pdf)

Additionally, there is a webinar, ADA Website Compliance: Requirements, Common Issues & Litigation, on April 6 which many banks may find helpful. More information and registration are available here: <https://www.wisbank.com/events/ada-website-compliance-requirements-common-issues-litigation/> ■

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

## April 2018 – May 2018

### Conferences

Agricultural Bankers Conference  
April 11-12 | Wisconsin Dells

Women in Banking Conference  
April 17 | Wisconsin Dells

Trust Conference  
May 2 | Fond du Lac

Human Resources Conference  
May 11 | Wisconsin Dells

BSA/AML Compliance  
Conference  
May 22-23 | Wisconsin Dells

### FIPCO Events

Threat Intelligence Briefings  
April 11 | Fond du Lac  
May 9 | Hudson

FIPCO Compliance &  
Software Forum (Deposit)  
May 15 | Madison  
May 17 | Wausau/Rothschild  
(Visit [www.fipco.com/events](http://www.fipco.com/events).)

### Peer Groups

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

### Schools

Compliance Officer School  
April 4-6 | Madison

School of Bank Management  
May 6-11 | Madison

### Seminars/Workshops

Principles of Banking Course  
April 17-18 | Wausau  
April 19-20 | Madison  
May 8-9 | Onalaska

Community Bankers for  
Compliance Program  
April 24 | Stevens Point  
April 25 | Madison

Lending Boot Camp  
May 15-17 | Madison

Health Savings Account  
Workshop  
May 17 | Wisconsin Dells

### Summits

ICBA 2018 Capital Summit  
April 8-11 | Washington, DC

2018 ABA Government  
Relations Summit  
April 23-25 | Washington, DC

Bank Directors Summit  
May 16 | Eau Claire  
May 17 | Stevens Point

### Webinars (online training)

Impact of Regulation CC Rule  
Changes on RDC & ACH  
April 3 | 2-3:30 pm

ADA Website Compliance:  
Requirements, Common  
Issues & Litigation  
April 6 | 10-11:30 am

Reg E Compliance - Five  
Best Practices for Handling  
Disputes  
April 11 | 10 am-Noon

Marketing & Advertising  
Compliance  
April 12 | 10 am-Noon

Flood Insurance Compliance  
April 17 | 10 am-Noon

Legal Issues of Checks  
April 19 | 1:30-3:30 pm

How to Complete & File UCC-1  
Financing Statements  
April 19 | 2-3:30 pm

Advertising Law Webinar  
(Two-Part) Series  
April 19 | May 10 | 8:30 am

Fair Lending –  
Do Your Lenders Know  
the Requirements?  
April 24 | 1:30-3:30 pm

Denied Loan Requirments:  
Consumer, Commercial & Real  
Estate  
April 24 | 2-3:30 pm

WBA's social media efforts focus on communication, advocacy:

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> Watch Us



Wisconsin Bankers  
[www.youtube.com/WisconsinBankers](http://www.youtube.com/WisconsinBankers)

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