

Compliance Journal

Special Focus

What Banks Need to Know About Economic Impact Payments

An aspect of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) includes economic impact payments (EIPs) to be paid to most individuals. Payment processing began as early as April 6, 2020 and at time of this article's publication the EIP program is in full effect, as administered by the Department of the Treasury (Treasury) and Internal Revenue Service (IRS). This article will discuss various aspects of EIPs to assist banks processing these payments and answering customer questions.

Form of Payment

In most instances, an EIP will appear as a standard tax refund direct deposit payment through ACH. The IRS is committed to processing as many payments electronically as possible, but in instances where this is not possible, checks will be issued as well and are discussed below. For individuals who file taxes, IRS will send the payments using the direct deposit information provided in 2018 or 2019 returns. For 2019 filers, that information cannot be changed. 2018 filers may change their direct deposit information electronically.

For individuals who are not required to file taxes and did not and will not file, IRS will still attempt to process the EIP electronically. In these cases, IRS will process EIP based upon information it may have from benefit payments such as Social Security retirement, disability (SSDI), survivor benefits, Supplemental Security Income, or Railroad Retirement and Survivor Benefits. In these cases, the direct deposit will appear as an ACH similar to the benefit payment.

For those eligible for an EIP who are not automatically paid through their tax return, benefit payment, or other means, IRS has prepared a form, available electronically online, to provide payment info. The form will direct the user to create an account, where the user will be able to provide and verify information (including name, driver's license, social security number, bank account number, type, and routing number) which IRS will use to process the EIP.

In some cases, EIPs will be issued by check. The first check file came from the IRS on April 16, and the postal service began picking up payments on April 18, with a pay day of April 22. The postal service will continue to pick them up daily until all are in the mail. Checks have begun arriving for delivery as of April 20 and are expected to continue to arrive at least twice a day. The checks will use the same Treasury tax stock as tax refund checks. EIP checks will have specific identification in the bottom left, stating "economic impact payment" on the first line and will contain the president's name on second line. These checks will also be signed by a fiscal service disbursing official.

Treasury has encouraged banks to work with their customers in helping them to understand the information IRS needs to deliver their EIP. Banks may want to consider working proactively with their customers to direct them to IRS' webpage which walks through the above, and provides FAQs. Additionally, not all customers may be familiar with their account number or bank's routing number and should be reminded where to find these. Customers will likely have further questions about how to get their payment, when it is coming, or why it has not appeared yet.

Considerations for Banks

One of the most frequently asked questions regarding EIPs is whether they are subject to garnishment or offset. Generally speaking, the CARES Act does not exempt EIPs from garnishment whereby a third-party creditor seeks, through legal process, to collect funds owed to them. Thus, if a bank receives a legal process item such as a garnishment order it is required by law to comply with, the EIP amount would not be exempt.



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However, EIPs cannot be intercepted by the government for any tax debts. The only exception is for child support. Meaning, delinquent payments collected through the Treasury Offset Program (where tax refunds, for example, would be automatically collected) apply to EIP only for delinquent child support payments. As a result, banks may see EIPs arrive in odd amounts, depending on the amount of child support that may have been offset by Treasury.

Banks have also asked whether funds from an EIP can be used to offset balances due to the bank. The CARES Act does not exempt payments from that type of collection. However, banks should review their policies and consider potential reputational harm before deciding to pursue debt collection in this manner. As with all matters involving offset, WBA recommends considering consultation with bank's legal counsel as well.

Banks have also already begun seeing situations where an EIP is received unexpectedly. For example, a payment to a deceased individual or a joint EIP to a divorced individual. At time of this article's publication, it is WBA's understanding that banks are to process valid payments received in accordance with the payment instructions, similar to the tax refund process. Note that if the account is closed, that procedure means the payment should be rejected. Banks are also reminded that Treasury has no authority to mandate compensation from the bank so long as the payment was posted properly based upon the account number.

To that extent, banks must be prepared for these scenarios, with procedures in place. Bank will want to document the payment order and confirm that the payment is valid, for example, by matching the account to the social security number in the payment order. The procedure under 31 CFR part 210 provides that if bank becomes aware it has received a payment for a payee whose name does not match the payee information, bank must notify IRS. Treasury has recommended that, given the challenges that IRS is facing, banks send a notice of change which would satisfy that requirement.

In addition to the above procedures, banks should be prepared for how they will handle paper checks. As discussed above, some EIPs will be sent by check, and may have already arrived at time of this article's publication. Banks will want to review their existing policies and risk management systems for paper checks and consider whether they should be updated for incoming EIPs. For example, banks should consider whether they have accommodations for and will permit remote deposit capture or ATM deposit, what fraud protection and other security features are in place, and whether they will cash EIP paper checks for non-customers. These are ultimately business and customer experience considerations that each bank must determine individually.

Banks should also familiarize themselves with the Treasury check stock, including not only the EIP aspects above, but additional security features such as microprinting, watermarks, etc. These security features can be reviewed through the Treasury Check Information Verification System which includes a Treasury Check Verification Application. This application is a tool that provides data to help banks make a decision on whether check is valid or not.

Conclusion

Banks have likely already received EIPs through direct deposit and checks will be arriving soon if they have not already. EIPs will continue to be processed as IRS distributes payments through the means discussed above, and customers provide the required information. Banks are again encouraged to share the tools such as the IRS FAQs and portal with their customers in addition to making the operational considerations presented in this article.

The IRS portal can be found by [clicking here](#).

The Treasury Check Verification System can be found by [clicking here](#).

More information about the Treasury Offset Program can be found by [clicking here](#). ■

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Pandemic-Related Loan Modifications

The pandemic continues to present an ever-changing situation, presenting unique issues for both banks and their customers to work through. Particularly, for those customers experiencing financial hardship. As banks work to help their customers face these challenges through deferrals, modifications, and other work-outs, compliance questions often arise. The Federal and State banking agencies have issued statements and guidance acknowledging the disruptions and have provided some insight into how banks can work with their customers while still meeting ongoing regulatory requirements. This article presents that guidance for loan modifications, accounting and reporting for troubled debt restructurings, and working with customers.

Federal Agency Guidance

The Federal banking agencies have issued two statements on loan modifications for financial institutions with customers affected by the Coronavirus. The first statement, issued on March 22, 2020, encourages financial institutions to work prudently with borrowers and describes the agencies' interpretation of how current accounting rules under U.S. General Accepted Accounting Principles (GAAP) apply to certain COVID-19-related modifications. The agencies have indicated that they will not criticize institutions for working with borrowers when mitigating credit risk through prudent actions consistent with safe and sound practices.

Subsequent to the March 22 guidance, the Coronavirus Aid, Relief, and Economic Security Act (CARES Act, or Act) was enacted. The CARES Act provides financial institutions the option to temporarily suspend certain U.S. GAAP requirements related to troubled debt restructurings (TDR) for a limited period of time to account for the effects of COVID-19. The agencies have since issued a revised interagency statement on April 7, 2020 (April guidance) clarifying the interaction between the March 22, 2020, interagency statement and section 4013 of the CARES Act, Temporary Relief from Troubled Debt Restructurings (section 4013), as well as the agencies' views on consumer protection considerations.

General Guidance

The April guidance again encourages financial institutions to work prudently with borrowers who are or may be unable to meet their contractual payment obligations because of the effects of COVID-19. The guidance reiterates that the agencies will not criticize financial institutions that mitigate credit risk through prudent actions consistent with safe and sound practices. The agencies consider such proactive measures to be in the best interest of institutions, their borrowers, and the economy. The guidance provides that financial institutions have broad discretion to implement prudent modification programs consistent with the framework included in the statement. As described below, institutions generally do not need to categorize COVID-19-related modifications as TDRs, and the agencies will not direct supervised institutions to automatically categorize all COVID-19 related loan modifications as TDRs.

Accounting and Reporting

The Financial Accounting Standards Board's (FASB's) Accounting Standards Codification (ASC) Topic 310 provides the basis for identifying TDRs and treating TDRs as impaired loans. Specifically, ASC Subtopic 310-40 addresses receivables that are TDRs from a lending institution's standpoint. The CARES Act provides that an insured depository institution that modifies a covered loan in relation to COVID-19-related difficulties in a TDR on or after March 13, 2020, shall not be required to comply with the ASC Subtopic 310-40 for purposes of compliance with the requirements of the Federal Deposit Insurance Act, until such time and under such circumstances as the agencies determine appropriate.

The April guidance provides that a financial institution may account for an eligible loan modification either under section 4013 of the CARES Act or in accordance with ASC Subtopic 310-40.5. To be an eligible loan under section 4013 (section 4013 loan), and accounted for under the Act, a loan modification must be:

- Related to COVID-19;
- Executed on a loan that was not more than 30 days past due as of December 31, 2019; and
- Executed between March 1, 2020, and the earlier of
 - ◊ 60 days after the date of termination of the National Emergency, or
 - ◊ December 31, 2020 (applicable period).



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As discussed above, financial institutions accounting for eligible loans under section 4013 are not required to apply ASC Subtopic 310-40 to the section 4013 loans for the term of the loan modification. In addition, financial institutions do not have to report section 4013 loans as TDRs in regulatory reports. However, the Act requires financial institutions to maintain records of the volume of loans involved and the agencies emphasize this fact in their April guidance. The April guidance also provides that institutions do not need to determine impairment associated with certain loan concessions that would otherwise have been required for TDRs (e.g., interest rate concessions, payment deferrals, or loan extensions).

The April guidance affirms that modifications of loan terms do not automatically result in TDRs. According to ASC Subtopic 310-40, a restructuring of a debt constitutes a TDR if the creditor, for economic or legal reasons related to the debtor's financial difficulties, grants a concession to the debtor that it would not otherwise consider. The agencies state in the April guidance that they have confirmed with FASB staff that short-term modifications made on a good faith basis in response to COVID-19 to borrowers who were current prior to any relief are not TDRs under ASC Subtopic 310-40. This includes short-term (e.g., six months) modifications such as payment deferrals, fee waivers, extensions of repayment terms, or delays in payment that are insignificant. Borrowers considered current are those that are less than 30 days past due on their contractual payments at the time a modification program is implemented. Accordingly, working with borrowers who are current on existing loans, either individually or as part of a program for creditworthy borrowers who are experiencing short-term financial or operational problems as a result of COVID-19 generally would not be considered TDRs.

More specifically, financial institutions may presume that borrowers are not experiencing financial difficulties at the time of the modification for purposes of determining TDR status, and thus no further TDR analysis is required for each loan modification in the program, if:

- The modification is in response to the National Emergency;
- The borrower was current on payments at the time the modification program is implemented; and
- The modification is short-term (e.g., six months).

Additional Guidance

In addition to the accounting considerations, the agencies have provided other, related clarifications in the April 7 guidance. Specifically, the April 7 guidance provides that:

- Examiners will exercise judgment in reviewing loan modifications and will not automatically adversely risk rate credits that are affected by COVID-19.
- Efforts to work with borrowers of one-to-four family residential mortgages, where the loans are prudently underwritten, and not 90 days or more past due or carried in nonaccrual status, will not result in the loans being considered restructured or modified for the purposes of their respective risk-based capital rules.
- With regard to loans not otherwise reportable as past due, financial institutions are not expected to designate loans with deferrals granted due to COVID-19 as past due because of the deferral.
- Short-term arrangements (similar to as discussed above) generally should not be reported as nonaccrual. Institutions should still generally refer to Consolidated Reports of Condition and Income for charge-off status guidance.
- Institutions are reminded that loans that have been restructured as described under this statement will generally continue to be eligible as collateral at the FRB's discount window based on the usual criteria.

Consumer Protection Considerations

The April 7 guidance encourages financial institutions to consider prudent arrangements that can ease cash flow pressures on affected borrowers, improve their capacity to service debt, increase the potential for financially stressed residential borrowers to keep their homes, and facilitate the financial institution's ability to collect on its loans.

When working with borrowers, lenders and servicers should adhere to consumer protection requirements, including fair lending laws, to provide the opportunity for all borrowers to benefit from these arrangements. When exercising supervisory and enforcement responsibilities, the agencies will take into account the unique circumstances impacting borrowers and institutions resulting from the National Emergency. The agencies will take into account an institution's good-faith efforts demonstrably designed to support consumers and comply with consumer protection laws.



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The agencies expect that supervisory feedback for institutions will be focused on identifying issues, correcting deficiencies, and ensuring appropriate remediation to consumers. The agencies do not expect to take a consumer compliance public enforcement action against an institution, provided that the circumstances were related to the National Emergency and that the institution made good faith efforts to support borrowers and comply with the consumer protection requirements, as well as responded to any needed corrective action.

Financial institutions looking to work with their customers must not only consider the above, but also what is appropriate based upon their own size, customer base, lines of business, and the unique situations faced by their borrowers. There are generally no “one-size-fits-all” answers and considerations must often be made on a case-by-case basis. That said, some more generalized considerations a financial institution might make are as follows:

- Which customers, and what situations, the financial institution is willing and able to accommodate;
- How will the financial institution address the situations it has decided it is willing and able to accommodate;
- What are the impacts to the financial institution in making accommodations;
- What forms does the financial institution have to document the accommodation;
- How long should the financial institution make the accommodation;
- How will the financial institution communicate with borrowers regarding the financial institution’s efforts and options;
- How will the financial institution track all efforts and follow-up with borrowers;
- How will accommodations affect loan operating systems, such as automatic late payment notices, automatic late-fee assessments, automatic payment allocations, automatic reporting to credit bureaus, and others; and
- The Wisconsin Consumer Act limitations on charging deferral fees.

Conclusion

The April 7 guidance encourages financial institutions to work with customers affected by the pandemic, but all loan modifications should comply with applicable laws and regulations and be consistent with safe and sound practices. Financial institutions are reminded to consider what is appropriate for their institution pursuant to policy, procedure, and sound banking practices in addition to the above guidance. ■

Appraisal Relief Amidst COVID-19

On April 14, 2020, the Bureau of Consumer Financial Protection (CFPB), Board of Governors of the Federal Reserve System (FRB), Federal Deposit Insurance Corporation (FDIC), Office of the Comptroller of the Currency (OCC), and National Credit Union Administration (NCUA) (collectively, the agencies), in consultation with the state financial regulators, issued an interagency statement to address challenges relating to appraisals and evaluations for real estate-related financial transactions affected by the Coronavirus Disease 2019 (COVID-19). The statement outlines existing flexibilities in appraisal-industry standards and in applicable banking regulations. The agencies also issued an interim rule to revise appraisal requirements to help relieve compliance-related complications due to business interruptions caused by COVID-19. The following is a recap of the interagency statement and interim final rule.

Interagency Appraisal Statement

The interagency statement outlines the flexibilities available for physical property inspections, for residential properties underwritten to Fannie Mae- and Freddie Mac-standards, and through use of existing exceptions in bank appraisal regulations.

Flexibility for Physical Property Inspections:

The agencies’ appraisal regulations require appraisals be conducted in compliance with the Uniform Standards of Professional Appraisal Practice (USPAP); and, while exterior and interior inspections are commonly conducted when preparing appraisals and evaluations, such inspections are not required by the agencies’ appraisal regulations which implement Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA). Rather, as allowed by USPAP, the agencies confirm that an appraiser can determine the characteristics of a property through, among other things, any combination of property inspection, asset records, photographs, property sketches, and recorded media.

Further, the agencies mention that bank management should also be aware that the Appraisal Standards Board’s “2020-21 USPAP Q&A” issued March 17, 2020, indicates that when an interior inspection would customarily be part of the scope of work, a health or



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other emergency condition may require an appraiser to make an extraordinary assumption about the interior of a property. USPAP permits this approach when the appraiser has a reasonable basis for the extraordinary assumption and as long as its use still results in a credible analysis. Both desktop appraisals and exterior-only appraisals can fulfill the requirements of USPAP if the analysis is credible. The agencies caution, however, that interior inspections are still required for certain higher-priced mortgage loans (HPMLs).

Flexibility for Fannie Mae and Freddie Mac Underwritten Loans:

The interagency statement also describes flexibility for appraisals of residential properties that are underwritten to Fannie Mae and Freddie Mac standards. Fannie and Freddie have recently issued guidance providing temporary flexibility in appraisal standards for loans that they purchase, including allowing exterior-only and desktop appraisals for certain loans. Specifically, their guidance states that:

- For certain qualifying principal or primary residence loans, desktop appraisals and exterior-only appraisals are now acceptable. For Freddie Mac, qualifying primary residence loans are those with up to 97 percent loan-to-value (LTV). For Fannie Mae, qualifying primary residence loans are those with an LTV within the range listed on Fannie's current eligibility matrix.
- For second homes and investment properties with 85 percent or less LTV, desktop appraisals and exterior-only appraisals are now acceptable.
- For limited cash-out refinances where the mortgage being refinanced is owned by Fannie and Freddie and the LTV is within the currently acceptable range, exterior-only appraisals are now acceptable.

In addition, lenders may sell eligible loans without an appraisal under the appraisal waiver programs provided by Fannie and Freddie. For Freddie Mac, the appraisal waiver program for lenders has been expanded to include certain refinancing activity, including both cash-out refinances and no cash-out refinances. Fannie Mae also allows lenders to waive the appraisal requirement for some refinance transactions.

Existing Exceptions in Appraisal Regulations:

Through the interagency statement, OCC, FRB, and FDIC remind their supervised institutions that current appraisal regulations provide at least fourteen exceptions to the requirement for an appraisal by a certified or licensed appraiser. The agencies believe the following exceptions to be the most useful for real estate financial transactions during the COVID-19 emergency:

- A residential real estate transaction with a transaction value of \$400,000 or less;
- A commercial real estate transaction with a transaction value of \$500,000 or less;
- A business loan that has a transaction value of \$1 million or less where the loan does not depend on the sale of, or rental income derived from, real estate as the primary source of repayment;
- The transaction involves an existing extension of credit at the lending institution, provided that:
 - ◊ There has been no obvious and material change in market conditions or physical aspects of the property that threatens the adequacy of the institution's real estate collateral protection after the transaction, even with the advancement of new monies; or
 - ◊ There is no advancement of new monies, other than funds necessary to cover reasonable closing costs;
- The transaction is wholly or partially insured or guaranteed by a U.S. government agency or U.S. government sponsored agency;
- The transaction either:
 - ◊ Qualifies for sale to a U.S. government agency or government sponsored agency; or
 - ◊ Involves a residential real estate transaction where the appraisal conforms to the Fannie Mae or Freddie Mac appraisal standards.

The agencies provide numerous resources throughout the interagency statement including: each agency's appraisal regulation citation, USPAP advisory opinion references, and links to Fannie Mae and Freddie Mac Selling Guidance. The interagency statement may be viewed by [clicking here](#).

Appraisal Interim Final Rule

On April 17, 2020, the OCC, FRB, and FDIC (collectively, the agencies) published in the *Federal Register* an interim final rule to amend the agencies' regulations that require appraisals of real estate for certain transactions to help provide regulatory relief to allow regulated institutions to expeditiously extend liquidity to creditworthy households and businesses in light of recent strains on the economy as a result of COVID-19.



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The interim final rule defers the requirement to obtain an appraisal or evaluation for up to 120 days following the closing of a transaction for certain residential and commercial real estate transactions, excluding transactions for acquisition, development, and construction of real estate. The agencies excluded transactions for acquisition, development, and construction of real estate because the agencies believe the loans present heightened risks not associated with financing existing real estate. Additionally, the transactions are excluded because repayment of those transactions is generally dependent on the completion or sale of the property being held as collateral as opposed to repayment generated by existing collateral or the borrower.

Under the interim final rule, regulated institutions may close a real estate loan without a contemporaneous appraisal or evaluation, subject to a requirement that institutions obtain the appraisal or evaluation, as would have been required under the appraisal regulations without the deferral, within a grace period of 120 days after closing of the transaction. While appraisals and evaluations can be deferred, the agencies expect institutions to use best efforts and available information to develop a well-informed estimate of the collateral value of the subject property.

For purposes of risk-weighting of residential mortgage exposures, the agencies have stated that an institution's prudent underwriting estimation of the collateral value of the subject property will be considered to meet the agencies' appraisal and evaluation requirements during the deferral period. No specific underwriting estimation tool is identified in the interim final rule. In addition, the agencies will continue to expect regulated institutions to adhere to internal underwriting standards for assessing borrowers' creditworthiness and repayment capacity, and to develop procedures for estimating the collateral's value for the purposes of extending or refinancing credit. No specific procedure is identified in the interim final rule for estimating collateral value.

The agencies also expect institutions to develop an appropriate risk mitigation strategy if the appraisal or evaluation ultimately reveals a market value significantly lower than the expected market value. An institution's risk mitigation strategy should consider safety and soundness risk to the institution, balanced with mitigation of financial harm to COVID-19-affected borrowers.

The interim final rule is effective April 17, 2020 through December 31, 2020 (a transaction closed on or before December 31, 2020 is eligible for a deferral). Comments on the interim final rule are due June 1, 2020. The interim final rule may be viewed by [clicking here](#). ■

Regulatory Spotlight

Agencies Issue Interim Final Capital Rule to Revise Eligible Retained Income Definition.

The Board of Governors of the Federal Reserve System (FRB), Office of the Comptroller of the Currency (OCC), and Federal Deposit Insurance Corporation (FDIC) (collectively, the agencies) issued an interim final rule regarding regulatory capital. In light of recent disruptions in economic conditions caused by COVID-19 and current strains in U.S. financial markets, the agencies issued the interim final rule to revise the definition of "eligible retained income" for all depository institutions, bank holding companies, and savings and loan holding companies subject to the agencies' capital rule. The revised definition will make any automatic limitations on capital distributions that could apply under the agencies' capital rules more gradual. The interim final rule is effective **03/20/2020**. Comments are due **05/04/2020**. The interim final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-03-20/pdf/2020-06051.pdf>. *Federal Register*, Vol. 85, No. 55, 03/20/2020, 15909-15916.

Agencies Issue Interim Final Rule to Establish Money Market Mutual Fund Liquidity Facility.

The Board of Governors of the Federal Reserve System (FRB), Office of the Comptroller of the Currency (OCC), and Federal Deposit Insurance Corporation (FDIC) (collective, the agencies) seek comment on an interim final rule regarding the Money Market Mutual Fund Liquidity Facility (MMLLF). To provide liquidity to the money market sector to help stabilize the financial system, FRB authorized the Federal Reserve Bank of Boston to establish the MMLLF, pursuant to section 13(3) of the Federal Reserve Act. Under MMLLF, the Federal Reserve Bank of Boston will extend non-recourse loans to eligible financial institutions to purchase certain types of assets from money market mutual funds. To facilitate the FRB lending program, the agencies have adopted the interim final rule to allow banking organizations to neutralize the regulatory capital effects of participating in the program. The treatment would extend to the community bank leverage ratio. The interim final rule is effective **03/23/2020**. Comments are due **05/07/2020**. The interim final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-03-23/pdf/2020-06156.pdf>. *Federal Register*, Vol. 85, No. 56, 03/23/2020, 16232-16237.



Regulatory Spotlight

Agencies Issue Interim Final Rule to Delay Effect of Implementing CECL.

The Office of the Comptroller of the Currency (OCC), Board of Governors of the Federal Reserve System (FRB), and Federal Deposit Insurance Corporation (FDIC) (collectively, the agencies) seek comment on an interim final rule that delays the estimated impact on regulatory capital stemming from the implementation of Accounting Standards Update No. 2016-13, Financial Instruments—Credit Losses, Topic 326, Measurement of Credit Losses on Financial Instruments (CECL). The interim final rule provides banking organizations that implement CECL before the end of 2020 the option to delay for two years an estimate of CECL's effect on regulatory capital, relative to the incurred loss methodology's effect on regulatory capital, followed by a three-year transition period. The agencies are providing the relief to allow such banking organizations to better focus on supporting lending to creditworthy households and businesses in light of recent strains on the U.S. economy as a result of COVID-19, while also maintaining the quality of regulatory capital. The interim final rule is effective **03/31/2020**. Comments are due **05/15/2020**. The interim final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-03-31/pdf/2020-06770.pdf>. *Federal Register*, Vol. 85, No. 62, 03/31/2020, 17723-17738.

Agencies Issue Interim Final Rule to Facilitate Real Estate-Related Transactions Affected by COVID-19.

The Board of Governors of the Federal Reserve System (FRB), Federal Deposit Insurance Corporation (FDIC), and Office of the Comptroller of the Currency (OCC) (collectively, the agencies) issued an interim final rule to help facilitate real estate-related transactions affected by COVID-19. The interim final rule allows institutions supervised by the agencies to defer obtaining an appraisal or evaluation for up to 120 days after the closing of certain residential and commercial real estate loans. The agencies, with National Credit Union Administration (NCUA) and Consumer Financial Protection Bureau (CFPB), in consultation with the state financial regulators, also issued an Interagency Statement on Appraisals and Evaluations for Real Estate Related Financial Transactions Affected by the Coronavirus. The statement may be found in the Compliance Notes section of this publication. The interim final rule is effective **04/14/2020** until **12/31/2020**. Comments are due **06/01/2020**. The interim final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-17/pdf/2020-08216.pdf>. *Federal Register*, Vol. 85, No. 75, 04/17/2020, 21312-21318.

Agencies Issue Notice of Standardized Approach for Calculating Exposure Amount of Derivative Contracts.

The Office of the Comptroller of the Currency (OCC), Board of Governors of the Federal Reserve System (FRB), and Federal Deposit Insurance Corporation (FDIC) (collectively, the agencies) issued a document to allow depository institutions and depository institution holding companies to implement the final rule entitled, Standardized Approach for Calculating the Exposure Amount of Derivative Contracts (SA-CCR rule) for the first quarter of 2020, on a best efforts basis. The agencies recently adopted the SA-CCR rule which implements a new approach—the standardized approach for counterparty credit risk (SA-CCR methodology)—for calculating the exposure amount of derivative contracts under the agencies' regulatory capital rule. The SA-CCR rule also revises other aspects of the capital rule related to total leverage exposure (the denominator of the supplementary leverage ratio) and the cleared transactions framework. The agencies are permitting a banking organization the flexibility to implement the SA-CCR rule, including the SA-CCR methodology and the other amendments described in the SA-CCR rule, one quarter early and on a best efforts basis if the banking organization chooses to do so. By allowing early adoption of the SA-CCR rule, the notification allows banking organizations to implement the SA-CCR methodology's more risk-sensitive measurement of the exposure amounts of derivative contracts one quarter earlier than the SA-CCR rule provided. The notice is effective **03/31/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-03-31/pdf/2020-06755.pdf>. *Federal Register*, Vol. 85, No. 62, 03/31/2020, 17721-17722.

Agencies Issue Guidance for Resolution Plan Submissions of Certain Foreign-Based Covered Companies.

The Board of Governors of the Federal Reserve System (FRB) and Federal Deposit Insurance Corporation (FDIC) (collectively, the agencies) seek comment on proposed guidance for 2021 and subsequent resolution plan submissions by certain foreign banking organizations (FBOs). The proposed guidance is meant to assist the firms in developing resolution plans, which are required to be submitted pursuant to Section 165(d) of the Dodd Frank Act. The proposed guidance, which is largely based on prior guidance, describes the agencies' expectations regarding a number of key vulnerabilities in plans for a rapid and 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 proposed guidance also updates certain aspects of prior guidance based, in part, on the agencies' review of certain FBOs' most recent resolution plan submissions and changes to the resolution planning rule. Comments are due **05/05/2020**. The proposed guidance may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-03-18/pdf/2020-05513.pdf>. *Federal Register*, Vol. 85, No. 53, 03/18/2020, 15459-15474.



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CFPB Releases Updated Bulletin Regarding Responsible Business Conduct.

The Bureau of Consumer Financial Protection (CFPB) has released an updated bulletin regarding responsible business conduct, including self-assessing, self-reporting, remediating, and cooperating. In 2013, CFPB issued a bulletin that identified several activities that businesses could engage in that could prevent and minimize harm to consumers, referring to these activities as “responsible conduct.” CFPB has issued an updated bulletin to clarify its approach to responsible conduct and to reiterate the importance of such conduct. The bulletin is applicable **03/20/2020**. The bulletin may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-03-20/pdf/2020-05505.pdf>. *Federal Register*, Vol. 85, No. 55, 03/20/2020, 15917-15919.

CFPB Extends FDCPA Proposal Comment Period.

On **03/03/2020**, CFPB published in the *Federal Register* a proposed rule seeking comment on amendments to Regulation F, which implements the Fair Debt Collection Practices Act (FDCPA), to require debt collectors to make certain disclosures when collecting time-barred debts. The proposal provided a 60-day comment period that was set to close **05/04/2020**. CFPB has extended the comment period until **06/05/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-03-27/pdf/2020-06237.pdf>. *Federal Register*, Vol. 85, No. 60, 03/27/2020, 17299-17300.

CFPB Seeks Information to Assist Taskforce on Federal Consumer Financial Law.

CFPB seeks comment and information to assist the Taskforce on Federal Consumer Financial Law (Taskforce). The Taskforce is an independent body within CFPB which reports to the CFPB Director. The Taskforce is charged with developing recommendations on harmonizing, modernizing, and updating the federal consumer financial laws, as well as identifying gaps in knowledge that should be addressed through research, ways to improve consumer understanding of markets and products, and potential conflicts or inconsistencies in existing regulations and guidance. Comments are due **06/01/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-01/pdf/2020-06749.pdf>. *Federal Register*, Vol. 85, No. 63, 04/01/2020, 18214-18217.

FRB Issues Final Regulatory Capital, Capital Plan, and Stress Test Rules.

The Board of Governors of the Federal Reserve System (FRB) issued a final rule that would integrate FRB’s regulatory capital rule (capital rule) with the Comprehensive Capital Analysis and Review (CCAR), as implemented through FRB’s capital plan rule (capital plan rule). The final rule makes amendments to the capital rule, capital plan rule, stress test rules, and Stress Testing Policy Statement. Under the final rule, FRB will use the results of its supervisory stress test to establish the size of a firm’s stress capital buffer requirement, which replaces the static **2.5** percent of risk-weighted assets component of a firm’s capital conservation buffer requirement. Through the integration of the capital rule and CCAR, the final rule would remove redundant elements of the current capital and stress testing frameworks that currently operate in parallel rather than together, including the CCAR quantitative objection and the assumption that a firm makes all capital actions under stress. The final rule applies to bank holding companies and U.S. intermediate holding companies of foreign banking organizations that have \$100 billion or more in total consolidated assets. The final rule is effective **05/18/2020**. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-03-18/pdf/2020-04838.pdf>. *Federal Register*, Vol. 85, No. 53, 03/18/2020, 15546-15605.

FRB Decreases Primary and Secondary Credit Rates.

FRB adopted final amendments to Regulation A to reflect its approval of a decrease in the rate for primary credit at each Federal Reserve Bank (Bank). The secondary credit rate at each Bank automatically decreased by formula as a result of FRB’s primary credit rate action. Banks make primary and secondary credit available to depository institutions as a backup source of funding on a short-term basis, usually overnight. The primary and secondary credit rates are the interest rates that the twelve Banks charge for extensions of credit under the programs. On **03/15/2020**, FRB voted to approve a **1.50** percentage point decrease in the primary credit rate in effect at each of the twelve Banks, thereby decreasing from **1.75** percent to **0.25** percent the rate that each Bank charges for extensions of primary credit. In addition, FRB previously approved the renewal of the secondary credit rate formula, the primary credit rate plus 50 basis points. Under the formula, the secondary credit rate in effect at each of the twelve Banks decreased by 1.50 percentage point as a result of FRB’s primary credit rate action, thereby decreasing from **2.25** percent to **0.75** percent the rate that each Bank charges for extensions of secondary credit. The amendments to Regulation A reflect the rate changes. The final rule is effective 03/24/2020. The rate changes for primary and secondary credit were applicable **03/16/2020**. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-03-24/pdf/2020-05804.pdf>. *Federal Register*, Vol. 85, No. 57, 03/24/2020, 16523-16525.



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FRB Issues Final and Interim Rules to Decrease Interest Paid on Reserve Balances.

- FRB issued a final rule to amend 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 **0.10** percent and IOER is **0.10** percent, a 1.00 percentage point decrease from their prior levels. The amendments are intended to enhance the role of IORR and IOER in maintaining the federal funds rate in the target range established by the Federal Open Market Committee (FOMC). The final rule is effective **03/24/2020**. The rate changes are applicable **03/16/2020**. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-03-24/pdf/2020-05805.pdf>. *Federal Register*, Vol. 85, No. 57, 03/24/2020, 16526-16528.
- FRB issued an interim final rule to amend Regulation D (Reserve Requirements of Depository Institutions) to lower reserve ratios on transaction accounts maintained at depository institutions to zero percent. Section 19 of the Federal Reserve Act (Act) imposes reserve requirements on certain types of deposits and other liabilities of depository institutions. Specifically, section 19(b)(2) of the Act requires each depository institution to maintain reserves against its transaction accounts, nonpersonal time deposits, and Eurocurrency liabilities, as prescribed by FRB regulations, for the purpose of implementing monetary policy. The interim rule is effective **03/24/2020**. The amendments are applicable **03/26/2020**. Comments are due **05/26/2020**. The interim final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-03-24/pdf/2020-05806.pdf>. *Federal Register*, Vol. 85, No. 57, 03/24/2020, 16525-16526.

FRB Delays Effective Date of Control and Divestiture Proceedings Final Rule.

FRB delayed the effective date of its final rule regarding control and divestiture proceedings. The effective date for the final rule published in the *Federal Register* on **03/02/2020**, is delayed from **04/01/2020** until **09/30/2020**. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-02/pdf/2020-06993.pdf>. *Federal Register*, Vol. 85, No. 64, 04/02/2020, 18427-18428.

FRB Amends Internal Appeals Policy.

FRB issued a final policy to amend its internal appeals process for institutions wishing to appeal an adverse material supervisory determination and its policy regarding the Ombudsman for the Federal Reserve System. The amendments and policy are applicable **04/01/2020**. The amended policy may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-03-17/pdf/2020-05491.pdf>. *Federal Register*, Vol. 85, No. 52, 03/17/2020, 15175-15183.

FRB Issues Interim Final Rule to Revise Definition of Eligible Retained Income.

FRB issued an interim final rule to revise the definition of “eligible retained income” for purposes of its total loss absorbing capacity (TLAC) rule in response to recent disruptions in economic conditions caused by COVID-19 and current strains in U.S. financial markets. The revised definition of eligible retained income will make any automatic limitations on capital distributions that could apply under the TLAC rule more gradual and aligns to other actions taken by FRB and the other federal banking agencies in the capital rule as is highlighted earlier in this publication. The interim final rule is effective **03/26/2020**. Comments are due **05/11/2020**. The interim final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-03-26/pdf/2020-06371.pdf>. *Federal Register*, Vol. 85, No. 59, 03/26/2020, 17003-17006.

FRB Delays Payment System Risk Policy Implementation.

FRB announced the delay of implementation of changes to part II of the Federal Reserve Policy on Payment System Risk (PSR Policy) related to procedures for determining the net debit cap and maximum daylight overdraft capacity of a U.S. branch or agency of a foreign banking organization. The implementation date of the amendments to the PSR Policy published in the *Federal Register* on **04/01/2019**, has been delayed from **04/01/2020** to **10/01/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-06/pdf/2020-06482.pdf>. *Federal Register*, Vol. 85, No. 66, 04/06/2020, 19077.



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FRB Seeks Comment on Revisions to Existing Information Collection on Capital Assessments and Stress Testing Reports.

FRB seeks comment on a proposal to extend for three years, with revision, the Capital Assessments and Stress Testing Reports information collection. FRB has also temporarily revised the collection pursuant to the authority delegated to FRB by the Office of Management and Budget (OMB). The information collection is applicable to bank holding companies, U.S. intermediate holding companies, and savings and loan holding companies with \$100 billion or more in total consolidated assets, as based on: (i) The average of the firm's total consolidated assets in the four most recent quarters as reported quarterly on the firm's Consolidated Financial Statements for Holding Companies (FR Y-9C; OMB No. 7100-0128); or (ii) if the firm has not filed an FR Y-9C for each of the most recent four quarters, then the average of the firm's total consolidated assets in the most recent consecutive quarters as reported quarterly on the firm's FR Y-9Cs. Reporting is required as of the first day of the quarter immediately following the quarter in which the respondent meets the asset threshold, unless otherwise directed by FRB. The temporary revisions are applicable only to reports reflecting the **12/31/2019**, as of date. Comments are due **05/18/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-03-19/pdf/2020-05723.pdf>. *Federal Register*, Vol. 85, No. 54, 03/19/2020, 15776-15784.

FDIC Issues Updated Listing of Financial Institutions in Liquidation.

The Federal Deposit Insurance Corporation (FDIC) issued a notice to announce it has been appointed the sole receiver for the financial institutions listed in the notice. The appointment is effective as of the "date closed" indicated in the listing. This list (as updated from time to time in the *Federal Register*) may be relied upon as "of record" notice that FDIC has been appointed receiver for purposes of the statement of policy published in the **09/02/1992** issue of the *Federal Register*. For further information concerning the identification of any institutions which have been placed in liquidation, please visit FDIC's website at: www.fdic.gov/bank/individual/failed/banklist.html, or contact the Manager of Receivership Oversight at: RO@fdic.gov or at: Division of Resolutions and Receiverships, FDIC, 1601 Bryan Street, Suite 34100, Dallas, TX 75201-3401. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-09/pdf/2020-07480.pdf>. *Federal Register*, Vol. 85, No. 69, 04/09/2020, 19943-19944.

FDIC Extends Comment Period of Brokered Deposit Proposal.

On **02/10/2020**, FDIC published in the *Federal Register*, a proposed rule entitled, Unsafe and Unsound Banking Practices: Brokered Deposits Restrictions, which revises FDIC's regulations relating to the brokered deposits restrictions that apply to less than well capitalized insured depository institutions. FDIC has determined that an extension of the comment period until **06/09/2020**, is appropriate. The comment period for the brokered deposits-related proposal is extended from **04/10/2020** to **06/09/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-08/pdf/2020-07322.pdf>. *Federal Register*, Vol 85, No. 68, 04/08/2020, 19706-19707.

FDIC Issues Correction to Footnote in Previously Published Capital Rule.

FDIC issued a correction to an interagency final rule that appeared in the *Federal Register* on **11/13/2019**, entitled, Regulatory Capital Rule: Capital Simplification for Qualifying Community Banking Organizations. The correction is necessary to conform a footnote citation in FDIC's amendment to its codified appendix for the Interagency Guidelines for Real Estate Lending Policies with the footnote citation in the regulations of the other federal banking agencies that issued that final rule. The correction is effective **03/20/2020**. The correction may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-03-20/pdf/2020-05441.pdf>. *Federal Register*. Vol. 85, No. 55, 03/20/2020, 15916-15917.

FDIC Seeks Comment on Proposed Rule Affecting Parent Companies of Industrial Banks and Industrial Loan Companies.

FDIC seeks comment on a proposed rule that would require certain conditions and commitments for each deposit insurance application approval, non-objection to a change in control notice, and merger application approval that would result in an insured industrial bank or industrial loan company becoming, after the effective date of any final rule, a subsidiary of a company that is not subject to consolidated supervision by the Federal Reserve Board. The proposed rule also would require that before any industrial bank or industrial loan company may become a subsidiary of a company that is not subject to consolidated supervision by the Federal Reserve Board, such company and the industrial bank or industrial loan company must enter into one or more written agreements with FDIC.



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Comments are due **06/01/2020**. The proposed rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-03-31/pdf/2020-06153.pdf>. *Federal Register*, Vol. 85, No. 62, 03/31/2020, 17771-17786.

OCC Issues Interim Final Rule and Order on Temporary Extension of Maturity Limits for Short-Term Investment Funds.

- The Office of the Comptroller of the Currency (OCC) issued an interim final rule to revise its short-term investment fund (STIF) rule for national banks acting in a fiduciary capacity. Sudden disruptions in the financial markets have created conditions that may constrain the ability of a national bank's management team to execute certain elements of a STIF's written investment policy, specifically with regards to investment plan components addressing the weighted average maturity and weighted average life of the STIF's investment portfolio. OCC has issued the interim final rule to allow national banks to operate affected STIFs on a limited-time basis with increased maturity limits under these circumstances. The interim final rule is effective **03/23/2020** and is applicable beginning **03/20/2020**. Comments are due **05/11/2020**. The interim final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-03-25/pdf/2020-06293.pdf>. *Federal Register*, Vol. 85, No. 58, 03/25/2020, 16888-16892.
- OCC issued an administrative order pursuant to the reservation of authority contained in the interim rule outlined in the paragraph directly above. The order states that banks seeking to comply with the short-term investment fund (STIF) rule's portfolio maturity and life limits will be deemed to be in compliance with those requirements, if the STIF maintains a dollar-weighted average portfolio maturity of 120 days or less, and the STIF maintains a dollar-weighted average portfolio life maturity of 180 days or less. The administrative order is effective **03/23/2020** and is applicable beginning **03/21/2020**. The administrative order may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-03-25/pdf/2020-06286.pdf>. *Federal Register*, Vol. 85, No. 58, 03/25/2020, 16887-16888.

OCC Proposes Licensing Amendments.

OCC proposed amendments to its rules relating to policies and procedures for corporate activities and transactions involving national banks and federal savings associations to update and clarify the policies and procedures, eliminate unnecessary requirements consistent with safety and soundness, and make other technical and conforming changes. Comments are due **05/04/2020**. The proposed rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-02/pdf/2020-04938.pdf>. *Federal Register*, Vol. 85, No. 64, 04/02/2020, 18728-18782.

FEMA Issues Final Notices of Changes in Flood Hazard Determinations.

- The Federal Emergency Management Agency (FEMA) issued a final notice which identifies communities in the states of **Iowa**, 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 **06/19/2020**. The final notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-03-17/pdf/2020-05520.pdf>. *Federal Register*, Vol. 85, No. 52, 03/17/2020, 15215-15219.
- FEMA issued a final notice which identifies communities in the state of **Iowa**, 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 **07/22/2020**. The final notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-03-27/pdf/2020-06409.pdf>. *Federal Register*, Vol. 85, No. 60, 03/27/2020, 17345-17347.
- FEMA issued a final notice which identifies communities in the state of **Illinois** 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



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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 **08/05/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-03/pdf/2020-07054.pdf>. *Federal Register*, Vol. 85, No. 65, 04/03/2020, 19007-19009.

FEMA Issues Notices of Changes in Flood Hazard Determinations.

- FEMA issued a notice which lists communities in the state of **Michigan** where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by FEMA for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Federal Regulations. From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Deputy Associate Administrator for Insurance and Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-03-13/pdf/2020-05148.pdf>. *Federal Register*, Vol. 85, No. 50, 14694-14697.
- FEMA issued a notice which lists communities in the state of **Minnesota** where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by FEMA for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Federal Regulations. From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Deputy Associate Administrator for Insurance and Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-03-17/pdf/2020-05519.pdf>. *Federal Register*, Vol. 85, No. 52, 03/17/2020, 15219-15221.

FEMA Issues Proposed Flood Hazard Determinations.

- FEMA seeks comment on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities in the state of **Iowa** as listed in the table in the notice. The purpose of the notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that FEMA has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). Comments are due **06/11/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-03-13/pdf/2020-05150.pdf>. *Federal Register*, Vol. 85, No. 50, 03/13/2020, 14693-14694.
- FEMA seeks comment on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities in the state of **Iowa** as listed in the table in the notice. The purpose of the notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that FEMA has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). Comments are due **06/25/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-03-27/pdf/2020-06411.pdf>. *Federal Register*, Vol. 85, No. 60, 03/27/2020, 17337-17339.



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OFAC Adjusts CMPs for Inflation.

The Office of Foreign Assets Control (OFAC) issued a final rule to adjust certain civil monetary penalties (CMPs) for inflation pursuant to the Federal Civil Penalties Inflation Adjustment Act, as amended by the Debt Collection Improvement Act, and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. Please see the final rule for the specific adjustments. The final rule is effective **04/09/2020**. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-09/pdf/2020-07509.pdf>. *Federal Register*, Vol. 85, No. 69, 04/09/2020, 19884-19888.

Treasury Issues Final Rule on User Fees for Offers in Compromise.

The Department of Treasury (Treasury) issued a final rule that provides user fees for offers in compromise. The final rule affects taxpayers who wish to pay their federal tax liabilities through offers in compromise. The final rule is effective **04/27/2020** and is applicable to offers in compromise submitted on or after the effective date. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-03-13/pdf/2020-05115.pdf>. *Federal Register*, Vol. 85, No. 50, 03/13/2020, 14567-14572.

Treasury Issues Final Rule on Covered Asset Acquisitions.

Treasury issued a final rule and removed temporary regulations regarding Income Tax Regulations under section 901(m) of the Internal Revenue Code (Code) with respect to transactions that generally are treated as asset acquisitions for U.S. income tax purposes and either are treated as stock acquisitions or are disregarded for foreign income tax purposes. The final rule provides guidance on applying section 901(m). The final rule affects taxpayers claiming foreign tax credits. The final rule is effective **03/23/2020**. Please see the final rule for applicability dates. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-03-23/pdf/2020-05551.pdf>. *Federal Register*, Vol. 85, No. 56, 03/23/2020, 16245-16267.

Treasury Issues Final Rule to Assess Fees on Certain BHCs and Nonbank Financial Companies Supervised by FRB to Cover Expenses of the Financial Research Fund.

Treasury issued a final rule to implement section 401 of the Economic Growth, Regulatory Relief, and Consumer Protection Act, which amends section 155 of the Dodd Frank Act. As amended, section 155 requires Treasury to establish, by regulation, an assessment schedule applicable to bank holding companies (BHCs) with total consolidated assets of \$250 billion or greater and nonbank financial companies supervised by the Board of Governors of the Federal Reserve System (FRB), to collect assessments equal to the total expenses of the Office of Financial Research. The final rule also simplifies the method for determining the amount of total assessable assets for foreign banking organizations, which is made possible by a new regulatory data source. The final rule is effective **04/17/2020**. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-03-18/pdf/2020-05083.pdf>. *Federal Register*, Vol. 85, No. 53, 03/18/2020, 15378-15382.

Treasury Issues Notice on TRIP Data.

Treasury issued a reminder of filing requirements under the Terrorism Risk Insurance Program (TRIP). Pursuant to the Terrorism Risk Insurance Act, as amended, insurers that participate in TRIP are directed to submit information for the 2020 TRIP Data Call, which covers the reporting period from **01/01/2019** to **12/31/2019**. Participating insurers are required to register and report information in a series of forms approved by Office of Management and Budget (OMB). All insurers writing commercial property and casualty insurance in lines subject to TRIP, subject to certain exceptions identified in the notice, must respond to the data call no later than **05/15/2020**. Copies of the notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-03-16/pdf/2020-05299.pdf>. *Federal Register*, Vol. 85, No. 51, 03/16/2020, 15036-15038.

Treasury Issues Proposed Rule on Computations and Reporting of Reserves for Life Insurance Companies.

Treasury issued a proposed rule to provide guidance on the computation of life insurance reserves and the change in basis of computing certain reserves of insurance companies. The proposed rule implements recent legislative changes to the Internal Revenue Code. Comments are due **06/01/2020**. The proposed rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-02/pdf/2020-05701.pdf>. *Federal Register*, Vol. 85, No. 64, 04/02/2020, 18496-18508.



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FHFA Issues Final Stress Testing Rule.

The Federal Housing Finance Agency (FHFA) amended its stress testing rule, consistent with section 401 of the Economic Growth, Regulatory Relief, and Consumer Protection Act. The amendments: adopt the proposed amendments without change to modify the minimum threshold for the regulated entities to conduct stress tests increased from \$10 billion to \$250 billion; remove the requirements for Federal Home Loan Banks to be subject to stress testing; and remove the adverse scenario from the list of required scenarios. The amendments align FHFA's rule with rules adopted by other financial institution regulators that implement the Dodd Frank Act stress testing requirements. The final rule is effective **03/24/2020**. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-03-24/pdf/2020-05476.pdf>. *Federal Register*, Vol. 85, No. 57, 03/24/2020, 16528-16531.

SBA Issues Final Rule to Implement Revisions to 7(a) Loan Program.

The Small Business Administration (SBA) issued a final rule to amend its business loan program regulations to implement the Small Business 7(a) Lending Oversight Reform Act (Act) and to make other amendments that will strengthen SBA's lender oversight and ensure the integrity of the business loan programs. The key amendments in the rule codify SBA's informal enforcement actions, new civil monetary penalties and certain appeal rights for 7(a) lenders, clarify certain enforcement actions for Microloan Intermediaries, and adopt statutory changes to the Credit Elsewhere Test. The final rule also makes other technical amendments, updates, and conforming changes including clarifying oversight and enforcement related definitions. The final rule is effective **04/15/2020**. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-03-16/pdf/2020-04663.pdf>. *Federal Register*, Vol. 85, No. 51, 03/16/2020, 14772-14784.

SBA Issues PPP Interim Final Rules.

- SBA issued an interim final rule to announce the implementation of sections 1102 and 1106 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) which temporarily adds the new product, Paycheck Protection Program (PPP), to SBA's 7(a) Loan Programs. Section 1106 of the CARES Act provides for forgiveness of up to the full principal amount of qualifying loans guaranteed under PPP. PPP and loan forgiveness are intended to provide economic relief to small businesses nationwide adversely impacted under COVID-19. The interim final rule outlines the key provisions of SBA's implementation of sections 1102 and 1106 of the CARES Act in formal guidance and requests comment. The interim final rule is effective **04/15/2020**. The interim final rule applies to applications submitted under PPP through **06/30/2020**, or until funds made available for the program are exhausted. Comments are due **05/15/2020**. The interim final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-15/pdf/2020-07672.pdf>. *Federal Register*, Vol. 85, No. 73, 04/15/2020, 20811-20817.
- SBA issued a second interim final rule regarding the Small Business Administration's (SBA's) Payroll Protection Program (PPP). The second interim final rule supplements the first PPP interim final rule which is highlighted in the paragraph directly above. The second interim final rule provides guidance for individuals with self-employment income who file a Form 1040, Schedule C. The second interim final rule also addresses eligibility issues for certain business concerns and requirements for certain pledges of PPP loans. The second final rule supplements the initial final rule with additional guidance regarding the application of certain affiliate rules applicable to SBA's implementation of sections 1102 and 1106 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). The second interim final rule is effective **04/15/2020**. The second interim final rule applies to applications submitted under PPP through **06/30/2020**, or until funds made available for this purpose are exhausted. Comments are due **05/15/2020**. The second interim final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-15/pdf/2020-07673.pdf>. *Federal Register*, Vol. 85, No. 73, 04/15/2020, 20817-20821.
- SBA has issued a third interim final rule regarding the implementation of section 1102 and 1106 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) which temporarily adds the new product, Paycheck Protection Program (PPP), to SBA's 7(a) Loan Programs. This interim final rule supplements the first interim final rule with guidance for individuals with self-employment income who file a Form 1040, Schedule C. The third interim final rule also addresses eligibility issues for certain business concerns and requirements for certain pledges of PPP loans. The third final rule will be effective upon publication in the *Federal Register*. The third interim final rule applies to applications submitted under PPP through **06/30/2020**, or until funds made available for the program are exhausted. Comments are due 30 days after date of publication of the third interim final rule in the *Federal Register*. The third interim final rule may be viewed at: <https://home.treasury.gov/system/files/136/Interim-Financial-Rule-Additional-Eligibility-Criteria-and-Requirements-for-Certain-Pledges-of-Loans.pdf>.



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SBA Expands and Extends Express Bridge Loan Pilot Program.

SBA published a document in the *Federal Register* on **10/16/2017**, announcing the Express Bridge Loan Pilot Program (Express Bridge Pilot). In that document, SBA provided an overview of the Express Bridge Pilot and modified an SBA regulation relating to loan underwriting for loans made under the pilot. On **05/07/2018**, SBA published a document to revise certain program requirements. SBA continued to refine and improve the design of the Express Bridge Pilot and has issued a document to expand program eligibility to include small businesses nationwide adversely impacted COVID-19. Further, SBA has revised program requirements to allow Express Bridge Pilot loans made under the President's COVID-19 Emergency Declaration to be approved through **03/13/2021**. Finally, SBA has extended the term of the Express Bridge Pilot from **09/30/2020** to **03/13/2021**, to assist small businesses that may experience delayed effects resulting from the COVID-19 emergency to benefit from the Express Bridge Pilot and to allow SBA to continue its evaluation of the program. The revised program requirements apply to all Express Bridge Pilot loans approved on or after **04/01/2020**. The Express Bridge Pilot will remain available through **03/13/2021**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-01/pdf/2020-06356.pdf>. *Federal Register*, Vol. 85, No. 63, 04/01/2020, 18107-18108.

SBA Issues Peg Rate.

SBA publishes an interest rate called the optional “peg” rate on a quarterly basis. The rate is a weighted average cost of money to the government for maturities similar to the average SBA direct loan. The rate may be used as a base rate for guaranteed fluctuating interest rate SBA loans. The rate will be **1.88** percent for the April-June quarter of FY 2020. Pursuant to 13 CFR 120.921(b), the maximum legal interest rate for any third party lender's commercial loan which funds any portion of the cost of a 504 project shall be 6 percent over the New York Prime rate or, if that exceeds the maximum interest rate permitted by the constitution or laws of a given state, the maximum interest rate will be the rate permitted by the constitution or laws of the given state. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-02/pdf/2020-06827.pdf>. *Federal Register*, Vol. 85, No. 64, 04/02/2020, 18631.

FSA Seeks Comment on Revision to Power of Attorney Information Collection.

The Farm Service Agency (FSA) seeks comment on revision of a currently approved information collection associated with the form of the Power of Attorney. The information collection is used to support FSA, Commodity Credit Corporation (CCC), Natural Resources Conservation Service (NRCS), Federal Crop Insurance Corporation (FCIC) and Risk Management Agency (RMA) in conducting business and accepting signatures on certain documents from individuals acting on behalf of other individuals or entities. Comments are due **05/12/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-03-13/pdf/2020-05162.pdf>. *Federal Register*, Vol. 85, No. 50, 03/13/2020, 14629-14630.

Agencies Issue Notices on Loan Payment Deferrals.

The Rural-Business Cooperative Service (RCS), Rural Housing Service (RHS), and Rural Utilities Service (RUS) (collectively, the agencies) issued a notice to temporarily allow lenders with guaranteed loans with the agencies to unilaterally offer payment deferrals for the period specified in the notice to their customers who may be experiencing temporary cash flow issues due to the COVID-19 pandemic. The notice is effective **03/31/2020**, and temporarily expires **09/30/2020**. The agencies also issued a supplement notice which includes additional servicing flexibility requirements for agency guaranteed loan requirements as they relate to new loans covered by Section 1102 of the Coronavirus Aid, Relief, and Economic Security (CARES Act). The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-03-31/pdf/2020-06706.pdf>. *Federal Register*, Vol. 85, No. 62, 03/31/2020, 17721. The supplemental notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-08/pdf/2020-07487.pdf>. *Federal Register*, Vol. 85, No. 68, 04/08/2020, 19655-19656.

RBC Revises Rural Business Investment Program.

The Rural Business-Cooperative Service (RBC) published an interim rule **11/23/2011**, which made several revisions to the Rural Business Investment program. RBC has now finalized the interim rule based on comments, amended its regulations, and incorporated new program requirements established in the Agriculture Improvement Act for the Rural Business Investment Program. The revisions are expected to decrease the time and workload necessary in carrying out the program. Please see the final rule for the specific changes. The final rule is effective **03/24/2020**. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-03-24/pdf/2020-05746.pdf>. *Federal Register*, Vol. 85, No. 57, 03/24/2020, 16519-16523.



Regulatory Spotlight

RUS Issues Interim Final Rule for Rural Broadband Access Loan and Loan Guarantee Program.

The Rural Utilities Service (RUS) is amending its regulation for the Rural Broadband Program, previously referred to as the Rural Broadband Access Loan and Loan Guarantee Program, to implement the Agricultural Act of 2018. RUS seeks comment on the interim final rule to guide its efforts in drafting the final rule for the Rural Broadband Program and Community Connect Grant Program. The interim final rule is effective **05/11/2020**. Comments are due **05/11/2020**. The interim final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-03-12/pdf/2020-04086.pdf>. *Federal Register*, Vol. 85, No. 49, 03/12/2020, 14393-14409.

RHS Seeks Comment on Revision to Servicing of Community and Direct Business Program Loans and Grants Information Collection.

The Rural Housing Service (RHS) seeks comment on revision to an existing information collection regarding the servicing of direct business program loans and grants. The Community Facilities Program is authorized to make loans and grants to public entities, nonprofit corporations, and Indian tribes for the development of essential community facilities primarily serving rural residents. The Direct Business Industry Program, under Rural Business-Cooperative Service, is authorized to make loans to improve, develop, or finance business, industry, and employment, and improve the economic and environmental climate in rural communities. The information collection establishes security servicing policies, assists recipients in meeting the objectives of the loans and grants, repay loans on schedule, comply with agreements, and protects the government's financial interest. Comments are due **05/22/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-03-23/pdf/2020-05977.pdf>. *Federal Register*, Vol. 85, No. 56, 03/23/2020, 16324-16325.

RHS Issues NOSA for Section 533 Housing Preservation Grants for FY2020.

RHS issued a notice of solicitations for applications (NOSA) under its Housing Preservation Grant (HPG) program. RHS will publish the amount of funding on its website at: <https://www.rd.usda.gov/newsroom/notices-solicitation-applications-nosas>. The closing deadline for receipt of all paper pre-applications is 5:00 p.m., local time for each Rural Development State Office on **05/07/2020**. If submitting the pre-application in electronic format, the closing deadline for receipt is 5:00 p.m. Eastern Daylight Time on **05/07/2020**. Rural Development State Office locations can be found at: <http://www.rd.usda.gov/contact-us/state-offices>. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-03-23/pdf/2020-05984.pdf>. *Federal Register*, Vol. 85, No. 56, 03/23/2020, 16314-16324.

CCC Issues Correcting Amendment and Extends Comment Date for RCPP Program Administration Interim Rule.

The Commodity Credit Corporation (CCC) seeks to correct an interim rule published in the *Federal Register* on **02/13/2020**, that would incorporate the 2018 Farm Bill changes to the Regional Conservation Partnership Program (RCPP) program administration. There was an unintentional error that omitted several paragraphs in a certain section in the RCPP rule. The amendment is effective **03/17/2020**. CCC has also extended the comment period for the interim rule. Comments are now due **05/12/2020**. The amendment and comment period extension may be found at: <https://www.govinfo.gov/content/pkg/FR-2020-03-17/pdf/2020-05157.pdf>. *Federal Register*, Vol. 85, No. 52, 03/17/2020, 15051-15052.

FTC Extends Comment Period on Endorsements and Testimonials in Advertising Proposal.

The Federal Trade Commission (FTC) extended the deadline for filing comments on its Guides Concerning the Use of Endorsements and Testimonials in Advertising. For the proposed rule published in the *Federal Register* on **02/21/2020**, comments are extended until **06/22/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-08/pdf/2020-07173.pdf>. *Federal Register*, Vol. 85, No. 68, 04/08/2020, 19709.

SEC Revises Accelerated Filer and Large Accelerated Filer Definitions.

The Securities and Exchange Commission (SEC) amended the accelerated filer and large accelerated filer definitions to more appropriately tailor the types of issuers that are included in the categories of accelerated and large accelerated filers and promote capital formation, preserve capital, and reduce unnecessary burdens for certain smaller issuers while maintaining investor protections. Please



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see the final rule for the specific amendments. The final rule is effective **04/27/2020**. SEC also issued a correction to the final rule to correct a typographical error in an example. Please see the notice for the specific correction. The correction is effective **04/09/2020**. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-03-26/pdf/2020-05546.pdf>. *Federal Register*, Vol. 85, No. 59, 03/26/2020, 17178-17242. The correction may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-09/pdf/2020-06926.pdf>. *Federal Register*, Vol. 85, No. 69, 04/09/2020, 19884.

SEC Issues Temporary Final Rule for Form ID Filers.

SEC issued a temporary final rule for Form ID filers and for issuers subject to reporting obligations pursuant to Regulation Crowdfunding and Regulation A in order to address the needs of companies directly or indirectly affected by COVID-19. The temporary final rule provides temporary relief from the Form ID notarization process for certain filers and extends the filing deadlines for specified reports and forms due pursuant to Regulation Crowdfunding and Regulation A for certain issuers. The amendment to 17 CFR 232.10 is effective **03/30/2020**, through **09/30/2020**. The amendments to 17 CFR 227.202 and 17 CFR 230.257 are effective **03/30/2020**, through **07/15/2020**. The temporary final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-03-31/pdf/2020-06721.pdf>. *Federal Register*, Vol. 85, No. 62, 03/31/2020, 17747-17751.

SEC Issues Orders Granting Exemptions Due to COVID-19.

- SEC issued an order to address the currently anticipated needs of transfer agents (and of other persons with regards to Exchange Act section 17(f)(2) and Rule 17f-2), that have been directly or indirectly affected by COVID-19. Please see the order for specific relief. Transfer agents and other persons who are unable to meet a deadline as extended by the relief, or in need of additional assistance, should contact the Division of Trading and Markets at (202) 551-5777 or tradingandmarkets@sec.gov. The order is effective **03/16/2020** until **05/30/2020**. SEC may extend the time period during which the relief applies, with any additional conditions SEC deems appropriate. The order may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-03-26/pdf/2020-06292.pdf>. *Federal Register*, Vol. 85, No. 59, 03/26/2020, 17122-17123.
- SEC issued an order providing exemptions from certain requirements of the Investment Company Act. The exemptions provide additional flexibility for (1) registered open-end management investment companies other than money market funds (“open-end funds”) and (2) insurance company separate accounts registered as unit investment trusts (“separate accounts”) to obtain short-term funding. Please see the order for the specific exemptions and conditions. The order is effective **03/27/2020** until **06/30/2020**. SEC will continue to monitor the current situation and may issue other relief as necessary or appropriate. The order may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-03-27/pdf/2020-06392.pdf>. *Federal Register*, Vol. 85, No. 60, 03/27/2020, 17374-17375.
- SEC issued an order which grants the following temporary exemptive relief from certain requirements of Rule 606, which is set forth in greater detail in the order: (1) Broker-dealers are exempt from the requirement to provide the public report covering the first quarter of 2020 required by Rule 606(a) until **05/29/2020**; (2) broker-dealers that engage in outsourced routing activity are exempt from the requirement to collect the monthly customer-specific data required by Rule 606(b)(3) for such activity until **06/01/2020**, and are exempt until **07/29/2020**, from the requirement to provide a customer-specific report of June 2020 outsourced routing data within seven business days for customer requests for such customer-specific reports that are made on or before **07/17/2020**. The order was issued **03/31/2020**. The order may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-03-31/pdf/2020-06621.pdf>. *Federal Register*, Vol. 85, No. 62, 03/31/2020, 17927-17929.
- SEC issued an order to provide a temporary conditional exemption from certain requirements of the Exchange Act for municipal advisors. SEC recognizes that municipal advisors may face challenges in timely satisfying the provisions of Section 15B of the Securities Exchange Act and Rule 15Ba1-5(a)(1) thereunder concerning the filing of a municipal advisor’s annual update to Form MA as a result of COVID-19. The relief in the order is limited to filing obligations for which the original due date for an annual update to Form MA is on or after **04/01/2020**, but on or prior to **06/30/2020**. SEC may extend the time period for the relief if necessary. The order was issued **04/01/2020**. The order may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-01/pdf/2020-06742.pdf>. *Federal Register*, Vol. 85, No. 63, 04/01/2020, 18299.



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SEC Issues Proposed Rule to Facilitate Capital Formation and Expand Investment Opportunities by Improving Access to Capital in Private Markets.

SEC proposed amendments to facilitate capital formation and increase opportunities for investors by expanding access to capital for entrepreneurs across the United States. Specifically, the proposed amendments would simplify, harmonize, and improve certain aspects of the exempt offering framework to promote capital formation while preserving or enhancing important investor protections. Over the years, and particularly since Congress passed the Jumpstart Our Business Startups Act, SEC has introduced, expanded, or otherwise revised exemptions from registration. The proposed amendments seek to address gaps and complexities in the exempt offering framework that may impede access to investment opportunities for investors and access to capital for issuers. Comments are due **06/01/2020**. The proposed rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-03-31/pdf/2020-04799.pdf>. *Federal Register*, Vol. 85, No. 62, 03/31/2020, 17956-18051.

NCUA Issues Proposed Rule to Amend Corporate Credit Union Regulation.

The National Credit Union Administration (NCUA) seeks comment on a proposed rule that would amend NCUA's corporate credit union regulation. The proposed rule would: permit a corporate credit union to make a minimal investment in a credit union service organization (CUSO) without the CUSO being classified as a corporate CUSO under NCUA's rules; expand the categories of senior staff positions at member credit unions eligible to serve on a corporate credit union's board; amend the minimum experience and independence requirement for a corporate credit union's enterprise risk management expert; and require a corporate credit union to deduct certain investments in subordinated debt instruments issued by natural person credit unions. Comments are due **05/26/2020**. On **04/09/2020**, NCUA announced it will extend the comment period for an additional 60 days. The comment period has been extended to **06/08/2020**. The proposed rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-03-27/pdf/2020-03837.pdf>. *Federal Register*, Vol. 85, No. 60, 03/27/2020, 17288-17299.

The notice of comment period extension may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-09/pdf/2020-07159.pdf>. *Federal Register*, Vol. 85, No. 69, 04/09/2020, 19908.

EEOC Adjusts CMP for Violation of Notice Posting.

The Equal Employment Opportunity Commission (EEOC) issued a final rule in accordance with the Federal Civil Penalties Inflation Adjustment Act Improvements Act, which further amended the Federal Civil Penalties Inflation Adjustment Act, to adjust for inflation the civil monetary penalty (CMP) for violation of the notice-posting requirements in Title VII of the Civil Rights Act, the Americans with Disabilities Act, and the Genetic Information Non-Discrimination Act. The CMP is now **\$569** up from **\$559**. The final rule is effective **03/18/2020**. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-03-18/pdf/2020-05225.pdf>. *Federal Register*, Vol. 85, No. 53, 03/18/2020, 15374-15376.

CDFI Fund Issues NOFA of BEA Program.

The Community Development Financial Institutions Fund (CDFI Fund) issued a notice of funds availability (NOFA) to invite applications for the Fiscal Year (FY) 2020 Funding Round of the Bank Enterprise Award Program (BEA Program). Through the BEA Program, CDFI Fund awards formula-based grants to depository institutions that are insured by the Federal Deposit Insurance Corporation for increasing their levels of loans, investments, service activities, and technical assistance to residents and businesses in the most economically distressed communities, and financial assistance and technical assistance to certified CDFIs through equity investments, equity-like loans, grants, stock purchases, loans, deposits, and other forms of assistance, during a specified period. Please see the notice for application deadlines and requirements. The NOFA may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-03/pdf/2020-07012.pdf>. *Federal Register*, Vol. 85, No. 65, 04/03/2020, 19060-190733.

DOL Issues Temporary Rule to Implement Public Health Emergency Leave and Paid Sick Leave Created by FFCRA.

The Department of Labor (DOL) issued a temporary rule to implement public health emergency leave under Title I of the Family and Medical Leave Act (FMLA), and emergency paid sick leave to assist working families facing public health emergencies arising out of COVID-19. The leave is created by a time-limited statutory authority established under the Families First Coronavirus Response Act (FFCRA). FFCRA and the temporary rule do not affect FMLA after **12/31/2020**. The temporary rule is effective **04/02/2020**, through **12/31/2020**. DOL has issued a correction to the temporary rule to correct language within the preamble and regulatory text. Please



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see the notice for specific corrections. The temporary rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-06/pdf/2020-07237.pdf>. *Federal Register*, Vol. 85, No. 66, 04/06/2020, 19326-19357. The correction may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-10/pdf/2020-07711.pdf>. *Federal Register*, Vol. 85, No. 70, 04/10/2020, 20156-20158. ■

Compliance Notes

▲ FRB, CFPB, FDIC, OCC, NCUA, and CSBS issued an interagency statement to encourage financial institutions to work constructively with borrowers affected by COVID-19 and provided additional information regarding loan modifications. The agencies stated they will not criticize institutions for working with borrowers in a safe and sound manner and will not direct supervised institutions to automatically categorize loan modifications as troubled debt restructurings (TDRs). The joint statement also provides supervisory views on past-due and nonaccrual regulatory reporting of loan modification programs and provides information regarding TDRs. The agencies also stated their examiners will exercise judgment in reviewing loan modifications, including TDRs, and will not automatically adversely risk-rate credits that are affected, including those considered TDRs. The agencies also issued a revised statement to provide additional information for financial institutions. The original statement was issued **03/22/2020**. The revised statement was issued **04/07/2020**. The first statement may be viewed at: <https://www.fdic.gov/news/news/press/2020/pr20038.html>. The revised statement may be viewed at: <https://www.fdic.gov/news/news/press/2020/pr20049.html>

▲ FRB, CFPB, FDIC, OCC, and NCUA issued a statement to encourage financial institutions to offer responsible small-dollar loans to consumers and small businesses affected by COVID-19. The agencies recognize that responsible small-dollar loans can play an important role in meeting customers' credit needs because of temporary cash-flow imbalances, unexpected expenses, or income disruptions during periods of economic stress or disaster recoveries. The agencies believe such loans can be offered through a variety of structures including open-end lines of credit, closed-end installment loans, or appropriately structured single payment loans. The agencies state that loans should be offered in a manner that provides fair treatment of consumers, complies with applicable laws and regulations, and is consistent with safe and sound practices. The statement may be viewed at: <https://www.fdic.gov/news/news/press/2020/pr20039.html>

▲ FRB, CFPB, FDIC, OCC, NCUA, and CSBS issued a joint statement to announce the agencies' flexible supervisory and enforcement approach during the COVID-19 emergency regarding certain consumer communications required by the mortgage servicing rules. The agencies recognize the serious impact the COVID-19 emergency may have on consumers and on the operations of many supervised entities, including mortgage servicers. The notice outlines several alternative methods for delivering required mortgage servicing disclosures. The notice may be viewed at: <https://www.fdic.gov/news/news/financial/2020/fil20040.html>. CFPB also issued a series of frequently asked questions (FAQs) regarding the topic. The FAQs may be viewed at: https://files.consumerfinance.gov/f/documents/cfpb_mortgage-servicing-rules-covid-19_faqs.pdf

▲ FRB, FDIC, OCC, NCUA, CFPB, in consultation with the state financial regulators, issued *Interagency Statement on Appraisals and Evaluations for Real Estate Related Financial Transactions Affected by the Coronavirus*. The statement outlines existing flexibilities provided by industry appraisal standards and the agencies' appraisal regulations and highlights temporary changes to Fannie Mae and Freddie Mac appraisal standards to facilitate real estate transactions. FRB, FDIC and OCC also issued an interim final rule to allow institutions supervised by the agencies to defer obtaining an appraisal or evaluation for up to 120 days after closing for certain residential and commercial real estate loans. The interim final rule may be found within the Regulatory Spotlight section of this publication. The interagency statement may be viewed at: <https://www.fdic.gov/news/news/press/2020/pr20051b.pdf>

▲ CFPB issued a statement titled *Supervisory and Enforcement Practices Regarding the Remittance Rule in Light of the COVID-19 Pandemic*. In order to minimize the impact of the pandemic on the remittances market, CFPB's statement announced that, through **01/01/2021**, CFPB will neither cite supervisory violations nor initiate enforcement actions against certain remittance transfer providers in connection with an exception to that rule that is expiring in July of this year. The policy statement may be viewed at: https://files.consumerfinance.gov/f/documents/cfpb_policy-statement_remittances-covid-19_2020-04.pdf

▲ FinCEN has requested financial institutions affected by the COVID-19 pandemic contact FinCEN and their functional regulator as soon as practicable if a COVID-19-affected financial institution has concern about any potential delays in its ability to file required Bank Secrecy Act (BSA) reports. Financial institutions seeking to contact FinCEN should call FinCEN's Regulatory Support Section (RSS) at 1-800-949-2732 and select option 6 or e-mail at FRC@fincen.gov. FinCEN's RSS will continue to be available



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to support financial institutions for the duration of the COVID-19 pandemic. FinCEN has updated its initial guidance. The updated guidance sets forth beneficial owner options for institutions participating in the Small Business Administration's Payroll Protection Program (PPP), provides additional contact information, and other resources. The guidance may be viewed at: <https://www.fincen.gov/news/news-releases/financial-crimes-enforcement-network-fincen-encourages-financial-institutions>. Updated guidance may be viewed at: <https://www.fincen.gov/news/news-releases/financial-crimes-enforcement-network-provides-further-information-financial> and https://www.fincen.gov/sites/default/files/2020-04/Paycheck_Protection_Program_FAQs.pdf

▲ DFI issued emergency guidance on annual meeting requirements for businesses formed under statutes administered by DFI in Wisconsin. This emergency guidance applies to entities formed under Chapters 178 to 188, 214, 215, and 220 to 223 of the Wisconsin Statutes. The guidance applies to annual meetings of banking organizations. The guidance may be viewed at: http://www.wdfi.org/_resources/indexed/site/corporations/EmergencyGuidanceOnVirtualAnnualMeetings.pdf

▲ DFI has also issued emergency guidance on prohibited debt collection practices. Comments on the emergency guidance are due within 21 days after publication of the guidance in Wisconsin's Administrative Register. Publication occurred **04/20/2020**. The guidance may be viewed at: [http://www.wdfi.org/_resources/indexed/site/corporations/EmergencyGuidanceonProhibitedDebtCollectionPractices\(Combined\).pdf](http://www.wdfi.org/_resources/indexed/site/corporations/EmergencyGuidanceonProhibitedDebtCollectionPractices(Combined).pdf)

▲ Finally, DFI has also sent a letter to all state-chartered institutions stating it will waive limits under sec. 221.0324(3) and (5), Wis. Stats. for pledges on assets to FRB for PPPLF only. Banks do not need to receive consent for DFI to exceed the statutory limit. The DFI letter may be viewed at: <https://www.wisbank.com/media/567303/dfi-paycheck-protection-program-liquidity-facility-notice-20200417.pdf>

▲ HUD has issued Notice PIH 2020-05 titled *COVID-19 Statutory and Regulatory Waivers for the Public Housing, Housing Choice Voucher, Indian Housing Block Grant and Indian Community Development Block Grant programs, Suspension of Public Housing Assessment System and Section Eight Management Assessment Program*. Through the notice, HUD has waived and established alternative requirements for numerous statutory and regulatory requirements of the listed programs. Please see the notice for the specific changes. The notice may be viewed at: <https://www.hud.gov/sites/dfiles/PIH/documents/PIH2020-05.pdf>

▲ CFPB has published an article titled Tools to Help When You Can't Pay Your Bills for consumers who may be experiencing unexpected financial hardships due to the COVID-19 pandemic. The article may be viewed at: <https://www.consumerfinance.gov/about-us/blog/tools-to-help-pay-bills/>

▲ FRB has taken many steps of the past month to provide up to \$2.3 trillion in loans to support the economy. The funding is meant to assist households and employers of all sizes and bolster the ability of state and local governments to deliver critical services during COVID-19. FRB has used its full range of authorities to provide support for the flow of credit in the economy in many ways. A listing of the funding options, including terms sheets for each facility, may be found at: <https://www.federalreserve.gov/newsevents/pressreleases/monetary20200409a.htm>

▲ FFIEC, on behalf of its member agencies, announced the availability of FFIEC Federal Disclosure Computational Tools, including APR and APY Computational Tools. The tools will assist financial institutions in their efforts to comply with consumer protection laws and regulations. The APR Computation Tool is designed to streamline the process to verify finance charge and APRs included on consumer loan disclosures subject to Regulation Z, Truth in Lending. The tool supports the verification of disclosed APR calculations related to unsecured and secured installment and construction loans, including real estate-secured loans. The tool also supports verification of compliance with the MAPR limits under the Military Lending Act. The APY Computation Tool supports verification of APYs on consumer deposit disclosures subject to Regulation DD, Truth in Savings, including advertisements and periodic statements. The FFIEC Federal Disclosure Computational Tools are available at: <https://www.ffiec.gov/calculators.htm>

▲ FRB's April Beige Book has been released. The Book, broken down by Fed-regions, outlines overall economic activity, employment and wages, and prices in each region since the last release. The Book may be viewed at: <https://www.federalreserve.gov/monetarypolicy/beigebook202004.htm>

▲ FRBServices has updated their COVID-19 related resources. FRBServices remains open to provide all services and expects no business interruption of services. Financial institutions are encouraged to use routine procedures for contacting and utilizing services of the Federal Reserve Banks. The updated website may be viewed at: <https://www.frb services.org/covid-19-resources/index.html>



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▲ FFIEC updated several sections of its BSA/AML Examination Manual. The updates provide transparency to the BSA/AML examination process and do not establish new requirements. Many of the revisions are designed to emphasize and enhance the risk-focused approach to BSA/AML supervision. New and revised sections of the manual are identified by a 2020 date in the table of contents and on the FFIEC BSA/AML InfoBase. The updated manual may be viewed at: <https://www.ffiec.gov/press/PDF/FFIEC%20BSA-AML%20Exam%20Manual.pdf>

▲ IRS announced VA and SSI benefit recipients will receive EIP automatically. No further action need be taken by the recipient. The VA and SSI announcements may be viewed at the following links, respectively: <https://www.irs.gov/newsroom/veterans-affairs-recipients-will-receive-automatic-economic-impact-payments-step-follows-work-between-treasury-irs-va> and <https://home.treasury.gov/news/press-releases/sm979>

▲ IRS launched a new web tool allowing quick registration for EIPs for those who don't normally file a tax return. The non-filer tool, developed in partnership between the IRS and the Free File Alliance, provides a free and easy option designed for people who do not have a return filing obligation, including those with too little income to file. The feature is available only on [IRS.gov](https://www.irs.gov), and users should look for "Non-filers: Enter Payment Info Here" to take them directly to the tool. The announcement may be viewed at: <https://www.irs.gov/newsroom/treasury-irs-launch-new-tool-to-help-non-filers-register-for-economic-impact-payments>

▲ OFAC issued an advisory to raise the awareness of the cyber threat posed by North Korea. The advisory highlights North Korea's malicious cyber activities around the world, identifies U.S. government resources that provide technical and threat information, and includes recommended measures to counter the cyber threat. The advisory: https://www.treasury.gov/resource-center/sanctions/Programs/Documents/dprk_cyber_threat_advisory_20200415.pdf

▲ The Wisconsin Legislative Council created a summary of Wisconsin's new Hemp law. 2019 Wisconsin Act 68 modifies state law in accordance with the 2018 Farm Bill and makes numerous other changes regarding hemp-related activities in Wisconsin. The act also clarifies the relationship between hemp products and certain cannabidiol (CBD) products, expands and repeals certain requirements of the state's Controlled Substances Board (CSB), and sets a threshold level of delta-9- tetrahydrocannabinol (THC) for purposes of certain offenses that prohibit a restricted controlled substance in a person's blood. The summary may be viewed at: <http://docs.legis.wisconsin.gov/2019/related/lcactmemo/act068>

▲ FDIC announced it will temporarily postpone its efforts to modify its signage and advertising requirements. FDIC remains committed to modernizing these rules at a future date to better reflect how banks and savings associations are transforming their business models to take deposits via physical branches, digital, and mobile banking channels. The announcement may be viewed at: <https://www.fdic.gov/news/news/press/2020/pr20052.html>

▲ FHFA and CFPB announced the Borrower Protection Program, a new joint initiative that enables CFPB and FHFA to share servicing information to protect borrowers during the coronavirus national emergency. Under the program, CFPB will make complaint information and analytical tools available to FHFA via a secure electronic interface; and FHFA will make available to CFPB information about forbearances, modifications and other loss mitigation initiatives undertaken by Fannie Mae and Freddie Mac. The announcement may be viewed at: <https://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-and-CFPB-Announce-Borrower-Protection-Program.aspx>

▲ Fed released the minutes of the **03/15/2020** Federal Open Market Committee meeting. The minutes may be viewed at: <https://www.federalreserve.gov/monetarypolicy/files/fomcminutes20200315.pdf>

▲ CFPB published an article titled Avoid Scams While Finding Help During Quarantine to provide guidance to older adults and their caretakers on avoiding exploitation during the COVID-19 pandemic. The article may be viewed at: <https://www.consumerfinance.gov/about-us/blog/avoid-scams-find-help-during-quarantine/>

▲ FBI issued a Q&A addressing various COVID-19-related financial crime schemes. The Q&A includes information on scams that the FBI is investigating and tips for protecting yourself. The Q&A may be viewed at: <https://www.fbi.gov/news/stories/protect-yourself-from-covid-19-scams-040620>

▲ CFPB released its annual report about the work of its Office of Servicemember Affairs (OSA) over the past fiscal year to help servicemembers, veterans, and their families achieve financial well-being. The report may be viewed: https://files.consumerfinance.gov/f/documents/cfpb_osa_annual-report_2019.pdf



Compliance Notes

▲ FATF released a report on United States' progress in strengthening measures to tackle money laundering and terrorist financing. The United States has been in an enhanced follow-up process following the adoption of its mutual evaluation in 2016. In line with the FATF Procedures for mutual evaluations, the country has reported back to the FATF on the actions it has taken since then. The report may be viewed at: <http://www.fatf-gafi.org/media/fatf/documents/reports/fur/Follow-Up-Report-United-States-March-2020.pdf> ■



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