

# Compliance Journal

## Special Focus

### Regulation D Transaction Limitations

On Tuesday, April 28, 2020, the Board of Governors of the Federal Reserve System (FRB) issued an interim final rule to amend Regulation D to delete the numeric limits on certain kinds of transfers and withdrawals that may be made each month from “savings deposits” (interim final rule or IFR). The interim final rule is effective immediately.

#### Background

The Federal Reserve Act authorizes FRB to impose reserve requirements on certain types of deposits of depository institutions. Regulation D distinguishes between reservable “transaction accounts” and non-reservable “savings deposits” based on the ease with which the depositor may make transfers or withdrawals from the account. Prior to the interim final rule, Regulation D defined the term “savings deposit” to require, under the terms of the deposit contract or by practice of the depository institution, that the depositor be permitted to make no more than six transfers or withdrawals (in any combination) per calendar month or statement cycle of at least four weeks (six transfer limit).

In January 2019, the Federal Open Market Committee (FOMC) announced its intention to implement monetary policy in an ample reserves regime. Considering that shift, on March 15, 2020, FRB reduced reserve requirement ratios to zero percent effective March 26, 2020, eliminating reserve requirements for all depository institutions. Because of the elimination of reserve requirements on all transaction accounts, the regulatory distinction between reservable “transaction accounts” and non-reservable “savings deposits” is no longer necessary. Thus, FRB issued the IFR to delete the six transfer limit from the definition of “savings deposit.”

#### Impact of the Change and Considerations for Banks

The IFR allows depository institutions to immediately suspend enforcement of the six transfer limit, but does not require any mandatory changes. Because the six transfer limit was deleted, financial institutions may, but are not required to, permit their customers to make an unlimited number of convenient transfers and withdrawals from their savings deposits.

Many financial institutions have questioned whether the deletion of the six transfer limit is permanent. FRB has stated that, as discussed above, the underlying reason enabling the changes in Regulation D is the FOMC’s choice of monetary policy framework of an ample reserve regime. In such a regime, reserve requirements are not needed. Thus, the distinction made by the transfer limit between reservable and non-reservable accounts is also not necessary. The FOMC’s choice of a monetary policy framework is not a short-term choice. FRB does not have plans to re-impose transfer limits but may make adjustments to the definition of savings accounts in response to comments received on its interim final rule and, in the future, if conditions warrant.

In short, based upon the IFR, and FRB’s clarifying statements above, the deletion of the six transfer limit is indefinite. The interim final rule amends Regulation D with no time limitations. FRB could later re-implement the six transfer limit, but would be required to issue a new rule. As discussed above, FRB currently has no plans to re-implement the six transfer limit.

FRB has answered additional frequently asked questions. Some of the more common questions and answers are provided below:

**1. May depository institutions continue to report accounts as “savings deposits” on their FR 2900 reports even after they suspend enforcement of the six-transfer limit on those accounts?**

Yes. Depository institutions may continue to report these accounts as “savings deposits” on their FR 2900 reports after they suspend enforcement of the six-transfer limit on those accounts.

**2. If a depository institution suspends enforcement of the six-transfer limit on a “savings deposit,” may the depository institution report the account as a “transaction account” rather than as a “savings deposit”?**



# Special Focus

Yes. If a depository institution suspends enforcement of the six-transfer limit on a “savings deposit,” the depository institution may report that account as a “transaction account” on its FR 2900 reports. A depository institution may instead, if it chooses, continue to report the account as a “savings deposit.”

### 3. May depository institutions suspend enforcement of the six-transfer limit on a temporary basis, such as for six months?

Yes.

### 4. How did the recent amendments to Reg D impact Reg CC?

Regulation CC provides that an “account” subject to Regulation CC includes accounts described in 12 CFR 204.2(e) (transaction accounts) but excludes accounts described in 12 CFR 204.2(d) (2) (savings deposits). Because Regulation CC continues to exclude accounts described in 12 CFR 204.2(d)(2) from the Reg CC “account” definition, the recent amendments to Regulation D did not result in savings deposits or accounts described in 12 CFR 204.2(d)(2) now being covered by Regulation CC.

In its FAQs, FRB states that the IFR does not specify the manner in which depository institutions that choose to amend their account agreements may do so. Meaning, the IFR, and Regulation D in general, does not require or prescribe how a financial institution must modify its account agreements with respect to the six transaction limitation. However, WBA reminds financial institutions to consider Regulation DD, which implements the Truth in Savings Act.

Regulation DD requires a depository institution to give its consumers 30 calendar days advance notice of any change in a term if the change may reduce the annual percentage yield or adversely affect the consumer. The notice shall include the effective date of the change. If a financial institution decides to remove the six transaction limitation, such a change is positive to the customer and would not require advance notice. Financial institutions might still decide to provide notice of the change from a customer service standpoint, however.

There are other situations that might necessitate advanced notice of a change in terms under Regulation DD. As discussed above, the deletion of the six-month transaction limitation is indefinite. However, financial institutions have the flexibility to choose how to act on that change. Financial institutions could choose to maintain their current policies, procedures, and account agreements, or modify them, and could do so on a temporary basis. For example, a financial institution might decide to permit its customers to make unlimited transactions for a period of six months. At the end of the six-month period, if the financial institution decides to re-implement the six transaction limitation, 30 days advance notice would be required as the change would be adverse to the customer.

## Conclusion

FRB’s interim final rule deletes the six transaction limit from Regulation D without further limitation. The amendments are intended to allow depository institution customers more convenient access to their funds and to simplify account administration for depository institutions. The IFR permits, but does not require, depository institutions to suspend enforcement of the six transfer limit. Thus, financial institutions have the flexibility to determine whether, and how, to act upon the deletion of the six transfer limit.

## Additional Resources

[FRB’s Interim Final Rule](#)

[FRB’s Monetary Policy and Reduction of Reserve Requirements](#)

[FRB’s FAQ on Reserves](#)

[FRB’s FAQ on Savings Deposits](#)

[FRB on Reporting Changes](#) ■

May 2020

Volume 25, Number 12

### Wisconsin Bankers Association

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

### Senior Writers

Heather Mackinnon  
Scott Birrenkott

### Editor

Ally Bates

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

### Subscription Rate:

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



## Flood Insurance Requirements During the COVID-19 Emergency

On March 9, 2020, the federal financial institution agencies (agencies) issued a joint press release to encourage financial institutions to meet the financial needs of customers affected by the coronavirus (COVID-19 emergency). Since then, the agencies have issued additional guidance, clarification, and in some instances, relief, to aid financial institutions to better assist their customers and continue to meet regulatory requirements.

Many financial institutions currently offer deferral or modification agreements to borrowers experiencing financial hardship caused by the COVID-19 emergency. Such arrangements may trigger the rules governing loans in areas having special flood hazards. This article covers the resources provided by the agencies, which discuss how financial institutions can help borrowers affected by the COVID-19 emergency and continue to meet the flood insurance requirements.

### General Requirements

The Flood Disaster Protection Act (FDPA), as implemented by the agencies' rulemaking, requires that each time a financial institution makes, increases, extends, or renews (MIRE event) a loan it must determine whether the property is in a special flood hazard area (SFHA). Flood insurance is generally required for the term of the loan for buildings or mobile homes when in a SFHA. If, at any time during the life of the loan, flood insurance is deficient, the financial institution must initiate force placement procedures.

Over the past months, many financial institutions have worked with struggling borrowers affected by the COVID-19 emergency by offering various forms of modifications, extensions, and deferral agreements. When these agreements trigger a MIRE event, such as by extending the loan term, then flood insurance requirements apply. For example, if a financial institution offers aid to an affected borrower by deferring payments and extending their loan's maturity, this action "extends" the loan and results in a MIRE event. Such agreements could thus trigger requirements such as establishing escrow for flood insurance payments and fees, making a flood zone determination on the property securing the loan, or providing the notice of special flood hazards to the borrower. The FDPA and the agencies' implementing regulations do not provide for a waiver of these requirements in emergency situations. However, the Board of Governors of the Federal Reserve (FRB) and the Federal Deposit Insurance Corporation (FDIC) have issued guidance regarding flood requirements, to help banks meet the needs of their borrowers.

### Agency Guidance

FRB has stated that when exercising supervisory and enforcement responsibilities, it will take into account the unique circumstances impacting borrowers and institutions resulting from the COVID-19 emergency. Financial institutions should make good-faith efforts demonstrably designed to support consumers and comply with the flood insurance requirements. In addition, supervisory feedback for institutions will be focused on identifying issues, correcting deficiencies, and ensuring appropriate remediation to consumers. FRB does not expect to take a public enforcement action against an institution, provided that the circumstances were related to the COVID-19 emergency and that the institution made good faith efforts to support borrowers and comply with the flood insurance requirements, as well as responded to any needed corrective action.

FDIC has acknowledged that as financial institutions work to accommodate borrowers during the COVID-19 emergency, meeting flood requirements could pose challenges for lenders and delay relief for borrowers in need. Therefore, FDIC has stated that when working with borrowers impacted by the COVID-19 emergency triggers a MIRE event, lenders may, if applicable:

- Rely temporarily on a loan's previous flood hazard determination on file rather than obtain a new one during the COVID-19 emergency;
- Delay the establishment of escrow accounts for applicable loans until after the COVID-19 emergency; and
- Delay providing a written flood notice to a borrower until after the COVID-19 emergency if a property is located in a Special Flood Hazard Area (SFHA) and informing consumers about the availability for special disaster relief assistance in the event of a flood. Prior to providing written notice, the lender may, at its discretion, choose to use another method to inform the borrower of this information (e.g. by email or telephone).



# Special Focus

FDIC has stated that lenders should have a system in place to ensure deferred flood insurance requirements are addressed as soon as reasonably practicable. FDIC examiners, under the FDIC's discretionary examination authority, will not criticize lenders' good faith flood insurance compliance efforts to accommodate borrowers in a safe and sound manner during the COVID-19 emergency.

## National Flood Insurance Program Renewal

On March 28, 2020, the Federal Emergency Management Agency (FEMA) issued Bulletin W-20002 (Bulletin) to extend the grace period to renew the National Flood Insurance Program (NFIP) policies that expire between February 13, 2020 and June 15, 2020 from 30 days to 120 days. Thus, a borrower will be covered by the NFIP policy if the flood insurance premium is paid before the 120-day grace period expires.

As discussed above, the FDPA provides requirements and procedures for the force placement of flood insurance when a designated loan is not covered by a sufficient amount of flood insurance. The rules require that under force placement procedures, the lender must notify the borrower when adequate flood insurance is not in place. If the borrower does not provide evidence of sufficient coverage within 45 days after notification, the lender must force place flood insurance in an amount that will satisfy the regulatory requirements. However, in light of the Bulletin, FRB has stated that for NFIP policies expiring during the FEMA emergency period:

- A lender may provide the required notice to the borrower after determining the policy has expired with an indication that the NFIP grace period has been extended for 120 days. Lenders may inform borrowers that, in light of the Bulletin, force placement will not occur until after the end of the 120-day period.
- Alternatively, a lender may provide the required notice to the borrower at least 45 days before the end of the 120-day grace period.
- For either alternative, the lender must force place flood insurance on the borrower's behalf if the borrower does not pay the premium by the end of the 120-day grace period.
- As discussed above, FRB does not expect to take supervisory or enforcement action against the lender for violating the flood insurance force placement requirements, provided that the circumstances were related to COVID-19, and that the lender has made good-faith efforts to support borrowers and comply with the flood insurance requirements, as well as responded to any needed corrective action.
- Lenders should be aware that if they force place flood insurance for NFIP policies that expire during the FEMA emergency period prior to the expiration of the 120-day grace period and the borrower pays the premium by the end of the 120-day grace period, consistent with the flood insurance regulatory requirements, the lender would be required to refund the borrower for any overlapping flood insurance coverage.

## Conclusion

The flood rules have not been waived. However, FRB and FDIC have encouraged financial institutions to assist customers affected by the COVID-19 emergency. In order to better assist financial institutions accomplish those goals and meet borrower needs while complying with the flood rules, both agencies have issued the guidance discussed in this article. Additionally, FEMA allows greater flexibility to affected borrowers covered by certain NFIP policies. Financial institutions should consider the appropriate guidance when determining how to meet existing flood requirements for borrowers affected by the COVID-19 emergency. When relying upon such guidance to make a decision with respect to complying with flood requirements, financial institutions should carefully document the circumstances, the steps the institution took to comply with the flood rules, and the considerations leading to the decision.

## Additional Resources

[FRB Flood Insurance Compliance in Response to the Coronavirus](#)

[FDIC Coronavirus FAQ](#)

[FEMA Bulletin W-20002](#) ■



## Impact of CARES Act on Retirement Accounts

Title II, Subpart B of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) consists of provisions that affect retirement account distributions, charitable contributions, and employer payments on student loans. The following is a summary of the provision affecting retirement accounts.

Several sections of Subpart B effect distributions from retirement accounts including: temporary treatment for coronavirus-related distributions, limited repayment and income tax treatments for qualified individuals, and waivers from required minimum distributions.

### Coronavirus-related Distributions

The new law allows for temporary treatment for distributions referred to as “coronavirus-related distributions” (CRDs). For a distribution to be considered a CRD, the distribution need be:

1. Made on or after January 1, 2020 and before December 31, 2020; and
2. Made to an individual:
  - (a.) Who is diagnosed with the virus SARS-CoV-2 or with coronavirus disease 2019 (COVID-19) by a test approved by the Centers for Disease Control and Prevention;
  - (b.) Whose spouse or dependent (as defined in section 152 of the Internal Revenue Code) is diagnosed with such virus or disease by such a test; or
  - (c.) Who experiences adverse financial consequences as a result of being:
    - Quarantined;
    - Furloughed or laid off or having work hours reduced due to such virus or disease; or
    - Unable to work due to lack of childcare due to such virus or disease, closing or reducing hours of a business owned or operated by the individual due to such virus or disease, or other factors as determined by the Secretary of the Treasury.

CRDs are permitted for up to \$100,000 (in the aggregate) from eligible retirement accounts and are not subject to the standard 10% withholding tax penalty that would otherwise apply to a distribution taken before the participant was 59½. Eligible retirement accounts include qualified defined contribution retirement plans, including 401(k), 403(b), 457(b), and IRAs.

The new law does allow for retirement plan administrators to rely upon an employee certification that he/she meets the CARES Act conditions to make a CRD. There is no further detail in the CARES Act regarding what specific certification should be made for reliance there upon.

CRDs will automatically be included as qualified individual taxable income ratably over a 3-taxable year period beginning with the year withdrawn. The participant may voluntarily elect income treatment differently—such as including CRDs as qualified taxable income all in one tax year.

The CARES Act also allows participants to repay CRDs back to eligible retirement plans and IRAs for which they are beneficiaries and for which a rollover contribution of such distributions can be made. The repayment period is three years from date the distribution was received. Repayments will be treated as satisfying general 60-day rollover requirements and will generally require the participant to file an amended tax return.

### Loans from Qualified Retirement Plans

Separate from options available for CRDs, the CARES Act increases the amount qualified individuals may borrow from a qualified retirement plan. From the date of enactment until 180 days thereafter, qualified individuals may borrow up to 100% of the individual's vested account balance or \$100,000, whichever is less. This is an increase from current thresholds of 50% and \$50,000. A qualified individual is someone that meets the criteria listed in item 2. above. Not all retirement plans allow for participant loans; plan participants should discuss loan options with retirement plan administrators.





# Special Focus

In the case of a qualified individual with an outstanding loan from a qualified retirement plan on or after the date of enactment of the CARES Act (March 27, 2020), if the due date for any repayment of the outstanding loan occurs during the period beginning March 27, 2020 and ending December 31, 2020, such due date is delayed for one year. In determining the traditional 5-year period for when a loan from a qualified retirement plan must be repaid, the traditional time period disregards the delayed period.

## Waiver of Required Minimum Distribution for 2020

The rules for required minimum distributions (RMDs) for defined contribution plans (such as 403(b) and certain 457(b) accounts) and IRAs have also been impacted by the CARES Act. Under section 2203 of the Act, RMDs are waived for 2020. Due to the changes, an accountholder who was otherwise required to take an RMD in 2020 is no longer required to take the RMD. Additionally, an accountholder who turned 70½ in 2019 but had not yet taken the first RMD by April 1, 2020, is not required to take the first RMD; nor is that accountholder required to take a 2020 RMD.

The RMD changes also impact inherited IRA-holders. If an accountholder inherited an IRA from a person who died before January 1, 2020, the accountholder is not required to take a 2020 RMD. If the accountholder inherited an IRA as a designated beneficiary, the accountholder is generally required have the IRA funds distributed to him/her within a ten-year time period. Under the CARES Act, if the death occurred after December 2019, the ten-year period does not start until 2021—skipping 2020. A non-designated beneficiary (i.e., estate, charity) normally is required to receive the inherited IRA funds over a 5-year period. Under the CARES Act, 2020 is skipped giving the non-designated beneficiary six years to have the IRA funds fully distributed.

A change made by the CARES Act is independent of the Setting Every Community up for Retirement Enhancement Act (SECURE Act). The CARES Act made no changes to the new timing rules of the SECURE Act. Thus, under the SECURE Act, it remains that if an IRA-holder reached 70½ prior to January 1, 2020, or if the IRA-holder is not yet 70½, once the IRA-holder reaches 72 after December 31, 2019, he/she must take an RMD.

## Bank Considerations

Given the new distribution flexibilities for retirement accounts, banks should consider whether further tracking of withdrawals should be implemented for distributions made pursuant to the CARES Act. For example, is the bank be able to track the amount of CRDs taken by a qualified individual from an IRA to help ensure the customer did not exceed the \$100,000 threshold. Or whether the bank should track CRDs to then anticipate repayments thereof and perhaps monitor both the timing and amount of repayment.

Bank should also consider whether any type of automatic RMD activity need be ceased before an otherwise pre-arranged RMD is disbursed to the customer. Banks should be in contact with those IRA customers in distribution regarding the changes made to RMDs. IRA customers may still decide to voluntarily receive an RMD even though the CARES Act waives the distribution requirement for 2020.

Banks should also become familiar with the frequently asked questions released by the Internal Revenue Service (IRS) regarding the changes made by the CARES Act. In the guidance, IRS references past guidance issued after Hurricane Katrina. It is expected IRS will use the practices implemented in that past disaster in its implementation of the CARES Act changes. IRS needs to issue further guidance for some of the changes made by the CARES Act; banks should keep an eye on the IRS website for that further guidance. The IRS guidance may be viewed at: <https://www.irs.gov/newsroom/coronavirus-related-relief-for-retirement-plans-and-iras-questions-and-answers>

## Conclusion

Title II, Subpart B of CARES Act affect retirement account distributions, charitable contributions, and employer payments on student loans. The changes made to retirement accounts include CRDs, limited repayment and income tax treatments for certain withdrawals made by qualified individuals, and waivers from RMDs for 2020.

Banks should be familiar with guidance issued by the IRS, including a series of frequently asked questions and should consider how the changes may impact IRA operations. Bank should also consider reaching out to IRA customers currently in distribution regarding the opportunity to waive RMDs for 2020. ■



# Regulatory Spotlight

## Agencies Issue Interim Final Rule and FDIC a Correction on PPPLF.

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 regarding FRB's Paycheck Protection Program Lending Facility (PPPLF). Under the PPPLF, each of the Federal Reserve Banks will extend non-recourse loans to eligible financial institutions to fund loans guaranteed by the Small Business Administration (SBA) under the Paycheck Protection Program (PPP) established by the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). To facilitate use of PPPLF, the agencies have adopted the interim final rule to allow banking organizations to neutralize the regulatory capital effects of participating in the facility. The treatment is similar to the treatment extended previously by the agencies in connection with FRB's Money Market Mutual Fund Liquidity Facility (MMLF). In addition, as mandated by section 1102 of the CARES Act, loans originated under SBA's PPP will receive a zero percent risk weight under the agencies' regulatory capital rules. The interim final rule is effective **04/13/2020**. Comments are due **05/13/2020**. FDIC has issued a correction to its rule text in conjunction with the interagency interim rule. The correction is necessary to conform FDIC's rule text to the regulations of the other federal banking agencies. The correction is effective **04/21/2020**. The interim final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-13/pdf/2020-07712.pdf>. *Federal Register*, Vol. 85, No. 71, 04/13/2020, 20387-20394. FDIC's correction may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-21/pdf/2020-08361.pdf>. *Federal Register*, Vol. 85, No. 77, 04/21/2020, 22009-22010.

## Agencies Issue Interim Final Rules Affecting Community Bank Leverage Ratio Framework.

- 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 make temporary changes to the community bank leverage ratio framework, pursuant to section 4012 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). As of the second quarter 2020, a banking organization with a leverage ratio of 8 percent or greater (and that meets other qualifying criteria) may elect to use the community bank leverage ratio framework. Section 4012 also establishes a two-quarter grace period for a qualifying community banking organization whose leverage ratio falls below the 8 percent community bank leverage ratio requirement, so long as the banking organization maintains a leverage ratio of 7 percent or greater. The temporary changes to the community bank leverage ratio framework implemented by the interim final rule will cease to be effective as of the earlier of the termination date of the national emergency concerning the coronavirus disease declared by the president on **03/13/2020**, under the National Emergencies Act, or **12/31/2020**. To provide clarity to banking organizations, the agencies have also issued an interim final rule that provides a transition from the temporary 8 percent community bank leverage ratio requirement to a 9 percent community bank leverage ratio requirement. The interim final rule is effective **04/23/2020**. Comments are due **06/08/2020**. The interim final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-23/pdf/2020-07449.pdf>. *Federal Register*, Vol. 85, No. 79, 04/23/2020, 22924-22930.
- 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 provide a graduated transition to a community bank leverage ratio requirement of 9 percent from the temporary 8 percent community bank leverage ratio requirement. When the requirements in the interim final rule become applicable, the community bank leverage ratio will be 8 percent beginning in the second quarter of calendar year 2020, 8.5 percent through calendar year 2021, and 9 percent thereafter. The interim final rule also maintains a two-quarter grace period for a qualifying community banking organization whose leverage ratio falls no more than 1 percentage point below the applicable community bank leverage ratio requirement. The agencies have issued the interim final rule to provide community banking organizations with sufficient time and clarity to meet the 9 percent leverage ratio requirement under the community bank leverage ratio framework while they also focus on supporting lending to credit-worthy households and businesses given the recent strains on the U.S. economy caused by the coronavirus disease emergency. The interim final rule is effective **04/23/2020**. Comments are due **06/08/2020**. The interim final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-23/pdf/2020-07448.pdf>. *Federal Register*, Vol. 85, No. 79, 04/23/2020, 22930-22939.

## Agencies Issue Interim Final Rule to Neutralize Effect of Liquidity Coverage Ratio.

The Board of Governors of the Federal Reserve System (FRB), Federal Deposit Insurance Corporation (FDIC), and Comptroller of the Currency (OCC) (collectively, the agencies) issued an interim final rule to neutralize the effective of the Liquidity Coverage Ratio (LCR) rule as it relates to the Money Market Mutual Fund Liquidity Facility (MMLF) and Paycheck Protection Program Liquidity Facility (PPPLF). To provide liquidity to the money market sector, small business lenders, and the broader credit markets in order to stabilize the financial system, FRB authorized the establishment of the MMLF and PPPLF, pursuant to section 13(3) of the Federal Reserve Act. To facilitate use of these Federal Reserve facilities, and to ensure that the effects of their use are consistent and predict-



# Regulatory Spotlight

able under the LCR rule, the agencies adopted the interim final rule to neutralize the effect under the LCR rule of participating in the MMLF and the PPPLF. The interim final rule is effective **05/06/2020**. Comments are due **06/05/2020**. The interim final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-05-06/pdf/2020-09716.pdf>. *Federal Register*, Vol. 85, No. 88, 05/06/2020, 26835-26842.

## **Agencies Issue Appraisal and Evaluation Interim Final Rule in *Federal Register*.**

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) published in the *Federal Register* an interim final rule that would amend the agencies' regulations requiring appraisals of real estate for certain transactions. 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 interim final rule is effective **04/17/2020** through **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 Extend Comment Period for Proposed Resolution Plan Submission Guidance.**

The Board of Governors of the Federal Reserve System (FRB) and Federal Deposit Insurance Corporation (FDIC) (collectively, the agencies) extend the comment period of a proposed rule published in the *Federal Register* on **03/18/2020** entitled "Guidance for Resolution Plan Submissions of Certain Foreign-Based Covered Companies" (document). The document invited comment on proposed guidance for 2021 and subsequent resolution plan submissions by certain foreign banking organizations required to submit such plans pursuant to Section 165(d) of the Dodd-Frank Act. The document provided for a comment period ending **05/05/2020**. The agencies have extended the comment period until **06/04/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-29/pdf/2020-09096.pdf>. *Federal Register*, Vol. 85, No. 83, 04/29/2020, 23831-23832.

## **CFPB Determines Certain Pandemic-Relief Payments Not Government Benefits under Regulation E.**

The Bureau of Consumer Financial Protection (CFPB) issued an interpretive rule to provide guidance to government agencies distributing aid to consumers in response to the COVID-19 pandemic. CFPB concludes in the interpretive rule that certain pandemic-relief payments are not "government benefits" for purposes of Regulation E and the Electronic Fund Transfer Act (EFTA) and are therefore not subject to the compulsory use prohibition in EFTA, if certain conditions are met. Specifically, government benefits do not include payments from federal, state, or local governments if those payments: are made to provide assistance to consumers in response to the COVID-19 pandemic or its economic impacts; are not part of an already-established government benefit program; are made on a one-time or otherwise limited basis; and are distributed without a general requirement that consumers apply to CFPB to receive funds. The interpretive rule is effective **04/27/2020**. The interpretive rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-27/pdf/2020-08084.pdf>. *Federal Register*, Vol. 85, No. 81, 04/27/2020, 23217-23219.

## **CFPB Issues Interpretive Rule on Mortgage Origination Process.**

CFPB issued an interpretive rule to provide guidance to creditors and other covered persons involved in the mortgage origination process. CFPB has received several questions and requests for clarification about the application of certain provisions in the TILA-RESPA Integrated Disclosure (TRID) Rule and Regulation Z's right of rescission rules in light of the COVID-19 pandemic. CFPB concludes in the interpretive rule that if a consumer determines that his or her need to obtain funds due to the COVID-19 pandemic (1) necessitates consummating the credit transaction before the end of the TRID Rule waiting periods or (2) must be met before the end of the Regulation Z Rescission Rules waiting period, then the consumer has a bona fide personal financial emergency that would permit the consumer to utilize the modification and waiver provisions, subject to the applicable procedures set forth in the TRID Rule and Regulation Z right of rescission rules. CFPB also concludes in the interpretive rule that the COVID-19 pandemic is a "changed circumstance" for purposes of certain TRID Rule provisions, allowing creditors to use revised estimates reflecting changes in settlement charges for purposes of determining good faith. The interpretive rule is effective **05/04/2020**. The interpretive rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-05-04/pdf/2020-09515.pdf>. *Federal Register*, Vol. 85, No. 86, 05/04/2020, 26319-26321.





# Regulatory Spotlight

## **CFPB Issues Compliance Bulletin Regarding Mortgage Servicing Transfers.**

CFPB issued a compliance bulletin and policy guidance titled Compliance Bulletin and Policy Guidance: Handling of Information and Documents During Mortgage Servicing Transfers. The purpose of the bulletin is to provide guidance to residential mortgage servicers regarding the transfer of mortgage loans, including examples of practices that CFPB may consider as contributing to policies and procedures that are reasonably designed to achieve the objectives of the regulatory requirements. The bulletin is applicable **05/01/2020**. The bulletin may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-05-01/pdf/2020-09151.pdf>. *Federal Register*, Vol. 85, No. 85, 05/01/2020, 25281-25285.

## **CFPB Publishes Fair Lending Report in *Federal Register*.**

CFPB issued its eighth Fair Lending Report to Congress and has published the report in the *Federal Register*. The report describes CFPB's fair lending activities in innovation, outreach, prioritization, guidance and rulemaking, supervision, and enforcement for calendar year 2019. The report was released on CFPB's website **04/30/2020**. The report may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-05-08/pdf/2020-09890.pdf>. *Federal Register*, Vol. 85, No. 90, 05/08/2020, 27395-37407.

## **FRB Issues Interim Final Rule to Temporarily Exclude U.S. Treasury Securities and Deposits at Federal Reserve Banks From Supplementary Leverage Ratio.**

The Board of Governors of the Federal Reserve System (FRB) issued an interim final rule in light of recent disruptions in economic conditions caused by the coronavirus disease 2019 (COVID-19) and current strains in U.S. financial markets to revise on a temporary basis for bank holding companies, savings and loan holding companies, and U.S. intermediate holding companies of foreign banking organizations, the calculation of total leverage exposure, the denominator of the supplementary leverage ratio in FRB's capital rule, to exclude the on-balance sheet amounts of U.S. Treasury securities and deposits at Federal Reserve Banks. The exclusion has immediate effect and will remain in effect through **03/31/2021**. The tier 1 leverage ratio is not affected by the interim final rule. The interim final rule is effective **04/14/2020**. Comments are due **05/29/2020**. The interim final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-14/pdf/2020-07345.pdf>. *Federal Register*, Vol. 85, No. 72, 04/14/2020, 20578-20586.

## **FRB Issues Interim Final Rule to Except Guaranteed PPP Loans from Regulation O.**

FRB issued an interim final rule to revise Regulation O. In light of recent disruptions in economic conditions caused by the Coronavirus Disease 2019 and current strains in U.S. financial markets, FRB seeks to except certain loans that are guaranteed under the Small Business Administration's Paycheck Protection Program (PPP) from the requirements of section 22(h) of the Federal Reserve Act and the corresponding provisions of FRB's Regulation O. The interim final rule is effective **04/22/2020**. Comments are due **06/08/2020**. The interim final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-22/pdf/2020-08574.pdf>. *Federal Register*, Vol. 85, No. 78, 04/22/2020, 22345-22349.

## **FRB Issues Interim Final Rule to Eliminate Restrictions on Certain Withdrawals from Savings Deposits.**

FRB issued an interim final rule to amend Regulation D (Reserve Requirements of Depository Institutions) to delete the numeric limits on certain kinds of transfers and withdrawals that may be made each month from "savings deposits." The amendments are intended to allow depository institution customers more convenient access to their funds and to simplify account administration for depository institutions. There are no mandatory changes to deposit reporting associated with the amendments. The interim final rule is effective **04/24/2020**. Comments are due **06/29/2020**. The changes to the numeric limits on certain kinds of transfers and withdrawals that may be made each month from "savings deposits" were applicable **04/23/2020**. The interim final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-28/pdf/2020-09044.pdf>. *Federal Register*, Vol. 85, No. 82, 04/28/2020, 23445-23448.

## **FRB Issues Policy Statement to Encourage Utilization of Intraday Credit.**

FRB announces temporary actions aimed at encouraging healthy depository institutions to utilize intraday credit extended by Federal Reserve Banks (Reserve Banks). FRB has an important role in providing intraday balances and credit to foster the smooth operation of the payment system. Under the policy, an institution that is "financially healthy" and has regular access to the discount window is eligible for intraday credit. The policy establishes limits, or "net debit caps," on the value of an institution's uncollateralized daylight overdrafts. The policy also allows an institution with a self-assessed net debit cap to request, at Reserve Bank discretion, collateralized



# Regulatory Spotlight

capacity in addition to its uncollateralized net debit cap under the “maximum daylight overdraft capacity” program. The temporary actions are intended to support the provision of liquidity to households and businesses and the general smooth functioning of payment systems. The temporary actions are effective **04/24/2020** and will expire **09/30/2020**. The policy statement may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-28/pdf/2020-09052.pdf>. *Federal Register*, Vol. 85, No. 82, 04/28/2020, 23448-23449.

## **FRB Adopts Revisions to Census and Survey of Finance Companies.**

FRB adopts revisions to information collections entitled, Census of Finance Companies and Survey of Finance Companies (FR 3033p and FR 3033s). FR 3033p is a census survey designed to identify the universe of finance companies eligible for potential inclusion in the FR 3033s and to enable the stratification of the sample for more statistically efficient estimation. FR 3033p currently comprises eleven questions to assess the company’s asset size, level of loan and lease activity, company structure, and licensing authority. From the universe of finance companies identified by the FR 3033p, a sample of finance companies will be invited to fill out FR 3033s. From these finance companies, the FR 3033s survey collects balance sheet data on major categories of consumer and business credit receivables and major liabilities. In addition, the survey may be used to gather information on topics that are pertinent to increasing FRB’s understanding of the finance companies. On **01/16/2020**, FRB published a notice in the *Federal Register* seeking comment on the revisions. No comments were received. The revisions are implemented as proposed and are effective immediately. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-13/pdf/2020-07739.pdf>. *Federal Register*, Vol. 85, No. 71, 04/13/2020, 20496.

## **FDIC Announces Termination of Receivership.**

The Federal Deposit Insurance Corporation (FDIC) as Receiver for North Milwaukee State Bank, was charged with the duty of winding up the affairs of the former institution and liquidating all related assets. The Receiver has fulfilled its obligations and made all dividend distributions required by law. The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary, including but not limited to releases, discharges, satisfactions, endorsements, assignments, and deeds. Effective **05/01/2020**, the Receivership has been terminated, the Receiver has been discharged, and the Receivership has ceased to exist as a legal entity. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-05-07/pdf/2020-09735.pdf>. *Federal Register*, Vol. 85, No. 89, 05/07/2020, 27223.

## **HUD Streamlines Administrative Regulations for Multifamily Housing Programs and Implements Family Income Reviews under FAST Act.**

The Department of Housing and Urban Development (HUD) finalizes rule to streamline administrative regulations for multifamily housing programs and implements Fixing America’s Surface Transportation Act (FAST Act). On 12/04/2015, the FAST Act was signed into law. The law contained language that allowed public housing authorities and owners to conduct full income recertifications for families with 90 percent or more of their income from fixed income every 3 years instead of annually. HUD issued an interim rule **12/12/2017**, to align the current regulatory flexibilities with those provided in the FAST Act. In addition, the interim rule sought to extend to certain multifamily housing programs some of the streamlining changes that were proposed for and made only to the housing choice voucher and public housing programs. The final rule finalizes the regulatory language to implement the FAST Act contained in the December 2017 interim rule, with one change to clarify that owners are not required to make adjustments to non-fixed-income. The final rule is effective **06/08/2020**. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-05-07/pdf/2020-09298.pdf>. *Federal Register*, Vol. 85, No. 89, 05/07/2020, 27133-27139.

## **HUD Releases Cause and Description of Administrative Actions Taken by Mortgage Review Board.**

HUD issues notice to advise of the cause and description of administrative actions taken by HUD’s Mortgage Review Board against HUD-approved mortgagees pursuant to Section 202(c)(5) of the National Housing Act. The notice advises of actions that have been taken from the beginning of the FY19, **10/01/2018** through **09/30/2019**, where settlement agreements have been reached. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-13/pdf/2020-07640.pdf>. *Federal Register*, Vol. 85, No. 71, 04/13/2020, 20510-20516.



# Regulatory Spotlight

## HUD Publishes Regulatory Waiver Requests Granted for Fourth Quarter 2019.

Section 106 of the Department of Housing and Urban Development Reform Act requires HUD to publish quarterly *Federal Register* notices of all regulatory waivers it has approved. Each notice covers the quarterly period since the previous *Federal Register* notice. The notice contains a list of regulatory waivers granted by HUD during the period beginning **10/01/2019** through **12/31/2019**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-16/pdf/2020-08052.pdf>. *Federal Register*, Vol. 85, No. 74, 04/16/2020, 21259-21262.

## FEMA Issues Final Rule on Suspensions of NFIP Community Eligibility.

The Federal Emergency Management Agency (FEMA) issued a final rule that identifies communities in the states of **Iowa** and **Nebraska**, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP) that are scheduled for suspension on the effective dates listed within the final rule because of noncompliance with the floodplain management requirements of the program. If FEMA receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in the final rule, the suspension will not occur and a notice of this will be provided by publication in the *Federal Register* on a subsequent date. The effective date of each community's scheduled suspension is the third date ("Susp.") listed in the third column of the table within the final rule. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-20/pdf/2020-07579.pdf>. *Federal Register*, Vol. 85, No. 76, 04/20/2020, 21783-21785.

## FEMA Issues Final Flood Hazard Determinations.

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 **09/18/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-05-01/pdf/2020-09279.pdf>. *Federal Register*, Vol. 85, No. 85, 05/01/2020, 25458-25459.

## FEMA Issues Notice of Changes in Flood Hazard Determinations.

FEMA issued a notice which lists communities in the states of **Illinois** and **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-2020-04-22/pdf/2020-08460.pdf>. *Federal Register*, Vol. 85, No. 78, 04/22/2020, 22432-22434.

## 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 states of **Illinois**, **Indiana**, **Iowa**, **Michigan**, **Minnesota**, and **Wisconsin** 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 07/21/2020. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-22/pdf/2020-08457.pdf>. *Federal Register*, Vol. 85, No. 78, 04/22/2020, 22436-22438.



# Regulatory Spotlight

- 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 states of **Indiana** and **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 **07/21/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-22/pdf/2020-08459.pdf>. *Federal Register*, Vol. 85, No. 78, 04/22/2020, 22434-22435.
- 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 **Illinois** 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 **07/30/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-05-01/pdf/2020-09277.pdf>. *Federal Register*, Vol. 85, No. 85, 05/01/2020, 25461-25462.

## FEMA Withdraws Proposed Flood Hazard Determination.

FEMA withdraws notice concerning proposed flood hazard determinations, which may include the addition or modification of any Base Flood Elevation, base flood depth, Special Flood Hazard Area boundary or zone designation, or regulatory floodway (herein after referred to as proposed flood hazard determinations) on the Flood Insurance Rate Maps and, where applicable, in the supporting Flood Insurance Study reports for Fremont County, **Iowa** and Incorporated Areas. The withdrawal is effective **05/01/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-05-01/pdf/2020-09276.pdf>. *Federal Register*, Vol. 85, No. 85, 05/01/2020, 25459.

## FEMA Issues Correction to Previously Published Proposed Flood Hazard Determination.

On **03/13/2020**, FEMA published in the *Federal Register* a proposed flood hazard determination notice regarding communities affected for Ellsworth County, Kansas and incorporated areas that contained an erroneous table. The notice provides corrections to that table, to be used in lieu of the information previously published. Comments are due **06/11/2020**. The correction may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-23/pdf/2020-08455.pdf>. *Federal Register*, Vol. 85, No. 79, 04/23/2020, 22743-22744.

## IRS Proposes to Amend Certain User Fees on Tax Return Preparers.

The Internal Revenue Services (IRS) proposes amendments to its regulations relating to the imposition of certain user fees on tax return preparers. The proposed regulations reduce the amount of the user fee to apply for or renew a preparer tax identification number (PTIN). Comments are due **05/18/2020**. The proposed rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-16/pdf/2020-08055.pdf>. *Federal Register*, Vol. 85, No. 74, 04/16/2020, 21126-21129.

## IRS Issues Proposed Rule on Unrelated Business Taxable Income.

IRS issued a proposed rule to provide guidance on how an exempt organization subject to the unrelated business income tax described in section 511 of the Internal Revenue Code determines if it has more than one unrelated trade or business, and, if so, how the exempt organization calculates unrelated business taxable income. The proposed rule also clarifies that the definition of “unrelated trade or business” applies to individual retirement accounts. Additionally, the proposed rule provides that inclusions of subpart F income and global intangible low-taxed income are treated in the same manner as dividends for purposes of section 512. Comments are due **06/23/2020**. The proposed rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-24/pdf/2020-06604.pdf>. *Federal Register*, Vol. 85, No. 80, 04/24/2020, 23172-23119.





# Regulatory Spotlight

## **IRS Issues Proposed Rule on Effect of Section 67(g) on Trusts and Estates.**

IRS issued a proposed rule to clarify that the following deductions allowed to an estate or non-grantor trust are not miscellaneous itemized deductions: (1) costs paid or incurred in connection with the administration of an estate or non-grantor trust that would not have been incurred if the property were not held in the estate or trust, (2) the personal exemption of an estate or non-grantor trust, (3) the distribution deduction for trusts distributing current income, and (4) the distribution deduction for estates and trusts accumulating income. Therefore, the deductions are not affected by the suspension of the deductibility of miscellaneous itemized deductions for taxable years beginning after **12/31/2017**, and before **01/01/2026**. The proposed rule also provides guidance on determining the character, amount, and allocation of deductions in excess of gross income succeeded to by a beneficiary on the termination of an estate or non-grantor trust. The proposed rule affects estates, non-grantor trusts (including the S portion of an electing small business trust), and their beneficiaries. Comments are due **06/25/2020**. The proposed rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-05-11/pdf/2020-09801.pdf>. *Federal Register*, Vol. 85, No. 91, 05/11/2020, 27693-27698.

## **IRS Issues Correction to Proposal Involving Computation of Life Insurance Reserves.**

IRS issued a correction to a proposed rule that was published in the *Federal Register* **04/02/2020**. The proposal was meant to provide guidance on the computation of life insurance reserves and a change in computing certain reserves of insurance companies. On page 18504, in third column, the second paragraph is deleted in its entirety. The correction does not change the comment period. The correction is applicable **04/02/2020**. The correction may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-16/pdf/2020-07562.pdf>. *Federal Register*, Vol. 85, No. 74, 04/16/2020, 21129-21130.

## **Treasury Announces Information on Coronavirus Relief Fund for Government Entities.**

The Department of Treasury (Treasury) announces that information about the Coronavirus Relief Fund for States, Tribal governments, and certain eligible local governments is available on Treasury's website at, <https://home.treasury.gov/policy-issues/cares/state-and-local-governments>. The available information includes instructions for submitting payment information and the form of certification that certain eligible local governments and Tribal governments must submit in order to receive payments from Treasury. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-17/pdf/2020-08108.pdf>. *Federal Register*, Vol. 85, No. 75, 04/17/2020, 21508.

## **Treasury Seeks Comment on Effectiveness of TRIP.**

The Terrorism Risk Insurance Act (TRIA), as amended, established the Terrorism Risk Insurance Program (TRIP). TRIA requires Treasury to submit a report to Congress by **06/30/2020**, concerning the overall effectiveness of TRIP and other related matters. To assist Treasury in formulating the report, the Federal Insurance Office within Treasury seeks comment on the statutory factors that the report must analyze, as well as any other feedback about the effectiveness of TRIP. Comments are due **06/11/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-27/pdf/2020-08817.pdf>. *Federal Register*, Vol. 85, No. 81, 04/27/2020, 23435-23436.

## **FHFA Publishes Stress Test Reporting Order.**

The Federal Housing Finance Agency (FHFA) provides notice that it issued orders, dated **03/10/2020**, with respect to stress test reporting as of **12/31/2019**, under the Dodd-Frank Act, as amended by the Economic Growth, Regulatory Relief, and Consumer Protection Act. Summary instructions and guidance accompanied the orders to provide testing scenarios. The orders are issued under 12 U.S.C. 4516(a), which authorizes the Director of FHFA to require by order that regulated entities submit regular or special reports to FHFA and establishes remedies and procedures for failing to make reports required by order. The orders were applicable **03/10/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-27/pdf/2020-08146.pdf>. *Federal Register*, Vol. 85, No. 81, 04/27/2020, 23219-23220.

## **SBA Issues Rule to Remove Obsolete Regulations.**

The Small Business Administration (SBA) issued a direct final rule to remove from the Code of Federal Regulations (CFR) 16 regulations that are no longer necessary because the rules are either redundant or obsolete. Please see the rule for a listing of the affected rules. The final rule is effective **08/06/2020**, without further action. If SBA receives significant adverse comment, a timely withdrawal





# Regulatory Spotlight

of the rule will be posted in the *Federal Register*. Comments are due **07/07/2020**. The direct final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-05-08/pdf/2020-08619.pdf>. *Federal Register*, Vol. 85, No. 90, 05/08/2020, 27290-27293.

## SBA Publishes Several PPP Interim Final Rules.

- SBA has published in the *Federal Register* its third interim final rule regarding the Paycheck Protection Program (PPP). On 04/02/2020, SBA released its first interim final rule to announce the implementation of sections 1102 and 1106 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). Section 1102 temporarily adds PPP to SBA's 7(a) Loan Program. Section 1106 provides for forgiveness of up to the full principal amount of qualifying loans guaranteed under PPP. The third interim final rule supplements the first PPP 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 interim final rule supplements SBA's implementation of CARES Act sections 1102 and 1106. The interim final rule is effective **04/20/2020**, and applies to applications submitted under PPP through **06/30/2020**, or until funds made available are exhausted. Comments are due **05/20/2020**. The third final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-20/pdf/2020-08257.pdf>. *Federal Register*, Vol. 85, No. 76, 04/20/2020, 21747-21752.
- SBA issued its fourth PPP interim rule. On **04/02/2020**, SBA announced its initial interim final rule to implement sections 1102 and 1106 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) to create the new Paycheck Protection Program (PPP). The interim final rule supplements the previously released interim final rules with additional guidance regarding eligible businesses. The fourth PPP interim final rule is effective **04/28/2020**, and is applicable to applications submitted under the PPP through **06/30/2020**, or until funds made available are exhausted. Comments are due **05/28/2020**. The fourth interim final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-28/pdf/2020-09098.pdf>. *Federal Register*, Vol. 85, No. 82, 04/28/2020, 23450-23452.
- SBA issued its fifth PPP interim rule. On **04/02/2020**, SBA announced its initial interim final rule to implement sections 1102 and 1106 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) to create the new Paycheck Protection Program (PPP). The interim final rule supplements the previously released interim final rules with additional guidance regarding eligible businesses. The fifth interim final rule supplements the previously posted interim final rules by limiting the amount of PPP loans that any single corporate group may receive and provides additional guidance on the criteria for non-bank lender participation in the PPP. The fifth interim final rule is effective **05/04/2020**, and is applicable to applications submitted under the PPP through **06/30/2020**, or until funds made available are exhausted. Comments are due **06/03/2020**. The interim final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-05-04/pdf/2020-09576.pdf>. *Federal Register*, Vol. 85, No. 86, 05/04/2020, 26324-26326.
- SBA issued its sixth PPP interim rule this time to address disbursements. On **04/02/2020**, SBA announced its initial interim final rule to implement sections 1102 and 1106 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) to create the new Paycheck Protection Program (PPP). The interim final rule supplements the previously released interim final rules with additional guidance regarding disbursements. The sixth interim final rule is effective **05/04/2020**, and is applicable to applications submitted under the PPP through **06/30/2020**, or until funds made available are exhausted. Comments are due **06/03/2020**. The interim final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-05-04/pdf/2020-09398.pdf>. *Federal Register*, Vol. 85, No. 86, 05/04/2020, 26321-26324.
- SBA issued its seventh PPP interim rule this time to address non-discrimination and additional eligibility criteria. On **04/02/2020**, SBA announced its initial final rule to implement sections 1102 and 1106 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) to create the new Paycheck Protection Program (PPP). The interim final rule supplements the previously released interim final rules with additional guidance on nondiscrimination obligations and additional eligibility requirements. The seventh interim rule is effective **05/08/2020**, and is applicable to applications submitted under the PPP through **06/30/2020**, or until funds made available are exhausted. Comments are due **06/08/2020**. The interim final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-05-08/pdf/2020-09963.pdf>. *Federal Register*, Vol. 85, No. 90, 05/08/2020, 27287-27290.
- SBA issued its eighth PPP interim rule this time to address a limited safe harbor with respect to certification concerning need for PPP loan request. On **04/02/2020**, SBA announced its initial final rule to implement sections 1102 and 1106 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) to create the new Paycheck Protection Program (PPP). The interim final rule supplements the previously released interim final rules with information regarding limited safe harbor with respect to loan request certification. The eighth interim rule is effective upon publication in the *Federal Register*, and is applicable to applications



# Regulatory Spotlight

submitted under the PPP through **06/30/2020**, or until funds made available are exhausted. Comments will be due within thirty days after publication in the *Federal Register*. The interim final rule may be viewed at: <https://home.treasury.gov/system/files/136/Interim-Final-Rule-on-Extension-of-Limited-Safe-Harbor-with-Respect-to-Certification-Concerning-Need-for-PPP-Loan-Request.pdf>.

## **SBA Issues Regulatory Review Listing.**

SBA has published a list of rules to be reviewed pursuant to section 610 of the Regulatory Flexibility Act. SBA seeks comment on whether the rules should be continued without change, amended or rescinded to minimize any significant economic impact of the rules upon a substantial number of small entities. Comments are due **07/27/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-28/pdf/2020-08475.pdf>. *Federal Register*, Vol. 85, No. 82, 04/28/2020, 23487-23489.

## **Agencies Issue NOFA Under Higher Blends Infrastructure Incentive Program.**

The Commodity Credit Corporation (CCC) and Rural Business-Cooperative Service (RBC) (collectively, the agencies) issue notice of funds availability (NOFA) of up to \$100 million in competitive grants to eligible entities for activities designed to expand the sales and use of renewable fuels under the Higher Blends Infrastructure Incentive Program (HBIIP). Cost-share grants of up to 50 percent of total eligible project costs but not more than \$5 million will be made available to assist transportation fueling and fuel distribution facilities with converting to higher blend friendly status for ethanol (i.e., greater than 10 percent ethanol) and biodiesel (greater than 5 percent biodiesel) by sharing the costs related to the installation, and/or retrofitting, and/or otherwise upgrading of dispenser/pumps, related equipment, and infrastructure. The agencies will finalize the application window for enrollment in HBIIP by future notice in the *Federal Register* and [Grants.gov](https://www.govinfo.gov/content/pkg/FR-2020-05-05/pdf/2020-09685.pdf) subject to the opening of the electronic application system. The NOFA may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-05-05/pdf/2020-09685.pdf>. *Federal Register*, Vol. 85, No. 87, 05/05/2020, 26656-26665.

## **RHS Issues Policy to Temporarily Allow Payment Deferrals for CF Program.**

The Rural Housing Service (RHS) issued a policy to temporarily allow borrowers with direct loans within the Community Facilities (CF) Program to request payment deferrals during the period specified in the policy. The temporary policy applies to CF direct loan borrowers who are experiencing temporary cash flow issues due to the Coronavirus (COVID-19) pandemic. RHS will provide the option of principal and interest payment deferrals to borrowers impacted by COVID-19 for up to one year due to hardship on a case-by-case basis. The policy is effective **5/12/2020**, and the temporary authorization to request payment deferrals under the policy expires **09/30/2020**. The policy may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-21/pdf/2020-08429.pdf>. *Federal Register*, Vol. 85, No. 77, 04/21/2020, 22009.

## **SEC Issues Final Rule on Financial Disclosure Requirements for Certain Guarantors and Issuers.**

The Securities and Exchange Commission (SEC) issued a final rule to adopt amendments to the financial disclosure requirements for guarantors and issuers of guaranteed securities registered or being registered, and issuers' affiliates whose securities collateralize securities registered or being registered in Regulation S-X to improve those requirements for both investors and registrants. The changes are intended to provide investors with material information, make disclosures easier to understand, and reduce the costs and burdens to registrants. The final rule is effective **01/04/2021**. Please see the final rule for dates of applicability to transition to the final rule. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-20/pdf/2020-04776.pdf>. *Federal Register*, Vol. 85, No. 76, 04/20/2020, 21940-22007.

## **SEC Issues Final Rule to Update Disclosure and Summary Prospectus for Variable Annuities and Variable Life Insurance Contracts.**

SEC adopts final rule and form amendments intended to help investors make informed investment decisions regarding variable annuity and variable life insurance contracts. The amendments modernize disclosures by using a layered disclosure approach designed to provide investors with key information relating to the contract's terms, benefits, and risks in a concise and more reader-friendly presentation, with access to more detailed information available online and electronically or in paper format on request. New rule 498A under the Securities Act will permit a person to satisfy its prospectus delivery obligations under the Securities Act for a variable annuity or variable life insurance contract by sending or giving a summary prospectus to investors and making the statutory prospectus available online. The rule also will consider a person to have met its prospectus delivery obligations for any portfolio companies associated



# Regulatory Spotlight

with a variable annuity or variable life insurance contract if the portfolio company prospectuses are posted online. To implement the new disclosure framework, SEC amended the registration forms for variable annuity and variable life insurance contracts to update and enhance the disclosures to investors in these contracts, and to implement the proposed summary prospectus framework, and has adopted amendments to SEC rules that will require variable contracts to use the Inline eXtensible Business Reporting Language (“Inline XBRL”) format for the submission of certain required disclosures in the variable contract statutory prospectus. SEC is also taking the position that if an issuer of a discontinued contract that is discontinued as of 07/01/2020, that provides alternative disclosures does not file post-effective amendments to update a variable contract registration statement and does not provide updated prospectuses to existing investors, this would not provide a basis for enforcement action so long as investors are provided with the alternative disclosures or modernized alternative disclosures described in the final rule. SEC also adopts certain technical and conforming amendments to its rules and forms, including amendments to rules relating to variable life insurance contracts, and rescinds certain related rules and forms. The final rule is effective **07/01/2020**. Please see the final rule for compliance dates and for exceptions to the general effective date. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-05-01/pdf/2020-05526.pdf>. *Federal Register*, Vol. 85, No. 85, 05/01/2020, 25964-26309.

## **SEC Issues Temporary Amendments to Regulation Crowdfunding.**

SEC adopts a temporary final rule to facilitate capital formation for small businesses impacted by coronavirus disease 2019 (COVID-19). The temporary final rule is intended to expedite the offering process for smaller, previously established companies directly or indirectly affected by COVID-19 that seek to meet their funding needs through the offer and sale of securities pursuant to Regulation Crowdfunding. The temporary final rule is designed to facilitate the offering process by providing tailored, conditional relief from certain requirements of Regulation Crowdfunding relating to the timing of the offering and the availability of financial statements required to be included in issuers’ offering materials while retaining appropriate investor protections. The temporary final rule is effective **05/04/2020** through **03/01/2021**. The amendments apply to securities offerings initiated under Regulation Crowdfunding between **05/04/2020** and **08/31/2020**. The temporary final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-05-07/pdf/2020-09806.pdf>. *Federal Register*, Vol. 85, No. 89, 05/07/2020, 27116-27133.

## **CFTC Issues Final Rule to Amend Margin Requirements.**

The Commodity Futures Trading Commission (CFTC) issued a final rule to amend the margin requirements for uncleared swaps for swap dealers and major swap participants for which there is no prudential regulator to add the European Stability Mechanism to the list of entities that are expressly excluded from the definition of financial end user under CFTC regulations and to correct an erroneous cross-reference in CFTC regulations. The final rule is effective **06/10/2020**. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-05-11/pdf/2020-08601.pdf>. *Federal Register*, Vol. 85, No. 91, 05/11/2020, 27674-27680.

## **FTC Issues Ten-Year Regulatory Review Schedule.**

The Federal Trade Commission (FTC), as part of its ongoing, systematic review of all FTC rules and guides, announces a modified ten-year regulatory review schedule. Each year FTC publishes its review schedule, with adjustments made in response to public input, changes in the marketplace, and resource demands. No FTC determination on the need for, or the substance of, the rules and guides listed in the notice should be inferred from the notice. Please see the notice for the specific listing. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-15/pdf/2020-07757.pdf>. *Federal Register*, Vol. 85, No. 73, 04/15/2020, 20889-20891.

## **FTC Issues Semiannual Regulatory Agenda.**

FTC published its semiannual regulatory agenda in accordance with FTC regulations. FTC has identified rulemakings that are likely to have some impact on small entities, including: (1) Textile Rules, 16 CFR 303; (2) Energy Labeling Rule, 16 CFR 305; (3) Tele-marketing Sales Rule, 16 CFR 310; (4) Children’s Online Privacy Protection Rule, 16 CFR 312; (5) Privacy of Consumer Financial Information, 16 CFR 313; (6) Standards for Safeguarding Customer Information, 16 CFR 314; (7) Contact Lens Rule, 16 CFR 315; (8) Health Breach Notification Rule, 16 CFR 318; (9) Care Labeling Rule, 16 CFR 423; (10) Amplifier Rule, 16 CFR 432; (11) Disclosure Requirements and Prohibitions Concerning Franchising, 16 CFR 436; (12) Funeral Rule, 16 CFR 453; (13) Eyeglass Rule, 16 CFR 456; (14) Duties of Creditors Regarding Risk-Based Pricing Rule, 16 CFR 640; (15) Duties of Users of Consumer Reports Regarding Address Discrepancies Rule, 16 CFR 641; (16) Prescreen Opt-Out Notice Rule, 16 CFR 642; (17) Duties of Furnishers of Information to Consumer Reporting Agencies Rule, 16 CFR 660; (18) Affiliate Marketing Rule, 16 CFR 680; and (19) Identity Theft Rules, 16



# Regulatory Spotlight

CFR 681. The agenda may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-05-07/pdf/2020-08932.pdf>. *Federal Register*, Vol. 85, No. 89, 05/07/2020, 27191-27203.

## FCC Issues Final and Proposed Rules Under TRACED Act.

- The Federal Communications Commission (FCC) issued a final rule, as required by the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act (TRACED Act), to establish a registration process for the registration of a single consortium that conducts private-led efforts to trace back the origin of suspected unlawful robocalls. Please see the final rule for complete registration instructions. The final rule is effective **05/20/2020**. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-20/pdf/2020-07212.pdf>. *Federal Register*, Vol. 85, No. 76, 04/20/2020, 21785-21789.
- FCC issued a final rule to mandate that all originating and terminating voice service providers implement the STIR/SHAKEN caller ID authentication framework in the Internet Protocol (IP) portions of their networks by 06/30/2021. FCC's requirement of voice service providers to implement the STIR/SHAKEN caller ID authentication framework was if major voice service providers did not voluntarily do so by the end of 2019, and to implements Congress' direction in the recently enacted Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence (TRACED) Act to mandate STIR/SHAKEN not later than 18 months after the date of enactment of that Act. The final rule is effective **05/21/2020**. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-21/pdf/2020-07585.pdf>. *Federal Register*, Vol. 85, No. 77, 04/21/2020, 22029-22043.
- FCC seeks comment on a proposed rule to further efforts to promote caller ID authentication and implement Section 4 of the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence (TRACED) Act. In addition, FCC seeks comment in the proposed rule on implementing section 6(a) of the TRACED Act, which concerns access to numbering resources. Comments are due **05/15/2020**. Reply comments are due **05/29/2020**. The proposed rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-21/pdf/2020-07629.pdf>. *Federal Register*, Vol. 85, No. 77, 04/21/2020, 22099-22118.

## NCUA Issues Temporary Final Rule to Modify Certain Regulatory Requirements.

The National Credit Union Administration (NCUA) issued a temporary final rule to modify certain regulatory requirements to help ensure that federally insured credit unions (FICUs) remain operational and liquid during the COVID-19 crisis. Specifically, NCUA has temporarily raised the maximum aggregate amount of loan participations that a FICU may purchase from a single originating lender to the greater of \$5,000,000 or 200 percent of a FICU's net worth. NCUA has also temporarily suspended limitations on the eligible obligations that a federal credit union (FCU) may purchase and hold. In addition, given physical distancing policies implemented in response to the crisis, NCUA is tolling the required timeframes for the occupancy or disposition of properties not being used for FCU business or that have been abandoned. The temporary modifications are effective **04/21/2020** through **12/31/2020**. The temporary final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-21/pdf/2020-08434.pdf>. *Federal Register*, Vol. 85, No. 77, 04/21/2020, 22010-22014.

## NCUA Issues Interim Final Rule on Appraisals.

NCUA issued an interim final rule to amend its regulations requiring appraisals of real estate for certain transactions. The interim final rule defers the requirement to obtain an appraisal or written estimate of market value 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. Credit unions should make best efforts to obtain a credible valuation of real property collateral before the loan closing, and otherwise underwrite loans consistent with safety and soundness principles. The interim final rule is substantially identical to a recent interim final rule issued by Office of the Comptroller of the Currency (OCC), Board of Governors of the Federal Reserve System (FRB), and Federal Deposit Insurance Corporation (FDIC) that also 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. The interim final rule is effective **04/21/2020** through **12/31/2020**. Comments are due **06/05/2020**. The interim final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-21/pdf/2020-08435.pdf>. *Federal Register*, Vol. 85, No. 77, 04/21/2020, 22014-22017.





# Regulatory Spotlight

## **NCUA Revises Capital Adequacy Regulation to Incorporate PPP Loans.**

NCUA issued an interim final rule to make a conforming amendment to its capital adequacy regulation following the enactment of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). The CARES Act authorizes the Small Business Administration to create a loan guarantee program, the Paycheck Protection Program (PPP), to help certain businesses affected by the COVID-19 pandemic. The CARES Act requires that PPP loans receive a zero percent risk weighting under NCUA's risk-based capital requirements. To reflect the statutory requirement, the interim final rule amends NCUA's capital adequacy regulation to provide that covered PPP loans receive a zero percent risk weight. The interim final rule also provides that if the covered loan is pledged as collateral for a non-recourse loan that is provided as part of the Board of Governors of the Federal Reserve System's PPP Lending Facility, the covered loan can be excluded from a credit union's calculation of total assets for the purposes of calculating its net worth ratio. The interim final rule also makes a conforming amendment to the definition of commercial loan in NCUA's member business loans and commercial lending rule. The interim final rule is effective **04/27/2020**. Comments are due **05/27/2020**. The interim final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-27/pdf/2020-08920.pdf>. *Federal Register*, Vol. 85, No. 81, 04/27/2020, 23212-23217.

## **NCUA Issues Interim Final Rule Regarding Central Liquidity Facility.**

NCUA issued an interim final rule in response to the COVID-19 pandemic to provide credit unions with greater access to liquidity to help ensure credit unions remain operational throughout the crisis. The interim final rule will make it easier and more attractive for credit unions to join NCUA's Central Liquidity Facility. In addition, the interim final rule makes several amendments to conform to the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). The interim final rule is effective **04/29/2020**, except for amendment to section 725.6 in amendatory instruction 5, which is effective **04/29/2020** until **01/01/2022**. Comments are due 06/29/2020. The interim final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-29/pdf/2020-08101.pdf>. *Federal Register*, Vol. 85, No. 83, 04/29/2020, 23731-23736.

## **NCUA Issues Correction to Previously Published Corporate Credit Union Proposal.**

NCUA issues correction to a previously published proposed rule regarding corporate credit unions. In proposed rule document 2020-07159 on page 19908 in the *Federal Register* issue of **04/09/2020**, NCUA makes the following correction: On page 19908, in the first column, in the "DATES" section, in the fifth line, "June 8, 2020" should read "July 27, 2020". The correction may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-13/pdf/C1-2020-07159.pdf>. *Federal Register*, Vol. 85, No. 71, 04/13/2020, 20431.

## **NCUA Reopens Comment Period for Combination Transactions Proposal.**

On **01/30/2020**, NCUA published a proposed rule in the *Federal Register* and requested comment on the proposal to add subpart D to part 708a of its regulations and clarify the scope of section 741.8 of its regulations related to procedures and requirements for combination transactions. The proposed rule provided a 60-day comment period that closed **03/30/2020**. NCUA has determined to reopen the comment period for an additional 60 days. Comments are due **06/15/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-04-14/pdf/2020-07157.pdf>. *Federal Register*, Vol. 85, No. 72, 04/14/2020, 20618.

## **Agencies Extend Certain Plan Timeframes.**

The Employee Benefits Security Administration (EBSA), Department of Labor (DOL), and Internal Revenue Service (IRS) (collectively, the agencies) announce an extension of certain timeframes under the Employee Retirement Income Security Act (ERISA) and the Internal Revenue Code (Code) for group health plans, disability and other welfare plans, pension plans, and participants and beneficiaries of these plans during the COVID-19 National Emergency. As a result of the National Emergency, participants and beneficiaries covered by group health plans, disability or other employee welfare benefit plans, and employee pension benefit plans may encounter problems in exercising health coverage portability and continuation coverage rights, or in filing or perfecting benefit claims. The announcement has been reviewed by the Department of Health and Human Services (HHS), which has advised the agencies that HHS concurs with the relief. HHS has advised the agencies that it will exercise enforcement discretion to adopt a temporary policy of measured enforcement to extend similar timeframes otherwise applicable to non-federal governmental group health plans and health insurance issuers offering coverage in connection with a group health plan, and their participants, beneficiaries and enrollees under applicable provisions of the Public Health Service Act (PHS Act). HHS has also advised the agencies that it will not consider a state to have failed to substantially enforce the applicable provisions of title XXVII of the PHS Act if the state takes such an approach. More





# Regulatory Spotlight

information may be viewed at: <https://www.dol.gov/agencies/ebsa/employers-and-advisers/plan-administration-and-compliance/disaster-relief> and <https://www.irs.gov/coronavirus>. The notice is effective **05/04/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-05-04/pdf/2020-09399.pdf>. *Federal Register*, Vol. 85, No. 86, 05/04/2020, 26331-26355. ■

## Compliance Notes

▲ FRB, FDIC, OCC, and NCUA issued *Interagency Lending Principles for Offering Responsible Small-Dollar Loans* to encourage financial institutions to offer responsible small-dollar loans to customers for consumer and small business purposes. The interagency statement may be viewed at: <https://www.fdic.gov/news/news/press/2020/pr20061a.pdf>

▲ CFPB and the Conference of State Bank Supervisors released a *Consumer Relief Guide* with borrowers' rights to mortgage payment forbearance and foreclosure protection under the federal CARES Act. The guide may be viewed at: [https://files.consumerfinance.gov/f/documents/cfpb\\_csbs\\_consumers-forbearance-guide\\_2020-05.pdf](https://files.consumerfinance.gov/f/documents/cfpb_csbs_consumers-forbearance-guide_2020-05.pdf)

▲ CFPB released two new compliance resources: a fact sheet regarding the delivery and timing for appraisals and other valuations and a Q&A regarding the ECOA valuation rule. Both may be viewed the following links, respectively: [https://files.consumerfinance.gov/f/documents/cfpb\\_ecoa-valuation\\_delivery-of-appraisals-factsheet.pdf](https://files.consumerfinance.gov/f/documents/cfpb_ecoa-valuation_delivery-of-appraisals-factsheet.pdf) and [https://files.consumerfinance.gov/f/documents/cfpb\\_mortgage-origination-rules\\_faqs-covid-19.pdf](https://files.consumerfinance.gov/f/documents/cfpb_mortgage-origination-rules_faqs-covid-19.pdf)

▲ FHFA announced that Fannie Mae and Freddie Mac (the Enterprises) have extended their moratorium on foreclosures and evictions until at least **06/30/2020**. The foreclosure moratorium applies to Enterprise-backed, single-family mortgages only. The previous moratorium was set to expire **05/17/2020**. The announcement may be viewed at: <https://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Extends-Foreclosure-and-Eviction-Moratorium.aspx>

▲ FHFA also announced the Enterprises have issued temporary guidance regarding the eligibility of borrowers who are in forbearance, or have recently ended their forbearance, to refinance or purchase a new home. Borrowers are eligible to refinance or buy a new home if they are current on their mortgage. Borrowers are also eligible to refinance or buy a new home three months after their forbearance ends and have made three consecutive payments under their repayment plan, or payment deferral option or loan modification. The announcement may be viewed at: <https://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Announces-Refinance-and-Home-Purchase-Eligibility-for-Borrowers-in-Forbearance.aspx>

▲ FRB has released April 2020 updates to its *Commercial Bank Examination Manual* with new and revised statutory and regulatory provisions, supervisory guidance, and instructions that the Division of Supervision and Regulation has issued since the publication of the May 2019 supplement. The revisions may be viewed at: <https://www.federalreserve.gov/publications/files/cbem-supplements-202004.pdf>

▲ FDIC has released April 2020 updates to its *Consumer Compliance Examination Manual* with updates to the Pre-examinations Planning, Pre-Examination Information Packet Template, TILA, HMDA, Consumer Leasing Act, and CRA sections. The manual may be viewed at: <https://www.fdic.gov/regulations/compliance/manual/index.html>

▲ OCC issued Bulletin 2020-51 in response to inquiries from banks that are considering changes to the date, time, or location of their annual meetings as a result of stay-at-home and similar orders and potential health concerns. The bulletin also addresses the specific regulatory requirements applicable to federal savings associations that may seek to delay their annual meetings. The bulletin may be viewed at: <https://www.occ.gov/news-issuances/bulletins/2020/bulletin-2020-51.html>

▲ FinCEN issued Advisory 2020-A002 to alert financial institutions to rising medical scams related to the COVID-19. The advisory contains descriptions of COVID-19-related medical scams, case studies, red flags, and information on reporting suspicious activity. While the advisory focuses on medical-related scams, FinCEN warns financial institutions that criminal actors may use similar fraudulent methods involving non-medical-related goods or services. Advisory 2020-A002 may be viewed at: <https://www.fincen.gov/sites/default/files/advisory/2020-05-18/Advisory%20Medical%20Fraud%20Covid%2019%20FINAL%20508.pdf>

▲ CFPB, FHFA, and HUD launched the new mortgage and housing assistance website <https://www.cfpb.gov/housing>. The joint website consolidates the CARES Act mortgage relief, protections for renters, resources for additional help, and information on how to



# Compliance Notes

avoid COVID-19 related scams. It also provides lookup tools for homeowners to determine if their mortgage is federally-backed, and for renters to find out if their rental unit is financed by FHA, Fannie Mae, or Freddie Mac.

▲ FFIEC, on behalf of its members, issued a statement to address the use of cloud computing services and security risk management principles in the financial services sector. Financial institution management is instructed to engage in effective risk management for the safe and sound use of cloud computing services. Security breaches involving cloud computing services highlight the importance of sound security controls and management's understanding of the shared responsibilities between cloud service providers and their financial institution clients. The statement does not contain new regulatory expectations; rather, it highlights examples of risk management practices for a financial institution's safe and sound use of cloud computing services and safeguards to protect customers' sensitive information from risks that pose potential consumer harm. The statement may be viewed at: [https://www.ffiec.gov/press/PDF/FFIEC\\_Cloud\\_Computing\\_Statement.pdf](https://www.ffiec.gov/press/PDF/FFIEC_Cloud_Computing_Statement.pdf)

▲ FRBServices updated its COVID-19 resources page. Updates were made to customer assistance package, access to FRB-Services services, financial services processing, currency, economic impact payments, and communications. The updated resources page may be viewed at: [https://www.frbervices.org/covid-19-resources/index.html?utm\\_source=home-030420&utm\\_medium=banner&utm\\_campaign=general&utm\\_content=2-coronavirus](https://www.frbervices.org/covid-19-resources/index.html?utm_source=home-030420&utm_medium=banner&utm_campaign=general&utm_content=2-coronavirus)

▲ NMLS announced that the window for licensees to complete fingerprinting requirements has been temporarily extended 60 days. Licensees will now have 240 days to complete the requirement, instead of the standard 180 days. The additional 60 days will apply to any expiration window that is currently open or subsequently opened. The additional 60 days will also apply to expiration windows that have expired since March 17. The announcement may be viewed at: <https://fedregistry.nationwidelicensingsystem.org/News/Pages/default.aspx>

▲ IRS issued guidance regarding the deductibility for federal income tax purposes of certain otherwise deductible expenses incurred in a taxpayer's trade or business when the taxpayer receives a PPP loan (covered loan). Specifically, the notice clarifies that no deduction is allowed under the Internal Revenue Code for an expense that is otherwise deductible if the payment of the expense results in forgiveness of a covered loan and the income associated with the forgiveness is excluded from gross income for purposes of the Code. The guidance may be viewed at: <https://www.irs.gov/pub/irs-drop/n-20-32.pdf>

▲ CFPB released its annual Fair Lending Report to Congress highlighting CFPB's 2019 focus on fair lending efforts in mortgage lending, student loans, small business lending and other market areas. The report may be viewed at: [https://files.consumerfinance.gov/f/documents/cfpb\\_2019-fair-lending\\_report.pdf](https://files.consumerfinance.gov/f/documents/cfpb_2019-fair-lending_report.pdf)

▲ FRB issued its *Report on the Economic Well-Being of U.S. Households Featuring Supplemental Data from April 2020*. Financial circumstances were generally positive for most adults at the end of 2019. However, the report found that financial conditions changed dramatically for people who experienced job loss or reduced hours during March 2020 as the spread of COVID-19 intensified in the United States. The report may be viewed at: <https://www.federalreserve.gov/publications/files/2019-report-economic-well-being-us-households-202005.pdf>

▲ FinCEN announced the renewal of its Geographic Targeting Orders (GTOs) that require U.S. title insurance companies to identify the natural persons behind shell companies used in all-cash purchases of residential real estate. These renewed GTOs are identical to the November 2019 GTOs. The purchase amount threshold remains \$300,000 for each covered metropolitan area. The terms of this Order are effective beginning May 10, 2020 and ending on November 5, 2020. The notice may be viewed at: <https://www.fincen.gov/news/news-releases/fincen-reissues-real-estate-geographic-targeting-orders-12-metropolitan-areas-1>

▲ Treasury and IRS updated state-by-state figures for Economic Impact Payments, with approximately 130 million individuals receiving payments worth more than \$200 billion in the program's first four weeks. This includes over \$4 billion to Wisconsin residents. The data may be viewed at: <https://www.irs.gov/newsroom/treasury-irs-release-latest-state-by-state-economic-impact-payment-figures>

▲ CFPB issued a report examining the effects of the COVID-19 pandemic which found that consumer credit applications declined substantially in March. The report found that between the first and last week of March, auto loan inquiries dropped by 52 percent, new mortgage inquiries dropped by 27 percent, and revolving credit card inquiries declined by 40 percent compared to usual patterns seen in the data in earlier years. Additionally, the drops are significantly more pronounced for consumers with higher credit scores, consistent with the possibility that higher credit score consumers have more flexibility in either their credit needs or the timing of their credit needs. The full report may be viewed at: [https://files.consumerfinance.gov/f/documents/cfpb\\_issue-brief\\_early-effects-covid-19-credit-applications\\_2020-04.pdf](https://files.consumerfinance.gov/f/documents/cfpb_issue-brief_early-effects-covid-19-credit-applications_2020-04.pdf)



# Compliance Notes

▲ OCC and FRB issued a response to a public question about a capital implication under the market risk capital rule in light of current market conditions. Concern about the impact of the Coronavirus Disease 2019 (COVID-19) has led to a sudden and significant repricing of global financial markets and an increase in market volatility and deterioration in market liquidity. The response notes that the agencies took supervisory action in March and April 2020 giving certain banks the option to apply the multiplication factor that applied as of December 31, 2019, rather than applying a higher multiplier based on the most recent exceptions. The response may be viewed at: <https://www.occ.gov/topics/supervision-and-examination/capital/market-risk-faq.pdf>

▲ CFPB released a bulletin which reflects complaint data from complaints submitted in 2020 as of May 11th and highlights trends in complaints mentioning coronavirus keywords. The top five complaint results involve: mortgages, credit cards, credit or consumer reporting, debt collection, and checking or savings. The bulletin may be viewed at: [https://files.consumerfinance.gov/f/documents/cfpb\\_complaint-bulletin\\_coronavirus-complaints.pdf](https://files.consumerfinance.gov/f/documents/cfpb_complaint-bulletin_coronavirus-complaints.pdf) ■

Are you a WBA member with a  
compliance question?

## Contact the WBA Legal Call Program

This WBA member-exclusive program  
provides information in response to  
compliance questions.  
call: 608-441-1200

