

Compliance Journal

Special Focus

Statement on Additional Loan Accommodations Due to COVID-19 as Many Near End of Initial Loan Accommodation Period

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) (collectively, the agencies) recently issued a joint statement to provide prudent risk management and consumer protection principles for financial institutions to consider while working with borrowers as loans near the end of initial loan accommodation periods applicable during the Coronavirus Disease 2019 (COVID event). The principles are consistent with the agencies' *Interagency Guidelines Establishing Standards for Safety and Soundness* and are generally applicable to both commercial and retail loan accommodations. The principles are intended to be tailored to a financial institution's size, complexity, and loan portfolio risk profile, as well as the industry and business focus of its customers. The following is a summary of the release.

In the new guidance, the agencies recognize that while some borrowers will be able to resume contractual payments at the end of an accommodation, others may be unable to meet their obligations due to continuing financial challenges. The agencies also recognize that some financial institutions may face difficulties in assessing credit risk due to limited access to borrower financial data, COVID event-induced covenant breaches, and difficulty in analyzing the impact of COVID event-related government assistance programs.

The agencies provide several principles to illustrate prudent practices for financial institutions in working with borrowers as loans near the end of accommodation periods, including: prudent risk management practices, well-structured and sustainable accommodations, consumer protection, accounting and regulatory reporting, and internal control systems.

As outlined by the agencies, prudent risk management practices include identifying, measuring, and monitoring the credit risks of loans that receive accommodations. Sound credit risk management practices include applying appropriate loan risk ratings or grades and making appropriate accrual status determinations on loans affected by the COVID event. Further, the agencies believe effective management information systems and reporting helps to ensure that bank management understands the scope of loans that received an accommodation, the types of initial and any additional accommodations provided, when the accommodation periods end, and the credit risk of potential higher-risk segments in the portfolios.

When working with borrowers who continue to experience financial challenges after an initial accommodation, the agencies believe it may be prudent for a financial institution to consider additional accommodation options to mitigate losses for the borrower and the financial institution. The effectiveness of accommodations improves when they are based on a comprehensive review of how the hardship has affected the financial condition and current and future performance of the borrower.

When considering whether to offer additional accommodation options to a borrower, the agencies stated it is generally appropriate for the institution to assess each loan based upon the fundamental risk characteristics affecting the collectability of that particular credit. The new guidance further identifies what financial institutions should consider in its evaluation of the borrower's financial condition and repayment capacity. The agencies also note that the COVID event may have a long-term adverse impact on a borrower's future earnings and therefore bank management may need to rely more heavily on projected financial information for both commercial and retail borrowers when making underwriting decisions as supporting documentation may be limited, and cash flow projections may be uncertain.



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The agencies also encourage financial institutions to provide consumers with available options for repaying any missed payments at the end of their accommodation to avoid delinquencies or other adverse consequences. The agencies also encourage institutions, where appropriate, to provide consumers with options for making prudent changes to the terms of the credit product to support sustainable and affordable payments for the long term. Eight examples of generally effective approaches to risk management in this context are included in the guidance.

The new guidance also includes a discussion regarding accounting and regulatory reporting that financial institutions need to consider for all loan modifications, including additional modifications for borrowers who may continue to experience financial hardship at the end of the initial accommodation period. Institutions are reminded to consider regulatory reporting instructions, section 4013 of the CARES Act regarding temporary relief from troubled debt restructuring, and the *Interagency Statement on Loan Modifications and Reporting for Financial Institutions Working with Customers Affected by the Coronavirus (Revised)*.

Lastly, the guidance sets forth the importance of internal control functions, commensurate with the size, complexity, and risk of a financial institution's activities. The internal control functions typically include appropriate targeted testing of the process for managing each stage of the accommodation. Included in the new guidance are six examples of the type of activity the agencies believe can be confirmed through prudent testing by a financial institution's internal control functions.

As financial institutions work to determine whether certain borrowers need additional accommodations due to the effects of the COVID event, and in preparation of federal and state examinations resuming, the new guidance provides examples of prudent risk management and consumer protection principles that each financial institution need weigh. Additionally, the new guidance provides factors to consider when working through accounting and regulatory reporting requirements as it relates to each particular credit. The new interagency statement may be viewed at: www.ffiec.gov/press/PDF/Statement_for_Loans_Nearing_the_End_of_Relief_Period.pdf ■

FinCEN CDD FAQs

On August 3, 2020, the Financial Crimes Enforcement Network (FinCEN) issued three new frequently asked questions regarding customer due diligence (CDD) requirements for financial institutions. The new FAQs clarify the regulatory requirements related to obtaining customer information, establishing a customer risk profile, and performing ongoing monitoring of the customer relationship.

Risk-Based Procedures

The first question in the FAQs asks whether financial institutions must request certain information at account opening and on an ongoing basis. Specifically, must a financial institution:

- collect information about expected activity on all customers at account opening, or on an ongoing or periodic basis;
- conduct media searches or screening for news articles on all customers or other related parties, such as beneficial owners, either at account opening, or on an ongoing or periodic basis; or
- collect information that identifies underlying transacting parties when a financial institution offers correspondent banking or omnibus accounts to other financial institutions (i.e., a customer's customer)?

FinCEN responds that the CDD Rule does not categorically require:

1. the collection of any particular customer due diligence information (other than that required to develop a customer risk profile, conduct monitoring, and collect beneficial ownership information);

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2. the performance of media searches or particular screenings; or
3. the collection of customer information from a financial institution's clients when the financial institution is a customer of a covered financial institution.

FinCEN explains that a financial institution must make a risk assessment of the customer to determine whether additional information is necessary in order to develop its understanding of the nature and purpose of the customer relationship. Financial institutions must establish policies, procedures, and processes for determining whether and when, on the basis of risk, to update customer information to ensure that customer information is current and accurate.

Customer Risk Profile

The second question asks whether covered financial institution must:

- use a specific method or categorization to risk rate customers; or
- automatically categorize as “high risk” products and customer types that are identified in government publications as having characteristics that could potentially expose the institution to risks?

FinCEN responds that it is not a requirement for financial institutions to use a specific method or categorization to establish a customer risk profile. Further, financial institutions are not required or expected to automatically categorize as “high risk” products or customer types listed in government publications.

Various government publications provide information and discussions on certain products, services, customers, and geographic locations that present unique challenges and exposures regarding illicit financial activity risks. However, even within the same risk category, a spectrum of risks may be identifiable and due diligence measures may vary on a case-by-case basis.

A covered financial institution should have an understanding of the money laundering, terrorist financing, and other financial crime risks of its customers to develop the customer risk profile. Furthermore, the financial institution's program for determining customer risk profiles should be sufficiently detailed to distinguish between significant variations in the risks of its customers. There are no prescribed risk profile categories, and the number and detail of these categories can vary.

Ongoing Monitoring of the Customer Relationship

The third question asks whether it is a requirement that financial institutions update customer information on a specific schedule. FinCEN answers that there is no categorical requirement that financial institutions update customer information on a continuous or periodic schedule.

The requirement to update customer information is risk based and occurs as a result of normal monitoring. Should a financial institution become aware, as a result of its ongoing monitoring of a change in customer information (including beneficial ownership information) that is relevant to assessing the risk posed by the customer, the financial institution must update the customer information accordingly. Additionally, if the customer information is relevant to assessing the risk of a customer relationship, then the financial institution should reassess the customer risk profile/rating and follow its established policies, procedures, and processes for maintaining or changing the customer risk profile/rating. However, financial institutions, on the basis of risk, may choose to review customer information on a regular or periodic basis.

Conclusion

The FAQs help to further shape the requirements of the CDD rule. In summary, they provide that financial institutions are not automatically required to collect particular categories of information, perform screenings, or gather information for a customer's customer (when working with another financial institution). The rule also does not set a method for establishing risk profile, or require certain risk profiles based upon listings in government publications. Lastly, there is no requirement to update customer information on a continual basis.



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While the FAQs clarify certain activities that are not specifically required, it is important to note that under certain circumstances, the concepts discussed above might be appropriate. Financial institutions must set policies and procedures to meet CDD requirements. Those policies must guide, in accordance with the considerations above, determinations as to what information the financial institution collects at account opening, how a customer relationship is risk-weighted, and what, if any, ongoing monitoring is performed. Thus, financial institutions should still review existing CDD policies and procedures considering the new FAQs.

[The FAQs can be found here.](#) ■

CFPB HMDA FAQs

On July 7, 2020, the Bureau of Consumer Financial Protection (CFPB) issued two new frequently asked questions regarding Regulation C, Home Mortgage Disclosure Act (HMDA), reporting requirements for financial institutions. The FAQs discuss reporting of multiple data points when certain factors are relied upon in making a credit decision.

Multiple Data Points

The first question asks whether financial institutions are required to report the credit score, debt-to-income ratio (DTI), and combined loan-to-value ratio (CLTV) relied on in making a credit decision when such data is not the dispositive factor? CFPB responds that yes, credit underwriting data such as credit score, DTI, and CLTV must be reported if they were a factor relied on in making a credit decision—even if the data was not the dispositive factor.

For purposes of Regulation C, it does not matter whether the application is approved or denied; if certain data was relied on in making a credit decision, such data must be reported. For example, if the credit score was relied on in making a credit decision, the credit score must be reported. If the financial institution denied the application because the application did not satisfy one or more underwriting requirements other than the credit score, the financial institution is still required to report the credit score relied on. The same analysis applies to the reporting of CLTV and DTI.

The second question asks if, when income and property value are factors in the credit decision, though not the dispositive factor, should such data points be reported? CFPB responds that yes, when a credit decision is made, Regulation C requires reporting of the data “relied on in making the credit decision.” Hence, if these data are relied on in making a credit decision, such data must be reported.

There is no requirement in Regulation C for either of these data points to be the dispositive factor in order to be reported. Specifically, the commentary explains that when a financial institution evaluates income as part of a credit decision, it must report the gross annual income relied on in making the credit decision. For example, if an institution relies on the verified gross income of an applicant to make a credit decision, the institution is required to report the verified gross income. The comment does not state that verified gross annual income must be dispositive in the credit decision.

The commentary also provides a similar narrative for property value. Income and property value apply the relied-on standard in a similar way to credit score, DTI, and CLTV and should therefore be reported if relied on in making a credit decision.

Conclusion

The FAQs emphasize specific factors that, when relied upon in making a credit decision, must be reported. The data points are required even when the information is not the dispositive factor in a credit decision.

The FAQs can be found here: https://files.consumerfinance.gov/f/documents/cfpb_HMDA_frequently-asked-questions.pdf ■



Regulatory Spotlight

Agencies Issue Final Rule to Amend Volcker Rule.

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), and Commodity Futures Trading Commissions (CFTC) (collectively, the agencies) issued a final rule to amend the regulations that implement Section 13 of the Bank Holding Company Act (BHC Act). Section 13 is also known as the Volcker Rule. Section 13 contains certain restrictions on the ability of a banking entity or nonbank financial company supervised by FRB to engage in proprietary trading and have certain interests in, or relationships with, a hedge fund or private equity fund (covered funds). The final amendments are intended to improve and streamline the regulations by modifying and clarifying requirements related to the covered fund provisions of the rules. The agencies originally issued a final rule implementing Section 13 in December 2013, effective **04/01/2014**. The agencies published a proposed rule in July 2018 to amend the 2013 rule to provide greater clarity and certainty about what activities are prohibited under the 2013 rule. The agencies issued a final rule to implement the amendments in November 2019 (the 2019 amendments), effective in January 2020. As part of the 2018 proposal, the agencies proposed targeted changes to the provisions of the 2013 rule relating to acquiring or retaining an ownership interest in, sponsoring, or having certain relationships with a fund and sought comments on other aspects of the covered fund provisions beyond those changes for which specific rule text was proposed. The 2019 amendments finalized the changes to the covered fund provisions for which specific rule text was proposed in the 2018 proposal. The agencies indicated they would issue a separate proposal addressing the covered fund provisions of the rule and other fund-related issues, and, in February 2020, the agencies issued a separate proposed rule that specifically addressed those areas (the 2020 proposal). Similar to the 2020 proposal, the final rule clarifies and simplifies compliance with the implementing regulations, refines the extraterritorial application of BHC Act Section 13, and permits additional fund activities that do not present the risks that Section 13 was intended to address. The final rule is effective **10/01/2020**. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-07-31/pdf/2020-15525.pdf>. *Federal Register*, Vol. 85, No. 148, 07/31/2020, 46422-46530.

Agencies Submit Annual Report to Congressional Committees.

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) have prepared the report pursuant to section 37(c) of the Federal Deposit Insurance Act which requires the agencies to jointly submit an annual report to the Committee on Financial Services of the U.S. House of Representatives and to the Committee on Banking, Housing, and Urban Affairs of the U.S. Senate. No material differences were identified among the agencies' accounting and capital standards applicable to the insured depository institutions they regulate and supervise. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-07-13/pdf/2020-14991.pdf>. *Federal Register*, Vol. 85, No. 134, 07/13/2020, 42069-42071.

Agencies Seek Comment on Call Report Revisions.

The Board of Governors of the Federal Reserve System (FRB), Office of the Comptroller of the Currency (OCC), and Federal Deposit Insurance Corporation (FDIC) (collectively, the agencies) seek to revise and extend the Consolidated Reports of Condition and Income (Call Reports) (FFIEC 031, FFIEC 041, and FFIEC 051) and Regulatory Capital Reporting for Institutions Subject to the Advanced Capital Adequacy Framework (FFIEC 101), which are currently approved collections of information. The agencies also seek to revise and extend the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FFIEC 002) and the Report of Assets and Liabilities of a Non-U.S. Branch that is Managed or Controlled by a U.S. Branch or Agency of a Foreign (Non-U.S.) Bank (FFIEC 002S), which also are currently approved collections of information. The agencies seek comment on revisions to the Call Reports, FFIEC 101, and FFIEC 002 related to interim final rules and a final rule issued in response to disruptions related to the Coronavirus Disease 2019 that revise the agencies' capital rule, FRB's regulations on reserve requirements and insider loans, and FDIC's assessments regulations as well as certain sections of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). In addition, the agencies proposed changes to the Call Report and the FFIEC 002 related to U.S. generally accepted accounting principles (GAAP). Further, the agencies proposed revisions to the Call Report to reflect the expiration of the temporary exception for estimated disclosures on international remittance transfers and certain amendments to the Remittance Rule recently finalized by the Bureau of Consumer Financial Protection. Comments are due **09/21/2020**. The proposed rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-07-22/pdf/2020-15788.pdf>. *Federal Register*, Vol. 85, No. 141, 07/22/2020, 44361-44376.



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CFPB Publishes Final Rule to Amend its Payday, Vehicle Title, and Certain High-Cost Installment Loans Rule in *Federal Register*.

The Bureau of Consumer Financial Protection (CFPB) published in the *Federal Register* a final rule to amend its regulations governing payday, vehicle title, and certain high-cost installment loans. Specifically, CFPB revoked provisions of the regulations which: 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 **10/20/2020**. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-07-22/pdf/2020-14935.pdf>. *Federal Register*, Vol. 85, No. 141, 07/22/2020, 44382-44446.

CFPB Ratifies its Payday, Vehicle Title, and Certain High-Cost Installment Loan Rule.

CFPB, through its Director, ratified certain provisions of its **11/17/2017** rule regarding payday, vehicle title, and certain high-cost installment loans. CFPB's rule contained two primary components: (1) mandatory underwriting provisions requiring lenders to assess borrowers' ability to repay before making covered loans; and (2) payments provisions governing lenders' withdrawing payments for covered loans from consumers' bank accounts. CFPB separately issued a rule to rescind the mandatory underwriting provisions of the 2017 final rule as is highlighted in the above paragraph. That rule does not affect the separate payments provisions, and this ratification is independent of that rule. The ratification is issued **07/13/2020**, and relates back to the rule published on **11/17/2017**. The ratification may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-07-13/pdf/2020-14937.pdf>. *Federal Register*, Vol. 85, No. 134, 07/13/2020, 41905-41906.

CFPB Seeks Comment on ECOA and Regulation B.

CFPB seeks comments and information to identify opportunities to prevent credit discrimination, encourage responsible innovation, promote fair, equitable, and nondiscriminatory access to credit, address potential regulatory uncertainty, and develop viable solutions to regulatory compliance challenges under the Equal Credit Opportunity Act (ECOA) and Regulation B. The information provided will help CFPB identify how it can continue to create a regulatory environment that expands access to credit, help to ensure that all consumers and communities are protected from discrimination in all aspects of a credit transaction, and develop approaches to address regulatory compliance challenges. Comments are due **10/02/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-08-03/pdf/2020-16722.pdf>. *Federal Register*, Vol. 85, No. 149, 08/03/2020, 46600-46603.

CFPB Proposes Revision to HPML Escrow Rules.

CFPB proposed to amend Regulation Z, which implements the Truth in Lending Act, as mandated by section 108 of the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA). The amendments would exempt certain insured depository institutions and insured credit unions from the requirement to establish escrow accounts for certain higher-priced mortgage loans (HPMLs). Comments are due **09/21/2020**. The proposed rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-07-22/pdf/2020-14692.pdf>. *Federal Register*, Vol. 85, No. 141, 07/22/2020, 44228-44244.

FRB Issues Interim Final Rule to Extend Regulation O Exception for PPP Loans.

The Board of Governors of the Federal Reserve System (FRB) issued an interim final rule to extend an exception to Regulation O for Paycheck Protection Program (PPP) loans. The Coronavirus Aid, Relief, and Economic Security (CARES) Act which, among other things, created the PPP to facilitate lending to small businesses affected by COVID-19. The CARES Act specified that the PPP would end **06/30/2020**. On **07/04/2020**, the Prioritized Paycheck Protection Program Act was signed into law, extending the PPP to **08/08/2020**. On **04/17/2020**, FRB issued an exception to section 22(h) and the corresponding provisions of Regulation O for PPP loans made to insiders that would not be prohibited from receiving a PPP loan under the SBA lending restrictions. The exception was intended to facilitate lending by banks to a broad range of small businesses within their communities, consistent with applicable law and safe and sound banking practices. The exception applied only to PPP loans made by **06/30/2020**, the original date on which PPP was set to expire. FRB has issued an interim final rule to extend the exception in the original interim final rule to **08/08/2020**, the new date on



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which the PPP will expire. The interim final rule is effective **07/16/2020**. Comments are due **08/31/2020**. The interim final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-07-16/pdf/2020-15367.pdf>. *Federal Register*, Vol. 85, No. 137, 07/16/2020, 43119-43121.

FDIC Issues Final Rule on Federal Interest Rate Authority.

The Federal Deposit Insurance Corporation (FDIC) issued a final rule to clarify the law that governs the interest rates state-chartered banks and insured branches of foreign banks (collectively, state banks) may charge. The final rule provides that state banks are authorized to charge interest at the rate permitted by the state in which the state bank is located, or one percent in excess of the 90-day commercial paper rate, whichever is greater. The final rule also provides that whether interest on a loan is permissible under section 27 of the Federal Deposit Insurance Act is determined at the time the loan is made, and interest on a loan permissible under section 27 is not affected by a change in state law, a change in the relevant commercial paper rate, or the sale, assignment, or other transfer of the loan. The final rule is effective **08/21/2020**. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-07-22/pdf/2020-14114.pdf>. *Federal Register*, Vol. 85, No. 141, 07/22/2020, 44146-44158.

FDIC Rescinds Guidance on Supervisory Concerns and Expectations Regarding Deposit Advance Products.

FDIC rescinds previously issued guidance regarding deposit advance products. On **11/26/2013**, FDIC issued final supervisory guidance titled, Guidance on Supervisory Concerns and Expectations Regarding Deposit Advance Products, which addressed safe and sound banking practices and consumer protection in connection with deposit advance products. On **05/20/2020**, FDIC, Board of Governors of the Federal Reserve System, Office of the Comptroller of the Currency, and National Credit Union Administration issued the Interagency Lending Principles for Offering Responsible Small-Dollar Loans (Interagency Lending Principles) to encourage supervised banks, savings associations, and credit unions to offer responsible small-dollar loans to customers for both consumer and small business purposes. FDIC has rescinded the 2013 guidance and replaced it with the new interagency guidance to provide uniform principles for all financial institutions. The notice of rescission may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-07-24/pdf/2020-15224.pdf>. *Federal Register*, Vol. 85, No. 143, 07/24/2020, 44685-44686.

FDIC Issues Response to Exception Requests Under Recordkeeping for Timely Deposit Insurance Determination Rule.

FDIC provided a response to exception requests pursuant to recordkeeping requirements for timely deposit insurance determinations. FDIC provided notice to covered institutions that it has granted: (1) a time-limited exception of up to 18 months concerning the information technology (IT) system requirements and general recordkeeping requirements for certain deposit accounts for sole proprietorships that the covered institution's IT systems misclassify with an incorrect ownership right; and (2) capacity code and a time-limited exception of up to 12 months concerning the IT system requirements and general recordkeeping requirements for limited number of joint deposit accounts that the covered institution has not confirmed are "qualifying joint accounts" for deposit insurance purposes. The grants of exception relief were effective **07/28/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-08-04/pdf/2020-16899.pdf>. *Federal Register*, Vol. 85, No. 150, 08/04/2020, 47213-47214.

FDIC Announces Termination of Receiverships.

FDIC as Receiver for **Town Community Bank and Trust, Illinois** and **United Security Bank, Georgia**, was charged with the duty of winding up the affairs of the former institutions and liquidating all related assets. The Receiver has fulfilled its obligations and made all dividend distributions required by law. The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary, including but not limited to releases, discharges, satisfactions, endorsements, assignments, and deeds. Effective **08/02/2020**, 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-2020-08-06/pdf/2020-17208.pdf>. *Federal Register*, Vol. 85, No. 152, 08/06/2020, 47793.



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FDIC Seeks Comment on Standards and Certification for Models and Third-Party Providers of Technology and Other Services.

FDIC seeks comment on whether a standard-setting and voluntary-certification program could be established to support financial institutions' efforts to implement models and manage model risk by certifying or assessing certain aspects of the models themselves, and to conduct due diligence of third-party providers of technology and other services by certifying or assessing certain aspects of the third-party providers' operations or condition. FDIC is especially interested in information on models and technology services developed and provided by financial technology companies, often referred to as "fintechs." Comments are due **09/22/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-07-24/pdf/2020-16058.pdf>. *Federal Register*, Vol. 85, No. 143, 07/24/2020, 44890-44894.

OCC Issues Final Rule to Repeal Employment Contracts for Savings Associations and Revise Mutual to Stock Conversion Rules.

The Office of the Comptroller of the Currency (OCC) issued a final rule that repeals its employment contracts rule for federal savings associations. The change was recommended in the March 2017 Economic Growth and Regulatory Paperwork Reduction Act report. 12 CFR 163.39 sets forth the requirements for a federal savings association that enters into an employment contract with its officers and employees. Section 163.39(a) requires written employment contracts for officers and employees that are approved by a federal savings association's board of directors. Section 163.39(a) also prohibits a federal savings association from entering into an employment contract with any of its officers or other employees if the employment contract would constitute an unsafe or unsound practice. Under section 163.39(b), a contract must include a federal savings association's right to terminate the employee at will. There are no similar requirements for national banks. The final rule also amends OCC's rule for conversions from mutual to stock form of a savings association to reduce burden, provide clarity, increase flexibility, and update cross-references. Additionally, the final rule updates cross-references to repealed and integrated rules, removes unnecessary definitions, and makes technical changes to other OCC rules. The final rule is effective **08/13/2020**. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-07-14/pdf/2020-12784.pdf>. *Federal Register*, Vol. 85, No. 135, 07/14/2020, 42630-42661.

OCC Makes Technical Correction to OREO Rule.

OCC issued a final rule to make a technical correction to its other real estate owned (OREO) rule. On **10/22/2019**, OCC published in the *Federal Register* a final rule to revise provisions on OREO and make related technical amendments. Due to a technical error in the amendatory text, certain revisions in the final rule were not incorporated in the Code of Federal Regulations. The final rule corrects those omissions. The final rule is effective **07/17/2020**. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-07-17/pdf/2020-14108.pdf>. *Federal Register*, Vol. 85, No. 138, 07/17/2020, 34320-34322.

OCC Seeks Comment on "True Lender" Proposal.

OCC seeks comment on a proposed rule meant to help determine when a national bank or federal savings association (bank) makes a loan and is the "true lender" in the context of a partnership between a bank and a third party, such as a marketplace lender. Under the proposed rule, a bank makes a loan if, as of the date of origination, it is named as the lender in the loan agreement or funds the loan. Comments are due **09/03/2020**. The proposed rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-07-22/pdf/2020-15997.pdf>. *Federal Register*, Vol. 85, No. 141, 07/22/2020, 44223-44228.

HUD Issues Final Rule on Preserving Community and Neighborhood Choice.

The Department of Housing and Urban Development (HUD) issued a final rule regarding community and neighborhood choice. HUD grantees are generally required to certify that they will "affirmatively further fair housing" (AFFH) through HUD's implementation of the Fair Housing Act and other applicable statutes. For years after the certification was first required, it was merely part of a general commitment to use the funds in good faith and accompanied similar certifications not to violate various civil rights statutes. Over time however, HUD began to use the AFFH certification as a vehicle to force states and localities to change zoning and other land use laws. This was done via a series of regulations and guidance documents culminating with the 2015 AFFH rule. The approach is not required by applicable statutes, which gives HUD considerable discretion in determining what "affirmatively furthering fair housing" means, and it is also at odds with both federalism principles and specific statutes protecting local control over housing policy. In the



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new rule, HUD repeals the 2015 AFFH rule and its related accretions. The new rule returns to the original understanding of what the AFFH certification was for the first eleven years of its existence: AFFH certifications will be deemed sufficient provided grantees took affirmative steps to further fair housing policy during the relevant period. The final rule is effective **09/08/2020**. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-08-07/pdf/2020-16320.pdf>. *Federal Register*, Vol. 85, No. 153, 08/07/2020, 47899-17912.

HUD Issues Interim Final Rule to Extend Housing Counselor Certification Exam Deadline.

HUD issued an interim final rule to provide a grace period for the housing counselor certification examination. HUD's current rule states that participating agencies and counselors must comply with certification requirements by 36 months after HUD commences the administration of the certification examination. That 36-month grace period ended **08/01/2020**. Due to the COVID-19 national emergency, which has caused the shutdown of the testing centers where housing counselors take the certification examination, a large number of housing counselors will be unable to get certified by the end of the grace period, resulting in a loss of federal funding for some HUD-approved housing counseling agencies and loss of the ability to provide counseling that is required or provided in numerous HUD programs. Therefore, the interim rule amends the time period in which to become certified to a new deadline of **08/01/2021**. The interim final rule is effective **08/05/2020**. Comments are due **09/04/2020**. The interim final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-08-05/pdf/2020-17138.pdf>. *Federal Register*, Vol. 85, No. 151, 08/05/2020, 47300-47304.

HUD Announces Interest Rate Paid on Debentures.

HUD announced changes in the interest rates to be paid on debentures issued with respect to a loan or mortgage insured by the Federal Housing Administration (FHA) under the provisions of the National Housing Act (the Act). The interest rate for debentures issued under Section 221(g)(4) of the Act during the 6-month period beginning **07/01/2020**, is $\frac{5}{8}$ percent. The interest rate for debentures issued under any other provision of the Act is the rate in effect on the date that the commitment to insure the loan or mortgage was issued, or the date that the loan or mortgage was endorsed (or initially endorsed if there are two or more endorsements) for insurance, whichever rate is higher. The interest rate for debentures issued under these other provisions with respect to a loan or mortgage committed or endorsed during the 6-month period beginning **07/01/2020**, is $1\frac{1}{4}$ percent. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-08-05/pdf/2020-17066.pdf>. *Federal Register*, Vol. 85, No. 151, 08/05/2020, 47394-47396.

FEMA Issues Final Rule to Codify Biggert-Waters and Homeowners Flood Insurance Affordability Acts.

The Federal Emergency Management Agency (FEMA) issued a final rule to revise the National Flood Insurance Program (NFIP) regulations to codify certain provisions of the Biggert-Waters Flood Insurance Reform Act and the Homeowner Flood Insurance Affordability Act, and to clarify certain existing NFIP rules relating to NFIP operations and the Standard Flood Insurance Policy. The final rule is effective **10/01/2021**. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-07-20/pdf/2020-09260.pdf>. *Federal Register*, Vol. 85, No. 138, 07/20/2020, 43946-43986.

FEMA Issues Final Rules on Suspensions of NFIP Community Eligibility.

- 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-2020-07-20/pdf/2020-14861.pdf>. *Federal Register*, Vol. 85, No. 139, 07/20/2020, 43708-43710.
- FEMA issued a final rule that identifies communities in the states of **Illinois**, 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



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the table within the final rule. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-08-06/pdf/2020-16400.pdf>. *Federal Register*, Vol. 85, No. 152, 08/06/2020, 47673-47675.

FEMA Issues Notices of Changes in Flood Hazard Determinations.

FEMA issued a notice which lists communities in the states of **Iowa, Nebraska, Ohio, 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 re-quest 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-2020-07-31/pdf/2020-16612.pdf>. *Federal Register*, Vol. 85, No. 148, 07/31/2020, 46148-46150.

FEMA Issues Proposed Flood Hazard Determinations.

FEMA seeks comment on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities in the state of **Iowa**, as listed in the table in the notice. The purpose of the notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that FEMA has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). Comments are due **09/29/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-07-31/pdf/2020-16607.pdf>. *Federal Register*, Vol. 85, No. 148, 07/31/2020, 46147-46148.

IRS Issues Final Rule to Reduce PTIN Fee.

The Internal Revenue Service (IRS) issued a final rule to amend existing regulations related to the imposition of certain user fees on tax return preparers. The final rule reduces the amount of the user fee to apply for or renew a preparer tax identification number (PTIN). The final rule is effective **08/17/2020**. See section 300.13(d) of the final rule for date of applicability. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-07-17/pdf/2020-15446.pdf>. *Federal Register*, Vol. 85, No. 138, 07/17/2020, 43433-43436.

IRS Issues Temporary Final and Proposed Rules Regarding Recapture of Excess Employment Tax Credits Under FFCRA and CARES Act.

- IRS issued a temporary final rule to amend regulations under sections 3111 and 3221 of the Internal Revenue Code under the regulatory authority granted by the Families First Coronavirus Response Act (FFCRA) and the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) to prescribe such regulations as may be necessary to reconcile advance payments of refundable employment tax credits provided under the acts and recapture the benefit of the credits when necessary. Consistent with the authority, the temporary final rule authorizes the assessment of any erroneous refund of the credits paid under sections 7001 and 7003 of FFCRA, including any increases in such credits under section 7005 thereof, and section 2301 of the CARES Act. The text of the temporary final rule serves as text of the proposed rule as is highlighted in the next paragraph. The temporary final rule is effective **07/29/2020**. See sections 31.3111-6T and 31.3221-5T of the temporary final rule for date of applicability. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-07-29/pdf/2020-16302.pdf>. *Federal Register*, Vol. 85, No. 146, 07/29/2020, 45514-45519.
- IRS issued a proposed rule to amend regulations under sections 3111 and 3221 of the Internal Revenue Code under the regulatory authority granted by the Families First Coronavirus Response Act (FFCRA) and the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) to prescribe such regulations as may be necessary to reconcile advance payments of refundable employment tax credits provided under the acts and recapture the benefit of the credits when necessary. The proposed rule affects



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businesses and tax-exempt organizations that claim certain credits under FFCRA for qualifying sick and family leave wages and that claim certain employee retention credits under the CARES Act. The temporary final rule, as highlighted in the above paragraph, serves as the text of the proposed rule. Comments are due **09/28/2020**. The proposed rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-07-29/pdf/2020-16300.pdf>. *Federal Register*, Vol. 85, No. 146, 07/29/2020, 45551-45553.

FHFA Corrects FHLB Housing Goals.

The Federal Housing Finance Agency (FHFA) announced a non-substantive change to correct an erroneous amendatory instruction in the final rule that was published in the *Federal Register* on **06/25/2020**, that amended the existing Federal Home Loan Bank (FHLB) Housing Goals regulation. The correction is effective **08/24/2020**. The correction may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-07-22/pdf/2020-15076.pdf>. *Federal Register*, Vol. 85, No. 141, 07/22/2020, 44159.

SBA Issues Interim Final Rule on PPP Loan Review.

The Small Business Administration (SBA) issued an interim final rule regarding loan review decisions. On **04/02/2020**, SBA posted on its website an interim final rule relating to the implementation of sections 1102 and 1106 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) Section 1102 temporarily adds a new product, the Paycheck Protection Program (PPP), to SBA's 7(a) Loan Program. Subsequently, SBA issued a number of interim final rules to implement PPP. This interim final rule supplements the interim final rule on loan review procedures and related borrower and lender responsibilities posted on SBA's website on **05/22/2020**, as revised by the interim final rule posted on SBA's website on **06/22/2020**, in order to inform PPP borrowers and lenders of the process for a PPP borrower to appeal certain SBA loan review decisions to the SBA Office of Hearings and Appeals. The interim final rule is effective upon publication in the *Federal Register*. Comments are due thirty days after publication in the *Federal Register*. The interim final rule may be viewed at: <https://www.sba.gov/sites/default/files/2020-08/PPP%20--%20IFR%20--%20Appeals%20of%20SBA%20Loan%20Review%20Decisions%20Under%20the%20PPP.pdf>.

SBA Makes Temporary Changes to Community Advantage Pilot Program.

SBA made temporary changes to the Community Advantage (CA) Pilot Program which is a program intended to increase SBA-guaranteed loans to small businesses in underserved areas. In response to the Coronavirus Disease 2019 (COVID-19) pandemic, SBA has developed a new, temporary CA loan product, Community Advantage Recovery Loans (CA Recovery Loans) for eligible CA Lenders to provide technical and financial assistance to assist small businesses located in underserved areas with retooling their business models for the COVID-19 environment and to help build financial resiliency against potential future disruptions. Please see the notice for the specific requirements for CA Recovery Loans. Changes made to the pilot program are effective **07/15/2020**. CA Recovery Loans can be approved through **09/27/2020**. Loans must be fully disbursed no later than **10/01/2020**. Comments are due **08/14/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-07-15/pdf/2020-14852.pdf>. *Federal Register*, Vol. 85, No. 136, 07/15/2020, 42964-42966.

SBA Issues PPP Forgiveness Platform User Guide, Forgiveness FAQs and Updates General PPP FAQs.

SBA issued lender instructions for its Paycheck Protection Program (PPP) forgiveness platform. The instructions are meant as a user's guide for the platform and includes a platform overview, account management instructions, how to submit loan forgiveness decisions, how to monitor forgiveness status after submission, and additional resources. SBA has also issued a series of frequently asked questions (FAQs) regarding PPP loan forgiveness. Lastly, SBA has also updated its general PPP FAQs to address questions regarding fees and vision and dental benefits. The PPP Forgiveness Platform User Guide, forgiveness FAQs, and general PPP FAQs may be viewed at the following links, respectively: <https://f.hubspotusercontent00.net/hubfs/5005401/PPP-Forgiveness-Platform-User-Guide.pdf>; <https://www.sba.gov/sites/default/files/2020-08/PPP%20--%20Loan%20Forgiveness%20FAQs%20%28August%2011%2C%202020%29.pdf>; and https://www.sba.gov/sites/default/files/2020-08/Final%20PPP%20FAQs%20%28August%2011%2C%202020%29_0.pdf.

SBA Announces 504 Debt Refinancing Without Expansion.

SBA announced that, due to an economic recession as determined by the National Bureau of Economic Research, borrowers in the 504 Loan Program may contribute not less than 10 percent, instead of not less than 15 percent, to projects involving limited or special purpose buildings or structures when refinancing debt without expansion. The lower required contribution will be in effect until the first



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day of the calendar quarter following the end of the economic recession as determined by the National Bureau of Economic Research or its equivalent. The 504 Loan Program is an SBA business loan program authorized under title V of the Small Business Investment Act. SBA will publish a notice in the *Federal Register* to announce the date on which the requirement of the lower borrower contribution ends. The lower required contribution will apply to applications submitted on or after **08/03/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-08-03/pdf/2020-16792.pdf>. *Federal Register*, Vol. 85, No. 149, 08/03/2020, 46775-46776.

Agencies Issue Final OneRD Guaranteed Loan Regulation.

The Rural Business-Cooperative Service (RBC), Rural Housing Service (RHS), and Rural Utilities Service (RUS) (collectively, the agencies) issued a final rule regarding a unified guaranteed loan platform for enhanced delivery of four existing guaranteed loan programs: Community Facilities (CF) administered by RHS; Water and Waste Disposal (WWD) administered by RUS; and Business and Industry (B&I) and Rural Energy for America (REAP) administered by RBC. The new regulation eliminates existing regulations in six areas: 7 CFR part 3575, subpart A which is the existing regulation for making and servicing CF guaranteed loans; 7 CFR part 1779 which is the existing regulation for making and servicing WWD guaranteed loans; 7 CFR part 4279, subparts A and B which are the existing regulations for making B&I guarantee loans; 7 CFR part 4280, subpart B which is the existing regulation for making REAP guarantee loans; and 7 CFR 4287 subpart B which is the existing regulation for servicing B&I and REAP guarantee loans. The final rule replaces those removed sections with the OneRD guarantee loan regulation, a unified regulation for making and servicing the four guaranteed loan programs, codified at 7 CFR 5001. The final rule incorporates new and revised provisions intended to simplify, improve, expand and enhance the delivery of the four guaranteed loan programs. The provisions include, among others, clearly defined specific project eligibility criteria, revised requirements for lenders to participate in the programs, and streamlined documentation requirements for submission of guaranteed loan applications. The final rule is effective **10/01/2020**. Comments are due **09/14/2020**. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-07-14/pdf/2020-13991.pdf>. *Federal Register*, Vol. 85, No. 135, 07/14/2020, 42494-42580.

Agencies Issue NOFA for Organic Certification Cost Share Program.

The Farm Service Agency (FSA) and Commodity Credit Corporation (CCC) (collectively, the agencies) announced changes to the availability of funding and payment calculation for certified organic operations, which are required based on expected participation levels and limited funding, under the Organic Certification Cost Share Program (OCCSP). The agencies also announced the opportunity for state agencies to apply for grant agreements to administer the OCCSP program in fiscal year (FY) 2020. Applications for state agency agreements for funds for FY 2020 cost share assistance will be accepted between **08/10/2020**, and **09/09/2020**. Producer and handler applications for OCCSP payments from producers and handlers for FY 2020 will be accepted until **10/31/2020**. For FY 2021 through 2023, the agencies will accept applications from October 1 of the applicable FY through October 31 of the following FY. The NOFA may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-08-10/pdf/2020-17385.pdf>. *Federal Register*, Vol. 85, No. 154, 08/10/2020, 48149-48150.

RBC Issues Correction to Rural Cooperative Development Grant NOFA.

The Rural Business-Cooperative Service (RBC) issued a correction to a previously published notice of funding availability (NOFA). RBC published a NOFA in the *Federal Register* on **07/02/2020**, of the acceptance of fiscal year (FY) 2020 applications for Rural Cooperative Development Grant (RCDG). The NOFA inadvertently referenced an incorrect application submission deadline in the past publication. Please see the notice for correct application information. The correction may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-07-14/pdf/2020-14848.pdf>. *Federal Register*, Vol. 85, No. 135, 07/14/2020, 42348.

SEC Issues Proposed Rule to Update Reporting Threshold for Institutional Investment Managers.

The Securities and Exchange Commission (SEC) proposed to update the reporting threshold for Form 13F reports by institutional investment managers for the first time in 45 years, raising the reporting threshold from \$100 million to \$3.5 billion to reflect the change in size and structure of the U.S. equities market since 1975, when Congress adopted the requirement for these managers to file holdings reports with SEC. The proposed rule also amends Form 13F to increase the information provided by institutional investment managers by eliminating the omission threshold for individual securities and requiring managers to provide additional identifying information. SEC also proposed to make certain technical amendments, including to modernize the structure of data reporting and amend the instructions on Form 13F for confidential treatment requests in light of a recent decision of the U.S. Supreme Court.



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Comments are due **09/29/2020**. The proposed rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-07-31/pdf/2020-15322.pdf>. *Federal Register*, Vol. 85, No. 148, 07/31/2020, 46422-46530.

CFTC Issues Proposed Rule on Electronic Trading Risk Principles.

The Commodity Futures Trading Commission (CFTC) proposed amendments to its regulations to address the potential risk of a designated contract market's (DCM) trading platform experiencing a disruption or system anomaly due to electronic trading. The proposed regulations consist of three principles applicable to DCMs concerning: the implementation of exchange rules applicable to market participants to prevent, detect, and mitigate market disruptions and system anomalies associated with electronic trading; the implementation of exchange-based pre-trade risk controls for all electronic orders; and the prompt notification of CFTC by DCMs of any significant disruptions to their electronic trading platforms. Comments are due **08/24/2020**. The proposed rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-07-15/pdf/2020-14381.pdf>. *Federal Register*, Vol. 85, No. 136, 07/15/2020, 42761-42782.

CFTC Withdraws Automated Trading Regulation.

On **12/17/2015**, CFTC published a proposed rule, Regulation Automated Trading. On **11/25/2016**, CFTC issued a proposed rule to modify its Regulation Automated Trading. In light of feedback CFTC received in response to the previously proposed rules, CFTC has withdrawn the proposals and rejects certain policy approaches related to the regulation of automated trading contained therein. CFTC withdraws previously published proposed rules (80 FR 78824) and (81 FR 85334) as of **07/15/2020**. The withdrawal may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2020-07-15/pdf/2020-14383.pdf>. *Federal Register*, Vol. 85, No. 136, 07/15/2020, 42755-42761. ■



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▲ FRB, FDIC, OCC, and NCUA issued a joint statement updating their existing enforcement guidance to enhance transparency regarding how they evaluate enforcement actions that are required by statute when financial institutions fail to meet BSA/AML obligations. The statement clarifies that isolated or technical violations or deficiencies are generally not considered the kinds of problems that would result in an enforcement action. The statement also addresses how the agencies evaluate violations of individual components (known as pillars) of the BSA/AML compliance program. It also describes how the agencies incorporate the customer due diligence regulations and recordkeeping requirements issued by Treasury as part of the internal controls pillar of the financial institution's BSA/AML compliance program. The statement may be viewed at: <https://www.federalreserve.gov/newsevents/pressreleases/files/bcre-g20200813a1.pdf>

▲ FRB issued Supervision and Regulation Letter SR 20-20 which describes its new process to facilitate the electronic collection and transmission of fingerprints to the FBI in connection with background investigations for applications involving changes to the ownership and/or composition of the board of directors or executive management of supervised financial institutions. The letter may be viewed at: <https://www.federalreserve.gov/supervisionreg/srletters/SR2020.htm>

▲ The Cybersecurity and Infrastructure Security Agency (CISA) is currently tracking an unknown malicious cyber actor who is spoofing the Small Business Administration (SBA) COVID-19 loan relief webpage via phishing emails. The emails include a malicious link to the spoofed SBA website that the cyber actor is using for malicious re-directs and credential stealing. The phishing



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emails have carried a subject line of “SBA Application - Review and Proceed.” The sender is identified as “disastercustomerservice[at]sba.gov.” Clicking on a link in the email takes the phishing target to a spoofed SBA webpage that asks the target to “Sign in to Your Account.” The page captures the sign-in attempt and steals the target’s log-in credentials. The alert may be viewed at: <https://us-cert.cisa.gov/ncas/alerts/aa20-225a>

▲ SBA announced the updated interest rates for the 504 Loan Program offered by Certified Development Companies (CDC). Small businesses can now apply for the lowest interest rates since July 2018 as the program is now allowing 20- and 25-year interest rates at 2.214% and 2.269%, respectively. The announcement may be viewed at: <https://www.sba.gov/article/2020/aug/13/sba-announces-new-reduced-504-loan-debenture-rates>

▲ SEC announced that Caroline A. Crenshaw and Hester M. Peirce have been sworn into office as SEC commissioners. Crenshaw and Peirce were both unanimously confirmed by the U.S. Senate on **08/06/2020**. The announcement may be viewed at: <https://www.sec.gov/news/press-release/2020-184>

▲ OCC released an update to the Bank Accounting Advisory Series (BAAS). BAAS covers a variety of topics and promotes consistent application of accounting standards among national banks and federal savings associations. This edition of BAAS reflects accounting standards issued by the Financial Accounting Standards Board on such topics as troubled debt restructurings and credit losses. Additionally, the edition includes recent answers to frequently asked questions from the industry and examiners. The BAAS may be viewed at: <https://www.occ.gov/publications-and-resources/publications/banker-education/files/pub-bank-accounting-advisory-series.pdf>

▲ CFPB posted several additional compliance FAQs on its Payday Lending Rule. The full FAQ list may be viewed at: <https://www.consumerfinance.gov/policy-compliance/guidance/consumer-lending-resources/payday-lending-rule/payday-lending-rule-faqs/>

▲ OCC is reducing assessments in response to the national health emergency related to COVID-19. Assessments due on **09/30/2020**, for all OCC-supervised banks will be calculated using the **12/31/2019**, Call Report for each institution, rather than the **06/30/2020**, Call Report. The change will result in lower assessments for most banks. However, if 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** using the **06/30/2020**, Call Report. The notice may be viewed at: <https://www.occ.gov/news-issuances/news-releases/2020/nr-occ-2020-102.html>

▲ FRB released a report with updates for the Main Street Priority Loan Facility (MSPLF), the Main Street New Loan Facility (MSNLF), and the Main Street Expanded Loan Facility (MSELF), as well as several credit facilities established in response to the COVID-19 pandemic. The report may be viewed at: <https://www.federalreserve.gov/publications/files/mself-msnlf-msplf-20200806.pdf>

▲ FRB released the July 2020 Senior Loan Office Opinion Survey (SLOOS) on Bank Lending Practices. The SLOOS addressed changes in the standards and terms on, and demand for, bank loans to businesses and households over the previous three months, which generally corresponds to the second quarter of 2020. Regarding loans to businesses, respondents to the July survey indicated that, on balance, they tightened their standards and terms on commercial and industrial (C&I) loans to firms of all sizes. Banks reported weaker demand for C&I loans from firms of all sizes. Meanwhile, banks tightened standards and reported weaker demand across all three major commercial real estate (CRE) loan categories—construction and land development loans, nonfarm nonresidential loans, and multifamily loans—over the second quarter of 2020. For loans to households, banks tightened standards across all categories of residential real estate (RRE) loans and across all three consumer loan categories—credit card loans, auto loans, and other consumer loans—over the second quarter of 2020 on net. Banks reported stronger demand for all categories of RRE loans and weaker demand for all categories of consumer loans. The full results may be viewed at: <https://www.federalreserve.gov/data/sloos/sloos-202007.htm>

▲ FRB announced the extensions of its temporary U.S. dollar liquidity swap lines and the temporary repurchase agreement facility for foreign and international monetary authorities (FIMA repo facility) through **03/31/2021**. The facilities were established in March 2020 to ease strains in global dollar funding markets resulting from the COVID-19 shock and mitigate the effect of such strains on the supply of credit to households and businesses, both domestically and abroad. The announcement may be viewed at: <https://www.federalreserve.gov/newsevents/pressreleases/monetary20200729b.htm>

▲ OCC published an interpretive letter clarifying national banks’ and federal savings associations’ authority to provide cryptocurrency custody services for customers. National and state banks and thrifts have long provided safekeeping and custody services,



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including both physical objects and electronic assets. In the letter published, OCC concludes that providing cryptocurrency custody services, including holding unique cryptographic keys associated with cryptocurrency, is a modern form of traditional bank activities related to custody services. Crypto custody services may extend beyond passively holding “keys.” The interpretive letter may be viewed at: <https://www.occ.gov/topics/charters-and-licensing/interpretations-and-actions/2020/int1170.pdf>

▲ FHA announced the release of its FHA Catalyst: Electronic Appraisal Delivery module. The new delivery system will allow lenders to electronically submit, track, and manage single-family property appraisals. FHA-approved lenders may begin using the module **09/04/2020**. FHA encourages lenders to request access to the module as soon as possible by contacting the FHA Resource Center by emailing: answers@hud.gov or by calling 1-800-call FHA (1-800-255-5342). The announcement may be viewed at: https://www.hud.gov/press/press_releases_media_advisories/HUD_No_20_127

▲ FDIC will conduct four identical live seminars on FDIC deposit insurance coverage for bank employees and bank officers between **09/15/2020** and **12/10/2020**. In addition to a comprehensive overview of FDIC deposit insurance rules, the seminars include deposit insurance coverage information on signature card requirements for joint accounts, prepaid cards, bank trade names, Health Savings Accounts (HSAs), 529 plan accounts, and 529 Achieving a Better Life Experience (ABLE) plan accounts. More information regarding the seminars, including registration information, may be viewed at: <https://www.fdic.gov/news/financial-institutionletters/2020/fil20075.html> ■

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