



Compliance Journal

Special Focus

Do Banks Have To Monitor Corporate Deposit Accounts To Make Sure Officers Named On Those Accounts Are Acting Lawfully?

The short answer to this question is “no,” but the long answer gets more complicated. The Wisconsin Supreme Court recently delved into the long answer when it was presented with that question in *Koss Corporation v. Park Bank*, (2019 WI 7, dated 1/29/2019), and fortunately, it came up with the same answer to the long question, and that is “no.” The Court determined that Park Bank, Milwaukee, was not liable for a massive embezzlement from Koss Corporation (“Koss”) accounts at Park Bank over a period of many years thanks to the Uniform Fiduciary Act adopted by Wisconsin in 1925 (“UFA”). Under the UFA, a “fiduciary” includes an officer of a corporation as well as partners and agents of corporations, limited liability companies, partnerships, or other associations. The UFA, which is a uniform law adopted by many states, clarifies that banks are not responsible for monitoring fiduciary accounts and placed the burden of employing honest employees managing those accounts on the entities that open the deposit accounts. The UFA was enacted to “facilitate banking and financial transactions” by providing relief from consequences of the then law which was to place the duty of monitoring fiduciary accounts for wrongdoing on the bank’s shoulders. Thus, under the UFA, simple negligence by a bank with respect to a corporation’s deposit accounts will not lead to bank liability. However, there are certain and very limited circumstances when a bank may be found liable under the UFA

for the unlawful acts of a corporate officer with respect to the corporation’s deposit accounts, and that is what the *Koss Corporation v. Park Bank* case was all about.

In this case, a Koss senior executive officer embezzled \$34 million from Koss over a nine-year period without her employer noticing. Koss attempted to shift the losses caused by its own high-level executive’s criminal conduct to Park Bank by arguing that the Court should find that a bank’s alleged negligence in dealing with the officer constitutes liability under the UFA. Fortunately, the Court said “no” and determined that negligence alone will not lead to bank liability. This is one of the helpful holdings of the Court in this case that will definitely benefit banks maintaining UFA accounts, and virtually every bank maintains UFA accounts for their corporate customers.

In greater detail, the UFA provides for three separate standards according to which a bank could be held liable for a fiduciary’s embezzlement from an account or other breach of the fiduciary’s duty to the corporation. Those three standards are (1) where the bank has actual knowledge of the unlawful conduct of the fiduciary, (2) where the bank has knowledge of sufficient facts to show that it acted in “bad faith” by honoring the fiduciary’s withdrawals from the account, or (3) where the bank accepts its own check in payment of a personal debt of the fiduciary to the

bank. In this case, no evidence was offered by Koss that Park Bank violated standards (1) and (3), and therefore Koss alleged Park Bank’s transactions with the officer who engaged in the criminal acts through the account were done in “bad faith.” So this case focused on whether Park Bank violated the “bad faith” standard under the UFA to determine whether Park Bank has liability to Koss, and for this purpose the Court had to define “bad faith.” “Bad faith” had not previously been defined by Wisconsin courts under the UFA since 1925 when it was enacted.

The Court’s effort to define “bad faith” led to certain differences of opinion among the seven Justices on the Wisconsin Supreme Court, which differences will make it difficult for attorneys going forward to make meaningful determinations for their clients. There were three different written opinions from the Court in this case. One was called the “Lead Opinion” and was rendered by two of the seven Justices, the second was called the “Concurring Opinion” and was rendered by three of the Justices, and the third was the “Dissenting Opinion” and was rendered by two of the Justices. Importantly, the “Lead Opinion” and the “Concurring Opinion” rendered by five Justices determined that the claim by Koss against Park Bank should be dismissed. That is an official holding of the Court in this case. It means that Park Bank won the case and it is good news for the banking industry. The Dissenting Opinion



Special Focus

determined that the case should not be dismissed and should be sent back to the trial court for a new trial by a jury, but fortunately that opinion was made by only two of the Justices and is not the decision of the Court in this case. Lawyers for banks will be assigned the task of interpreting the “Lead Opinion” and the “Concurring Opinion” to determine the legal definition of “bad faith” going forward. I will not attempt here to sort out the differences between these two opinions and indicate which might be applicable in a future case, but I will focus on the Concurring Opinion since it will be the most difficult of the two opinions for banks to comply with. Therefore, in my view, if a bank complies with the definition of “bad faith” as described in the Concurring Opinion it is likely to be able to withstand any case brought against it down the road claiming the bank acted in “bad faith.”

According to the Concurring Opinion, the standard of “bad faith” is defined as follows:

“[B]ad faith denotes a reckless disregard or purposeful obliviousness of the known facts suggesting impropriety by the fiduciary. It is not established by negligent or careless conduct or by vague suspicion. Likewise, actual knowledge of and complicity in the fiduciary’s misdeeds is not required. However, where facts suggesting fiduciary misconduct are compelling and obvious, it is bad faith to remain passive and not inquire further because such inaction amounts to a deliberate desire to evade knowledge.”

The lead opinion imposed a more exacting definition of “bad faith” which would make it more difficult for customers to substantiate claims for “bad faith” against banks under the UFA. I believe the bottom line is that if a bank at least meets the standard imposed by the concurring opinion it should avoid any liability to corporate customers alleging breach of “bad faith” under the UFA. Bank counsel will, of course, in the event of litigation, argue the applicability of the more exacting standard as determined by the lead opinion is applicable to bank customers making UFA claims.

Again, regardless of the standard used, neither the Lead Opinion nor the Concurring Opinion found “bad faith” on the part of Park Bank in this case. The three Justices on the Concurring Opinion concluded that even under their less onerous standard of “bad faith” than the one adopted by the “Lead Opinion” that summary judgment in favor of Park Bank was appropriate and therefore Park Bank won the case. According to the Concurring Opinion, Koss did not put forth sufficient evidence that Park Bank remained passive in the face of compelling and obvious facts suggesting fiduciary misconduct. The Court noted that even Koss itself did not notice the fraud for several years. According to the Concurring Opinion, the facts of this case did not present the “compelling and obvious” suggestion of fiduciary misconduct so as to place liability on Park Bank.

Banks may wish to include a greater focus in their training of bank personnel on claims made under the UFA and the responsibilities of the bank under the UFA in the event bank personnel become aware of facts suggesting

impropriety by a fiduciary on an account. In that event, the bank may wish to inquire further given that inaction on its part could denote a deliberate desire to evade knowledge and may constitute “bad faith.”

In this case, one of the methods the officer used to embezzle funds from Koss was to order cashier’s checks from Park Bank for personal expenditures. She used hundreds of cashier’s checks drawn on the Koss’s accounts at Park Bank to pay for her purchases from luxury retailers, as well as to pay her personal credit card bills. Generally, she would instruct an assistant from Koss to call Park Bank and request a cashier’s check on the officer’s behalf. It was Park Bank’s practice to allow non-signatories to the account to call and request cashier’s checks on the officer’s behalf. The officer would then send another assistant to pick up the envelopes at Park Bank with the cashier’s check included in them. The officer also used “petty cash” requests to embezzle funds. She would instruct an assistant at Koss to go to Park Bank and endorse a manually written check made out to “petty cash.” The officer would call and tell Park Bank the employee was coming. The officer’s third method of embezzling funds was to request wire transfers from Park Bank to an out-of-state bank where Koss also maintained accounts. The officer would then make wire transfers from those accounts maintained at the out-of-state bank. The Court took the position that these wire transfers were immaterial to the case because from Park Bank’s perspective, the funds remained in the control of Koss after the transfer even though Park Bank’s policy required a wire transfer agreement to initiate such wire

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transfers, and Koss did not have one. Koss was unable to explain why wire transfers sent to other Koss bank accounts would have raised suspicions on the part of any Park Bank employee.

It is helpful to note that according to the Concurring Opinion neither “the amount and number of transactions carried out on an account containing fiduciary funds, nor the mere names of payees on checks drawn on that account, should be sufficient to create bad faith liability based on Bank’s action in paying such checks.” And in this case, over a period of ten years of the officer’s embezzlement, a period during which Park Bank issued more than

60,000 cashier’s checks, and 49 bank employees issued the 359 cashier’s checks requested by the Koss officer, was not sufficient to establish “bad faith” and liability based on Park Bank’s action in paying such checks over such a period of time.

In the end, Park Bank won this case at the trial court level, on appeal at the Court of Appeals level and at the Supreme Court level, regardless of which definition of “bad faith” was applied by the courts. The facts simply did not justify a finding under any of these definitions that Park Bank acted in bad faith and the courts therefore determined Park Bank was not liable to Koss for the embezzlement.

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

Supreme Court Issues Ruling on Koss Corp v. Park Bank Case Addressing Definition of Bad Faith Under Uniform Fiduciary Act

On January 29, 2019, the Wisconsin Supreme Court (Court) issued its opinion in the Koss Corporation v. Park Bank case (Koss Corp.). The case involved the definition of “bad faith” under Wisconsin’s Uniform Fiduciary Act (UFA). Previously, there was little case law in Wisconsin interpreting “bad faith” under the UFA. WBA filed with the Wisconsin Supreme Court an amicus brief in support of Park Bank’s position.

An employee embezzled approximately \$34 million from Koss Corporation over a period of ten years. The employee used multiple methods to embezzle funds. Methods included obtaining cashier’s checks for personal expenditures, instructing other, non-signatory employees to request checks, taking and cashing checks made payable to cash, and initiating wire transfers to out-of-state banks. After the

employee pled guilty, Koss Corporation sought relief against Park Bank under the UFA, claiming Park Bank acted in bad faith in those transactions. The Milwaukee Circuit Court dismissed all claims against Park Bank. The Wisconsin Court of Appeals affirmed the lower court, and the Wisconsin Supreme Court affirmed that decision.

Two conclusions are clear from the Court’s decision. First, Park Bank’s conduct did not amount to bad faith. Second, negligence does not prove bad faith. However, a disagreement between the lead opinion and the concurring opinions disrupted the opportunity to clearly define “bad faith.” This article will discuss what is clear from the Court’s opinion, what is unclear, and how the opinion affects Wisconsin banks.

Koss Corp. involves the question of whether a bank can be held liable for the actions of a third party fiduciary. Specifically, whether a bank can be held liable for acting in “bad faith” in its transactions with an employee embezzling millions from a corporate deposit account. The UFA provides protections from such liabilities and was adopted by Wisconsin in 1925. Wis. Stats. Section 112.01(9) of the UFA provides standards whereby a bank can obtain protection from claims involving the acts of a customer’s fiduciaries. In this case, that section forms the basis of Koss Corporation’s claim that Park Bank acted in bad faith. The Court broke 112.01(9) down into three standards by which a bank could be liable:

1. When a bank had actual knowledge of the unlawful conduct of a fiduciary;

¹ The UFA provides protections for banks. This case was unique in that the UFA was presented as the basis for a complaint rather than as a defense. The Court’s opinion is still significant in understanding that defense.



Special Focus

2. When a bank had knowledge of sufficient facts to show that it acted in bad faith by honoring a fiduciary's withdrawals from the principal's account; or,
3. When a drawee bank accepts its own check in payment of or as security for a personal debt of the fiduciary at the drawee bank, contrary to the interest of the principal.

Koss Corporation alleged, based upon 112.01(9), that Park Bank's transactions were done in bad faith. Because neither 112.01(9) nor the rest of the UFA defines bad faith, its definition became the issue before the Court.

While the Court ruled that Park Bank did not act in bad faith, the lead and concurring opinions reached this conclusion by different means. The lead opinion and the concurring opinion define bad faith differently. The significance of this will be discussed below. First, it is important to examine both opinions.

The lead opinion began its analysis with the UFA's definition of good faith to construe a definition of bad faith. By that definition, a thing is done in good faith when it is done honestly, whether it be done negligently or not. Thus, the lead opinion concluded that bad faith must involve something more than negligent bank conduct, in which the bank acted dishonestly. The concurring opinion agreed with this portion of the lead's analysis.

In creating its test for bad faith the Court's lead opinion set forth the following standard:

1. Bad faith is reviewed on a transaction by transaction basis.
2. Bad faith is determined at the time of breach of fiduciary duty.
3. Bad faith is an intentional tort. Negligence is insufficient to show bad faith.
4. Bad faith requires subjective intent.

The first component of the test means that even if an aggregate view of every transaction made by the fiduciary creates a pattern that reveals a breach of duty, that is still insufficient to establish bad faith. So, the facts known to each individual bank employee are not aggregated to form collective knowledge of the bank. Furthermore, whether a bank acted in bad faith is determined at the time of the breach of fiduciary duty, not by looking back at transactions that occurred many months earlier. Instead, the Court gave the example that a bank is liable to the principal if its action in a single transaction amounts to bad faith.

The lead opinion also concluded that bad faith is an intentional tort. Thus, a finding of bad faith requires subjective, rather than objective, intent. Meaning, a bank's actions in relation to the breach must be intentional. Recall that a thing done in good faith is done honestly. So bad faith would mean an intentional, dishonest act, such as a bank that deliberately evades knowledge because of a belief or fear that an inquiry would disclose a vice or defect in the transaction. A clear example would be a bank that obtains actual knowledge of fiduciary misconduct, ignores investigating that misconduct in order to avoid discovering the defect, and continues with the transaction.

This is where the concurring opinion disagreed with the lead opinion. The concurring opinion rejected the lead's conclusion that bad faith requires willful and deliberate bank action. Instead, the concurring opinion set forth that bad faith requires evidence that a bank remained passive in the face of compelling and obvious facts suggesting fiduciary misconduct.

The distinction between the lead and concurring opinions turns on the matter of actual knowledge. The lead would require it. The concurrence would not, and instead would create a standard whereby something less than actual knowledge is required to find bad faith. Specifically, that standard would be a bank that remains passive in the face of compelling and obvious facts of misconduct.

The following is an example which explains these standards. Consider a fiduciary who writes a check on their employer's account to a department store. It later turns out that this check was drawn to pay for the fiduciary's personal expenses, resulting in a breach of duty. The lead opinion would ask: did bank have actual knowledge, and intentionally ignore that actual knowledge to avoid finding a defect in the transaction? If so, that is bad faith. The concurring opinion would ask: did the facts of the transaction suggest anything that should have been obvious enough to the bank to suggest it should investigate further into the transaction, and if so, did the bank fail to do so? If so, that is bad faith.

The lead and concurring opinions did reach the conclusion that Park Bank's activities did not amount to bad faith, and negligence does not amount to bad faith. That means that a higher standard than negligence must be proven to establish bad faith. However, because of the different standards proposed by both the lead and concurring opinions a question of law still exists as to: what is that standard? That is ultimately a complex question of jurisprudence and legal precedent beyond the scope of this article. Instead of exploring that issue, the remainder will focus on how banks should consider the results of Koss Corp. despite the lack of clarity in a test for bad faith.

The Koss Corp. case is still a win for the banking industry. The fact that Park Bank prevailed, and the Court's conclusion that negligence does not amount to bad faith should not be overshadowed by the legal complexities created by its opinion. Banks should review their deposit documentation, policies, and procedures, and seek to eliminate any practices that could be found to result in bad faith pursuant to the Court's opinion. This could mean a review for any practices that might result in "willful" bad faith or "passive" bad faith to avail itself of potential protections under either of the Court's standards. For a review of bank's policies, WBA recommends working with its legal counsel.



Special Focus

WBA will continue to monitor the results of Koss Corp. and report whether a bad faith standard becomes clear. It may require application in a lower court first, where a decision of what test to apply would need to be made.

The Koss Corp. decision can be found here: <https://www.wicourts.gov/sc/opinion/DisplayDocument.pdf?content=pdf&seqNo=233852> ■

Regulatory Spotlight

Agencies Propose Thresholds Increase for the Major Assets Prohibition of the Depository Institution Management Interlocks Act Rules.

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 proposed rule that would increase the major assets prohibition thresholds for management interlocks in the agencies' rules implementing the Depository Institution Management Interlocks Act (DIMIA). The DIMIA major assets prohibition prohibits a management official of a depository organization with total assets exceeding \$2.5 billion (or any affiliate of such an organization) from serving at the same time as a management official of an unaffiliated depository organization with total assets exceeding \$1.5 billion (or any affiliate of such an organization). DIMIA provides that the agencies may adjust, by regulation, the major assets prohibition thresholds in order to allow for inflation or market changes. The agencies propose to raise the major assets prohibition thresholds to \$10 billion to account for changes in the United States banking market since the current thresholds were established in 1996. The agencies also propose three alternative approaches for increasing the thresholds based on market changes or inflation. Comments are due **04/01/2019**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR->

[2019-01-31/pdf/2018-28038.pdf](https://www.govinfo.gov/content/pkg/FR-2019-01-31/pdf/2018-28038.pdf). *Federal Register*, Vol. 84, No. 21, 01/31/2019, 604-612.

Agencies Propose Revisions to Prohibitions and Restrictions on Proprietary Trading and Certain Interests In, and Relationships With, Hedge Funds and Private Equity Funds.

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 Commodity Futures Trading Commission (CFTC), and the Securities and Exchange Commission (SEC) issued a proposal to amend the regulations implementing the Bank Holding Company Act's (BHC Act) prohibitions and restrictions on proprietary trading and certain interests in, and relationships with, hedge funds and private equity funds in a manner consistent with the statutory amendments made pursuant to certain sections of the Economic Growth, Regulatory Relief, and Consumer Protection Act. The statutory amendments exclude from these restrictions certain firms that have total consolidated assets equal to \$10 billion or less and total trading assets and liabilities equal to five percent or less of total consolidated assets and amend the restrictions applicable to the naming of a hedge fund or private equity fund to permit an investment adviser that is a banking entity to share a name

with the fund under certain circumstances. Comments are due **03/11/2019**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2019-02-08/pdf/2019-00797.pdf>. *Federal Register*, Vol. 84, No. 27, 02/08/2019, 2778-2791.

Agencies Propose Capital Simplification for Qualifying Community Banking Organizations.

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 proposal that would provide for a simple measure of capital adequacy for certain community banking organizations, consistent with section 201 of the Economic Growth, Regulatory Relief, and Consumer Protection Act. Under the proposal, most depository institutions and depository institution holding companies that have less than \$10 billion in total consolidated assets, that meet risk-based qualifying criteria, and that have a community bank leverage ratio (as defined in the proposal) of greater than 9 percent would be eligible to opt into a community bank leverage ratio framework. Such banking organizations that elect to use the community bank leverage ratio and that maintain a community bank leverage ratio of greater than 9 percent would not be subject to other risk-based and leverage capital requirements and would be considered to have met the well capitalized ratio requirements for purposes of section



Regulatory Spotlight

38 of the Federal Deposit Insurance Act and regulations implementing that section, as applicable, and the generally applicable capital requirements under the agencies' capital rule. Comments are due **04/09/2019**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2019-02-08/pdf/2018-27002.pdf>. *Federal Register*, Vol. 84, No. 27, 02/08/2019, 3062-3094.

Agencies Issue Final Guidance.

The Board of Governors of the Federal Reserve System (FRB), and the Federal Deposit Insurance Corporation (FDIC) are adopting this final guidance for the 2019 and subsequent resolution plan submissions by the eight largest, complex U.S. banking organizations. The final guidance is meant to assist these firms in developing their resolution plans, which are required to be submitted pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). The final guidance, which is largely based on prior guidance issued to these Covered Companies, describes the Agencies' expectations regarding a number of key vulnerabilities in plans for an orderly resolution under the U.S. Bankruptcy Code (i.e., capital; liquidity; governance mechanisms; operational; legal entity rationalization and separability; and derivatives and trading activities). The final guidance also updates certain aspects of prior guidance based on the Agencies' review of these firms' most recent resolution plan submissions. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2019-02-04/pdf/2019-00800.pdf>. *Federal Register*, Vol. 84, No. 23, 02/04/2019, 1438-1464.

CFPB Finalizes Amendments to Fair Credit Reporting Act Disclosures.

The Bureau of Consumer Financial Protection (CFPB) is amending Regulation V, which implements the Fair Credit Reporting Act (FCRA), to add a section establishing a maximum allowable charge for disclosures by a consumer reporting agency to a consumer pursuant to FCRA

section 609. CFPB is also amending Regulation V to add an appendix setting forth the statutory requirements for determining the maximum allowable charge; announcing the maximum charge for 2019; and preserving a list of historical maximum allowable charges. Historically, CFPB has published these FCRA annual adjustments as a notice. CFPB is now codifying those notices and adding a provision to Regulation V to track the FCRA's provisions concerning the annual maximum allowable charge. The rule is effective **01/31/2019**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2019-01-31/pdf/2018-28372.pdf>. *Federal Register*, Vol. 84, No. 21, 01/31/2019, 515-517.

CFPB Finalizes Home Mortgage Disclosure Adjustment to Asset-Size Exemption Threshold.

CFPB is amending the official commentary that interprets the requirements of the Bureau'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 2.6 percent increase in the average of the CPI-W for the 12-month period ending in November 2018, the exemption threshold is adjusted to increase to \$46 million from \$45 million. Therefore, banks, savings associations, and credit unions with assets of \$46 million or less as of **12/31/2018**, are exempt from collecting data in 2019. The final rule is effective **01/31/2019**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2019-01-31/pdf/2018-28373.pdf>. *Federal Register*, Vol. 84, No. 21, 01/31/2019, 513-515.

CFPB Finalizes Amendments to Truth in Lending Act Asset-Size Exemption Threshold.

CFPB is amending the official commentary that interprets the requirements of its 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). Based on the 2.6 percent increase in the average of the CPI-W for the 12-month period ending in November 2018, the exemption threshold is adjusted to increase to \$2.167 billion from \$2.112 billion. Therefore, creditors with assets of less than \$2.167 billion (including assets of certain affiliates) as of **12/31/2018**, are exempt, if other requirements of Regulation Z also are met, from establishing escrow accounts for higher-priced mortgage loans in 2019. The final rule is effective **02/04/2019**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2019-02-04/pdf/2018-28374.pdf>. *Federal Register*, Vol. 84, No. 23, 02/04/2019, 1356-1359.

CFPB Issues Inflation Adjustments for Civil Monetary Penalties.

CFPB finalized amendments to its rule that specifies the time period for which adjusted civil penalty amounts would be applied to conduct within its jurisdiction and is also adjusting specific civil penalty amounts in that rule to account for inflation. The rule is effective **01/31/2019**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2019-01-31/pdf/2019-00488.pdf>. *Federal Register*, Vol. 84, No. 21, 01/31/2019, 517-520.

CFPB Issues Policy Guidance on Disclosure of Loan-Level HMDA Data.

CFPB is issuing final policy guidance describing modifications that CFPB intends to apply to the loan-level data that financial institutions report under the Home Mortgage Disclosure Act (HMDA) and Regulation C before the data is disclosed to the public. This final policy guidance applies to HMDA data compiled by financial institutions in or after 2018 and made available to the public by CFPB beginning



Regulatory Spotlight

in 2019. The final policy guidance was released on CFPB's website on **12/21/2018**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2019-01-31/pdf/2018-28404.pdf>. *Federal Register*, Vol. 84, No. 21, 01/31/2019, 649-673.

CFPB Requests Comment on Consumer Credit Card Market.

CFPB is conducting a review of the consumer credit card market. In connection with conducting this review, CFPB is requesting information from the public regarding a number of aspects of the consumer credit card market. Comments are due **05/01/2019**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2019-01-31/pdf/2019-00487.pdf>. *Federal Register*, Vol. 84, No. 21, 01/31/2019, 647-649.

CFPB Requests Comment on Information Collections.

- CFPB announced it seeks comment on the information collection titled Joint Standards for Assessing the Diversity Policies and Practices. CFPB also gave notice that it sent the collection to OMB for review. Comments are due **04/05/2019**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2019-02-04/pdf/2019-00901.pdf>. *Federal Register*, Vol. 84, No. 23, 02/04/2019, 1429-1430.
- CFPB announced it seeks comment on the information collection titled Debt Collection Quantitative Disclosure Testing. CFPB also gave notice that it sent the collection to OMB for review. Comments are due **03/06/2019**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2019-02-04/pdf/2019-00905.pdf>. *Federal Register*, Vol. 84, No. 23, 02/04/2019, 1430-1431.
- CFPB announced it seeks comment on the information collection titled Making Ends Meet Survey. CFPB

also gave notice that it sent the collection to OMB for review. Comments are due **03/06/2019**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2019-02-04/pdf/2019-00906.pdf>. *Federal Register*, Vol. 84, No. 23, 02/04/2019, 1428-1429.

- 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 **04/08/2019**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2019-02-06/pdf/2019-01166.pdf>. *Federal Register*, Vol. 84, No. 25, 02/06/2019, 2175-2176.

CFPB Issues Fair Lending Report.

CFPB is issuing its sixth Fair Lending Report of the Bureau of Consumer Financial Protection (Fair Lending Report) to Congress. CFPB is committed to ensuring fair access to credit and eliminating discriminatory lending practices. The report describes CFPB's fair lending activities in prioritization, supervision, enforcement, rulemaking, interagency coordination, and outreach for calendar year 2017. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2019-02-08/pdf/2019-01568.pdf>. *Federal Register*, Vol. 84, No. 27, 02/08/2019, 2824-2833.

FRB Finalizes Amendments to Regulation A.

The Board of Governors of the Federal Reserve System (FRB) has adopted final amendments to its Regulation A to reflect FRB's approval of an increase in the rate for primary credit at each Federal Reserve Bank. The secondary credit rate at each Reserve Bank automatically increased by formula as a result of FRB's primary credit rate action. The final amendments

are effective **01/31/2019**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2019-01-31/pdf/2018-28423.pdf>. *Federal Register*, Vol. 84, No. 21, 01/31/2019, 511-512.

FRB Finalizes Amendments to Regulation D.

FRB is amending Regulation D (Reserve Requirements of Depository Institutions) to revise the rate of interest paid on balances maintained to satisfy reserve balance requirements (IORR) and the rate of interest paid on excess balances (IOER) maintained at Federal Reserve Banks by or on behalf of eligible institutions. The final amendments specify that IORR is 2.40 percent and IOER is 2.40 percent, a 0.20 percentage point increase from their prior levels. The amendments are intended to enhance the role of such rates of interest in moving the Federal funds rate into the target range established by the Federal Open Market Committee. The final amendments are effective **01/31/2019**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2019-01-31/pdf/2018-28424.pdf>. *Federal Register*, Vol. 84, No. 21, 01/31/2019, 512-513.

FRB Requests Comment on Information Collections.

- FRB announced it seeks comment on the information collection titled Registration of a Securities Holding Company. FRB also gave notice that it sent the collection to OMB for review. Comments are due **04/01/2019**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2019-01-31/pdf/2019-00367.pdf>. *Federal Register*, Vol. 84, No. 21, 01/31/2019, 716-717.
- FRB announced it seeks comment on the information collection titled Application Form for Membership on the Community Advisory Council. FRB also gave notice that it sent the collection to OMB for review. Comments are due **04/01/2019**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2019-01-31/pdf/2019-00367.pdf>.



Regulatory Spotlight

[govinfo.gov/content/pkg/FR-2019-01-31/pdf/2019-00365.pdf](https://www.govinfo.gov/content/pkg/FR-2019-01-31/pdf/2019-00365.pdf). *Federal Register*, Vol. 84, No. 21, 01/31/2019, 718-719.

- FRB announced it seeks comment on the information collection titled Suspicious Activity Report. FRB also gave notice that it sent the collection to OMB for review. Comments are due **04/08/2019**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2019-02-05/pdf/2019-00996.pdf>. *Federal Register*, Vol. 84, No. 24, 02/05/2019, 1732-1734.
- FRB announced it seeks comment on the information collection titled Recordkeeping Requirements of Regulation H and Regulation K Associated with the Procedures for Monitoring Bank Secrecy Act Compliance. FRB also gave notice that it sent the collection to OMB for review. Comments are due **04/08/2019**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2019-02-05/pdf/2019-01000.pdf>. *Federal Register*, Vol. 84, No. 24, 02/05/2019, 1731-1732.

FDIC Finalizes Amendments to Exception for a Capped Amount of Reciprocal Deposits from Treatment as Brokered Deposits.

The Federal Deposit Insurance Corporation (FDIC) is amending its regulations that implement brokered deposits and interest rate restrictions to conform with recent changes to section 29 of the Federal Deposit Insurance Act made by section 202 of the Economic Growth, Regulatory Relief, and Consumer Protection Act related to reciprocal deposits, which took effect on **05/24/2018**. FDIC is also making conforming amendments to FDIC's regulations governing deposit insurance assessments. The final rule is effective **03/06/2019**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2019-02-04/pdf/2018-28137.pdf>. *Federal Register*, Vol. 84, No. 23, 02/04/2019, 1346-1354.

FDIC Finalizes Amendments to Depository Institution Management Interlocks Act.

FDIC finalized a rule in connection with an adjustment of the thresholds for the major assets prohibition of the Depository Institutions Management Interlocks Act (DIMIA) that has been proposed jointly by FDIC with the Office of the Comptroller of the Currency (OCC) and the Board of Governors of the Federal Reserve System (FRB) through a notice of proposed rulemaking (NPR) published in the *Federal Register* on **01/31/2019**. FDIC has decided to use this opportunity to make two purely technical corrections to FDIC Regulations, both pertaining to DIMIA implementation, by means of a separate final rule without notice and comment. The final rule is effective **02/08/2019**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2019-02-08/pdf/2019-01193.pdf>. *Federal Register*, Vol. 84, No. 27, 02/08/2019, 2705-2706.

FDIC Proposes Removal of Transferred OTS Regulations Regarding Lending and Investment.

FDIC proposes to rescind and remove from the Code of Federal Regulations rules entitled "Lending and Investment" (part 390, subpart P) that were transferred to FDIC from the Office of Thrift Supervision (OTS) on **07/21/2011**, in connection with the implementation of Title III of the Dodd-Frank Act; amend certain sections of existing FDIC regulations governing real estate lending standards to make it clear that such rules apply to all insured depository institutions for which FDIC is the appropriate Federal banking agency; and amend part 365 by rescinding in its entirety the subpart concerning registration requirements for residential mortgage loan originators because supervision and rulemaking authority in this area was transferred to the Bureau of Consumer Financial Protection (CFPB) by the Dodd-Frank Act. Comments are due **04/08/2019**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2019-02-05/>

[pdf/2018-28084.pdf](https://www.govinfo.gov/content/pkg/FR-2019-02-05/pdf/2018-28084.pdf). *Federal Register*, Vol. 84, No. 24, 02/05/2019, 1653-1661.

FDIC Requests Comment on Brokered Deposits and Interest Rate Restrictions.

FDIC is undertaking a comprehensive review of the regulatory approach to brokered deposits and the interest rate caps applicable to banks that are less than well capitalized. Since the statutory brokered deposit restrictions were put in place in 1989, and amended in 1991, the financial services industry has seen significant changes in technology, business models, and products. In addition, changes to the economic environment have raised a number of issues relating to the interest rate restrictions. A key part of FDIC's review is to seek public comment through this Advance Notice of Proposed Rulemaking (ANPR) on the impact of these changes. FDIC will carefully consider comments received in response to this ANPR in determining what actions may be warranted. Comments are due **05/07/2019**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2019-02-06/pdf/2018-28273.pdf>. *Federal Register*, Vol. 84, No. 25, 02/06/2019, 2366-2400.

FDIC Requests Comment on Information Collections.

- FDIC announced it seeks comment on the information collection titled Market Risk Capital Requirements. FDIC also gave notice that it sent the collection to OMB for review. Comments are due **04/02/2019**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2019-02-01/pdf/2019-00558.pdf>. *Federal Register*, Vol. 84, No. 22, 02/01/2019, 1121-1123.
- FDIC announced it seeks comment on the information collection titled Mutual-to-Stock Conversion of State Savings Banks. FDIC also gave notice that it sent the collection to OMB for review. Comments are due **03/04/2019**. The notice may



Regulatory Spotlight

be viewed at: <https://www.govinfo.gov/content/pkg/FR-2019-02-01/pdf/2019-00560.pdf>. *Federal Register*, Vol. 84, No. 22, 02/01/2019, 1123-1125.

- FDIC announced it seeks comment on the information collection titled Privacy of Consumer Information. FDIC also gave notice that it sent the collection to OMB for review. Comments are due **03/04/2019**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2019-02-01/pdf/2019-00561.pdf>. *Federal Register*, Vol. 84, No. 22, 02/01/2019, 1120-1121.

FDIC Issues Terminations of Receiverships.

- 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, assignments, 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.govinfo.gov/content/pkg/FR-2019-02-06/pdf/2019-01310.pdf>. *Federal Register*, Vol. 84, No. 25, 02/04/2019, 2224-2225.
- 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.govinfo.gov/content/pkg/FR-2019-02-08/pdf/2019-01542.pdf>. *Federal Register*, Vol. 84, No. 27, 02/08/2019, 2865. <https://www.govinfo.gov/content/pkg/FR-2019-02-05/pdf/2019-01027.pdf>. *Federal Register*, Vol. 84, No. 24, 02/05/2019, 1729-1730.

OCC Requests Comment on Information Collections.

- The Office of the Comptroller of the Currency (OCC) announced it seeks comment on the information collection titled Company-Run Annual Stress Test Reporting Template and Documentation for Covered Institutions under the Dodd-Frank Wall Street Reform and Consumer Protection Act. OCC also gave notice that it sent the collection to OMB for review. Comments are due **03/04/2019**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2019-01-31/pdf/2019-00418.pdf>. *Federal*

Register, Vol. 84, No. 21, 01/31/2019, 881-882.

- OCC announced it seeks comment on the information collection titled Community and Economic Development Entities, Community Development Projects, and Other Public Welfare Investments. OCC also gave notice that it sent the collection to OMB for review. Comments are due **04/08/2019**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2019-02-05/pdf/2019-00951.pdf>. *Federal Register*, Vol. 84, No. 24, 02/05/2019, 1821-1822.
- OCC announced it seeks comment on the information collection titled Domestic First Lien Residential Mortgage Data. OCC also gave notice that it sent the collection to OMB for review. Comments are due **04/08/2019**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2019-02-05/pdf/2019-00949.pdf>. *Federal Register*, Vol. 84, No. 24, 02/05/2019, 1823-1824.
- OCC announced it seeks comment on the information collection titled Interagency Guidance on Asset Securitization Activities. OCC also gave notice that it sent the collection to OMB for review. Comments are due **04/08/2019**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2019-02-05/pdf/2019-01114.pdf>. *Federal Register*, Vol. 84, No. 24, 02/05/2019, 1824-1825.
- OCC announced it seeks comment on the information collection titled Interagency Statement on Complex Structured Finance Transactions. OCC also gave notice that it sent the collection to OMB for review. Comments are due **04/08/2019**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2019-02-05/pdf/2019-01076.pdf>. *Federal Register*, Vol. 84, No. 24, 02/05/2019, 1828-1829.



Regulatory Spotlight

- OCC announced it seeks comment on the information collection titled Margin and Capital Requirements for Covered Swap Entities. OCC also gave notice that it sent the collection to OMB for review. Comments are due **03/07/2019**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2019-02-05/pdf/2019-00952.pdf>. *Federal Register*, Vol. 84, No. 24, 02/05/2019, 1825-1828.
- OCC announced it seeks comment on the information collection titled Market Risk. OCC also gave notice that it sent the collection to OMB for review. Comments are due **03/07/2019**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2019-02-05/pdf/2019-00953.pdf>. *Federal Register*, Vol. 84, No. 24, 02/05/2019, 1829-1830.
- OCC announced it seeks comment on the information collection titled Reverse Mortgage Products: Guidance for Managing Compliance and Reputation Risks. OCC also gave notice that it sent the collection to OMB for review. Comments are due **04/08/2019**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2019-02-05/pdf/2019-01075.pdf>. *Federal Register*, Vol. 84, No. 24, 02/05/2019, 1822-1823.
- OCC announced it seeks comment on the information collection titled Survey of Minority Owned Institutions. OCC also gave notice that it sent the collection to OMB for review. Comments are due **04/08/2019**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2019-02-05/pdf/2019-00950.pdf>. *Federal Register*, Vol. 84, No. 24, 02/05/2019, 1830-1831.

FEMA Issues Final Rules on Suspensions of NFIP Community Eligibility.

The Federal Emergency Management Agency (FEMA) issued a final rule which identifies communities in the state of **Iowa**, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP) that are scheduled for suspension on the effective dates listed within the final rule because of noncompliance with the floodplain management requirements of the program. If FEMA receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in the final rule, the suspension will not occur and a notice of this will be provided by publication in the *Federal Register* on a subsequent date. The effective date of each community's scheduled suspension is the third date listed in the third column of the tables in the final rule. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2019-02-01/pdf/2019-00699.pdf>. *Federal Register*, Vol. 84, No. 22, 02/01/2019, 978-989.

Treasury Issues Final Rule on Qualified Business Income Deduction.

The Department of the Treasury (Treasury) issued a final rule concerning the deduction for qualified business income under section 199A of the Internal Revenue Code (Code). The regulations will affect individuals, partnerships, S corporations, trusts, and estates engaged in domestic trades or businesses. The regulations also contain an anti-avoidance rule under section 643 of the Code to treat multiple trusts as a single trust in certain cases, which will affect trusts, their grantors, and beneficiaries. The final rule is effective **02/08/2019**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2019-02-08/pdf/2019-01025.pdf>. *Federal Register*, Vol. 84, No. 27, 02/08/2019, 2952-3014.

Treasury Proposes Rule on Qualified Business Income Deduction.

Treasury issued proposed regulations concerning the deduction for qualified business income under section 199A of the Internal Revenue Code (Code). The proposed regulations will affect certain individuals, partnerships, S corporations, trusts, and estates. The proposed regulations provide guidance on the treatment of previously suspended losses that constitute qualified business income. The proposed regulations also provide guidance on the determination of the section 199A deduction for taxpayers that hold interests in regulated investment companies, charitable remainder trusts, and split-interest trusts. Comments are due **04/09/2019**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2019-02-08/pdf/2019-01023.pdf>. *Federal Register*, Vol. 84, No. 27, 02/08/2019, 3015-3023.

Treasury Announces Pricing for 2019 United States Mint Numismatic Products.

Treasury announced pricing changes and new pricing for some 2019 United States Mint Numismatic Products. The pricing may be viewed in the second column of the chart in the notice. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2019-02-08/pdf/2019-01636.pdf>. *Federal Register*, Vol. 84, No. 27, 02/08/2019, 2949.

FHFA Issues Annual Adjustment of the Cap on Average Total Assets That Defines Community Financial Institutions.

The Federal Housing Finance Agency (FHFA) has adjusted the cap on average total assets that is used in determining whether a Federal Home Loan Bank member qualifies as a "community financial institution" (CFI) to \$1,199,000,000, based on the annual percentage increase in the Consumer Price Index for all urban consumers (CPI-U), as published by the Department of Labor (DOL). The changes are effective **01/01/2019**. The notice may



Regulatory Spotlight

be viewed at: <https://www.govinfo.gov/content/pkg/FR-2019-02-06/pdf/2019-01154.pdf>. *Federal Register*, Vol. 84, No. 25, 02/06/2019, 2225.

FSA Requests Comment on Information Collection.

The Farm Service Agency (FSA) announced it seeks comment on the information collection titled Farm Loan Programs, Direct Loan Making. FSA also gave notice that it sent the collection to OMB for review. Comments are due **04/08/2019**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2019-02-05/pdf/2019-01071.pdf>. *Federal Register*, Vol. 84, No. 24, 02/05/2019, 1700-1701.

FCA Finalizes Amendments to Farmer Mac Investment Eligibility.

The Farm Credit Administration (FCA) issued a final rule adopting amendments to regulations governing the eligibility of non-program investments held by the Federal Agricultural Mortgage Corporation (Farmer Mac) to remove references to, and requirements relating to, credit ratings in compliance with section 939A of the Dodd-Frank Wall Street Reform and Consumer Protection Act. The final rule is effective **02/08/2019**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2019-02-08/pdf/2019-01072.pdf>. *Federal Register*, Vol. 84, No. 27, 02/08/2019, 2706-2707.

FCA Issues Inflation Adjustments for Civil Monetary Penalties.

FCA issued inflation adjustments to civil money penalties (CMPs) that FCA may impose or enforce pursuant to the Farm Credit Act of 1971. The inflation adjustments are applicable **01/15/2019**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2019-02-04/pdf/2019-00789.pdf>. *Federal Register*, Vol. 84, No. 23, 02/04/2019, 1354-1356.

FASB Issues Accounting Technical Release 19.

The Federal Accounting Standards Advisory Board (FASB) has issued Federal Financial Accounting Technical Release (TR) 19, Rescission of Technical Release 8. The TR is available on the FASAB website at <http://www.fasab.gov/accounting-standards/>. Copies can be obtained by contacting FASAB at (202)512-7350. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2019-01-31/pdf/2019-00500.pdf>. *Federal Register*, Vol. 84, No. 21, 01/31/2019, 712.

NCUA Issues Inflation Adjustments for Civil Monetary Penalties.

The National Credit Union Administration (NCUA) is amending its regulations to adjust the maximum amount of each civil monetary penalty (CMP) within its jurisdiction to account for inflation. The final rule is effective **02/06/2019**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2019-02-06/pdf/2019-01123.pdf>. *Federal Register*, Vol. 84, No. 23, 02/04/2019, 2052-2056.

NCUA Issues Technical Amendments.

NCUA is issuing a final rule to make technical amendments to various provisions of the NCUA's regulations. These technical amendments correct minor drafting errors and inaccurate legal citations and remove unnecessary regulatory provisions no longer applicable to federally insured credit unions (FICUs). The amendments are effective **02/05/2019**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2019-02-05/pdf/2018-27472.pdf>. *Federal Register*, Vol. 84, No. 24, 02/05/2019, 1601-1610.

SSA Issues Inflation Adjustments for Civil Monetary Penalties.

The Social Security Administration (SSA) is giving notice of its updated maximum civil monetary penalties. These amounts

are effective from **01/15/2019** through **01/14/2020**. These figures represent an annual adjustment for inflation. The updated figures and notification are required by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2019-01-24/pdf/2019-00091.pdf>. *Federal Register*, Vol. 84, No. 16, 01/24/2018, 360.

SSA Requests Comment on Information Collection.

SSA announced it seeks comment on the information collection titled Request to be Selected as a Payee. SSA also gave notice that it sent the collection to OMB for review. Comments are due **03/26/2019**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2019-01-25/pdf/2019-00194.pdf>. *Federal Register*, Vol. 84, No. 17, 01/25/2019, 371-377. ■



Compliance Notes

▲ FRB and FDIC issued an advisory on Voluntary Private Education Loan Rehabilitation Programs to make financial institutions aware of an amendment to section 623 of the Fair Credit Reporting Act (FCRA). This amendment is contained in section 602 of the Economic, Growth, Regulatory Relief and Consumer Protection Act (EGRRCPA). It gives consumers the opportunity to rehabilitate a private education loan with a previously reported default under certain conditions. Financial institutions that choose to establish a private education loan rehabilitation program under Section 602 of the EGRRCPA (Section 602 Program) that satisfies the statutory requirements, including written approval of the terms and conditions from their federal regulatory agency, are entitled to a safe harbor from potential claims under the FCRA related to removal of the reported default. The advisory may be viewed at: <https://www.fdic.gov/news/news/financial/2019/fil19005a.pdf>

▲ CFPB published the Reportable HMDA Data: A Regulatory and Reporting Overview Reference Chart for Data Collected in 2019. The chart is intended to be used as a reference tool for data points required to be collected, recorded, and reported under Regulation C. The chart may be viewed at: https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/cfpb_reportable-hmda-data_regulatory-and-reporting-overview-reference-chart-2019.pdf

▲ FRB launched an interactive smartphone and tablet application, called Money Adventure Mobile App, designed to teach elementary school students about the security and design features of Federal Reserve notes. More information on the app may be viewed at: <https://www.us-currency.gov/educational-materials/classrooms/money-adventure-mobile-app>

▲ FRB, FDIC, and OCC released the Shared National Credit (SNC) Review. The review shows that the level of loans in the SNC portfolio with the lowest supervisory ratings (special mention and classified) declined, largely because of improving economic conditions in the oil

and gas sectors. Despite the improvement, special mention and classified commitment levels remain elevated compared to prior economic cycles. The full review may be viewed at: <https://www.fdic.gov/news/news/press/2019/pr19004a.pdf>

▲ CFPB released the 2019 Rural or Underserved Counties list. The list may be viewed at: https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/cfpb_rural-underserved-list_2019.pdf

▲ HUD awarded \$74 million to hundreds of public housing authorities across the country to continue helping public housing residents participating in the Housing Choice Voucher Program and/or reside in public housing to increase their earned income and reduce their dependency on public assistance and rental subsidies. These grants renew HUD's support of 688 public housing authorities through the Department's Family Self-Sufficiency (FSS) program. The announcement may be viewed at: https://www.hud.gov/press/press_releases_media_advisories/HUD_No_19_010

▲ CFPB issued FAQs related to TRID. The FAQs may be viewed at: <https://www.consumerfinance.gov/policy-compliance/guidance/tila-respa-disclosure-rule/tila-respa-integrated-disclosure-faqs/>

▲ FDIC adopted revised interagency examination procedures to incorporate CFPB amendments to Regulation E and Regulation Z. The examination procedures may be helpful to financial institutions seeking to better understand how FDIC examiners will evaluate an institution's compliance with these regulations. The procedures may be viewed at: <https://www.fdic.gov/news/news/financial/2019/fil19009.pdf>

▲ FTC will host a forum on small business financing on May 8, 2019, to examine trends and consumer protection issues in this marketplace, including the recent proliferation of online loans and alternative financing products. Further information may be viewed at: <https://>

www.ftc.gov/news-events/events-calendar/strictly-business-ftc-forum-small-business-financing

▲ FRB announced that it will begin its Survey of Consumer Finances, a statistical study of household finances that will provide policymakers with important insight into the economic condition of a broad cross section of American families in March. The survey has been undertaken every three years since 1983. It is being conducted for FRB by NORC, a social science research organization at the University of Chicago, through December of this year. The announcement may be viewed at: <https://www.federalreserve.gov/newsevents/pressreleases/other20190213a.htm>

▲ OCC will host two workshops in Milwaukee, Wisconsin, at the Hilton Garden Inn Milwaukee Downtown, March 26 and 27, for directors of national community banks and federal savings associations supervised by the OCC. The Compliance Risk workshop on March 26 combines lectures, discussion, and exercises on the critical elements of an effective compliance risk management program. The Operational Risk workshop on March 27 focuses on the key components of operational risk—people, processes, and systems. The notice may be viewed at: <https://www.occ.gov/news-issuances/news-releases/2019/nr-occ-2019-16.html>

▲ FRB announced a quality improvement initiative for Check Adjustments Services. The Federal Reserve Banks will charge a quality fee to depositing institutions for quality issues within work deposited with the Federal Reserve Banks. Additionally, the Federal Reserve Banks will charge a quality fee for cases submitted with incorrect or incomplete information that resulted in the prevention of automatic resolution of the request. These quality fees are designed to encourage greater efficiency through proper case submission and improved deposit practices. The announcement may be viewed at: <https://www.frb-services.org/news/fed360/issues/011519/011519-check-adj-quality-initiative.html>



Compliance Notes

▲ CFPB published an article on common errors in credit reports and how consumers can get them fixed. According to a study conducted by the Federal Trade Commission, one in five people have an error on at least one of their credit reports. The article may be viewed at: <https://www.consumerfinance.gov/about-us/blog/common-errors-credit-report-and-how-get-them-fixed/>

▲ FRB issued changes to the Cash Services Manual of Procedures (CSMOP). The manual contains the requirements that apply to an Institution's Currency and Coin transactions with a Federal Reserve Bank. An Institution that orders from and/or deposits Currency and Coin with a Federal Reserve Bank shall adhere to CSMOP, and/or such contract, which contains the prescribed procedures for FRB Cash Services. The manual may be viewed at: <https://www.frbervices.org/assets/resources/rules-regulations/030119-operating-circular-2-csmop.pdf>

▲ CFPB has issued the 2019 edition of its List of Consumer Reporting Companies. The list may be viewed at: https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/cfpb_consumer-reporting-companies-list.pdf

▲ The House Financial Services Committee has released a transcript of Chairwoman Maxine Waters first policy speech in the 116th Congress. The speech outlines Waters' priorities for the Committee like housing and strengthening CFPB. The speech may be viewed at: <https://financialservices.house.gov/news/email/show.aspx?ID=LSOOG4ZWMHVGE>

▲ CFPB has issued the Complaint Snapshot: Mortgage, detailing consumer complaints generally and in relation to mortgages. The report indicates that CFPB received approximately 71,000 mortgage complaints between November 1, 2016 and October 31, 2018, representing 11 percent of total complaints. The report may be viewed at: https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/cfpb_complaint-snapshot-mortgage_2019-01_liwsYNV.pdf

▲ FRB launched an interactive smartphone and tablet application designed to teach elementary school students about the security and design features of Federal Reserve notes. More information on the application may be viewed at: <https://www.uscurrency.gov/education-al-materials/classrooms/money-adventure-mobile-app>

▲ CFPB the sixth annual report from the Office of Servicemember Affairs (OSA) highlighting issues and emerging trends facing servicemembers, veterans, and military families. The number of servicemembers, veterans, and military families turning to CFPB for help has continued to increase over time. As a result, the complaint volume from servicemembers has also risen over the years. From 2016 to 2017 there was a 47% increase in complaints received from servicemembers. The report may be viewed at: https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/cfpb_osa_annual-report_2018.pdf

▲ FRB announced Consumer & Community Context, an article series that features original analysis about the financial conditions and experiences of consumers and communities, including traditionally underserved and economically vulnerable households and neighborhoods. The inaugural issue covers the theme of student loans, and includes articles on the effect that rising student loan debt levels may have on homeownership rates among young adults; and the relationship between the amount of student loan debt and individuals' decisions to live in rural or urban areas. The first issue may be viewed at: <https://www.federalreserve.gov/publications/files/consumer-community-context-201901.pdf> ■



Compliance Calendar

March – October 2019

Advocacy

WBA/ABA Washington Summit
April 1-3 | Washington, D.C.

WBA/ICBA Capital Summit
Apr. 28-May 1 | Washington, D.C.

WBA Capitol Day
May 21 | Madison

Conferences

Agricultural Bankers Conference
April 10-11 | Wisconsin Dells

Women in Banking Conference
April 23 | Wisconsin Dells

Trust Conference
May 3 | Wisconsin Dells

Human Resources Conference
May 9 | Wisconsin Dells

Seminars/Workshops

Call Report Workshop
March 5 | Wisconsin Dells

Advanced IRA Workshops
March 13 | Rothschild/Wausau
March 14 | Madison

Security Officer Workshops
March 19 | Green Bay
March 20 | Eau Claire
March 21 | Wisconsin Dells

Cash Management Workshop
March 25 | Wisconsin Dells

ERM Workshops
March 26 | Wisconsin Dells

Schools/Bootcamps

Loan Compliance School
March 11-15 | Wisconsin Dells

Real Estate
Compliance School
March 13-15 | Wisconsin Dells

Branch Manager
Boot Camps in Madison
Attend only one or more days.
Day 1: Mar. 11 | Day 3: April 10
Day 2: Mar. 12 | Day 4: April 11

Credit Analysis Boot Camp
March 14-15 | Madison
March 28-29 | Green Bay

Business Banking Boot Camp
April 30–May 1 | De Pere
May 2-3 | Madison

Group Meeting

WBA CEOnly | CFOnly
Networks Group Meeting
March 8 | Wisconsin Dells
June 7 | Wisconsin Dells
Oct. 11 | Madison

Power of Community

WBA Power of Community
Week | Wisconsin (statewide)
April 22-26 | 2019

(Visit www.wisbank.com/BanksPowerWI online or
Twitter – #BanksPowerWI.)

Webinars (online training)

Quarterly Compliance Briefing:
4-Part Series
Part 1: March 6 | Part 2: June 13
Part 3: Sept. 24 | Part 4: Dec. 10

Consumer Real Estate Loans
March 7 | 1:30-3:30 p.m.

RESPA - Those Pesky Section 8
Violations
March 13 | 10 a.m.-Noon

Compliance Rules for
Commercial Loans Secured
by Real Estate
March. 13 | 1:30-3:30 p.m.

E-Sign for Lending and Critical
E-Sign Implementation Issues
March 13 | 1:30-3:30 p.m.

Annual Deposit Regulation
Training for Frontline
March 14 | 1:30-3:30 p.m.

Handling Deceased Deposit
Accounts
March 18 | 1:30-3:30 p.m.

Right of Setoff
March 19 | 10 a.m.-Noon

Required Compliance for
Commercial Loans Secured by
Real Estate
March 20 | 2-3:30 p.m.

Legal Liabilities when Check
Fraud Occurs
March 21 | 10 a.m.-Noon

Banking Marijuana-Related
Businesses
March 21 | 2-3:30 p.m.

Handling Power of Attorney
& Living Trust Documents on
Deposit Accounts & Loans
March 27 | 2-3:30 p.m.

Foreign Remittances
March 28 | 1:30-3:30 p.m.

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

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