

Compliance Journal

Special Focus

Transitioning Away from LIBOR

Globally, the London Interbank Offered Rate (LIBOR) is one of the most widely used interest rate benchmarks. However, this benchmark may cease to exist at the end of 2021, necessitating a transition away from LIBOR. This article briefly discusses the reasons why LIBOR may be ending and then concentrates on how financial institutions should prepare for its potential end.

The End of LIBOR

LIBOR is calculated as the average of interest rates that a panel of large London banks report that they would charge other banks to borrow unsecured for a specified period of time. Despite LIBOR's widespread use as a reference rate by financial institutions, its reliability and sustainability has been called into question in recent years for a number of different reasons.

Concerned that LIBOR was becoming less stable and reliable, the Financial Conduct Authority (FCA), the United Kingdom's financial regulator, announced that by the end of 2021, it would no longer compel banks to report their interest rates to the LIBOR administrator. The FCA also explained that although it would no longer require banks to submit their rates to the administrator, it would not prohibit banks from continuing to submit their LIBOR data after 2021. LIBOR's administrator has stated that it will continue to calculate LIBOR as long as at least five banks continue to submit their information. This means that LIBOR may continue to exist after 2021; however, the rate will no longer be representative of the inter-bank interest rate offered and accepted by major financial institutions. There are also fears that this number would be more volatile. This occurrence has been referred to as the "zombie LIBOR."

The FCA's announcements have made the future of LIBOR uncertain but clarified the increasing risk associated with continued reliance on LIBOR. With the uncertain future of LIBOR, financial institutions should prepare for either the retirement or instability of LIBOR.

Transition from LIBOR to SOFR

Based on the potential problems with LIBOR in 2021, market participants and regulators have worked to identify the best alternative reference rate to replace LIBOR and implement plans to transition to that reference rate. The Federal Reserve convened the Alternative Reference Rates Committee (ARRC) to identify a more robust reference rate and to facilitate the transition away from LIBOR. The ARRC is composed of many private-sector entities that have a presence in markets that are impacted by LIBOR. Further, several federal regulators, including the FDIC, the Federal Reserve, the OCC, and the CFPB, serve as non-voting, ex officio members of the ARRC.

In 2017, the ARRC identified the Secured Overnight Financing Rate (SOFR) as its recommended best alternative to LIBOR. SOFR is based on transactions in the U.S. Treasury repurchase market, measuring the cost of borrowing cash overnight collateralized by U.S. Treasury securities in the market. Because of the size and liquidity of the market underlying SOFR, the ARRC believes that the index is more robust and resilient than LIBOR. To support the transition to SOFR, the ARRC has begun implementing steps to help SOFR gain momentum. As a part of this work, in April 2018, the New York Federal Reserve Board began publishing SOFR in conjunction with the Office of Financial Research.

Following the selection of SOFR as its alternative reference rate, the ARRC also published a Paced Transition Plan that outlines specific steps and timelines to promote the adoption of SOFR. These steps focus on updating existing contracts that cite LIBOR as the reference rate and encouraging the issuance of new products that use SOFR. The ARRC has supported the issuance of SOFR-linked products and securities. Recognizing the importance of updating existing contracts that use LIBOR as a reference rate, the ARRC has developed guiding principles for fallback contract language. Following this, the ARRC released recommended fallback contract language for several products including adjustable-rate mortgages and floating-rate notes.



Special Focus

On November 15, 2019, Fannie Mae and Freddie Mac announced their support of the ARRC's fallback language and their plan to incorporate the recommended language into its uniform notes and other legal documents for ARMs. They also announced their plan to offer new SOFR-based index and ARM products and have now become regular issuers of SOFR-indexed debt. Similarly, on February 5, 2020, Fannie Mae and Freddie Mac announced that they had incorporated the ARRC's fallback language into their existing standard ARM notes and riders. Further, they announced that, by the end of 2020, they will no longer acquire loans indexed to LIBOR.

Planning for the End

Given either the upcoming end or instability of LIBOR, financial institutions should prepare for 2022. Institutions should use the next two years to comprehensively assess their risks and develop an action plan to mitigate those risks. It might be best to appoint one person to head the financial institution's strategy and implementation. First, financial institutions should review their existing agreements that use LIBOR as a reference rate. The existing agreements should be divided into those in which a third party is involved, i.e., trust preferred securities or swap agreements, and those in which the financial institution and the other contracting party are the only parties to the transaction (the In-House Contracts).

Any financial institutions that have issued debt securities (such as subordinated debt or trust preferred securities) at the holding company or bank level should check the documentation governing those issuances. Typically, those contracts provide for the substitution of a comparable rate. Financial institutions should confirm the substitution language and also review the procedures for substituting the rate. If the issuance involves an institutional trustee, such as Wilmington Trust Company for many outstanding trust preferred securities, it may be necessary or advisable to contact the institutional trustee far in advance of the LIBOR end to discuss the process of changing rates.

The In-House Contracts should be further subdivided into those whose term ends prior to the end of 2021 and those whose maturity is after 2021. Next, financial institutions should ensure that existing In-House Contracts are able to substitute a comparable rate. Then, the financial institution should determine whether it will substitute a new rate and a new margin and at what point the change will be made. Consideration should be given to the stability of a new rate and a new margin. The decision on a new rate and a new margin may involve several committees and personnel at the financial institution as different considerations of interest rate risk, stability, competition and other factors will influence the ultimate substitute reference rate the financial institution will utilize. Financial institutions should note that the Prime Rate will continue to be available unaffected by the impending demise of LIBOR.

After a decision has been made on the financial institution's new reference rate, it may be advisable to educate the financial institution's LIBOR customers on the new rate, especially if it's a rate that customers may not be familiar with. Although a customer may not have the right to contest the new reference rate, educating the customer may alleviate the customer's anxiety about the new reference rate.

Finally, the financial institution should determine how the new reference rate will be implemented. The financial institution should consider whether it will draft amendments to existing loan documents to implement the new reference rate or whether it will simply notify the other party to the contract of the new reference rate. Financial institutions should contact their legal counsel for advice on this issue.

The WBA forms distributed through FIPCO currently contain a provision that if the index rate a lender uses with respect to a particular loan becomes unavailable then the lender may substitute a comparable index rate. To alleviate concerns with the zombie LIBOR, FIPCO has created the LIBOR Addendum. This Addendum allows the lender to replace LIBOR if a "Replacement Event" occurs. The Addendum is drafted to define a Replacement Event to include a situation in which LIBOR would continue to exist in a zombie state. The LIBOR Addendum can be used for new loans that use LIBOR as the index rate. The form could also be used for existing loans, but the borrower is required to sign the LIBOR Addendum.

February 2020
Volume 25, Number 9

Wisconsin Bankers Association
4721 South Biltmore Lane,
P.O. Box 8880, Madison,
Wisconsin, 53708-8880

Senior Writers
Scott Birrenkott

Editor
Ally Bates

Copyright ©2020
Wisconsin Bankers Association. All rights reserved. Reproduction by any means of the entire contents or any portion of this publication without prior written permission is strictly prohibited. This publication is intended to provide accurate information in regard to the subject matter covered as of the date of publication; however, the information does not constitute legal advice. If legal advice or other expert assistance is required, the services of a competent and professional person should be sought.

Subscription Rate:
\$195/year for non-members. For subscription orders and inquiries, please contact the Wisconsin Bankers Association at the above address, by phone at 608/441-1200 or e-mail at WBAlegal@wisbank.com. *WBA Compliance Journal* may also be seen online at: www.wisbank.com.



Special Focus

When making new loans using LIBOR that will mature after 2021, financial institutions should ensure that any new contracts allow for an easy transition to a new reference rate. Consideration should be given to using the LIBOR Addendum to In-House Contracts. Additionally, financial institutions should consider incorporating the fallback language adopted by Fannie Mae and Freddie Mac to any residential real estate mortgages using LIBOR intended to be sold on the secondary market.

Taking the steps outlined above will help financial institutions mitigate their risks in the post-LIBOR market.

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

Regulatory Spotlight

Agencies Finalize Standardized Approach for Calculating the Exposure Amount of Derivative Contracts.

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) are issuing a final rule to implement a new approach—the standardized approach for counterparty credit risk (SA-CCR)—for calculating the exposure amount of derivative contracts under these agencies’ regulatory capital rule. Under the final rule, an advanced approaches banking organization may use SA-CCR or the internal models methodology to calculate its advanced approaches total risk-weighted assets, and must use SA-CCR, instead of the current exposure methodology, to calculate its standardized total risk-weighted assets. A non-advanced approaches banking organization may use the current exposure methodology or SA-CCR to calculate its standardized total risk-weighted assets. The final rule also implements SA-CCR in other aspects of the capital rule. Notably, the final rule requires an advanced approaches banking organization to use SA-CCR to determine the exposure amount of derivative contracts included in the banking organization’s total leverage exposure, the denominator of the supplementary leverage ratio. In addition, the final rule incorporates SA-CCR into the cleared transactions framework and makes other amendments, generally with respect to cleared transactions. The final rule is effective 04/01/2020, and the mandatory compliance date is **01/01/2022**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-24/pdf/2019-27249.pdf>. *Federal Register*, Vol. 85, No. 16, 01/24/2020, 4362-4444.

Agencies Finalize Regulatory Capital Rule Revisions.

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) are issuing a final rule to implement section 402 of the Economic Growth, Regulatory Relief, and Consumer Protection Act. Section 402 directs these agencies to amend the regulatory capital rule to exclude from the supplementary leverage ratio certain funds of banking organizations deposited with central banks if the banking organization is predominantly engaged in custody, safekeeping, and asset servicing activities. The rule is effective **04/01/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-27/pdf/2019-28293.pdf>. *Federal Register*, Vol. 85, No. 17, 01/27/2020, 4569-4579.

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) seek comment on the information collection titled Call Report. The agencies also gave notice that they sent the collection to OMB for review. Comments are due **02/26/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-27/pdf/2020-01292.pdf>. *Federal Register*, Vol. 85, No. 17, 01/27/2020, 4780-4796.

CFPB Requests Applications for Advisory Committee Membership.

The Bureau of Consumer Financial Protection (CFPB) invites the public to apply for membership for appointment to its Consumer Advisory Board (CAB), Community Bank Advisory Council (CBAC), Credit Union Advisory Council (CUAC), and Academic Research Council (ARC) (collectively, advisory committees). Membership of the advisory committees includes representatives of consumers, diverse communities, the financial services industry, academics, and economists. Appointments to the committees are generally for two years. However, the Director may amend the respective committee charters from time to time during the charter terms, as the Director deems necessary to accomplish the purpose of the committees. CFPB expects to announce the selection of new members in late summer 2020. Applications are due **02/27/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-13/pdf/2020-00308.pdf>. *Federal Register*, Vol. 85, No. 8, 01/13/2020, 1806-1807.



Regulatory Spotlight

CFPB Requests Comment on Information Collections.

- CFPB announced it seeks comment on the information collection titled Small Business Compliance Cost Survey. CFPB also gave notice that it sent the collection to OMB for review. Comments are due **02/18/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-17/pdf/2020-00744.pdf>. *Federal Register*, Vol. 85, No. 12, 01/17/2020, 3036-3037.
- CFPB announced it seeks comment on the information collection titled Consumer Response Company Response Survey. CFPB also gave notice that it sent the collection to OMB for review. Comments are due **03/24/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-24/pdf/2020-01156.pdf>. *Federal Register*, Vol. 85, No. 16, 01/24/2020, 4294.
- CFPB announced it seeks comment on the information collection titled Application Forms for Financial Empowerment Training Programs. CFPB also gave notice that it sent the collection to OMB for review. Comments are due **03/11/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-02-10/pdf/2020-02545.pdf>. *Federal Register*, Vol. 85, No. 27, 02/10/2020, 7537.

CFPB Issues Policy Statement on Compliance Aids.

CFPB published a policy statement in order to announce a new designation for certain CFPB guidance, known as “Compliance Aids,” and to explain the legal status and role of guidance with that designation. The statement is applicable **02/01/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-27/pdf/2020-00648.pdf>. *Federal Register*, Vol. 85, No. 17, 01/27/2020, 4579-4580.

CFPB Issues Policy Statement on Abusive Acts or Practices.

CFPB published a policy statement to provide a framework for the CFPB’s exercise of its supervisory and enforcement authority to address abusive acts or practices. Section 1031(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) provides that CFPB may use its supervisory and enforcement authority, among other things, to prevent a covered person or service provider from committing or engaging in an unfair, deceptive, or abusive act or practice under Federal law in connection with any transaction with a consumer for a consumer financial product or service, or the offering of a consumer financial product or service. Section 1031(d) of the Dodd-Frank Act sets forth general standards for when CFPB may declare that an act or practice is abusive for purposes of the Dodd-Frank Act. Uncertainty remains as to the scope and meaning of abusiveness. This uncertainty creates challenges for covered persons in complying with the law. CFPB wants to make sure that such uncertainty does not impede or deter the provision of otherwise lawful financial products or services that could be beneficial to consumers. The policy statement is applicable **01/24/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-02-06/pdf/2020-01661.pdf>. *Federal Register*, Vol. 85, No. 25, 02/06/2020, 6733-6738.

FRB Issues Rules of Practice for Hearings.

The Board of Governors of the Federal Reserve System (FRB) is issuing a final rule amending its rules of practice and procedure to adjust the amount of each civil money penalty (CMP) provided by law within its jurisdiction to account for inflation as required by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. The final rule is effective **01/14/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-14/pdf/2020-00161.pdf>. *Federal Register*, Vol. 85, No. 9, 01/14/2020, 2007-2009.

FRB Requests Comment on Information Collections.

- FRB announced it seeks comment on the information collection titled Information Market Risk Capital Rule. FRB also gave notice that it sent the collection to OMB for review. Comments are due **03/17/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-17/pdf/2020-00662.pdf>. *Federal Register*, Vol. 85, No. 12, 01/17/2020, 3049-3050.
- FRB announced it seeks comment on the information collection titled Census of Finance Companies. FRB also gave notice that it sent the collection to OMB for review. Comments are due **03/16/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-16/pdf/2020-00566.pdf>. *Federal Register*, Vol. 85, No. 11, 01/16/2020, 2740-2741.



Regulatory Spotlight

- FRB announced it seeks comment on the information collection titled Pre-Hire Conflict of Interest Screening Form. FRB also gave notice that it sent the collection to OMB for review. Comments are due **03/16/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-16/pdf/2020-00614.pdf>. *Federal Register*, Vol. 85, No. 11, 01/16/2020, 2741-2742.
- FRB announced it seeks comment on the information collection titled Registration of Mortgage Loan Originators. FRB also gave notice that it sent the collection to OMB for review. Comments are due **03/16/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-16/pdf/2020-00634.pdf>. *Federal Register*, Vol. 85, No. 11, 01/16/2020, 2742-2744.

FDIC Removes Transferred OTS Regulations.

- The Federal Deposit Insurance Corporation (FDIC) is adopting a final rule to rescind and remove rules regarding accounting requirements for State savings associations because these financial statement and disclosure requirements are substantially similar to, although more detailed than, otherwise applicable financial statement form and content requirements and disclosure requirements that a State savings association must satisfy under Federal banking or securities laws or regulations. The final rule is effective **02/20/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-21/pdf/2019-27579.pdf>. *Federal Register*, Vol. 85, No. 13, 01/21/2020, 3250-3253.
- FDIC is adopting a final rule rescinding and removing from the Code of Federal Regulations the regulations regarding regulatory reporting standards. The final rule is effective **02/20/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-21/pdf/2019-27577.pdf>. *Federal Register*, Vol. 85, No. 13, 01/21/2020, 3247-3250.
- FDIC is adopting a final rule to rescind and remove certain regulations transferred in 2011 to the FDIC from the former Office of Thrift Supervision (OTS) pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act) because they are unnecessary, redundant, or duplicative of other regulations or safety and soundness considerations. In addition to the removal, FDIC is making technical changes to other parts of FDIC's regulations so that they may be applicable on their terms to State savings associations. Following the removal of the identified regulations, the regulations governing the operations of State savings associations will be substantially the same as those for all other FDIC-supervised institutions. The final rule is effective **02/20/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-21/pdf/2019-27580.pdf>. *Federal Register*, Vol. 85, No. 13, 01/21/2020, 3232-3247.

FDIC Proposes Amendments to Brokered Deposits Restrictions.

FDIC proposed revisions to its regulations relating to the brokered deposits restrictions that apply to less than well capitalized insured depository institutions. The proposed rule would create a new framework for analyzing certain provisions of the "deposit broker" definition, including "facilitating" and "primary purpose." The proposed rule would also establish an application and reporting process with respect to the primary purpose exception. The application process would be available to insured depository institutions and third parties that wish to utilize the exception. Comments are due **04/10/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-02-10/pdf/2019-28275.pdf>. *Federal Register*, Vol. 85, No. 27, 02/10/2020, 7453-7472.

FDIC Requests Comment on Information Collection.

FDIC announced it seeks comment on the information collection titled Information Collection for Innovation Pilot Programs. FDIC also gave notice that it sent the collection to OMB for review. Comments are due **02/13/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-14/pdf/2020-00437.pdf>. *Federal Register*, Vol. 85, No. 9, 01/14/2020, 2134-2135.

FDIC Issues Correction to Regulatory Capital Rule.

FDIC is correcting an interagency final rule that appeared in the *Federal Register* on **11/13/2019**, regarding Capital Simplification for Qualifying Community Banking Organizations. These corrections are necessary to standardize the language in the FDIC regulations with the regulations of the other agencies that issued the final rule. The correction is effective **01/30/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-30/pdf/2020-00776.pdf>. *Federal Register*, Vol. 85, No. 20, 01/30/2020, 5303-5304.



Regulatory Spotlight

FDIC Issues Notice of Inflation Adjustments for Civil Monetary Penalties.

FDIC is providing notice of its maximum civil money penalties as adjusted for inflation. The adjusted maximum amounts of civil money penalties in this notice are applicable to penalties assessed after 01/15/2020, for conduct occurring on or after **11/02/2015**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-14/pdf/2020-00217.pdf>. *Federal Register*, Vol. 85, No. 9, 01/14/2020, 2132-2134.

FDIC Extends Comment Period for Requests for Participation in the Affairs of an Insured Depository Institution by Convicted Individuals.

FDIC proposed to revise the existing regulations requiring persons convicted of certain criminal offenses to obtain prior written consent before participating in the conduct of the affairs of any depository institution to incorporate FDIC's existing Statement of Policy, and to amend the regulations setting forth FDIC's procedures and standards applicable to an application to obtain FDIC's prior written consent. The FDIC has determined that an extension of the comment period until 03/16/2020, is appropriate. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-27/pdf/2020-01298.pdf>. *Federal Register*, Vol. 85, No. 17, 01/27/2020, 4614.

FDIC Issues Termination Receiverships.

- FDIC as Receiver for former depository institutions, intends to terminate its receivership for the institutions listed in the notice. 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 notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-02-03/pdf/2020-02056.pdf>. *Federal Register*, Vol. 85, No. 22, 02/03/2020, 5958-5959.
- 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-2020-02-07/pdf/2020-02440.pdf>. *Federal Register*, Vol. 85, No. 26, 02/07/2020, 7303-7304.

OCC Requests Comment on Information Collections.

- The Office of the Comptroller of the Currency (OCC) announced it seeks comment on the information collection titled Securities Offering Disclosure Rules. OCC also gave notice that it sent the collection to OMB for review. Comments are due **03/17/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-17/pdf/2020-00673.pdf>. *Federal Register*, Vol. 85, No. 12, 01/17/2020, 3105-3106.
- OCC announced it seeks comment on the information collection titled Recordkeeping Requirements for Securities Transactions. OCC also gave notice that it sent the collection to OMB for review. Comments are due **03/23/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-22/pdf/2020-00945.pdf>. *Federal Register*, Vol. 85, No. 14, 01/22/2020, 3760-3761.
- OCC announced it seeks comment on the information collection titled Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery. OCC also gave notice that it sent the collection to OMB for review. Comments are due



Regulatory Spotlight

02/24/2020. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-23/pdf/2020-01077.pdf>. *Federal Register*, Vol. 85, No. 15, 01/23/2020, 4060-4061.

- OCC announced it seeks comment on the information collection titled Company-Run Annual Stress Test Reporting Template and Documentation for Covered Institutions with Total Consolidated Assets of \$250 Billion or More 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 **03/02/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-31/pdf/2020-01825.pdf>. *Federal Register*, Vol. 85, No. 21, 01/31/2020, 5773-5775.

HUD Proposes Amendments to Affirmatively Furthering Fair Housing.

The Department of Housing and Urban Development (HUD) recognizes that its program participants have a duty to affirmatively further fair housing (AFFH), which HUD finds essential to the appropriate administration of its grant programs. Program participants must certify that they AFFH and maintain documentation to support that certification. This rule proposes changes to HUD's regulations regarding the reporting on program participants' actions to AFFH so that HUD can effectively evaluate participants' compliance with their AFFH obligations. This proposed rule would establish a uniform reporting process that respects the unique needs and difficulties faced by individual jurisdictions by assessing program participants on the concrete actions they take to AFFH and by leveraging objective metrics for fair housing choice to assist HUD's evaluation of such actions. The proposed regulation would revise the definition of AFFH, develop metrics to allow comparison of jurisdictions, and require jurisdictions to certify that they will AFFH by identifying concrete steps the jurisdiction will take over the next 5 years. Jurisdictions would need to report on their progress toward the commitments in their AFFH certification through the regular consolidated plan reporting and review processes. Public housing agencies would demonstrate their efforts to AFFH through their participation in the consolidated plan process. Comments are due **03/16/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-14/pdf/2020-00234.pdf>. *Federal Register*, Vol. 85, No. 9, 01/14/2020, 2041-2061.

HUD Proposes Amendments to Fair Housing Act Design and Construction Requirements.

HUD proposes to amend HUD's Fair Housing Act design and construction regulations by incorporating by reference the 2009 edition of International Code Council (ICC) Accessible and Usable Building and Facilities (ICC A117.1–2009) standard, as a safe harbor. The Accessible and Usable Buildings and Facilities standard is a technical standard for the design of facilities that are accessible to persons with disabilities. HUD proposes to determine that compliance with ICC A117.1–2009 satisfies the design and construction requirements of the Fair Housing Act and its amendments. This rule also proposes to designate the 2009, 2012, 2015 and 2018 editions of the International Building Code (IBC) as safe harbors under the Fair Housing Act. The IBC is a model building code and not law, but it has been adopted as law by various states and localities. The IBC provides minimum standards for public safety, health, and welfare as they are affected by building construction. Comments are due **03/16/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-15/pdf/2020-00233.pdf>. *Federal Register*, Vol. 85, No. 10, 01/15/2020, 2354-2359.

HUD Proposes Amendments to Manufactured Home Construction and Safety Standards.

HUD issued a proposed rule to amend the Federal Manufactured Home Construction and Safety Standards (the Construction and Safety Standards) by adopting recommendations made to HUD by the Manufactured Housing Consensus Committee (MHCC). The National Manufactured Housing Construction and Safety Standards Act of 1974 (the Act) requires HUD to publish in the *Federal Register* any proposed revised Construction and Safety Standard submitted by the MHCC. The MHCC has prepared and submitted to HUD its third group of recommendations to improve various aspects of the Construction and Safety Standards. HUD has reviewed those proposals and has made editorial revisions to several, and HUD proposes correlating additions for several of the proposals. HUD has decided not to go forward in this proposed rule with certain revisions recommended by the MHCC due to pending regulations for improving energy efficiency in manufactured homes currently being prepared by the Department of Energy. In addition, HUD has decided not to move forward with a new proposal to add requirements for draft-stopping to the Manufactured Home Construction and Safety Standards. As agreed, these recommendations are being published to provide notice of the proposed revisions and an opportunity for public comment. Comments are due **03/31/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-31/pdf/2020-01473.pdf>. *Federal Register*, Vol. 85, No. 21, 01/31/2020, 5589-5608.



Regulatory Spotlight

HUD Issues Debenture Interest Rates.

HUD announced changes in the interest rates to be paid on debentures issued with respect to a loan or mortgage insured by FHA under the provisions of the National Housing Act. The interest rate for debentures issued under Section 221(g)(4) of the Act during the 6-month period beginning **01/01/2020**, is 2 ¼ percent. The interest rate for debentures issued under any other provision of the Act is the rate in effect on the date that the commitment to insure the loan or mortgage was issued, or the date that the loan or mortgage was endorsed (or initially endorsed if there are two or more endorsements) for insurance, whichever rate is higher. The interest rate for debentures issued under these other provisions with respect to a loan or mortgage committed or endorsed during the 6-month period beginning **01/01/2020**, is 1 ¾ percent. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-02-06/pdf/2020-02295.pdf>. *Federal Register*, Vol. 85, No. 25, 02/06/2020, 6967-6968.

HUD Requests Comment on Information Collections.

- HUD announced it seeks comment on the information collection titled Ginnie Mae Multiclass Securities Program Documents (Forms and Electronic Data Submissions). HUD also gave notice that it sent the collection to OMB for review. Comments are due **02/13/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-14/pdf/2020-00317.pdf>. *Federal Register*, Vol. 85, No. 9, 01/14/2020, 2141-2143.
- HUD announced it seeks comment on the information collection titled White House Council on Eliminating Regulatory Barriers to Affordable Housing; Request for Information. HUD also gave notice that it sent the collection to OMB for review. Comments are due **01/31/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-14/pdf/2020-00441.pdf>. *Federal Register*, Vol. 85, No. 9, 01/14/2020, 2143.
- HUD announced it seeks comment on the information collection titled Disclosure of Adjustable Rate Mortgage (ARM) Rates. HUD also gave notice that it sent the collection to OMB for review. Comments are due **03/17/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-17/pdf/2020-00753.pdf>. *Federal Register*, Vol. 85, No. 12, 01/17/2020, 3069-3070.
- HUD announced it seeks comment on the information collection titled Alternative Inspections—Housing Choice Voucher Program. HUD also gave notice that it sent the collection to OMB for review. Comments are due **03/02/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-31/pdf/2020-01878.pdf>. *Federal Register*, Vol. 85, No. 21, 01/31/2020, 5684-5685.
- HUD announced it seeks comment on the information collection titled Project Approval for Single-Family Condominiums. HUD also gave notice that it sent the collection to OMB for review. Comments are due **03/31/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-31/pdf/2020-01880.pdf>. *Federal Register*, Vol. 85, No. 21, 01/31/2020, 5686-5687.
- HUD announced it seeks comment on the information collection titled Section 202 Supportive Housing for the Elderly Application Submission Requirements. HUD also gave notice that it sent the collection to OMB for review. Comments are due **03/31/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-31/pdf/2020-01879.pdf>. *Federal Register*, Vol. 85, No. 21, 01/31/2020, 5685-5686.

FEMA Issues Final Flood Hazard Determinations.

The Federal Emergency Management Agency (FEMA) has issued a final notice which identifies communities in the states of **Iowa**, **Nebraska**, 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 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 **06/05/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-21/pdf/2020-00814.pdf>. *Federal Register*, Vol. 85, No. 13, 01/21/2020, 3402-3404.



Regulatory Spotlight

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, Iowa, Michigan, Minnesota, Ohio, and Wisconsin**. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities. The flood hazard determinations modified by each LOMR will be used to calculate flood insurance premium rates for new buildings and their contents. The effective date for each LOMR is indicated in the table in the final notice. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-02-03/pdf/2020-01902.pdf>. *Federal Register*, Vol. 85, No. 22, 02/03/2020, 5971-5976.
- 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.govinfo.gov/content/pkg/FR-2020-02-07/pdf/2020-02460.pdf>. *Federal Register*, Vol. 85, No. 26, 02/07/2020, 7324-7326.

FEMA Issues Proposed Flood Hazard Determination.

FEMA has requested comments on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for communities in the state of **Iowa**. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). Comments are due 04/27/2020. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-28/pdf/2020-01374.pdf>. *Federal Register*, Vol. 85, No. 18, 01/28/2020, 5003-5004.

FinCEN Requests Comment on Information Collections.

The Financial Crimes Enforcement Network (FinCEN) announced it seeks comment on the information collection titled Registration of Money Services Businesses. FinCEN also gave notice that it sent the collection to OMB for review. Comments are due **03/27/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-27/pdf/2020-01240.pdf>. *Federal Register*, Vol. 85, No. 17, 01/27/2020, 4796-4798.

Treasury Finalizes Return Due Date and Extended Due Date Changes.

The Department of the Treasury (Treasury) issued final regulations that update the due dates and available extensions of time to file certain tax returns and information returns. The dates are updated to reflect the statutory requirements set by section 2006 of the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015 and section 201 of the Protecting Americans from Tax Hikes Act of 2015. Additionally, the regulations remove a provision for electing large partnerships that was made obsolete by section 1101(b)(1) of the Bipartisan Budget Act of 2015. These regulations affect taxpayers who file Form W-2 (series, except Form W-2G), Form W-3, Form 990 (series), Form 1099-MISC, Form 1041, Form 1041-A, Form 1065, Form 1065-B, Form 1120 (series), Form 4720, Form 5227, Form 6069, Form 8804, or Form 8870. The regulations are effective **01/30/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-30/pdf/2020-00467.pdf>. *Federal Register*, Vol. 85, No. 20, 01/30/2020, 5323-5327.

Treasury Finalizes Determination of the Maximum Value of a Vehicle for Use With the Fleet-Average and Vehicle Cents-Per-Mile Valuation Rules.

Treasury issued final regulations regarding special valuation rules for employers and employees to use in determining the amount to include in an employee's gross income for personal use of an employer-provided vehicle. The final regulations reflect changes made



Regulatory Spotlight

by the Tax Cuts and Jobs Act (TCJA). The final rule is effective **02/05/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-02-05/pdf/2020-02158.pdf>. *Federal Register*, Vol. 85, No. 24, 02/05/2020, 6424-6428.

Treasury Issues Correction to Estate and Gift Taxes.

Treasury issued corrections to Treasury Decision 9884, which was published in the *Federal Register* on **11/26/2019**. Treasury Decision 9884 contained final regulations addressing the effect of recent legislative changes to the basic exclusion amount allowable in computing Federal gift and estate taxes. The final regulations affect donors of gifts made after 2017 and the estates of decedents dying after 2017. As published, the final regulation contained an omission that may prove misleading and therefore should be corrected. The correction is effective **02/06/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-02-06/pdf/2020-01392.pdf>. *Federal Register*, Vol. 85, No. 25, 02/06/2020, 6803.

Treasury Requests Comment on Information Collections.

- Treasury announced it seeks comment on the information collection titled Financial Sector Critical Infrastructure Cybersecurity Survey. Treasury also gave notice that it sent the collection to OMB for review. Comments are due **03/23/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-22/pdf/2020-00898.pdf>. *Federal Register*, Vol. 85, No. 14, 01/22/2020, 3761-3762.
- Treasury announced it seeks comment on the information collection titled Information Regarding Request for Refund of Social Security Tax Erroneously Withheld on Wages Received by a Nonresident Alien on an F, J, or M Type Visa. Treasury also gave notice that it sent the collection to OMB for review. Comments are due **03/24/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-24/pdf/2020-01172.pdf>. *Federal Register*, Vol. 85, No. 16, 01/24/2020, 4356.
- Treasury announced it seeks comment on the information collection titled Electronic Filing Declaration for Form 8963. Treasury also gave notice that it sent the collection to OMB for review. Comments are due **03/24/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-24/pdf/2020-01173.pdf>. *Federal Register*, Vol. 85, No. 16, 01/24/2020, 4355-4356.
- Treasury announced it seeks comment on the information collection titled Student Loan Interest Statement. Treasury also gave notice that it sent the collection to OMB for review. Comments are due **03/24/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-24/pdf/2020-01174.pdf>. *Federal Register*, Vol. 85, No. 16, 01/24/2020, 4358.
- Treasury announced it seeks comment on the information collection titled Tip Reporting Alternative Commitment Agreement (TRAC) for Use in the Food and Beverage Industry. Treasury also gave notice that it sent the collection to OMB for review. Comments are due **03/24/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-24/pdf/2020-01175.pdf>. *Federal Register*, Vol. 85, No. 16, 01/24/2020, 4357-4358.
- Treasury announced it seeks comment on the information collection titled Capitalization of Interest. Treasury also gave notice that it sent the collection to OMB for review. Comments are due **03/24/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-24/pdf/2020-01176.pdf>. *Federal Register*, Vol. 85, No. 16, 01/24/2020, 4356-4357.
- Treasury announced it seeks comment on the information collection titled Carryforward Election of Unused Private Activity Bond Volume Cap. Treasury also gave notice that it sent the collection to OMB for review. Comments are due **03/02/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-31/pdf/2020-01846.pdf>. *Federal Register*, Vol. 85, No. 21, 01/31/2020, 5776-5779.
- Treasury announced it seeks comment on the information collection titled Bank Enterprise Award Program Application. Treasury also gave notice that it sent the collection to OMB for review. Comments are due **03/02/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-31/pdf/2020-01882.pdf>. *Federal Register*, Vol. 85, No. 21, 01/31/2020, 5779-5780.



Regulatory Spotlight

FHFA Requests Comment on Property Assessed Clean Energy Program.

The Federal Housing Finance Agency (FHFA) as regulator for Fannie Mae and Freddie Mac as well as the Federal Home Loan Banks, seeks public input on residential energy retrofitting programs financed through special state legislation enabling a “super-priority lien” over existing and subsequent first mortgages. In particular, FHFA seeks input on potential changes to its policies for its regulated entities based on safety and soundness concerns. These state programs, termed Property Assessed Clean Energy or PACE, address residential properties and commercial applications. Comments are due **03/16/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-16/pdf/2020-00655.pdf>. *Federal Register*, Vol. 85, No. 11, 01/16/2020, 2736-2740.

FHFA Requests Comment on Information Collections.

- FHFA announced it seeks comment on the information collection titled Members of the Banks. FHFA also gave notice that it sent the collection to OMB for review. Comments are due **03/23/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-22/pdf/2020-00930.pdf>. *Federal Register*, Vol. 85, No. 14, 01/22/2020, 3683-3685.
- FHFA announced it seeks comment on the information collection titled Community Support Requirements. FHFA also gave notice that it sent the collection to OMB for review. Comments are due **03/23/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-22/pdf/2020-00933.pdf>. *Federal Register*, Vol. 85, No. 14, 01/22/2020, 3680-3683.

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

FHFA has adjusted the cap on average total assets that is used in determining whether a Federal Home Loan Bank (Bank) member qualifies as a “community financial institution” (CFI) to \$1,224,000,000, 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). These changes took effect on **01/01/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-22/pdf/2020-00929.pdf>. *Federal Register*, Vol. 85, No. 14, 01/22/2020, 3680.

FHFA Issues Civil Monetary Penalty Inflation Adjustments.

FHFA is adopting a final rule amending its Rules of Practice and Procedure and other agency regulations to adjust each civil money penalty within its jurisdiction to account for inflation, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. The inflation adjustments are applicable **01/15/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-28/pdf/2020-01025.pdf>. *Federal Register*, Vol. 85, No. 18, 01/28/2020, 4903-4905.

FCA Finalizes Amendments to Board Meeting Regulations.

The Farm Credit Administration (FCA) issued a final rule amending its regulations to reflect changes in FCA’s organizational structure and to correct the mailing address for the McLean office. This regulation will become effective no earlier than 30 days after publication in the *Federal Register* during which either one or both Houses of Congress are in session. FCA will publish a document announcing the effective date in the *Federal Register*. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-02-05/pdf/2020-01411.pdf>. *Federal Register*, Vol. 85, No. 24, 02/05/2020, 6421-6422.

FCA Proposes Amendments to Amortization Limits.

FCA proposes to repeal the regulatory requirement that production credit associations (PCAs) amortize their loans in 15 years or less, while requiring all Farm Credit System (FCS) associations to address amortization through their credit underwriting standards and internal controls. Comments are due **03/23/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-23/pdf/2020-00785.pdf>. *Federal Register*, Vol. 85, No. 15, 01/23/2020, 3867-3870.



Regulatory Spotlight

FCA Issues Civil Monetary Penalty Adjustments.

FCA issued inflation adjustments to civil money penalties (CMPs) that FCA may impose or enforce pursuant to the Farm Credit Act of 1971, as amended (Farm Credit Act), and pursuant to the Flood Disaster Protection Act of 1973, as amended by the National Flood Insurance Reform Act of 1994, and further amended by the Biggert-Waters Flood Insurance Reform Act of 2012 (Biggert-Waters Act). The adjustments are effective 02/04/2020. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-02-04/pdf/2020-01410.pdf>. *Federal Register*, Vol. 85, No. 02/04/2020, 6023-6025.

CCC Issues Revision to Market Access Program.

The Commodity Credit Corporation (CCC) is revising the Market Access Program (MAP) regulations to eliminate the 5-year limit on participation by branded products in the program, as required in the Agriculture Improvement Act of 2018, and to incorporate changes that conform the operation of the program to the requirements in the Uniform Guidance and Federal grant-making best practices. The rule is effective **01/13/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-13/pdf/2019-27965.pdf>. *Federal Register*, Vol. 85, No. 8, 01/13/2020, 1731-1747.

CCC Finalizes Amendments to Pima Agriculture Cotton Trust Fund and Agriculture Wool Apparel Manufacturers Trust Fund.

CCC issued final amendments to regulations for the Pima Agriculture Cotton Trust Fund (Agriculture Pima Trust Fund) and the Agriculture Wool Apparel Manufacturers Trust Fund (Wool Trust Fund) programs. This final rule makes minor changes to the Department of Agriculture's administration of the Wool Trust Fund, required by section 12603 of the Agriculture Improvement Act of 2018. Statutory changes were made with respect to two of the four types of payments available under the Wool Trust Fund, the Refund of Duties Paid on Imports of Certain Wool Products (Wool Duty Refund program) and the Payments to Manufacturers of Certain Worsted Wool Fabrics (Wool Grant program). In addition, new regulatory language is required to update the payment expiration calendar year and for submission of affidavits that apply to all four payments made available under the Wool Trust Fund. This final rule also makes minor changes to the Department of Agriculture's administration of the Agriculture Pima Trust Fund per section 12602 of the Agriculture Improvement Act of 2018. New regulatory language is required for updating the payment expiration calendar year and to include information in the required affidavit of yarn spinners. The final rule is effective **02/05/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-02-05/pdf/2020-01296.pdf>. *Federal Register*, Vol. 85, No. 24, 02/05/2020, 6419-6421.

CCC Issues Correction to Interim Rule on Agricultural Conservation Easement Program.

CCC published an interim rule in the *Federal Register* on **01/06/2020** that made changes to the Agricultural Conservation Easement Program (ACEP) regulations. This correction is being published to address minor errors in the preamble portion of the ACEP interim rule published on 01/06/2020. There are no changes to the ACEP regulations as published on **01/06/2020**. CCC is also extending the comment period and asking for public input on additional specific questions. The new comment due date is 03/20/2020. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-24/pdf/2020-01066.pdf>. *Federal Register*, Vol. 85, No. 16, 01/24/2020, 4191-4192.

SBA Proposes Supervised Lenders Application Process.

The Small Business Administration (SBA) is proposing to update the regulations applicable to Small Business Lending Companies (SBLCs) and state-regulated lenders (Non-Federally Regulated Lenders (NFRLs)) in order to improve efficiencies and potentially reduce costs related to the application and review process. The rule proposes to establish a comprehensive application and review process for SBLC and NFRL applicants (collectively referred to as SBA Supervised Lenders), including for transactions involving a change of ownership or control, and to clarify and incorporate into the regulations the factors SBA considers in its evaluation of an application. The rule also proposes to address SBA's requirements for the minimum amount of capital needed to be maintained by SBA Supervised Lenders, some of which have not been updated since 1996. Comments are due **03/13/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-13/pdf/2019-28500.pdf>. *Federal Register*, Vol. 85, No. 8, 01/13/2020, 1783-1793.



Regulatory Spotlight

SBA Issues Interim Final Rule on Express Loan Programs.

SBA is amending various regulations governing its business loan programs, including the SBA Express and Export Express Loan Programs and the Microloan and Development Company (504) loan programs. SBA previously published a Notice of Proposed Rulemaking addressing all of the topics and issues covered by this interim final rule and received extensive comments from the public. SBA is publishing this rule interim final rather than proceeding to a final rule in order to provide the public with an additional opportunity to comment. The interim rule is effective **03/11/2020**, comments are due **04/10/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-02-10/pdf/2020-02128.pdf>. *Federal Register*, Vol. 85, No. 27, 02/10/2020, 7622-7652.

FCSIC Issues Adjustments to Civil Penalty Amounts.

The Farm Credit System Insurance Corporation (FCSIC) issued a rule implementing inflation adjustments to civil money penalties (CMPs) that FCSIC may impose under the Farm Credit Act of 1971, as amended. These adjustments are required by 2015 amendments to the Federal Civil Penalties Inflation Adjustment Act of 1990. The final rule is effective **01/15/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-15/pdf/2020-00464.pdf>. *Federal Register*, Vol. 85, No. 10, 01/15/2020, 2283-2284.

SEC Issues Notice of Inflation Adjustments for Civil Monetary Penalties.

The Securities and Exchange Commission (SEC) issued a notice setting forth the annual inflation adjustment of the maximum amount of civil monetary penalties (CMPs) administered by the Commission under the Securities Act of 1933, the Securities Exchange Act of 1934 (the Exchange Act), the Investment Company Act of 1940, the Investment Advisers Act of 1940, and certain penalties under the Sarbanes-Oxley Act of 2002. These amounts are effective beginning on **01/15/2020**, and will apply to all penalties imposed after that date for violations of the aforementioned statutes that occurred after **11/02/2015**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-13/pdf/2020-00306.pdf>. *Federal Register*, Vol. 85, No. 8, 01/13/2020, 1833-1835.

FTC Issues Adjustments to Civil Penalty Amounts.

The Federal Trade Commission (FTC) is implementing adjustments to the civil penalty amounts within its jurisdiction to account for inflation, as required by law. The adjustments are effective **01/14/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-14/pdf/2020-00314.pdf>. *Federal Register*, Vol. 85, No. 9, 01/14/2020, 2014-2016.

FCC Issues Adjustments to Civil Penalty Amounts.

The Federal Communications Commission (FCC) implementing adjustments to the civil penalty amounts within its jurisdiction to account for inflation, as required by law. The adjustments are effective **01/15/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-15/pdf/2020-00459.pdf>. *Federal Register*, Vol. 85, No. 10, 01/15/2020, 2318-2319.

NCUA Issues Adjustments to Civil Monetary Penalty Amounts.

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. This action, including the amount of the adjustments, is required under the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996 and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. The final rule is effective **01/14/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-14/pdf/2020-00309.pdf>. *Federal Register*, Vol. 85, No. 9, 01/14/2020, 2009-2012.

NCUA Proposes Amendments to Combination Transactions with Non-Credit Unions.

NCUA proposes to add subpart D to part 708a of its regulations. This will clarify and make transparent the procedures and requirements currently in place related to combination transactions. Combination transactions include those where a federally insured credit union (FICU) proposes to assume liabilities from a non-credit union, including a bank. They also include a FICU's merger or consolidation with a non-credit union entity. Further, the proposed rule clarifies the scope of section 741.8 of the NCUA's regulations, which



Regulatory Spotlight

currently requires the NCUA to grant approval before a FICU may purchase loans or assume an assignment of deposits, shares, or liabilities from any institution that is not insured by the National Credit Union Share Insurance Fund (NCUSIF). Comments are due **03/30/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-30/pdf/2020-01538.pdf>. *Federal Register*, Vol. 85, No. 20, 01/30/2020, 5336-5342.

NCUA Requests Comment on Information Collection.

- NCUA announced it seeks comment on the information collection titled Security Program, 12 CFR part 748. NCUA also gave notice that it sent the collection to OMB for review. Comments are due **02/13/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-14/pdf/2020-00419.pdf>. *Federal Register*, Vol. 85, No. 9, 01/14/2020, 2150.
- NCUA announced it seeks comment on the information collection titled Suspicious Activity Report. NCUA also gave notice that it sent the collection to OMB for review. Comments are due **03/17/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-17/pdf/2020-00752.pdf>. *Federal Register*, Vol. 85, No. 12, 01/17/2020, 3079-3080.
- NCUA announced it seeks comment on the information collection titled Recordkeeping and Disclosure Requirements Associated with Regulations B, E, M, and CC. NCUA also gave notice that it sent the collection to OMB for review. Comments are due **02/20/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-21/pdf/2020-00871.pdf>. *Federal Register*, Vol. 85, No. 13, 01/21/2020, 3430-3431.

DOL Issues Adjustments to Civil Penalty Amounts.

The Department of Labor (DOL) published a final rule to adjust for inflation the civil monetary penalties assessed or enforced by the Department, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Inflation Adjustment Act). The Inflation Adjustment Act requires DOL's to annually adjust its civil money penalty levels for inflation no later than January 15 of each year. The Inflation Adjustment Act provides that agencies shall adjust civil monetary penalties notwithstanding Section 553 of the Administrative Procedure Act (APA). Additionally, the Inflation Adjustment Act provides a cost-of-living formula for adjustment of the civil penalties. Accordingly, this final rule sets forth DOL's 2020 annual adjustments for inflation to its civil monetary penalties. The final rule is effective **01/15/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-15/pdf/2020-00486.pdf>. *Federal Register*, Vol. 85, No. 10, 01/15/2020, 2292-2303.

VA Requests Comment on Information Collections.

- The Department of Veterans Affairs (VA) announced it seeks comment on the information collection titled Nonsupervised Lender's Nomination and Recommendation of Credit Underwriter. VA also gave notice that it sent the collection to OMB for review. Comments are due **03/23/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-22/pdf/2020-00909.pdf>. *Federal Register*, Vol. 85, No. 14, 01/22/2020, 3762-3763.
- VA announced it seeks comment on the information collection titled Request for Disinterment, VA Form 40-4970. VA also gave notice that it sent the collection to OMB for review. Comments are due **03/30/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-28/pdf/2020-01461.pdf>. *Federal Register*, Vol. 85, No. 18, 01/28/2020, 5068-5069.

VA Announces Funds Availability for Specially Adapted Housing Assistive Technology Grant Program.

VA is announcing the availability of funds for the Specially Adapted Housing Assistive Technology (SAHAT) Grant Program for Fiscal Year (FY) 2020. The objective of the grant is to encourage the development of new assistive technologies for specially adapted housing (SAH). The notice is intended to provide applicants with the information necessary to apply for the SAHAT Grant Program. VA strongly recommends referring to the SAHAT Grant Program regulation in conjunction with this notice. The registration process described in the notice applies only to applicants who will register to submit project applications for FY 2020 SAHAT Grant Program funds. Applications for the grant program are due **03/06/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-02-04/pdf/2020-02115.pdf>. *Federal Register*, Vol. 85, No. 23, 02/04/2020, 6264-62683. ■



Compliance Notes

▲ The Clearing House (TCH) announced it is increasing the general transaction value limit to \$100,000 for a payment on the RTP® network, effective February 1, 2020. The previous value limit was \$25,000. The announcement may be viewed at: <https://www.theclearinghouse.org/payment-systems/articles/2020/01/20200123-rtp-100k-value-limit-increase>

▲ HUD announced the publication of guidance clarifying how housing providers can comply with the Fair Housing Act when assessing a person's request to have an animal in housing to provide assistance because of a disability. The new Assistance Animal Notice will help housing providers in this process by offering a step-by-step set of best practices for complying with the Act when assessing accommodation requests involving animals and information that a person may need to provide about his or her disability-related need for the requested accommodation, including supporting information from a health care professional. The guidance may be viewed at: <https://www.hud.gov/sites/dfiles/PA/documents/HUDAsstAnimalNC1-28-2020.pdf>

▲ FDIC issued an advisory titled Prudent Management of Agricultural Lending During Economic Cycles to remind financial institutions engaged in agricultural lending to maintain sound underwriting standards, strong credit administration practices, effective risk management strategies, and appropriate allowances for losses and capital levels through the credit cycle. When agricultural borrowers experience financial difficulties, the FDIC encourages financial institutions to work constructively with borrowers to strengthen the credit and mitigate loss. The advisory may be viewed at: <https://www.fdic.gov/news/news/financial/2020/fil20005a.pdf>

▲ FTC issued an update on fake check scams, which shows that fake check scams led to reported individual median losses of nearly \$2,000 – losses far higher than on any other of the top ten scams reported to the FTC. According to the new data analysis, consumers in their twenties are more than twice as likely as people 30 and older to report losing money to these scams. The update may be viewed at: <https://www.ftc.gov/news-events/blogs/data-spotlight/2020/02/fakechecks>

▲ FDIC published the January 2020 edition of its Consumer News which focuses on college expenses and provides information for applying for FAFSA, grants, scholarships, and student loans. The Consumer News may be viewed at: <https://www.fdic.gov/consumers/consumer/news/january2020.pdf>

▲ CFPB has posted version 4.0 of its HMDA Small Entity Compliance Guide to incorporate the provisions of the final rule issued on October 10, 2019. The updated guide may be viewed at: https://files.consumerfinance.gov/f/documents/cfpb_hmda_small-entity-compliance-guide_2020.pdf

▲ FHFA announced additional steps Fannie Mae and Freddie Mac (the Enterprises) are taking as they transition from the London Interbank Offered Rate (LIBOR), the world's most widely used interest rate benchmark. New language will be required for single-family Uniform Adjustable Rate Mortgage (ARM) instruments closed on or after June 1, 2020; all LIBOR-based single-family and multifamily ARMs must have loan application dates on or before September 30, 2020 to be eligible for acquisition; and, acquisitions of single-family and multifamily LIBOR ARMs will cease on or before December 31, 2020. The announcement may be viewed at: <https://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Announces-Fannie-Mac-and-Freddie-Mac-Update-on-LIBOR-Transition.aspx>

▲ FDIC has released a supplement to its Deposit Insurance Application Procedures Manual (Procedures Manual) that addresses deposit insurance applications involving unique or complex proposals. The FDIC has also released updated versions of the Procedures Manual and the publication titled Applying for Deposit Insurance – A Handbook for Organizers of De Novo Institutions (Handbook). Collectively, these publications comprehensively address the deposit insurance application process. The supplements may be viewed at: <https://www.fdic.gov/news/news/financial/2020/fil20008.html>

▲ FinCEN issued a ruling replacing and rescinding obligations for reporting certain currency transactions for sole proprietorships and legal entities operating under a “doing business as” name. The ruling—which addresses reporting requirements when filing CTR FinCEN Form 112. The ruling may be viewed at: https://www.fincen.gov/sites/default/files/administrative_ruling/2020-02-10/FinCEN_CTR_Form112_508_1.pdf

▲ FFIEC has issued its 2020 Guide to HMDA Reporting. The guide may be viewed at: <https://www.ffiec.gov/hmda/pdf/2020guide.pdf>

▲ CFPB has published an article titled “Five Ways to Recognize a Social Security Scam.” Which outlines steps for consumers to determine if they are being contacted by a scammer impersonating a government employee. The article may be viewed at: <https://www.ffiec.gov/hmda/pdf/2020guide.pdf>



Compliance Notes

▲ FHFA announced Fannie Mae and Freddie Mac (the Enterprises) have published a Joint Credit Score Solicitation. The Credit Score Solicitation describes the process for credit score model developers to submit applications to the Enterprises. The Enterprises will begin accepting applications on May 18, 2020. The application period will be open for 120 days, ending on September 15, 2020. The announcement may be viewed at: <https://www.fhfa.gov/Media/PublicAffairs/Pages/Fannie-Mac-and-Freddie-Mac-Public-Joint-Enterprise-Credit-Score-Solicitation.aspx>

▲ FDIC released the hypothetical economic scenarios for use in the upcoming stress tests for covered institutions with total consolidated assets of more than \$250 billion. The supervisory scenarios include baseline and severely adverse scenarios. The baseline scenario is in line with a survey of private sector economic forecasters. The severely adverse scenario is not a forecast, rather, it is a hypothetical scenario designed to assess the strength and resilience of financial institutions. Each scenario includes 28 variables—such as gross domestic product, the unemployment rate, stock market prices, and interest rates—covering domestic and international economic activity. The scenarios may be viewed at: <https://www.fdic.gov/news/news/press/2020/pr20010.html>

▲ FRB's semiannual Monetary Policy Report was presented to the House Committee on Financial Services by FRB Chair Jerome Powell. The report may be viewed at: <https://www.federalreserve.gov/newsevents/testimony/powell20200211a.htm>

▲ HUD awarded more than \$51 million in housing assistance to non-profit organizations across the country to finance more affordable housing construction, provide rental assistance, and facilitate supportive services delivery for very low-income seniors. "Expanding affordable housing opportunities is a priority, especially for our nation's most vulnerable populations," said HUD Secretary Ben Carson. "These awards will facilitate capital investment in senior housing developments and create roughly 1,100 new homes, the majority for very low-income seniors." The announcement may be viewed at: https://www.hud.gov/press/press_releases_media_advisories/HUD_No_20_020

▲ The Conference of State Bank Supervisors (CSBS) announced the nationwide roll out of the State Examination System (SES), the first nationwide platform to bring state regulators and companies into the same technology space for supervision, fostering greater transparency and collaboration. Through SES, state regulators will be able to enhance supervisory oversight of nonbanks while making the process more efficient for regulators and companies alike. SES is developed and operated by the State Regulatory Registry (SRR), a CSBS subsidiary that also operates the Nationwide Multistate Licensing System (NMLS). More information on the system may be viewed at: <https://www.csbs.org/aboutSES> ■

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



Conferences | Summits

Schools | Boot Camps

Seminars | Workshops

WBA Webinars

Other Events

MARCH 2020

- **Credit Analysis Boot Camp**
- 5-6 Madison – \$495/attendee
- 19-20 Green Bay – \$495/attendee
- **Loan Compliance School**
- 9-13 Madison – \$1,295/attendee
- **Ag Problem Loans Workshop**
- 10 Madison – \$225/attendee
- **Real Estate Compliance School**
- 11-13 Madison – \$795/attendee
- **Advanced IRA Workshops**
- 17 Wausau – \$245/attendee
- 18 Madison – \$245/attendee
- **Principles of Banking Course**
- 18-19 Wausau – \$550/attendee
- **Call Report Workshop**
- 24 Madison – \$245/attendee
- **Security Officer Workshops**
- 24 Neenah – \$175/attendee
- 25 Eau Claire – \$175/attendee
- 26 Wisconsin Dells – \$175/attendee
- **WBA/ABA Washington Summit**
- 23-25 Washington, D.C. – Complimentary

APRIL 2020

- **Human Resources Conference**
- 7 Wisconsin Dells – \$225/first attendee; \$125/each additional attendee
- **Health Savings Account (HSA) Workshop**
- 8 Madison – \$245/attendee
- **Branch Manager Boot Camp – Sessions 1 & 2**
- 14-15 Madison – Pricing Options Vary
- **Agricultural Bankers Conference**
- 15-16 Wisconsin Dells – \$300/Ag Section member; \$350/attendee
- **Power of Community Week**
- 20-24 www.wisbank.com/BanksPowerWI
- **Women in Banking Conference**
- 21 Wisconsin Dells – \$245/each first two bank attendees; \$195/each additional attendee

APRIL 2020 (continued)

- **Trust Conference**
- 23 Madison – \$220/Trust Section member; \$245/attendee
- 24 • **National Teach Children to Save Day**
- **Community Bankers for Compliance (CBC) – Session II**
- 28 Stevens Point – pricing options vary
- 29 Madison – pricing options vary
- 4/28- • **WBA/ICBA Capital Summit**
- 5/1 Washington, D.C. – Complimentary
- **Cash Management Workshop**
- 29 Madison – \$245/attendee
- **Enterprise Risk Management Workshop**
- 30 Madison – \$245/attendee
- **Principles of Banking Course**
- TBD Locations TBD – \$550/attendee

MAY 2020

- **American Mortgage Conference**
- 4-6 Charleston, SC – \$675/bank attendee, early bird rate ends 3/27/20; then \$875/bank attendee
- **Consumer Lending Boot Camp**
- 4-5 Madison – \$495/attendee
- **Compliance Management School**
- 5-7 Madison – \$795/attendee
- **FIPCO Software & Compliance Forum: Deposits**
- 7 Madison
- **School of Bank Management**
- 11-15 Madison – \$1,395/attendee

KEY: Color-Coded Event Descriptions...

• **Conferences|Summits** – One or more days, based on hot topics, industry news and best practices; scheduled time for peer networking. • **Schools|Boot Camps** – Focused on a particular area of banking, allowing for a deep dive into that focused area over the course of two to six days. • **Workshops|Seminars** – One-day programs, sometimes in multiple locations, focused on a specific topic or area of banking. • **WBA-Hosted Webinars** – Two-hour webinars instructed with a particular focus on Wisconsin state law and rules. • **Other Events**.