

Compliance Journal

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An Update on Hemp

On December 20, 2018, the Agriculture Improvement Act of 2018 (2018 Farm Bill) was signed into law. Previously, under the 2014 Farm Bill, production of hemp was permitted for research purposes only. Many States, including Wisconsin, implemented research programs under the 2014 Farm Bill. The 2018 Farm Bill contains provisions clarifying the status of hemp, transitioning it from a research crop to a commodity. The 2018 Farm Bill thus necessitates revision to existing programs regulating hemp production.

In Wisconsin, hemp production continues to be legal under existing State programs, implemented under the 2014 Farm Bill. However, financial institutions should be aware that those requirements are shifting, and policy adjustments should be made accordingly. This article provides a background and reminder of hemp's status under the law, timelines of the shift to 2018 Farm Bill programs, practical considerations, and recent activity from the Financial Crimes Enforcement Network (FinCEN) and the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP).

Background and Status of Hemp in Wisconsin

The 2018 Farm Bill clarifies the legality of hemp, and sets all pilot programs established under the 2014 Farm Bill to expire on October 31, 2020. Late last year, the United States Department of Agriculture (USDA) published an interim final rule specifying regulations governing the production of hemp in accordance with the 2018 Farm Bill. Wisconsin also responded with 2019 Wisconsin Act 68 (Act 68) to make several changes to its laws governing industrial hemp. USDA's rule establishes a Federal program governing hemp production nationally. It also outlines provisions under which States may submit their own plan for approval under the Federal program. Thus, States are automatically subject to the Federal program, unless their program is approved. Wisconsin Act 68 directs DATCP to write new rules, and the expectation is for DATCP to submit its plan to USDA for approval under the Federal program.

Previously, 2017 Wisconsin Act 100 implemented Wisconsin's current program (pilot program), pursuant to the 2014 Farm Bill, and DATCP wrote EmR1807 (prior rule) in 2018 implementing the pilot program. DATCP issued licenses beginning late last year under the pilot program, and hemp can be grown and produced legally during Wisconsin's 2020 hemp season by meeting existing program requirements, as discussed in more detail below. DATCP expects to begin a new program under the 2018 Farm Bill, pending USDA's approval, in 2021.

DATCP's Emergency Rule

DATCP's prior rule implementing the pilot program expired on July 1, 2020. Before expiration, on June 27, 2020, DATCP issued EmR2016 (emergency rule) to maintain the program until October 31, 2020, when the pilot program terminates. The emergency rule also makes the following changes to the program to conform to the 2018 Farm Bill and Act 68:

- Updates the definition of hemp.
- Adds definitions for the terms "THC" and "decarboxylated" to clearly state regulatory testing requirements and to provide additional clarity that THC content includes THC-A, consistent with state and federal law, and existing testing requirements.
- Uses the term "lot" instead of "crop" to more clearly explain how regulatory sampling and testing requirements apply to all hemp.
- Uses the term "growing location" instead of "field" and "greenhouse" to refer to where hemp is grown.
- Clarifies that after a failed initial test, the entire lot must be destroyed within 10 days after service of DATCP's destruction order unless the grower requests a re-test prior to the expiration of the 10 days.



- Clarifies that a grower cannot request a re-test of the original sample, but that a grower can request a new sample be collected for re-testing by DATCP.
- Clarifies that a lot must be sampled prior to harvest, but that a lot does not need to be tested prior to harvest.
- Clarifies that a fit for commerce certificate must be obtained by a grower prior to the hemp being transported from the growing location. Allows for movement of harvested hemp within, but not from, a growing location.
- Clarifies that hemp found without a required fit for commerce certificate is subject to destruction.
- Clarifies that a grower with unpaid invoices may not annually register and may be subject to license suspension.
- Updates requirements for the planting report and final report to meet current program practices.
- Updates requirements that a licensee must notify DATCP in writing of the variety of hemp they intend to plant before planting. Licensees may plant only approved varieties.
- Updates the dates and deadlines for transitioning to a new hemp program under the USDA.

The emergency rule will remain in effect until Wisconsin's hemp pilot research program expires on October 31, 2020. At that time, DATCP will transition to a new program under the USDA interim final rule. WBA will provide updates as more information from DATCP becomes available on the transition.

FinCEN Guidance Regarding BSA Due Diligence Requirements

On June 29, 2020, the Financial Crimes Enforcement Network (FinCEN) issued guidance on Bank Secrecy Act (BSA) requirements for hemp-related business customers. The guidance provides that, in addition to conducting customer due diligence (CDD) on hemp-related businesses at time of application, financial institutions must establish risk-based procedures for conducting ongoing CDD. Specifically, for customers who are hemp growers, financial institutions may confirm the hemp grower's compliance with state, tribal government, or the USDA licensing requirements, as applicable, by either obtaining:

1. A written attestation by the hemp grower that they are validly licensed, or
2. A copy of such license.

Financial institutions might also consider seeking additional information based upon their assessment of potential risk posed by each customer. FinCEN suggests that additional information might include crop inspection or testing reports, license renewals, updated attestations from the business, or correspondence with the state, tribal government, or USDA. It is important for financial institutions to know the nature of their customer's business to best determine their risk profile.

The guidance also clarifies that because hemp is no longer a Schedule I controlled substance, financial institutions are not required to file a Suspicious Activity Report on customers solely because they are engaged in the growth or cultivation of hemp in accordance with applicable laws and regulations. Lastly, the guidance confirms that financial institutions must report currency transactions in connection with hemp-related businesses in the same manner they would for any other customers.

Practical Considerations

A key takeaway is that the 2018 Farm Bill removed hemp from the definition of marijuana in the Controlled Substances Act. These changes shift toward treating hemp as a regulated commodity. The new

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regulatory framework starts with USDA's interim final rule, which sets the stage for State programs. WBA published an article that explores USDA's interim final rule in greater detail, which is included below.

From a Wisconsin standpoint, as discussed above, Wisconsin will continue to operate under the pilot program (as revised by emergency rule) until October 31, 2020. It is important to note that 2019 Act 68, and DATCP's emergency rule does not relate specifically to financial institutions. However, as seen in FinCEN's guidance, financial institutions are expected to conduct due diligence on hemp-related businesses. Thus, it is important to understand how the industry operates, and is regulated.

DATCP's emergency rule offers clarity in areas not covered under its previous rule. The extent to which a financial institution will need to be familiar with these requirements depends on its customer base. For example, a customer might be looking to just try hemp on a small field they have available. Another might have a large production operation that involves the purchase of large quantities of different seed varieties, and the harvest and shipping of hemp for uses of both oil and fiber. The extent to which a financial institution gathers information in either scenario may depend on the perceived risk of each business' operation.

In either case, financial institutions should start with licensure, knowing that is FinCEN's minimum requirement, and work from there. Next steps will likely involve a discussion with the customer to better understand their operation. This way, a financial institution can gather information to make its own business decisions, and meet BSA requirements. Some financial institutions may wish to accomplish this by obtaining certifications from their customers. For financial institutions looking to use this method, WBA has created a hemp questionnaire and certification available through FIPCO, which has been designed with DATCP's program requirements in mind.

Conclusion

Wisconsin's pilot program, under which currently licensed growers and processors currently operate, expires on October 31, 2020. Hemp-related businesses may continue to operate under the existing program, but later this year, DATCP will provide new information on a transition to a new program under the USDA interim final rule. While WBA does not anticipate the new program will place any new requirements on financial institutions, it is important to be aware of the changes when they occur from a know-your-customer standpoint for both the business and BSA considerations discussed above. WBA will report upon the details of the new program when they become available.

Additional Resources

[DATCP Notice to Stakeholders](#)

[DATCP Emergency Rule Text](#)

[DATCP Table of Changes](#)

[FinCEN Guidance](#)

[WBA Article on USDA Interim Final Rule](#) ■

Treatment of Certain COVID-19 Related Loss Mitigation Option Under Regulation X

The Bureau of Consumer Financial Protection (CFPB) issued an interim final rule in late June to amend Regulation X, which implements the Real Estate Settlement Procedures Act (RESPA), to temporarily permit mortgage servicers to offer a loss mitigation option based on the evaluation of an incomplete loss mitigation application. This article provides a summary of the interim rule.

Background and Rationale for New Rule

A general understanding of the current compliance requirements of loss mitigation and recent mortgage servicing activity which has resulted due to the pandemic is necessary to better understand the nuances for the newly created mitigation option under the interim fi-



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nal rule. As a requirement of the Dodd-Frank Act, Regulation X (Reg X) was revised in 2013 to create a uniform set of procedures that mortgage servicers must follow when offering loss mitigation options to borrowers who have failed to meet the contractual obligations of their mortgage loan. The loss mitigation procedures are found in Reg X section 1024.41.

Under current Reg X loss mitigation procedures, servicers are required to first obtain a complete loss mitigation application from the borrower before evaluating a borrower for a loss-mitigation option, such as a loan modification or short sale. Reg X defines a “complete loss mitigation application” to mean an application in connection with which a servicer has received all the information that the servicer requires from a borrower in evaluating applications for the loss mitigation options available to the borrower. A servicer is required to exercise reasonable diligence in obtaining documents and information to a complete loss mitigation application; failure to do so could result in compliance exam violations and potential civil money penalties.

Reg X compliance requirements aside, financial institutions have now had to deal with various responses to the national emergency due to the novel coronavirus disease (COVID-19) including actions taken by mortgage owners, investors, and insurers of mortgage loans under payment forbearance programs. In particular, the Federal National Mortgage Association (Fannie Mae), Federal Home Loan Mortgage Company (Freddie Mac), Federal Housing Administration (FHA), Federal Home Loan Bank Chicago, and other owners or insurers of mortgage loans previously announced forbearance loan programs to assist borrowers with mortgage payments knowing many would not be able to work due to the steps taken under the COVID-19 national emergency. These parties also then created payment deferral programs for borrowers once they exit forbearance to help those borrowers who are unable to afford full reinstatement or a repayment plan at that time.

Additionally, section 4022 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) allows borrowers who are experiencing financial hardship due, directly or indirectly, to the COVID-19 emergency and who have a federally-backed mortgage to have access to payment forbearance programs if the borrower submits a request to their mortgage servicer and affirms that they are experiencing a financial hardship during the COVID-19 emergency. Unfortunately, the CARES Act does not specify how borrowers who received a CARES Act forbearance must repay forborne payments.

Given the actions by Fannie Mae, Freddie Mac and other investors/insurers to utilize forbearance and deferral programs and the requirements under the CARES Act, mortgage servicers need to reconcile those actions and requirements with the Reg X loss mitigation compliance rules to ensure no compliance violations are cited.

As stated above, Reg X requires mortgage servicers to offer loss mitigation options only after the servicer has evaluated a complete loss mitigation application. To further ensure servicers comply with the requirement, Reg X section 1024.41(c)(2)(i) contains what is generally referred to as the “anti-evasion” rule whereby mortgage servicers cannot evade the requirement to evaluate a complete loss mitigation application for all loss mitigation options available to the borrower by offering a loss mitigation option based upon the evaluation of any information provided by a borrower in connection with an incomplete loss mitigation application except for in only two instances:

- (1) borrower delays completing a loss mitigation application for a significant period of time; and
- (2) for a “short-term” mitigation plan.

The programs being offered by mortgage owners/insurers and under the CARES Act were typically programs that would not fall within the Reg X 1024.41(c)(2) exceptions to allow a mortgage servicer to offer a loss mitigation option after review of an incomplete loss mitigation application.

The federal banking supervisory agencies attempted to bring clarity to the issue in a joint statement issued on April 3, 2020. In that statement, the agencies, in recognizing the impact the COVID-19 emergency was having on borrowers and on the operations of mortgage servicers, explained that, when a borrower requests a CARES Act forbearance and reaffirms that the borrower has experienced financial hardship during the COVID-emergency, it constitutes an incomplete loss mitigation application under Reg X. The agencies further stated that although receipt of an incomplete loss mitigation application generally triggers a mortgage servicer’s good faith obligations under Reg X sec. 1024.41, the joint statement provided that a CARES Act forbearance qualifies as a short-term payment forbearance program under Reg X, so certain loss mitigation requirements under Reg X do not apply. This position, however, was only in a jointly issued statement, not in Regulation.



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In recognizing the unique environment created as a result of COVID-19 and all that has been outlined above, CFPB has amended the Reg X loss mitigation rules to create a third exception. New Reg X section 1024.41(c)(2)(v) allows a mortgage servicer to offer a loss mitigation option that meets certain criteria based on the evaluation of an incomplete application, and that servicers need not comply with certain Reg X requirements once a borrower accepts that option. To participate, the interim final rule requires certain criteria be met as is outlined next; CFPB structured its criteria to align with Fannie Mae/Freddie Mac COVID-19 payment deferral and other comparable programs, including FHA's COVID-19 partial claim.

Eligibility Requirements of New Exception

The interim final rule conditions eligibility for the new exception on the loss mitigation option satisfying three criteria:

- First, the loss mitigation option must permit a borrower to delay paying certain amounts until the mortgage loan is refinanced, the mortgaged property is sold, the term of the mortgage loan ends, or for a mortgage insured by FHA, the mortgage insurance terminates.

These amounts include, without limitation, all principal and interest payments forborne under the payment forbearance program made available to borrowers experiencing a financial hardship due directly or indirectly to COVID-19 emergency, including one made pursuant to the CARES Act.

These amounts also include, without limitation, all other principal and interest payments that are due and unpaid by the borrower experiencing financial hardship due, directly or indirectly, to the COVID-19 emergency.

For this criterion, the term of mortgage loan means the term of the mortgage loan according to the obligation between the parties in effect when the borrower is offered the loss mitigation option.

- Second, any amounts that the borrower may delay paying through the loss mitigation option do not accrue interest; servicer does not charge any fee in connection with the loss mitigation option; and the servicer waives all existing late charges, penalties, stop payment fees, or similar charges promptly upon the borrower's acceptance of the loss mitigation option. The interim final rule provides no definition or clarity by what is meant by "or similar charges" under this criterion.
- Third, the borrower's acceptance of the loss mitigation offer must resolve any prior delinquency.

Reg X Mitigation Steps Servicer is Exempt From Under New Rule

If a borrower accepts an option offered pursuant to the new exception, the servicer is not required to continue the reasonable diligence efforts under Reg X section 1024.41(b)(1) or send the acknowledgment notice Reg X section 1024.41(b)(2) would otherwise require for those who are not considered a small servicer under Reg X loss mitigation rules.

Items Mortgage Servicers Should Consider

There are a number of items compliance officers of mortgage servicers may want to consider in connection with CFPB's interim final rule. First being that the rule was effective July 1st. Is the bank ready to implement the interim final rule should it determine the interim rule is a desired process? If bank decides the option is something it will implement, for which mortgage loans will the option be made available? The interim rule allows the new mitigation option for Fannie Mae or Freddie Mac loans as well as other loans, including bank's own portfolio loans.

Also, note that it is not a requirement that the bank offer this option to its borrowers. The bank can certainly follow its normal loss mitigation process established under Reg X section 1024.41 and proceed to collect a complete loss mitigation application and follow its normal protocol established to meet its reasonable diligence in obtaining documents and information to a complete loss mitigation application from borrowers.

If implementing the new mitigation option, how will bank record or validate that the borrower's financial hardship is COVID-19 related? A criterion is that the deferred amounts are not to accrue interest, how will bank code or program its loan operating system to ensure that treatment is applied? What steps will be implemented to ensure those fees that are required to be waived under the rule are waived?



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While the rule is effective now, will bank wait until a final rule is issued before it implements this option? If implementing now, bank will need to reevaluate when the rule is finalized to ensure any change made in the promulgation process are implemented into bank's own procedures.

Conclusion

CFPB has created a new exemption under Reg X loss mitigation rules to allow mortgage servicers to offer a particular loss mitigation option to borrowers so long as the criterion in the interim final rule are met, including waiving fees and bringing the loan current. The rule allows servicers to offer the loss mitigation option without having to first receive a complete loss mitigation application. The interim final rule is effective July 1, 2020 and may be [viewed at this link](#). Comments regarding the new option are due August 14th. ■

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Agencies Issue Final and Interim Rules on Margin and Capital Requirements for Covered Swap Entities.

- The Board of Governors of the Federal Reserve System (FRB), Federal Deposit Insurance Corporation (FDIC), Office of the Comptroller of the Currency (OCC), Farm Credit Administration (FCA), and Federal Housing Finance Agency (FHFA) (collectively, the agencies) adopted a final rule to amend regulations requiring swap dealers and security-based swap dealers under the agencies' respective jurisdictions to exchange margin with their counterparties for swaps that are not centrally cleared (Swap Margin Rule). The Swap Margin Rule as adopted in 2015 takes effect under a phased compliance schedule spanning from 2016 through 2020. The entities covered by the rule continue to hold swaps in their portfolios that were entered into before the effective dates of the rule; such swaps are grandfathered from the Swap Margin Rule's requirements until they expire according to their terms. The final rule: (1) permits swaps entered into prior to an applicable compliance date (legacy swaps) to retain their legacy status in the event that they are amended to replace an interbank offered rate (IBOR) or other discontinued rate; (2) modifies initial margin requirements for non-cleared swaps between affiliates; (3) introduces an additional compliance date for initial margin requirements; (4) clarifies the point in time at which trading documentation must be in place; (5) permits legacy swaps to retain their legacy status in the event that they are amended due to technical amendments, notional reductions, or portfolio compression exercises; and (6) makes technical changes to relocate the provision addressing amendments to legacy swaps that are made to comply with the Qualified Financial Contract Rules, as defined in the Supplementary Information section of the final rule. In addition, the final rule addresses comments received in response to the agencies' interim final rule that would preserve the status of legacy swaps meeting certain criteria if the United Kingdom withdraws from the European Union ("Brexit") without a negotiated settlement agreement. The final rule is effective **08/31/2020**. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-07-01/pdf/2020-14097.pdf>. *Federal Register*, Vol. 85, No. 127, 07/01/2020, 39754-39780.
- The Board of Governors of the Federal Reserve System (FRB), Federal Deposit Insurance Corporation (FDIC), Office of the Comptroller of the Currency (OCC), Farm Credit Administration (FCA), and Federal Housing Finance Agency (FHFA) (collectively, the agencies) adopted an interim final rule to amend regulations that require swap dealers, security-based swap dealers, major swap participants, and major security-based swap participants under the agencies' respective jurisdictions to exchange margin with their counterparties for swaps that are not centrally cleared (non-cleared swaps) (Swap Margin Rule). Under the Swap Margin Rule, as amended, initial margin requirements will take effect under a phased compliance schedule spanning from 2016 through 2020. Due to the COVID-19 pandemic, the agencies are extending by one year the phases 5 and 6 implementation deadlines for initial margin requirements from **09/01/2020**, to **09/01/2021** (for phase 5) and from **09/01/2021**, to **09/01/2022** (for phase 6). The interim final rule is effective **09/01/2020**. Comments are due **08/31/2020**. The interim final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-07-01/pdf/2020-14094.pdf>. *Federal Register*, Vol. 85, No. 127, 07/01/2020, 39464-39470.

Agencies Issue Guidance for Assessing Safety and Soundness Given Effect of COVID-19 Pandemic on Institutions.

The Board of Governors of the Federal Reserve System (FRB), Federal Deposit Insurance Corporation (FDIC), Office of the Comptroller of the Currency (OCC), and National Credit Union Administration (NCUA), in conjunction with the state bank and credit union regulators (CSBS), issued an examiner guidance to outline the supervisory principles for assessing the safety and soundness



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of institutions given the ongoing impact of the COVID-19 pandemic. The interagency guidance instructs examiners to consider the unique, evolving, and potentially long-term nature of the issues confronting institutions due to COVID-19 and to exercise appropriate flexibility in their supervisory response. The guidance may be viewed at: <https://www.federalreserve.gov/newsevents/pressreleases/files/bcreg20200623a1.pdf>.

Agencies Postpone Review of Credit Risk Retention Regulations.

The Board of Governors of the Federal Reserve System (FRB), Federal Deposit Insurance Corporation (FDIC), Office of the Comptroller of the Currency (OCC), Securities and Exchange Commission (SEC), Federal Housing Finance Agency (FHFA), and Department of Housing and Urban Development (HUD) (collectively, the agencies) extended the period for the review of the: definition of qualified residential mortgage (QRM); community-focused residential mortgage exemption; and exemption for qualifying three-to-four unit residential mortgage loans, in each case as currently set forth in the Credit Risk Retention Regulations as adopted by the agencies. The Credit Risk Retention Regulations are codified at: 12 CFR part 43; 12 CFR part 244; 12 CFR part 373; 17 CFR part 246; 12 CFR part 1234; and 24 CFR part 267. The Credit Risk Retention Regulations require the agencies to commence and review the following provisions of the Credit Risk Retention Regulations by **12/24/2019**: (1) QRM in section .13; (2) the community-focused residential mortgage exemption in section .19(f); and (3) the exemption for qualifying three-to-four unit residential mortgage loans in section .19(g). The Credit Risk Retention Regulations also require that, after completion of the review, but no later than six months after publication of a notification announcing the review, unless extended by the agencies, the agencies publish a notification disclosing the determination of their review. Notification of the commencement of the review was published in the *Federal Register* **12/20/2019**. This notice has been published to give notice that, due to various factors considered among the agencies, including market and other disruptions precipitated by COVID-19, the agencies have determined to extend the period for completion of their review of the subject residential mortgage provisions and publication of notice disclosing determination until **06/20/2021**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-06-30/pdf/2020-13830.pdf>. *Federal Register*, Vol. 85, No. 126, 06/30/2020, 39099-39100.

Agencies Propose Revision to Interagency Flood Insurance FAQs.

The Board of Governors of the Federal Reserve System (FRB), Federal Deposit Insurance Corporation (FDIC), Office of the Comptroller of the Currency (OCC), Farm Credit Administration (FCA), and National Credit Union Administration (NCUA) (collectively, the agencies) propose to reorganize, revise, and expand the Interagency Questions and Answers Regarding Flood Insurance. To help lenders meet their responsibilities under federal flood insurance law and to increase public understanding of their flood insurance regulations, the agencies proposed new and revised guidance addressing the most frequently asked questions and answers about flood insurance. Comments are due **09/04/2020**. The proposed interagency guidance may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-07-06/pdf/2020-14015.pdf>. *Federal Register*, Vol. 85, No. 129, 07/06/2020, 40442-40478.

CFPB Issues Final Rule to Amend its Payday, Vehicle Title, and Certain High-Cost Installment Loans Rule.

The Bureau of Consumer Financial Protection (CFPB) issued a final rule to amend its regulations governing payday, vehicle title, and certain high-cost installment loans. Specifically, CFPB revoked provisions of the regulations that: provide that it is an unfair and abusive practice for a lender to make a covered short-term or longer-term balloon payment loan, including payday and vehicle title loans, without reasonably determining that consumers have the ability to repay those loans according to their terms; prescribe mandatory underwriting requirements for making the ability-to-repay determination; exempt certain loans from the mandatory underwriting requirements; and establish related definitions, reporting, recordkeeping, and compliance date requirements. CFPB made the amendments to the regulations based on its re-evaluation of the legal and evidentiary basis for the provisions. The final rule is effective 90 days after date of publication in the *Federal Register*. The final rule may be viewed at: https://files.consumerfinance.gov/f/documents/cfpb_payday_final-rule-2020-revocation.pdf.

CFPB Ratifies Its Past Actions.

CFPB ratified a number of its previous actions. The actions include a large majority of CFPB's existing regulations and certain other actions. The ratification provides the public with certainty, by resolving any potential defect in the validity of the actions arising from Article II of the United States Constitution. The ratification is issued **07/10/2020**, and relates back to the original date of each action that it ratifies. The ratification may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-07-10/pdf/2020-14936.pdf>. *Federal Register*, Vol. 85, No. 133, 07/10/2020, 41330-41331.



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CFPB Issues Interim Final Rule to Amend Regulation X Loss Mitigation Rules.

CFPB issued an interim final rule to amend Regulation X. The amendments temporarily permit mortgage servicers to offer certain loss mitigation options based on the evaluation of an incomplete loss mitigation application. Eligible loss mitigation options, among other things, must permit borrowers to delay paying certain amounts until the mortgage loan is refinanced, the mortgaged property is sold, the term of the mortgage loan ends, or, for a mortgage insured by the Federal Housing Administration (FHA), the mortgage insurance terminates. The amounts include, without limitation, all principal and interest payments forborne through payment forbearance programs made available to borrowers experiencing financial hardships due, directly or indirectly, to the COVID-19 emergency, including a payment forbearance program offered pursuant to section 4022 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). The amounts also include principal and interest payments that are due and unpaid by borrowers experiencing financial hardships due, directly or indirectly, to the COVID-19 emergency. The interim final rule is effective **07/01/2020**. Comments are due **08/14/2020**. The interim final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-06-30/pdf/2020-13853.pdf>. *Federal Register*, Vol. 85, No. 126, 06/30/2020, 39055-39065.

CFPB Issues Interpretive Rule Regarding Rural and Underserved Counties under Regulation Z.

CFPB issued an interpretive rule that construes Regulation Z, which implements the Trust in Lending Act (TILA). CFPB produces annually a list of rural and underserved counties and areas that is used in applying various Regulation Z provisions, such as the exemption from the requirement to establish an escrow account for a higher-priced mortgage loan and the ability to originate balloon-payment qualified mortgages. Regulation Z states that an area is “underserved” during a calendar year if, according to Home Mortgage Disclosure Act (HMDA) data for the preceding calendar year, it is a county in which no more than two creditors extended covered transactions, as defined in Regulation Z, secured by first liens on properties in the county five or more times. The official commentary provides an interpretation relating to this standard that refers to certain data elements from the previous version of CFPB’s Regulation C, which implements HMDA, that were modified or eliminated in the 2015 amendments to Regulation C. CFPB issued the interpretive rule to supersede the now outdated interpretation, specifically by describing the HMDA data that will instead be used in determining that an area is “underserved.” The interpretive rule is effective **06/26/2020**. The interpretive rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-06-26/pdf/2020-13801.pdf>. *Federal Register*, Vol. 85, No. 124, 06/26/2020, 38299-38301.

CFPB Establishes Pilot Advisory Opinion Program and Seeks Comment on the Program.

- CFPB issued a procedural rule to announce the establishment of a new pilot advisory opinion program (Pilot AO Program). The program was established in response to feedback received from external stakeholders encouraging CFPB to provide written guidance in cases of regulatory uncertainty. Under the program, parties can request interpretive guidance, in the form of an advisory opinion, to resolve regulatory uncertainty. The procedural rule is applicable **06/22/2020**. The procedural rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-06-22/pdf/2020-13504.pdf>. *Federal Register*, Vol. 85, No. 120, 06/22/2020, 37331-37333.
- CFPB seeks comment on a new advisory opinion program (Proposed AO Program), and a proposed information collection associated with requests submitted by persons requesting advisory opinions under the program. The request for comment is concurrent with the establishment of the Pilot AO Program as is highlighted in the above paragraph. The Proposed AO Program represents the next phase in full implementation of CFPB’s advisory opinion capability, with the intent of replacing the AO Pilot, and allowing CFPB to further provide timely guidance that enables compliance by resolving outstanding regulatory uncertainty. Comments are due **08/21/2020**. The proposed procedural rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-06-22/pdf/2020-13505.pdf>. *Federal Register*, Vol. 85, No. 120, 06/22/2020, 37394-37396.

CFPB Issues Proposed Rule to Facilitate LIBOR Transition.

CFPB proposed amendments to Regulation Z, which implements the Truth in Lending Act (TILA), to address the sunset of LIBOR, which is expected to be discontinued after 2021. Some creditors currently use LIBOR as an index for calculating rates for open-end and closed-end products. CFPB proposed changes to open-end and closed-end provisions to provide examples of replacement indices for LIBOR indices that meet certain Regulation Z standards. CFPB also proposed to permit creditors for home equity lines of credit (HELOCs) and card issuers for credit card accounts to transition existing accounts that use a LIBOR index to a replacement index on or after **03/15/2021**, if certain conditions are met. The proposal also addresses change-in-terms notice provisions for HELOCs and credit card accounts and how they apply to accounts transitioning away from using a LIBOR index. Lastly, CFPB proposed to address



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how the rate reevaluation provisions applicable to credit card accounts apply to the transition from using a LIBOR index to a replacement index. Comments are due **08/04/2020**. The proposed rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-06-18/pdf/2020-12239.pdf>. *Federal Register*, Vol. 85, No. 117, 06/18/2020, 36938-36994.

CFPB Issues Propose Rules to Revise QM Rules.

- CFPB issued a proposed rule to extend the sunset date for the category of qualified mortgage (QM) loans related to government-sponsored enterprises. Regulation Z requires creditors to make a reasonable, good faith determination of a consumer's ability to repay any residential mortgage loan. Loans that meet Regulation Z's requirements for QMs obtain certain protections from liability. One category of QMs consists of loans that are eligible for purchase or guarantee by either the Federal National Mortgage Association (Fannie Mae) or the Federal Home Loan Mortgage Corporation (Freddie Mac) (collectively, government-sponsored enterprises, or GSEs), while operating under the conservatorship or receivership of the Federal Housing Finance Agency (FHFA). The GSEs are currently under federal conservatorship. CFPB established a category of QMs (Temporary GSE QM loans) as a temporary measure that is set to expire **01/10/2021**, (the sunset date) or when the GSEs exit conservatorship. Another category of QMs is the General QM loan category. CFPB proposed to amend Regulation Z to replace the sunset date of the Temporary GSE QM loan definition with a provision that extends the Temporary GSE QM loan definition to expire upon the effective date of final amendments to the General QM loan definition which is outlined in the following paragraph. CFPB has not proposed to amend the provision stating that the Temporary GSE QM loan category would expire if the GSEs exit conservatorship. Comments are due **08/10/2020**. The proposed rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-07-10/pdf/2020-13741.pdf>. *Federal Register*, Vol. 85, No. 133, 07/10/2020, 41448-41463.
- CFPB issued a proposed rule to revise requirements related to qualified mortgages (QMs). With certain exceptions, Regulation Z requires creditors to make a reasonable, good faith determination of a consumer's ability to repay any residential mortgage loan. Loans that meet Regulation Z's requirements for QMs obtain certain protections from liability. One category of QMs is the General QM loan category. For General QM loans, the ratio of the consumer's total monthly debt to total monthly income (DTI ratio) must not exceed 43 percent. CFPB proposed to remove the General QM loan definition's 43 percent DTI limit and replace it with a price-based threshold. Comments are due **09/08/2020**. The proposed rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-07-10/pdf/2020-13739.pdf>. *Federal Register*, Vol. 85, No. 133, 07/10/2020, 41716-41778.

FRB Temporarily Revises Capital Assessment and Stress Testing Reports.

The Board of Governors of the Federal Reserve System (FRB) seeks comment on temporarily revisions to the Capital Assessments and Stress Testing Reports (FR Y-14A/Q/M; OMB No. 7100-0341). The temporary revisions, which would collect: data pertaining to certain aspects of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act); information on firm activity associated with various FRB lending facilities; and information regarding emerging risks arising from the coronavirus disease 2019 pandemic, are applicable to reports beginning with the **07/31/2020**, or **09/30/2020**, as of dates. Additionally, FRB seeks comment on a proposal to extend for three years, with revision, the FR Y-14A/Q/M reports in order to address questions related to the reporting of certain current expected credit losses (CECL) and capital data, which would be applicable to reports beginning with the **12/31/2020**, as of date. Comments are due **09/08/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-07-08/pdf/2020-14613.pdf>. *Federal Register*, Vol. 85, No. 131, 07/08/2020, 41040-41045.

FDIC Issues Final Rule to Amend Deposit Insurance Assessments.

The Federal Deposit Insurance Corporation (FDIC) issued a final rule to mitigate the deposit insurance assessment effects of participating in the Paycheck Protection Program (PPP) established by the Small Business Administration, and the Paycheck Protection Program Liquidity Facility (PPPLF) and Money Market Mutual Fund Liquidity Facility (MMLF) established by the Board of Governors of the Federal Reserve System. The final rule is effective **06/26/2020** and is applicable **04/01/2020**. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-06-26/pdf/2020-13751.pdf>. *Federal Register*, Vol. 85, No. 124, 06/26/2020, 38282-38299.

FDIC Announces Termination of Receivership.

FDIC as Receiver for Shorebank, **Illinois** 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



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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 **07/01/2020**, 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-2020-07-07/pdf/2020-14543.pdf>. *Federal Register*, Vol. 85, No. 130, 07/07/2020, 40645-40646.

FDIC Proposes Amendments to Branch Application Requirements.

FDIC proposed to amend its application requirements for the establishment and relocation of branches and offices so that such applications would no longer require statements regarding the compliance of such proposals with the National Historic Preservation Act (NHPA) and the National Environmental Policy Act (NEPA). In connection with an ongoing and comprehensive review of FDIC's existing regulations and guidance to identify rules or guidance that may be outdated, duplicative, or inconsistent, and after a careful analysis of applicable law, staff has concluded that continued consideration of the NHPA and the NEPA in the review of applications for the establishment of a branch and applications for the relocation of a branch or main office is not required under law and, therefore, consideration of these statutes during the processing of these applications is an unnecessary regulatory requirement for insured state nonmember banks and insured branches of foreign banks. Accordingly, FDIC proposes to amend its regulations to remove NHPA and NEPA requirements embedded in its branch application procedures, and to rescind its statements of policy regarding NHPA and NEPA, consistent with branch application procedures for national banks and insured state member banks supervised by the Office of the Comptroller of the Currency and the Board of Governors of the Federal Reserve System. The statements of policy respectively provide guidance regarding FDIC's consideration of NHPA and NEPA in the context of FDIC's review of applications for deposit insurance for de novo institutions, the establishment of branches, and relocation domestic branches or main offices. Comments are due **08/10/2020**. The proposed rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-07-10/pdf/2020-14052.pdf>. *Federal Register*, Vol. 85, No. 133, 07/10/2020, 41442-41447.

OCC Issues Interim Final Rule to Reduce Assessments in Response to COVID-19.

The Office of the Comptroller of the Currency (OCC) adopted an interim final rule to reduce assessments in response to the national emergency declared in connection with COVID-19. Under the interim final rule, assessments due **09/30/2020** for national banks, federal savings associations, and federal branches and agencies of foreign banks will be calculated using the **12/31/2019** "Consolidated Reports of Condition and Income" (Call Report) for each institution, rather than the **06/30/2020** Call Report. The change will result in lower assessments for most banks. In the event a bank's assets as reported on the **06/30/2020** Call Report are lower than on the **12/31/2019** Call Report, OCC will calculate the assessment due on **09/30/2020** for the institution using the **06/30/2020** Call Report. The interim final rule is effective **06/24/2020** through **10/15/2020**. Comments are due **07/24/2020**. The interim final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-06-24/pdf/2020-13719.pdf>. *Federal Register*, Vol. 85, No. 121, 06/23/2020, 37731-37734.

OCC Proposes Revision to Regulations Relating to Activities and Operations of National Banks and Federal Savings Associations.

OCC seeks comment on a proposal to revise and reorganize its regulations relating to the activities and operations of national banks and federal savings associations. The proposal would clarify and codify recent OCC interpretations, integrate certain regulations for national banks and federal savings associations, and update or eliminate outdated regulatory requirements that no longer reflect the modern financial system. Comments are due **08/03/2020**. The proposed rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-07-07/pdf/2020-12435.pdf>. *Federal Register*, Vol. 85, No. 130, 07/07/2020, 40794-40827.

OCC Issues ANPR Regarding Digital Activities.

OCC seeks comment on an advanced notice of proposed rulemaking (ANPR) regarding digital activities of national banks and federal savings association. OCC is interested in making sure it is aware of and understands the evolution of financial services, so it ensures the federal banking system continues to serve consumers, businesses, and communities effectively. Further, national banks and federal savings associations must have a regulatory and supervisory framework that enables banks to adapt to rapidly changing trends and technology developments in the financial marketplace to meet customers' evolving needs while continuing to operate in a safe and sound manner. OCC is reviewing its regulations on bank digital activities to ensure that its regulations continue to evolve with developments in the industry. Comments are due **08/03/2020**. The ANPR may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-07-07/pdf/2020-13083.pdf>. *Federal Register*, Vol. 85, No. 130, 07/07/2020, 40827-40831.



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HUD Seeks Comment on Revision to FHA Multifamily Accelerated Processing Guide.

The Department of Housing and Urban Development (HUD) seeks comment on revision to an existing information collection entitled, Multifamily Accelerated Processing (MAP) Guide. MAP is designed to establish uniform national standards for Federal Housing Administration (FHA) approved lenders to prepare, process, and submit loan applications for FHA multifamily mortgage insurance. The MAP Guide provides guidance for HUD staff, lenders, third-party consultants, borrowers, and other industry participants. Topics include mortgage insurance program descriptions, borrower and lender eligibility requirements, application requirements, underwriting standards for all technical disciplines, and construction loan administration requirements. The Guide has been updated to reflect various organizational, policy and processing changes implemented since the last edition was published in 2016. Comments are due **08/31/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-07-02/pdf/2020-14273.pdf>. *Federal Register*, Vol. 85, No. 128, 07/02/2020, 39928-39929.

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-2020-06-17/pdf/2020-11333.pdf>. *Federal Register*, Vol. 85, No. 116, 06/17/2020, 36507-36509.
- FEMA issued a final rule that identifies communities in the state of **Iowa**, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP) that are scheduled for suspension on the effective dates listed within the final rule because of noncompliance with the floodplain management requirements of the program. If FEMA receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in the final rule, the suspension will not occur and a notice of this will be provided by publication in the *Federal Register* on a subsequent date. The effective date of each community's scheduled suspension is the third date ("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-2020-06-19/pdf/2020-12661.pdf>. *Federal Register*, Vol. 85, No. 118, 06/19/2020, 37019-37022.

FEMA Issues Notices of Changes in Flood Hazard Determinations.

FEMA issued a notice which lists communities in the states of **Illinois**, **Indiana**, **Michigan**, **Nebraska**, and **Wisconsin**, where new or modified 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-2020-07-10/pdf/2020-14892.pdf>. *Federal Register*, Vol. 85, No. 133, 07/10/2020, 41613-41617.

FEMA Issues Proposed Flood Hazard Determinations.

FEMA seeks comment on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities in the state of **Iowa**, as listed in the table in the notice. The purpose of the notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that FEMA has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of



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having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). Comments are due **09/24/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-06-26/pdf/2020-13820.pdf>. *Federal Register*, Vol. 85, No. 124, 06/26/2020, 38385-38387.

IRS Issues Final Rule Concerning Deduction for Qualified Business Income.

The Internal Revenue Service (IRS) issued a final rule concerning the deduction for qualified business income under section 199A of the Internal Revenue Code. The final rule provides guidance on the treatment of previously suspended losses included in qualified business income. The final rule also provides guidance on the determination of section 199A deduction for taxpayers that hold interests in regulated investment companies, split-interest trusts, and charitable remainder trusts. The final rule affects certain individuals, partnerships, S corporations, trusts, and estates. The final rule is effective **08/24/2020**. Please see the final rule for dates of applicability. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-06-25/pdf/2020-11832.pdf>. *Federal Register*, Vol. 85, No. 123, 06/25/2020, 38060-38068.

IRS Issues Temporary and Proposed Rules Regarding Carryback of Consolidated Net Operating Losses.

- IRS issued a temporary rule on carryback of consolidated net operating losses under section 1502 of the Internal Revenue Code (Code). The temporary rule permits consolidated groups that acquire new members that were members of another consolidated group to elect in a year subsequent to the year of acquisition to waive all or part of the pre-acquisition portion of an extended carryback period under section 172 of the Code for certain losses attributable to the acquired members where there is a retroactive statutory extension of the net operating loss carryback period under section 172. The temporary rule is in response to the enactment of section 2303 of the CARES Act, which retroactively extends the carryback period under section 172 for taxable years beginning after 2017 and before 2021. The temporary rule is effective **07/02/2020**. Please see the rule for applicability date. The temporary rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-07-08/pdf/2020-14426.pdf>. *Federal Register*, Vol. 85, No. 131, 07/08/2020, 40892-40899.
- IRS issued a proposed rule to amend the consolidated return regulations under section 1502 of the Internal Revenue Code (Code). The proposed rule provides guidance implementing recent statutory amendments to Code section 172 and withdraws and re-proposes certain sections of proposed rules previously issued relating to the absorption of consolidated net operating loss carryovers and carrybacks. In addition, the proposed rule updates regulations applicable to consolidated groups that include both life insurance companies and other companies to reflect statutory changes. Comments are due **08/31/2020**. The proposed rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-07-08/pdf/2020-14427.pdf>. *Federal Register*, Vol. 85, No. 131, 07/08/2020, 40927-40951.

IRS Proposes Amendments to 1031 Exchange Rules.

IRS issued a proposed rule to implement recent changes enacted in the Tax Cuts and Jobs Act. The proposed rule would amend existing regulations to add a definition of real property to reflect statutory changes limiting section 1031 to exchanges of real property. The proposed rule also provides a rule addressing a taxpayer's receipt of personal property that is incidental to real property the taxpayer receives in the exchange. Comments are due **08/11/2020**. The proposed rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-06-12/pdf/2020-11530.pdf>. *Federal Register*, Vol. 85, No. 114, 06/12/2020, 35835-35846.

FHFA Issues Final Rule to Amend FHLB Housing Goals.

The Federal Housing Finance Agency (FHFA) issued a final rule to amend the existing Federal Home Loan Bank (Bank) Housing Goals regulation. The final rule replaces the regulation's existing four separate retrospective housing goals with a single prospective mortgage purchase housing goal with a target level of 20 percent. The final rule also establishes a separate small member participation housing goal with a target level of 50 percent. The final rule provides that a Bank may request FHFA approval of alternative target levels for either or both goals. The final rule also establishes that housing goals apply to each Bank that acquires any acquired member assets mortgages during a year, eliminating the existing \$2.5 billion volume threshold that previously triggered the application of housing goals for each Bank. Enforcement of the final rule will phase in over three years. The final rule is effective **08/24/2020**. Written requests from Banks proposing alternative target levels are due **09/15/2020**. The enforcement phase-in period applies to calendar years 2021, 2022, and 2023. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-06-25/pdf/2020-12345.pdf>. *Federal Register*, Vol. 85, No. 123, 06/25/2020, 38031-38052.



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SBA Publishes Several PPP Interim Final Rules.

- The Small Business Administration (SBA) published an interim final rule regarding the Paycheck Protection Program (PPP) in the *Federal Register*. On **04/02/2020**, SBA posted an interim final rule announcing the implementation of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). The CARES Act temporarily adds PPP to SBA's 7(a) Loan Program. Subsequently, SBA issued a number of interim final rules to implement PPP. On **06/05/2020**, the Paycheck Protection Program Flexibility Act (Flexibility Act) was signed into law, amending the CARES Act. The interim final rule revised SBA's interim final rule published in the *Federal Register* on **04/15/2020**, by changing key provisions, such as the loan maturity, deferral of loan payments, and forgiveness provisions, to conform to the Flexibility Act. SBA is also making conforming amendments to the use of PPP loan proceeds for consistency with amendments made in the Flexibility Act. Several of the amendments are retroactive to the date of enactment of the CARES Act, as required by section 3(d) of the Flexibility Act. The provisions in the interim final rule related to loan forgiveness and deferral periods for PPP loans are effective **03/27/2020**. The provision in the interim final rule relating to the maturity date of PPP loans is effective **06/05/2020**. The remaining provisions in the interim final rule are effective **06/12/2020**. Comments are due **07/16/2020**. The interim final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-06-16/pdf/2020-12909.pdf>. *Federal Register*, Vol. 85, No. 115, 06/16/2020, 36308-36312.
- SBA published an interim final rule regarding the Paycheck Protection Program (PPP) in the *Federal Register*. On **04/02/2020**, SBA posted an interim final rule announcing the implementation of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). The CARES Act temporarily adds PPP to SBA's 7(a) Loan Program. Subsequently, SBA issued a number of interim final rules to implement PPP. The interim final rule revises SBA's interim final rule published in the *Federal Register* on **04/15/2020**, by changing the eligibility requirement related to felony convictions of applicants or owners of the applicant. The interim final rule is effective **06/16/2020**. Comments are due **07/20/2020**. SBA issued a second interim rule related to felony convictions of applicants or owners of the applicant. The two rules are near identical. The second interim final rule regarding felony convictions is effective **06/24/2020**. Comments on the second final rule regarding felony convictions are due **07/27/2020**. The interim final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-06-18/pdf/2020-13130.pdf>. *Federal Register*, Vol. 85, No. 117, 06/18/2020, 36717-36719. The near identical second final rule regarding felony convictions may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-06-26/pdf/2020-13942.pdf>. *Federal Register*, Vol. 85, No. 124, 06/26/2020, 38301-38304.
- SBA published an interim final rule regarding the Paycheck Protection Program (PPP) in the *Federal Register*. On **04/02/2020**, SBA posted an interim final rule announcing the implementation of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). The CARES Act temporarily adds PPP to SBA's 7(a) Loan Program. Subsequently, SBA issued a number of interim final rules to implement PPP. On **06/05/2020**, the Paycheck Protection Program Flexibility Act (Flexibility Act) was signed into law, amending the CARES Act. This interim final rule revises interim final rules published in the *Federal Register* on **04/20/2020**, and **05/04/2020**, by changing provisions to conform to the Flexibility Act. The provisions in the interim final rule related to loan forgiveness for PPP loans are effective **03/27/2020**. The provision in the interim final rule relating to the maturity date of PPP loans is effective **06/05/2020**. The remaining provisions are effective **06/16/2020**. Comments are due **07/20/2020**. The interim final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-06-19/pdf/2020-13293.pdf>. *Federal Register*, Vol. 85, No. 118, 06/19/2020, 36997-37000.
- SBA published an interim final rule regarding Paycheck Protection Program (PPP) in the *Federal Register*. On **04/02/2020**, SBA posted an interim final rule relating to the implementation of sections 1102 and 1106 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). The CARES Act temporarily adds PPP to SBA's 7(a) Loan Program. Subsequently, SBA issued several interim final rules to implement PPP. On **06/05/2020**, the Paycheck Protection Program Flexibility Act (PPP Flexibility Act) was signed into law, amending the CARES Act. This interim final rule revises an interim final rule published in the *Federal Register* on **06/01/2020**, by changing key provisions to conform to the Flexibility Act. The provisions in the interim final rule related to loan forgiveness and deferral periods for PPP loans are effective **03/27/2020**. The provision in the interim final rule relating to the maturity date of PPP loans is effective **06/05/2020**. The provisions relating to the cap on the amount of loan forgiveness for owner-employees and self-employed individuals is effective **06/24/2020**. Comments are due **07/27/2020**. The interim rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-06-26/pdf/2020-13782.pdf>. *Federal Register*, Vol. 85, No. 124, 06/26/2020, 38304-38312.
- SBA published an interim rule regarding the Paycheck Protection Program (PPP) in the *Federal Register*. On **04/02/2020**, SBA posted an interim final rule relating to the implementation of Sections 1102 and 1106 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). The CARES Act temporarily adds PPP to SBA's 7(a) Loan Program. Subsequently, SBA



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issued a number of interim final rules to implement PPP. This interim final rule supplements the previously posted interim final rules by providing additional guidance on certain eligible payroll costs. The interim final rule is effective **06/26/2020**. Comments are due **07/30/2020**. The interim final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-06-30/pdf/2020-14128.pdf>. *Federal Register*, Vol. 85, No. 126, 06/30/2020, 39066-39068.

SBA Issues Peg Rate.

SBA publishes an interest rate called the optional “peg” rate on a quarterly basis. The rate is a weighted average cost of money to the government for maturities similar to the average SBA direct loan. The rate may be used as a base rate for guaranteed fluctuating interest rate SBA loans. The rate will be 0.88 percent for the July-September quarter of FY 2020. Pursuant to 13 CFR 120.921(b), the maximum legal interest rate for any third party lender’s commercial loan which funds any portion of the cost of a 504 project shall be 6% over the New York Prime rate or, if that exceeds the maximum interest rate permitted by the constitution or laws of a given state, the maximum interest rate will be the rate permitted by the constitution or laws of the given state. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-07-01/pdf/2020-14123.pdf>. *Federal Register*, Vol. 85, No. 127, 07/01/2020, 39658.

Agencies Revise Debt Management Rule.

The Federal Crop Insurance Corporation (FCIC), Farm Services Agency (FSA), Commodity Credit Corporation (CCC), Rural Housing Service (RHS), Rural Business-Cooperative (RBC), and Rural Utilities Service (RUS) (collective, the agencies) issued a final rule regarding debt management. The general debt management regulations of the Department of Agriculture (USDA) provide that individual agencies may issue regulations for their own specific debt collection activities principally in recognition that the agencies conducted debt collection activities prior to the enactment of the Debt Collection Improvement Act (DCIA). Many of the provisions of individual agencies are redundant to part 3 of USDA’s rule. The final rule eliminates the debt collection regulations of CCC, FCIC, and FSA, and part 3 will be revised to include specific provisions used by these agencies. In addition, the final rule updates the size of civil monetary penalties as required by the Federal Civil Penalties Inflation Adjustment Improvements Act to reflect inflationary adjustments for 2020. The final rule is effective **06/17/2020**. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-06-17/pdf/2020-09447.pdf>. *Federal Register*, Vol. 85, No. 116, 06/17/2020, 36670-36714.

FSA Issues Correction to Coronavirus Food Assistance Program.

The Farm Services Agency (FSA) issued a correction to the Coronavirus Food Assistance Program (CFAP), which provides assistance to agricultural producers impacted by the effects of the COVID-19 outbreak, through a final rule published in the *Federal Register* on **05/21/2020**. FSA realized that there were errors in some of the payment rates in the final rule. In addition, FSA was able to reevaluate the payment rates for certain specialty crops based on data that was available from industry in response to the CFAP notice of funding availability, which was published in the *Federal Register* on **05/22/2020**. This document corrects payment rates and categories for the specialty crops that were published in the final rule. The correction is effective **07/10/2020**. The correction may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-07-10/pdf/2020-14855.pdf>. *Federal Register*, Vol. 85, No. 133, 07/10/2020, 41328-41330.

FSA Issues NOFA for Coronavirus Food Assistance Program.

FSA issued a notice of funding availability (NOFA) for the Coronavirus Food Assistance Program (CFAP). CFAP helps agricultural producers impacted by the effects of the COVID-19 outbreak. As provided in the CFAP regulation, the NOFA announced additional commodities that have been determined to be eligible for CFAP assistance. USDA carefully reviewed the additional information provided in the comments to develop the list of additional commodities. The NOFA is effective **07/10/2020**. The NOFA may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-07-10/pdf/2020-14854.pdf>. *Federal Register*, Vol. 85, No. 133, 07/10/2020, 41321-41323.

FCIC Amends Crop Insurance Provisions.

- The Federal Crop Insurance Corporation (FCIC) amended the Common Crop Insurance Regulations, Dry Pea Crop Insurance Provisions. The intended effect is to update crop insurance policy provisions and definitions to better reflect current agricultural practices. The changes are to be effective for the 2021 and succeeding crop years. The final rule is effective **06/30/2020**. Comments are due **08/25/2020**. FCIC may conduct additional rulemaking based on comments received. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-06-26/pdf/2020-13457.pdf>. *Federal Register*, Vol. 85, No. 124, 06/26/2020, 38276-38281.



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- FCIC amended the Area Risk Protection Insurance Regulations; Common Crop Insurance Policy Basic Provisions; and the Common Crop Insurance Regulations, Coarse Grains Crop Insurance Provisions. The intended effect is to implement the changes contained in the Agriculture Improvement Act of 2018 (commonly referred to as the 2018 Farm Bill). Section 11122 of the 2018 Farm Bill required FCIC to research and develop methods of adjusting for quality losses. FCIC has also updated provisions regarding premium offsets, Administrator reinstatement, notice of loss, double cropping requirements, prevented planting, and units. The changes are applicable for the 2021 crop year for crops with a contract change date on or after **06/30/2020**. For all crops the changes made in the final rule are applicable for the 2022 and succeeding crop years. The final rule is effective **06/30/2020**. Comments are due 08/28/2020. FCIC may conduct additional rulemaking based on comments received. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-06-29/pdf/2020-13831.pdf>. *Federal Register*, Vol. 85, No. 125, 06/29/2020, 38749-38760.

RBC Seeks Applications Grant Programs.

- The Rural Business Cooperative Service (RBC) announced the acceptance of fiscal year 2020 applications for the Rural Cooperative Development Grant program. The purpose of the program is to provide financial assistance to improve the economic condition of rural areas through cooperative development. Eligible applicants are a non-profit corporation or an institution of higher education. Applications are due electronically by **08/03/2020**, through [Grants.gov](https://www.govinfo.gov/content/pkg/FR-2020-07-02/pdf/2020-14286.pdf). The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-07-02/pdf/2020-14286.pdf>. *Federal Register*, Vol. 85, No. 128, 07/02/2020, 39870-39879.
- RBC issued a notice of funding availability (NOFA) for the Delta Health Care Services (DHCS) grant program. Approximately \$6.0 million is currently available for fiscal year 2020. RBC will publish the program funding level on the Rural Development website: www.rd.usda.gov/programs-services/delta-health-care-services-grants. The purpose of the program is to provide financial assistance to address the continued unmet health needs in the Delta Region through cooperation among health care professionals, institutions of higher education, research institutions, and economic development entities in the Delta Region. Completed applications must be submitted electronically by no later than midnight Eastern Standard Time **08/24/2020**. The NOFA may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-07-10/pdf/2020-14849.pdf>. *Federal Register*, Vol. 85, No. 133, 07/10/2020, 41524-41531.

RHS Seeks Comment on Revision to Fire and Rescue Loan Program Information Collection.

The Rural Housing Service (RHS) seeks comment on revision to an existing information collection entitled, Fire and Rescue Loan (Loan Program). The Loan Program is authorized by Section 306 of the Consolidated Farm and Rural Development Act to make loans to public entities, nonprofit corporations, and Indian tribes for the development of community facilities for public use in rural areas. The information collection is used to determine applicant/borrower eligibility, project feasibility, and to ensure borrowers operate on a sound basis and use funds for authorized purposes. Comments are due **08/17/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-06-18/pdf/2020-13182.pdf>. *Federal Register*, Vol. 85, No. 117, 06/18/2020, 36830-36831.

CFTC Issues Final Guidance Concerning Actual Delivery.

The Commodity Futures Trading Commission (CFTC) issued final interpretive guidance concerning the term “actual delivery” as set forth in the Commodity Exchange Act pursuant to the Dodd Frank Act. Specifically, the guidance has been issued to inform of CFTC’s views when determining whether actual delivery has occurred in the context of retail commodity transactions in certain types of digital assets that serve as a medium of exchange, colloquially known as “virtual currencies.” The guidance is effective **06/24/2020**. The final interpretive guidance may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-06-24/pdf/2020-11827.pdf>. *Federal Register*, Vol. 85, No. 121, 06/23/2020, 37734-37744.

CFTC Proposes Amendments to Bankruptcy Regulations.

CFTC proposed amendments to its regulations governing bankruptcy proceedings of commodity brokers. The proposal is meant to comprehensively update the regulations to reflect current market practices and lessons learned from past commodity broker bankruptcies. Comments are due **07/13/2020**. The proposed rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-06-12/pdf/2020-08482.pdf>. *Federal Register*, Vol. 85, No. 114, 06/12/2020, 36000-36133.



Regulatory Spotlight

SEC Grants Temporary Conditional Exemption from Broker Registration Requirements for Certain Activities of Registered Municipal Advisors.

The Securities and Exchange Commission (SEC) granted a temporary conditional exemption from broker registration under Section 15 of the Securities Exchange Act for registered municipal advisors to address disruption in the municipal securities markets as a result of the coronavirus pandemic. The temporary conditional exemption permits registered municipal advisors to solicit banks, their wholly-owned subsidiaries that are engaged in commercial lending and financing activities, and credit unions in connection with direct placements of securities issued by their municipal issuer clients, subject to the requirements set forth in the order. The exemptive order is effective until **12/31/2020**. The order may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-06-19/pdf/2020-13284.pdf>. *Federal Register*, Vol. 85, No. 118, 06/19/2020, 37133-37136.

SEC Issues Correction to Rule to Update Disclosure Requirements and Summary Prospectus for Variable Annuity and Variable Life Insurance Contracts.

SEC issued a correction to a rule published in the *Federal Register* on **05/01/2020**, regarding updated disclosure requirements and summary prospectus for variable annuity and variable life insurance contracts. Please see the notice for the specific corrections. The notice is effective **07/01/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-07-01/pdf/2020-12902.pdf>. *Federal Register*, Vol. 85, No. 127, 07/01/2020, 39476.

NCUA Seeks Comment on Study of Alternative Procedures to Modernize Examination Program.

The National Credit Union Administration (NCUA) is conducting a comprehensive study of alternative procedures to modernize its examination program. The objective is to improve efficiency and effectiveness in achieving NCUA's mandates under the Federal Credit Union Act. NCUA seeks to support a predominately offsite examination and supervision model by taking advantage of new and emerging approaches and techniques to utilizing data and technology. The notice explains NCUA's objectives and seeks comment in identifying the interrelated considerations and challenges that could arise if NCUA moves forward with doing more examination work using technology. The resulting information will support a re-engineering of the concept of regulatory examination and supervision oversight. Comments are due **08/31/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-07-01/pdf/2020-14129.pdf>. *Federal Register*, Vol. 85, No. 127, 07/01/2020, 39588-39591.

DOL Proposes Class Exemption from Certain Prohibited Transaction Restrictions.

The Department of Labor (DOL) proposed a class exemption from certain prohibited transaction restrictions of the Employee Retirement Income Security Act, as amended (ERISA), and the Internal Revenue Code, as amended (the Code). The prohibited transaction provisions of ERISA and the Code generally prohibit fiduciaries with respect to employee benefit plans (Plans) and individual retirement accounts and annuities (IRAs) from engaging in self-dealing and receiving compensation from third parties in connection with transactions involving the Plans and IRAs. The provisions also prohibit purchasing and selling investments with the Plans and IRAs when the fiduciaries are acting on behalf of their own accounts (principal transactions). The proposed exemption would allow investment advice fiduciaries under both ERISA and the Code to receive compensation, including as a result of advice to roll over assets from a Plan to an IRA, and to engage in principal transactions, that would otherwise violate the prohibited transaction provisions of ERISA and the Code. The exemption would apply to registered investment advisers, broker-dealers, banks, insurance companies, and their employees, agents, and representatives that are investment advice fiduciaries. The exemption would include protective conditions designed to safeguard the interests of Plans, participants and beneficiaries, and IRA owners. The new class exemption would affect participants and beneficiaries of Plans, IRA owners, and fiduciaries with respect to such Plans and IRAs. Comments are due 30 days from date of publication in the *Federal Register*. DOL proposes the exemption, if granted, will be available 60 days after date of publication of the final exemption in the *Federal Register*. The proposed class exemption may be viewed at: <https://www.dol.gov/sites/dolgov/files/ebsa/laws-and-regulations/rules-and-regulations/proposed-regulations/investment-advice-fiduciaries/improving-investment-advice-for-workers-and-retirees.pdf>. ■



Compliance Notes

- ▲ CFPB issued an update to its guide on COVID-19 economic stimulus relief that was originally published in April. The guide may be viewed at: <https://www.consumerfinance.gov/about-us/blog/guide-covid-19-economic-stimulus-checks/>
- ▲ FHA announced additional home retention measures to help homeowners with FHA-insured single family mortgages who are financially impacted by the COVID-19 pandemic to bring their mortgage current at the end of their COVID-19 forbearance. Mortgage servicers will be able to use an expanded menu of loss mitigation tools, known as a “waterfall,” to assess homeowners’ eligibility for other options to bring their mortgages current if they do not qualify for FHA’s COVID-19 National Emergency Standalone Partial Claim. These options are available for homeowners whose mortgages were current or less than 30 days past due as of **03/01/2020**. The full announcement may be viewed at: https://www.hud.gov/press/press_releases_media_advisories/HUD_No_20_102
- ▲ FinCEN has issued FIN-2020-A003 entitled “Advisory on Imposter Scams and Money Mule Schemes Related to Coronavirus Disease 2019 (COVID-19).” The advisory is intended to alert financial institutions to potential indicators of imposter scams and money mule schemes, which are two forms of consumer fraud observed during the COVID-19 pandemic. Many illicit actors are engaged in fraudulent schemes that exploit vulnerabilities created by the pandemic. The advisory may be viewed at: https://www.fincen.gov/sites/default/files/advisory/2020-07-07/Advisory_%20Imposter_and_Money_Mule_COVID_19_508_FINAL.pdf
- ▲ FinCEN also issued FIN-2020-Alert001 to alert banks to a convertible virtual currency (CVC) scam involving Twitter. Cyber threat actors compromised the accounts of public figures, organizations, and banks to solicit payments to CVC accounts, claiming that any CVC sent to a wallet address would be doubled and returned to the sender. FinCEN warned that is critical that CVC exchanges and other banks identify and report suspicious transactions associated with this type of activity as quickly as possible. For example, a CVC or other financial account receives a high volume of payments in a short period of time from previously unaffiliated accounts and/or multiple originating CVC addresses. FinCEN instructs banks to include any relevant technical cyber indicators related to cyber events and associated transactions within the available structured cyber event indicator fields on the SAR form. Any data or information that helps identify the activity as suspicious can be included as an indicator. Examples include chat logs, suspicious IP addresses, suspicious email addresses, suspicious filenames, malware hashes, CVC addresses, command and control (C2) IP addresses, C2 domains, targeted systems, MAC address or port numbers. FinCEN has listed 5 identified indicators in the alert that will help detect, prevent, and report potential suspicious activity related to the scam. The alert may be viewed at: https://www.fincen.gov/sites/default/files/2020-07/FinCEN%20Alert%20Twitter_508%20FINAL.pdf
- ▲ OCC announced the launch of Project REACH to promote financial inclusion through greater access to credit and capital. REACH stands for Roundtable for Economic Access and Change and brings together leaders from the banking industry, national civil rights organizations, business, and technology to identify and reduce barriers that prevent full, equal, and fair participation in the nation’s economy. Project REACH will convene people with the ability to help address inherent policy and structural issues at the national and local levels to increase access to credit and capital and expand financial inclusion. The full announcement may be viewed at: <https://www.occ.gov/news-issuances/news-releases/2020/nr-occ-2020-89.html>
- ▲ CFPB released a report examining recent trends in debt settlement and credit counseling. The report documents changes over time in how consumers have used these debt relief options for unsecured debt. The report shows that nearly one in thirteen consumers with a credit record had at least one account reported by the creditor as settled or with payments managed by a credit counseling agency from 2007 through 2019. The full report may be viewed at: https://files.consumerfinance.gov/f/documents/cfpb_quarterly-consumer-credit-trends_debt-settlement-credit-counseling_2020-07.pdf
- ▲ FFIEC members issued a statement on managing the LIBOR transition, highlighting the risks that will result from the transition and encouraging supervised institutions to continue their efforts to alternative reference rates in order to mitigate risks. The statement may be viewed at: <https://www.ncua.gov/files/press-releases-news/joint-statement-libor-transition.pdf>
- ▲ CFPB announced that Thomas Pahl will serve as the Bureau’s Deputy Director. Pahl has served as Policy Associate Director for Research, Markets, and Regulations since April 2018. Previously, Pahl was the Acting Director of the Bureau of Consumer Protection at the Federal Trade Commission. The announcement may be viewed at: <https://www.consumerfinance.gov/about-us/newsroom/cfpb-director-kraninger-announces-deputy-director-additions-executive-team/>
- ▲ FDIC announced the start of a rapid prototyping competition to help develop a new and innovative approach to financial reporting, particularly for community banks. Twenty technology firms from across the country have been invited to participate in the competition. The competitors will develop proposed solutions over the next several months that will be presented to the FDIC for consideration, similar to an extended version of a “tech sprint” or “hackathon.” The announcement may be viewed at: <https://www.fdic.gov/news/press-releases/2020/pr20079.html>



Compliance Notes

- ▲ Treasury's Bureau of the Fiscal Service has launched a new website, FiscalData.Treasury.gov which brings together 18 of the most popular federal financial datasets, including the Monthly Statement of the Public Debt, Monthly Treasury Statement, Daily Treasury Statement, and Debt to the Penny. The new website is intended to serve as a central location for financial data.
- ▲ CFPB released a report indicating that a credit builder loan could increase the likelihood of establishing a credit record for consumers without one, and could help improve the credit scores of those with no current outstanding debt. The report may be viewed at: https://files.consumerfinance.gov/f/documents/cfpb_targeting-credit-builder-loans_report_2020-07.pdf
- ▲ FHFA announced that Fannie Mae and Freddie Mac (the Enterprises) are allowing servicers to extend forbearance agreements for multifamily property owners with existing forbearance agreements for up to three months, for a total forbearance of up to six months. While the properties are in forbearance, the landlord must suspend all evictions for renters unable to pay rent. The forbearance extension is available for qualified properties with an Enterprise-backed multifamily mortgage experiencing a financial hardship due to the coronavirus national emergency. The announcement may be viewed at: <https://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Provides-Tenant-Protections.aspx>
- ▲ OCC reported the key issues facing the federal banking system and the effects of the COVID-19 pandemic on the federal banking industry in its Semiannual Risk Perspective for Spring 2020. Banks entered the national health emergency related to COVID-19 in sound condition but face weak economic conditions resulting from the economic shutdown in response to the pandemic that will stress financial performance in 2020. The OCC reported weak financial performance, and increasing credit, operational, and compliance risks, among the key risk themes in the report. The risk perspective may be viewed at: <https://www.occ.gov/publications-and-resources/publications/semiannual-risk-perspective/files/pub-semiannual-risk-perspective-spring-2020.pdf>
- ▲ SBA announced it was releasing detailed loan-level data regarding the loans made under the Paycheck Protection Program (PPP). This disclosure covers each of the 4.9 million PPP loans that have been made. The release includes loan-level data, including business names, addresses, NAICS codes, zip codes, business type, demographic data, non-profit information, name of lender, jobs supported, and loan amount ranges. The data may be viewed at: <https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/paycheck-protection-program#section-header-11>
- ▲ OCC issued the new "Unfair or Deceptive Acts or Practices and Unfair, Deceptive, or Abusive Acts or Practices" booklet of the *Comptroller's Handbook*. This booklet is part of the Consumer Compliance series of the *Comptroller's Handbook*. The booklet contains information for examiners regarding supervision of a bank's practices related to section 5 of the Federal Trade Commission (FTC) Act, which prohibits banks from engaging in unfair or deceptive acts or practices (UDAP), and sections 1031 and 1036 of the Dodd-Frank Act, which prohibit unfair, deceptive, or abusive acts or practices (UDAAP). The booklet may be viewed at: <https://www.occ.gov/publications-and-resources/publications/comptrollers-handbook/files/unfair-deceptive-act/index-udaap.html>
- ▲ The U.S. Supreme Court, in a 5-4 decision delivered by Chief Justice John G. Roberts, Jr., has ruled that the CFPB's leadership by a sole director removable only for cause violates the separation of powers rule under the U.S. Constitution. SCOTUS ruled that CFPB can continue operating, because the provision of the law providing for removal only for cause is severable, but the director must be removable by the president "at will." The decision may be viewed at: <https://www.supremecourt.gov/opinions/19pdf/19-7n6io.pdf>
- ▲ CFPB issued an updated Complaint Bulletin, analyzing the more than 8,000 complaints it received from January through May 2020 that mention coronavirus or related terms ("coronavirus keywords"). The bulletin shows that mortgage (19 percent), credit card (18 percent), and credit or consumer reporting (18 percent) complaints top the list of complaints CFPB received that mention coronavirus keywords. Highlights of complaints include: in 55 percent of mortgage complaints, consumers identified struggling to pay the mortgage as the issue, in 23 percent of credit card complaints, consumers identified a problem with purchase shown or statement as the issue, and in 55 percent of credit or consumer reporting complaints, consumers identified incorrect information on their credit report as the issue. The Bulletin may be viewed at: <https://www.consumerfinance.gov/about-us/newsroom/cfpb-releases-updated-covid-19-consumer-complaint-data/> ■

