

Compliance Journal

Special Focus

Reminder: Borrowers in Forbearance May Require Assistance

As the pandemic's impact lingers, and forbearance options under the CARES Act will begin expiring soon, consumers may require assistance from their servicers to prevent avoidable foreclosures. Wisconsin banks are reminded to consider preparing for a surge of borrowers in need of help by ensuring they have a response prepared, monitoring in place, and resources and staff available to handle and process borrower requests.

The Consumer Financial Protection Bureau (CFPB) recently released two reports in May 2021, detailing challenges faced by mortgage borrowers during the pandemic. Data within the report indicates a significant number of borrowers are behind in their mortgage. An analysis of 662,200 mortgage loans reported an estimated 4.7% of owner-occupied properties were in forbearance as of March 2021, and 0.5% were more than 60 days delinquent. In another report, CFPB indicated that the volume of mortgage origination and servicing complaints peaked in March, at the highest it's been in three years.

How to Prepare

WBA expects distressed homeowners will need help from their servicers in the coming months. Regulators are also aware of the situation, and WBA expects that examiners should not criticize those banks that take steps to assist distressed borrowers. In a recent bulletin, CFPB indicated that in its oversight, it will pay particular attention to how well servicers are:

- Being proactive. Servicers should contact borrowers in forbearance before the end of the forbearance period so they have time to apply for help.
- Working with borrowers. Servicers should work to ensure borrowers have all necessary information and should help borrowers in obtaining documents and other information needed to evaluate the borrowers for assistance.
- Addressing language access. CFPB stated it will look carefully at how servicers manage communications with borrowers with limited English proficiency and maintain compliance with the Equal Credit Opportunity Act and other laws.
- Evaluating income fairly. Where servicers use income in determining eligibility for loss mitigation options, servicers should evaluate borrowers' income from public assistance, child-support, alimony or other sources in accordance with the Equal Credit Opportunity Act's anti-discrimination protections.
- Handling inquiries promptly. CFPB also stated it will closely examine servicer conduct where hold times are longer than industry averages.
- Preventing avoidable foreclosures. CFPB stated it expects servicers to comply with foreclosure restrictions in Regulation X and other federal and state restrictions in order to ensure that all homeowners have an opportunity to save their homes before foreclosure is initiated.

Communication will be a critical component. Each situation will be different, and banks should consider its customers, and how they are impacted. It will be important to communicate with distressed borrowers to understand their current condition and get a better idea for their situation going forward. Not only as a matter of assessment, but also to make a determination and provide options to a borrower clearly and promptly. Also, in an analysis, consider whether bank has a strong understanding of the borrower's financial condition, accurate risk-rating, and whether the credit rating is appropriate for the level of risk.

Conclusion

Banks should consider their existing lines of business, how the end of various forbearance programs will affect their borrowers, and prepare accordingly. While regulators will continue to rely upon the existing pandemic supervisory and enforcement practices, they are likely to consider a bank's preparedness for working with distressed borrowers, and evaluation of its response.



Additional Resources

CFPB Warns Mortgage Servicers to Prepare for Surge in Homeowners Needing Assistance: <https://www.consumerfinance.gov/about-us/newsroom/cfpb-compliance-bulletin-warns-mortgage-servicers-unprepared-is-unacceptable/>

CFPB Proposes Mortgage Servicing Changes to Prevent Wave of COVID-19 Foreclosures: <https://www.consumerfinance.gov/about-us/newsroom/cfpb-proposes-mortgage-servicing-changes-to-prevent-wave-of-covid-19-foreclosures/>

CFPB Reports Detailing Mortgage Borrowers' COVID-19 Challenges: <https://www.consumerfinance.gov/about-us/newsroom/cfpb-issues-reports-detailing-mortgage-borrowers-continuing-covid-19-challenges/>

Interagency Joint Statement on Supervisory and Enforcement Practices Regarding Mortgage Servicing Rules in Response to COVID-19: https://files.consumerfinance.gov/f/documents/cfpb_interagency-statement_mortgage-servicing-rules-covid-19.pdf ■

Recently Updated HR-Related Guidance to Consider as Pandemic Recovery Continues

The Centers for Disease Control and Prevention (CDC) recently released updated public health recommendations for fully vaccinated people. The update has resulted in employers having to consider whether to update pandemic-related policies or practices. As an employer, other guidance need also be taken into consideration regarding such matters, including guidance issued by the U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) and the U.S. Equal Employment Opportunity Commission (EEOC). This article outlines guidance updates made by OSHA and EEOC as a result of CDC's recent update.

CDC Guidance

On May 28, 2021, CDC updated its COVID-19 guidance to provide that fully vaccinated people can:

- Resume activities without wearing masks or physically distancing, except where required by federal, state, local, tribal, or territorial laws, rules and regulations, including local business and workplace guidance;
- Resume domestic travel and refrain from testing before or after travel or self-quarantine after travel; refrain from testing before leaving the U.S for international travel (unless required by the destination) and refrain from self-quarantine after arriving back in the U.S.;
- Refrain from testing following a known exposure, if asymptomatic, with some exceptions for specific settings;
- Refrain from quarantine following a known exposure if asymptomatic; and
- Refrain from routine screening testing if feasible.

For purposes of the CDC guidance, people are considered fully vaccinated for COVID-19 two weeks after they have received the second dose in a 2-dose series, or two weeks after they have received a single-dose vaccine. There is currently no post-vaccination time limit on fully vaccinated status.

The updated guidance also includes prevention measures that apply to all travelers, including those who are vaccinated. In particular, the CDC guidance requires all travelers to wear a mask on all planes, buses, trains, and other forms of public transportation into, within, or out of the U.S. and in U.S. transportation

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hubs such as airports and stations. The updated guidance also instructs that for now fully vaccinated persons should continue to get tested if experiencing COVID-19 symptoms and to follow CDC and health department travel requirements and recommendations.

As a result of the release of CDC's updated guidance, vaccinated bank personnel and customers across Wisconsin had the opportunity to resume activities without wearing a mask or physically distancing, except where required by federal, state, local, tribal, or territorial laws, rules, and regulations, including local business and workplace guidance.

OSHA Guidance

In addition to the CDC guidance, banks need consider any guidance issued by OSHA which may impact bank personnel. OSHA is a federal agency whose rules and requirements impose on employers the obligation to maintain safe and healthful workplaces free from known hazards. OSHA establishes specific workplace safety standards for particular types of workplace hazards.

On June 10, 2021, OSHA updated its COVID-19 related guidance titled, *Protecting Workers: Guidance on Mitigating and Preventing the Spread of COVID-19 in the Workplace*. In the update, OSHA encourages COVID-19 vaccination and added links to the guidance with the most up-to-date content.

In its guidance, OSHA has followed the updated instruction of CDC by stating that unless otherwise required by federal, state, local, tribal, or territorial laws, rules, and regulations, most employers no longer need to take steps to protect their fully vaccinated workers who are not otherwise at-risk from COVID-19 exposure. OSHA updated its guidance to focus on protecting unvaccinated or otherwise at-risk workers in their workplaces (or well-defined portions of the workplace).

The revised guidance sets forth a number of steps employers could take to protect unvaccinated or otherwise at-risk workers in their workplaces, or well-defined portions of workplaces. The list may be found at the OSHA link provided at the end of this article. OSHA stated it plans to update its guidance over time to reflect developments in science, best practices, and standards. As such, banks should continue to monitor OSHA's Coronavirus safework webpage.

EEOC Guidance

The EEOC is another federal agency that employers need be familiar with as the agency is responsible for enforcing federal laws that make it illegal to discriminate against a job applicant or an employee because of the person's race, color, religion, sex (including pregnancy, transgender status, and sexual orientation), national origin, age (40 or older), disability or genetic information. Most employers with at least 15 employees are covered by EEOC laws. EEOC laws apply to all types of work situations, including hiring, firing, promotions, harassment, training, wages, and benefits. Throughout the pandemic, banks have had to consider EEOC requirements in their employee pandemic mitigation efforts to ensure any medical information learned about an employee remains confidential and to ensure no workplace harassment may arise as result of the COVID-19 pandemic.

EEOC has had COVID-19 guidance throughout the pandemic titled, *What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Law*, to which EEOC has periodically updated or added new questions and answers (Q&A) to the guidance. Each Q&A includes a date as reference to when it was added or updated.

EEOC sets forth in its guidance that the availability of COVID-19 vaccinations raises questions under the federal equal employment opportunity (EEO) laws, including the Americans with Disabilities Act (ADA), the Genetic Information Nondiscrimination Act (GINA), and Title VII of the Civil Rights Act, as amended by the Pregnancy Discrimination Act (Title VII). The "K. Vaccination" section of the EEOC guidance was originally released on December 16, 2020, and was clarified and supplemented on May 28, 2021.

Below is a listing of the newly added or updated questions and the heading each may be found under within the guidance. In the interest of space for this publication, the answers to each question may be viewed in the guidance itself; a link to which may be found at the end of this article.

COVID-19 Vaccinations: EEO Overview

K.1. Under the ADA, Title VII, and other federal employment nondiscrimination laws, may an employer require all employees physically entering the workplace to be vaccinated for COVID-19?



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K.2. What are some examples of reasonable accommodations or modifications that employers may have to provide to employees who do not get vaccinated due to disability; religious beliefs, practices, or observance; or pregnancy?

K.3. How can employers encourage employees and their family members to be vaccinated without violating the EEO laws, especially the ADA and GINA?

General

K.4. Is information about an employee's COVID-19 vaccination confidential medical information under the ADA?

Mandatory Employer Vaccination Programs

K.5. Under the ADA, may an employer require a COVID-19 vaccination for all employees entering the workplace, even though it knows that some employees may not get a vaccine because of a disability? (12/16/20, updated 5/28/21)

K.6. Under the ADA, if an employer requires COVID-19 vaccinations for employees physically entering the workplace, how should an employee who does not get a COVID-19 vaccination because of a disability inform the employer, and what should the employer do? (12/16/20, updated 5/28/21)

K.7. If an employer requires employees to get a COVID-19 vaccination from the employer or its agent, do the ADA's restrictions on an employer making disability-related inquiries or medical examinations of its employees apply to any part of the vaccination process? (12/16/20, updated 5/28/21)

Voluntary Employer Vaccination Programs

K.8. Under the ADA, are there circumstances in which an employer or its agent may ask disability-related screening questions before administering a COVID-19 vaccine without needing to satisfy the "job-related and consistent with business necessity" standard? (12/16/20, updated 5/28/21)

K.9. Under the ADA, is it a "disability-related inquiry" for an employer to inquire about or request documentation or other confirmation that an employee obtained the COVID-19 vaccine from a third party in the community, such as a pharmacy, personal health care provider, or public clinic? (12/16/20, updated 5/28/21)

K.10. May an employer offer voluntary vaccinations only to certain groups of employees?

K.11. What should an employer do if an employee who is fully vaccinated for COVID-19 requests accommodation for an underlying disability because of a continuing concern that he or she faces a heightened risk of severe illness from a COVID-19 infection, despite being vaccinated?

Title VII and COVID-19 Vaccinations

K.12. Under Title VII, how should an employer respond to an employee who communicates that he or she is unable to be vaccinated for COVID-19 (or provide documentation or other confirmation of vaccination) because of a sincerely held religious belief, practice, or observance? (12/16/20, updated 5/28/21)

K.13. Under Title VII, what should an employer do if an employee chooses not to receive a COVID-19 vaccination due to pregnancy? (12/16/20, updated 5/28/21)

GINA and COVID-19 Vaccinations

K.14. Is Title II of GINA implicated if an employer requires an employee to receive a COVID-19 vaccine administered by the employer or its agent? (12/16/20, updated 5/28/21)

K.15. Is Title II of GINA implicated when an employer requires employees to provide documentation or other confirmation that they received a vaccination from a doctor, pharmacy, health agency, or another health care provider in the community? (12/16/20, updated 5/28/21)

Employer Incentives For COVID-19 Voluntary Vaccinations Under ADA and GINA

ADA: Employer Incentives for Voluntary COVID-19 Vaccinations



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K.16. Under the ADA, may an employer offer an incentive to employees to voluntarily provide documentation or other confirmation that they received a vaccination on their own from a pharmacy, public health department, or other health care provider in the community?

K.17. Under the ADA, may an employer offer an incentive to employees for voluntarily receiving a vaccination administered by the employer or its agent?

GINA: Employer Incentives for Voluntary COVID-19 Vaccinations

K.18. Under GINA, may an employer offer an incentive to employees to provide documentation or other confirmation that they or their family members received a vaccination from their own health care provider, such as a doctor, pharmacy, health agency, or another health care provider in the community?

K.19. Under GINA, may an employer offer an incentive to employees in exchange for the employee getting vaccinated by the employer or its agent?

K.20. Under GINA, may an employer offer an incentive to an employee in return for an employee's family member getting vaccinated by the employer or its agent?

K.21. Under GINA, may an employer offer an employee's family member an opportunity to be vaccinated without offering the employee an incentive?

Conclusion

The CDC recently released updated public health recommendations for fully vaccinated people. The update has resulted in employers having to consider whether to update pandemic-related policies or practices. Employers also need take into consideration guidance issued by OSHA and the EEOC.

When updating HR-related policies or procedures, there are many factors to consider and before a bank implements revised COVID-19 related employee policies and procedures, senior management and bank's counsel need be involved in the discussion, planning, and decision-making process to help ensure the bank is protected against an inadvertent violation of an employment law. The resources outlined in this article and the links listed below should provide helpful background information and insight into topics to consider, and examples of possible steps to incorporate.

Resources

CDC: *Interim Public Health Recommendations for Fully Vaccinated People*, <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated-guidance.html>

CDC: *Guidance for Unvaccinated People, How to Protect Yourself and Others*, <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html>

OSHA: *Protecting Workers: Guidance on Mitigating and Preventing the Spread of COVID in the Workplace*, <https://www.osha.gov/coronavirus/safework>

EEOC: *What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws*, <https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws> ■



Regulatory Spotlight

Agencies Extend Comment Period for Information Request on Financial Institutions' Use of Artificial Intelligence, Including Machine Learning.

The Bureau of Consumer Financial Protection (CFPB), Board of Governors of the Federal Reserve System (FRB), Federal Deposit Insurance Corporation (FDIC), Office of the Comptroller of the Currency (OCC), and National Credit Union Administration (NCUA) (collectively, the agencies), published in the *Federal Register* a notice seeking information and comment on financial institutions' use of artificial intelligence, including machine learning. The agencies have determined that an extension of the comment period from **06/01/2021** until **07/01/2021**, is appropriate. Comments are due **07/01/2021**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-05-24/pdf/2021-10861.pdf>. *Federal Register*, Vol. 86, No. 98, 05/24/2021, 27960-27961.

Agencies Seek Comment on Revision to Call Report Data Collection for Deposit Insurance Assessment-Related and Deposit-Related Revisions.

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) seek comment on revision and renewal of the Consolidated Reports of Condition and Income (Call Reports) (FFIEC 031, FFIEC 041, and FFIEC 051), 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), all of which are currently approved collections of information. The agencies are proceeding with the proposed revisions to the reporting forms and instructions related to FDIC's amendments to the deposit insurance assessment system, effective with the **06/30/2021**, report date, and the exclusion of sweep deposits and certain other deposits from reporting as brokered deposits, effective with **09/30/2021**, report date. Comments are due **06/23/2021**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-05-24/pdf/2021-10853.pdf>. *Federal Register*, Vol. 86, No. 98, 05/24/2021, 27961-27966.

CFPB Issues Final Rule to Correct HPML Escrow Exemption Commentary.

The Bureau of Consumer Financial Protection (CFPB) issued a final rule to correct the Official Interpretations (Commentary) to Regulation Z. Specifically, CFPB has added a comment to its Commentary that it included in a recent higher-priced mortgage loan (HPML) escrow exemption final rule but that was not incorporated into the Code of Federal Regulations (CFR) due to an omission in an amendatory instruction. CFPB has also revised a comment that it included in the same recent final rule, but that inadvertently did not appear in a subsequently effective final rule. The final rule is effective **06/03/2021**. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-06-03/pdf/2021-11571.pdf>. *Federal Register*, Vol. 86, No. 105, 06/03/2021, 29685-29687.

CFPB Seeks Comment on Revision to Report of Terms of Credit Card Plans and Consumer and College Credit Card Agreements Information Collection.

CFPB seeks comment on revisions to an existing information collection titled, Report of Terms of Credit Card Plans (Form FR 2572) and Consumer and College Credit Card Agreements. The collection incorporates two information collections of credit card data by CFPB that used to be collected under separate Office of Management and Budget (OMB) control numbers. The data collections enable CFPB to provide Congress and the public with a centralized and searchable repository for consumer and college credit card agreements and information regarding the arrangements between financial institutions and institutions of higher education. Comments are due **07/20/2021**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-05-21/pdf/2021-10794.pdf>. *Federal Register*, Vol. 86, No. 97, 05/21/2021, 27567-27568.

FRB Extends Regulation O Exception for PPP Loans to Executive Officers, Directors, and Principal Shareholders of Members.

The Board of Governors of the Federal Reserve System (FRB) issued an interim final rule on **04/17/2020**, to except certain loans made through **06/30/2020**, that are guaranteed under the Small Business Administration's Paycheck Protection Program (PPP) from the requirements of the Federal Reserve Act and the associated provisions of FRB's Regulation O. FRB issued two additional interim final rules to extend the exception when Congress approved extensions to PPP. To reflect a further extension approved by Congress and to automatically capture any further extensions, FRB issued the interim final rule to extend the exception to such loans made through **03/31/2022**. The interim final rule is effective **05/21/2021**. Comments are due **07/06/2021**. The interim final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-05-21/pdf/2021-10711.pdf>. *Federal Register*, Vol. 86, No. 97, 05/21/2021, 27507-27509.



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FRB Issues Final Rule to Amend Regulation D Reserve Requirements.

FRB issued a final rule to adopt amendments to Regulation D (Reserve Requirements of Depository Institutions) to eliminate references to an “interest on required reserves” rate and to an “interest on excess reserves” rate and replace them with a reference to a single “interest on reserve balances” rate. The final rule also simplifies the formula used to calculate the amount of interest paid on balances maintained by or on behalf of eligible institutions in master accounts at Federal Reserve Banks. The final rule also makes other conforming amendments to the Regulation. The final rule is effective **07/29/2021**. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-06-04/pdf/2021-11758.pdf>. *Federal Register*, Vol. 86, No. 106, 06/04/2021, 29937-29939.

FRB Proposes Amendments to Debit Card Interchange Fees and Routing.

FRB proposes to amend Regulation II to clarify the: (1) requirement that each debit card transaction must be able to be processed on at least two unaffiliated payment card networks applies to card-not-present transactions; (2) requirements that Regulation II imposes on debit card issuers to ensure that at least two unaffiliated payment card networks have been enabled for debit card transactions; and (3) standardized use of certain terminology. Comments are due **07/12/2021**. The proposed rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-05-13/pdf/2021-10013.pdf>. *Federal Register*, Vol. 86, No. 91, 05/13/2021, 26189-26195.

FRB Seeks Comment on Proposed Guidelines for Evaluating Account and Services Requests.

FRB seeks comment on proposed guidelines (Account Access Guidelines) to be used by Federal Reserve Banks (Reserve Banks) in evaluating requests for master accounts and/or access to Reserve Banks financial services (accounts and services). The Account Access Guidelines apply to requests from all institutions that are legally eligible to receive an account or services. Comments are due **07/12/2021**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-05-11/pdf/2021-09873.pdf>. *Federal Register*, Vol. 86, No. 89, 05/11/2021, 25865-25870.

FRB Seeks Comment on Potential Modifications to Policy on Payment System Risk to Expand Access to Collateralized Intraday Credit.

FRB seeks comment on proposed changes to part II of FRB’s Policy on Payment System Risk (PSR policy) that would expand access to collateralized intraday credit from the Federal Reserve Banks (Reserve Banks) and clarify the eligibility standards for accessing uncollateralized intraday credit from Reserve Banks. The proposed changes build upon the revisions to the PSR policy adopted in 2008 and implemented in 2011, which FRB designed to improve intraday liquidity management and payment flows for the banking system while helping to mitigate the credit exposures of the Reserve Banks from daylight overdrafts. In addition, FRB requests comment on changes to part II of the PSR policy to support the deployment of the FedNow Service. Relatedly, FRB has proposed to incorporate the Federal Reserve Policy on Overnight Overdrafts (Overnight Overdrafts policy) into the PSR policy. Comments are due **08/02/2021**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-06-03/pdf/2021-11649.pdf>. *Federal Register*, Vol. 86, No. 105, 06/03/2021, 29776-29787.

FDIC Seeks Comment on Digital Assets.

The Federal Deposit Insurance Corporation (FDIC) seeks comment and information regarding insured depository institutions’ (IDIs’) current and potential activities related to digital assets. FDIC stated it recognizes that there are novel and unique considerations related to digital assets, and the request for information is intended to help inform FDIC’s understanding of the area. FDIC seeks input on current and potential use cases involving IDIs and their affiliates and risk and compliance management in conducting such activities. Comments are due **07/16/2021**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-05-21/pdf/2021-10772.pdf>. *Federal Register*, Vol. 86, No. 97, 05/21/2021, 27602-27603.

OCC Issues Final Rule Regarding Collective Investment Funds.

The Office of the Comptroller of the Currency (OCC) adopted as final, with one minor change, the interim final rule published in the *Federal Register* on **08/13/2020**, that codifies and creates an exception to the standard withdrawal period for a bank administering a collective investment fund invested primarily in real estate or other assets that are not readily marketable (a covered CIF). Pursuant to the interim final rule, a bank administering a covered CIF may request OCC approval to extend the standard withdrawal period under



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limited circumstances and if certain conditions are met. The final rule adopts as final the changes made by the interim final rule and introduces a minor revision to one of the conditions necessary for the extension. The final rule is effective **05/26/2021**. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-05-26/pdf/2021-11130.pdf>. *Federal Register*, Vol. 86, No. 100, 05/26/2021, 28238-28241.

OCC Seeks Comment on Renewal of Bank Appeals Follow-Up Questionnaire Information Collection.

OCC seeks comment on the renewal of an existing information collection titled, Bank Appeals Follow-Up Questionnaire. OCC's Office of the Ombudsman is committed to assessing its efforts to provide a fair and expeditious appeals process to institutions under OCC supervision. To perform the assessment, it is necessary to obtain feedback from individual appellant institutions on the effectiveness of the Ombudsman's efforts to provide a fair and expeditious appeals process and suggestions to enhance the bank appeals process. For each appeal submitted, the Ombudsman uses the information gathered to assess adherence to OCC Bulletin 2013-15, Bank Appeals Process, dated **06/07/2013**, and to enhance its bank appeals program. Comments are due **06/17/2021**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-05-18/pdf/2021-10424.pdf>. *Federal Register*, Vol. 86, No. 94, 05/18/2021, 27012-27013.

OCC Seeks Comment on Renewal of Credit Risk Retention Information Collection.

OCC seeks comment on the renewal of an existing information collection titled, Credit Risk Retention. The information collection request relates to 12 CFR part 43, which implemented section 941(b) of the Dodd-Frank Act. Section 941(b) of the Dodd-Frank Act requires OCC, Board of Governors of the Federal Reserve System (FRB), Federal Deposit Insurance Corporation (FDIC), Securities and Exchange Commission (SEC), Federal Housing Finance Agency (FHFA), and Department of Housing and Urban Development (HUD), to issue rules that, subject to certain exceptions, require a securitizer to retain not less than 5% of the credit risk of any asset that the securitizer, through the issuance of an asset-backed security, transfers, sells, or conveys to a third party; and prohibits a securitizer from directly or indirectly hedging or otherwise transferring the credit risk that the securitizer is required to retain under the statute and implementing regulations. Comments are due **06/21/2021**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-05-21/pdf/2021-10799.pdf>. *Federal Register*, Vol. 86, No. 97, 05/21/2021, 27677-27680.

HUD Issues Interim Final Rule to Restore Affirmatively Furthering Fair Housing Definition and Certifications.

The Department of Housing and Urban Development (HUD) issued an interim final rule to restore certain definitions and certifications that have been through notice-and-comment scrutiny and that are grounded in legal precedent to its regulations that implement the Fair Housing Act's requirement to affirmatively further fair housing (AFFH) and to reinstate a process by which HUD will provide technical assistance and other support to funding recipients who are engaged in fair housing planning to support their certifications. No program participant will be required to participate in the process, which is for the benefit of those who want assistance in fulfilling their statutory obligations. HUD finds that the action is necessary as the definitions in the current regulation are at odds with the statutory AFFH duty as described in decades of judicial precedent and HUD practice. The interim final rule is effective **07/31/2021**. Comments are due **07/12/2021**. The interim final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-06-10/pdf/2021-12114.pdf>. *Federal Register*, Vol. 86, No. 110, 06/10/2021, 30779-30793.

HUD Issues Notice of Regulatory Waiver Requests Granted in Fourth Quarter 2020.

HUD issued a notice pursuant to section 106 of the Department of Housing and Urban Development Reform Act which requires HUD to publish quarterly *Federal Register* notices of all regulatory waivers that HUD has approved. Each notice covers the quarterly period since the previous *Federal Register* notice. The purpose of the notice is to comply with the requirements of section 106 of the HUD Reform Act. The notice contains a list of regulatory waivers granted by HUD during the period beginning on **10/01/2020**, and ending on **12/31/2020**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-06-03/pdf/2021-11616.pdf>. *Federal Register*, Vol. 86, No. 105, 06/03/2021, 29792-29802.

HUD Seeks Comment on Revision to Multifamily Insurance Benefits Claims Package Information Collection.

HUD seeks comment on revision to an existing information collection titled, Multifamily Insurance Benefits Claims Package. A lender with an insured multifamily mortgage pays an annual insurance premium to HUD. When and if the mortgage goes into default, the



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lender may elect to file a claim for Federal Housing Administration (FHA) multifamily insurance benefits with HUD. HUD needs the data from the information collection to determine if FHA multifamily insurance claims submitted to HUD are accurate, valid, and support payment of an FHA multifamily insurance claim. Comments are due **07/12/2021**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-05-11/pdf/2021-09958.pdf>. *Federal Register*, Vol. 86, No. 89, 05/11/2021, 25881-25882.

HUD Seeks Comment on Proposed Housing Counseling Agency Activity Report Information Collection.

HUD seeks comment on a proposed information collection titled, Housing Counseling Agency Activity Report. The purpose of the information is to collect data related to performance and impact on housing counseling performed by HUD-approved housing counseling agencies. Comments are due **07/19/2021**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-05-19/pdf/2021-10520.pdf>. *Federal Register*, Vol. 86, No. 95, 05/19/2021, 27100.

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 state of **Michigan** 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. Information identifying the current participation status of a community can be obtained from FEMA's CSB available at: www.fema.gov/flood-insurance/work-with-nfip/community-status-book. Please note that per Revisions to Publication Requirements for Community Eligibility Status Information Under the National Flood Insurance Program, notices such as this for scheduled suspension will no longer be published in the *Federal Register* as of June 2021 but will be available at: www.fema.gov. Individuals without internet access are able to contact their local floodplain management official and/or State NFIP Coordinating Office directly for assistance. 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-2021-05-26/pdf/2021-10899.pdf>. *Federal Register*, Vol. 86, No. 100, 05/26/2021, 28290-28292.

FEMA Issues Changes in Flood Hazard Determinations.

FEMA issued a notice which lists communities in the states of **Illinois, Ohio, and Wisconsin**, where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by FEMA for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect the flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with federal regulations. The flood hazard determinations will be finalized on the dates listed in the table in the notice and revise the FIRM panels and FIS report in effect prior to the determination for the listed communities. From the date of the second publication of notification of the 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-2021-06-10/pdf/2021-12127.pdf>. *Federal Register*, Vol. 86, No. 110, 06/10/2021, 30970-30973.

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 communities in the states of **Iowa, Minnesota, and Ohio**, 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 **09/08/2021**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-06-10/pdf/2021-12129.pdf>. *Federal Register*, Vol. 86, No. 110, 06/10/2021, 30969-30970.



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FEMA Seeks Comment on Office of Flood Insurance Advocate Information Collection.

FEMA seeks comment on a revision of a previously approved information collection to the National Flood Insurance Program (NFIP), Mortgage Portfolio Protection Program (MPPP), which is an option that companies participating in the NFIP can use to bring their mortgage loan portfolios into compliance with the flood insurance purchase requirements. The notice seeks comments concerning the collection of information related to the Office of the Flood Insurance Advocate (OFIA). Comments are due **07/26/2021**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-05-25/pdf/2021-11058.pdf>. *Federal Register*, Vol. 86, No. 99, 05/25/2021, 28122-28124.

IRS Seeks Comment on Extension of Information Collection Regarding Credit for Prior Year Minimum Tax for Individuals, Estates, and Trusts.

The Internal Revenue Service (IRS) seeks comment on the extension of an existing information collection titled, Credit for Prior Year Minimum Tax— Individuals, Estates, and Trusts, Form 8801. Form 8801 is used by individuals, estates, and trusts to compute the minimum tax credit, if any, available from a tax year beginning after 1986 to be used in the current year or to be carried forward for use in a future year. Comments are due **05/13/2021**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-05-13/pdf/2021-10120.pdf>. *Federal Register*, Vol. 86, No. 91, 05/13/2021, 26255-26256.

Treasury Issues Final Rule to Update Terrorism Risk Insurance Program Regulations.

The Department of Treasury (Treasury) issued a final rule to implement technical changes to the Terrorism Risk Insurance Program (TRIP) rules in response to the Terrorism Risk Insurance Program Reauthorization Act. In addition, the final rule clarifies the manner in which Treasury will calculate “property and casualty insurance losses” for purposes of considering certification of an act of terrorism, and “insured losses” when administering the financial sharing mechanisms under TRIP, including the Program Trigger and Program Cap. The final rule also incorporates into TRIP rules prior guidance provided by Treasury in connection with stand-alone cyber insurance under TRIP. The final rule also provides updated links to additional information found on the TRIP website relating to administration of the program. The final rule is effective **07/12/2021**. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-06-09/pdf/2021-12014.pdf>. *Federal Register*, Vol. 86, No. 109, 06/09/2021, 30537-30541.

Treasury Issues Interim Final Rule to Implement Coronavirus State and Local Fiscal Recovery Funds.

Treasury issued an interim final rule to implement the Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Fund established under the American Rescue Plan Act (ARPA). Section 9901 of ARPA amended Title VI of the Social Security Act to add section 602, which establishes the Coronavirus State Fiscal Recovery Fund, and section 603, which establishes the Coronavirus Local Fiscal Recovery Fund. Sections 602 and 603 contain the same eligible uses as is outlined in the interim final rule. Comments are due **07/16/2021**. The interim final rule is effective **05/17/2021**. The interim final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-05-17/pdf/2021-10283.pdf>. *Federal Register*, Vol. 86, No. 93, 05/17/2021, 26786-26824.

Treasury Seeks Comment on State Small Business Credit Initiative Program.

Treasury seeks comment on the State Small Business Credit Initiative (SSBCI). The SSBCI provides funds to states, territories, and Tribal governments to enable the jurisdictions to support programs for small businesses. Specifically, beginning in FY 2021, Treasury is authorized to provide up to \$10 billion in support for small business capital and technical assistance programs as a response to the economic effects of the COVID-19 pandemic. Treasury seeks comment on the SSBCI program design and implementation. Responses may be used by Treasury to assist in developing program design and guidance. Responses may also be used to inform Treasury’s allocation of technical assistance funding to states, territories, and Tribal governments, the Minority Business Development Agency, and programs implemented directly by Treasury. Comments are due **06/04/2021**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-05-21/pdf/2021-10697.pdf>. *Federal Register*, Vol. 86, No. 97, 05/21/2021, 27680-27682.

FHFA Seeks Comment on Renewal of Federal Home Loan Bank Directors Information Collection.

The Federal Housing Finance Agency (FHFA) seeks comment on the renewal of an existing information collection titled, Federal Home Loan Bank Directors. Section 7 of the Federal Home Loan Bank Act vests the management of each Federal Home Loan Bank



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(Bank) in its board of directors. Section 4 and FHFA's implementing regulation establish the eligibility requirements for the Bank directors and set forth the procedures for their election. The Banks use the information collection to determine whether individuals who wish to stand for election or reelection as directors satisfy the statutory eligibility requirements and possess the professional qualifications required under the statute and regulation. Comments are due **06/21/2021**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-05-21/pdf/2021-10771.pdf>. *Federal Register*, Vol. 86, No. 97, 05/21/2021, 27604-27622.

SBA Issues Proposed Rule to Increase Small Business Size Standards for Wholesale Trade and Retail Trade.

The Small Business Administration (SBA) issued a proposed rule to increase its receipts-based and employee-based small business size definitions (commonly referred to as "size standards") for North American Industry Classification System (NAICS) sectors related to Wholesale Trade and Retail Trade. SBA proposed to increase size standards for 49 industries in those sectors, including 14 industries in NAICS Sector 42 (Wholesale Trade) and 35 industries in NAICS Sector 44-45 (Retail Trade). The proposed revisions rely on SBA's recently revised Size Standards Methodology. SBA seeks comments on its proposed changes to size standards and the data sources it evaluated to develop the proposed size standards. Comments are due **07/26/2021**. The proposed rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-05-25/pdf/2021-10487.pdf>. *Federal Register*, Vol. 86, No. 99, 05/25/2021, 28012-28038.

Agencies Seek Comment on Revision to Existing Assignment and Joint Payment Elections Information Collection.

The Commodity Credit Corporation (CCC) and Farm Service Agency (FSA) (collectively, the agencies) seek comment on revision to an existing information collection titled, Assignment and Joint Payment Elections. Section 8(g) of the Soil Conservation and Domestic Allotment Act authorizes producers to assign FSA conservation program payments in accordance with FSA regulations. The Assignment of Payments regulation, as specified in 7 CFR part 1404, requires that any such assignment be signed by both the assignor and the assignee. The Agricultural Act, as amended, extends that authority to CCC programs, including rice, feed grains, cotton, and wheat. There are no regulations governing joint payments, but the service is offered as a result of public requests for the type of payment option. Comments are due **08/02/2021**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-06-01/pdf/2021-11412.pdf>. *Federal Register*, Vol. 86, No. 103, 06/01/2021, 29233-29234.

FSA Issues NOFA for American Rescue Plan Act Loan Payment.

The Farm Service Agency (FSA) issued a notice of funding availability (NOFA) for eligible borrowers with direct loans under the Farm Loan Programs and Farm Storage Facility Loan Program as authorized by section 1005 of the American Rescue Plan Act. A subsequent notice addressing guaranteed loans and remaining loan balances eligible under section 1005 will be published within 120 days of publication of the NOFA. FSA will pay 120 percent of direct loan balances outstanding as of **01/01/2021**, for socially disadvantaged farmers and ranchers as that term is defined by section 2501(a) of the Food, Agriculture, Conservation, and Trade Act. The NOFA may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-05-26/pdf/2021-11155.pdf>. *Federal Register*, Vol. 86, No. 100, 05/26/2021, 28329-28332.

FCA Issues Effective Date of Title IV Conservators and Receivers Final Rule.

The Farm Credit Administration (FCA) issued the effective date for the final rule to repeal certain conservatorship and receivership regulations that have been superseded by the Agricultural Improvement Act. The effective date of the final rule is no earlier than 30 days from the date of publication in the *Federal Register* during which either or both Houses of Congress are in session. The direct final rule that amended 12 CFR part 627, published in the *Federal Register* on **03/22/2021**, is effective **05/13/2021**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-05-21/pdf/2021-10577.pdf>. *Federal Register*, Vol. 86, No. 97, 05/21/2021, 27510.

FCA Issues Final Rule to Eliminate Paper Copy Filings by Farmer Mac of Certain Reports.

FCA issued a final rule to adopt administrative amendments to eliminate requirements for the Federal Agricultural Mortgage Corporation (Farmer Mac) to submit paper copies of certain reports to FCA's Office of Secondary Market Oversight. Electronic copies of the reports are sufficient for oversight and examination purposes. If no significant adverse comment is received on or before **06/23/2021**, the final rule shall become effective no earlier than the expiration of 30 days after publication in the



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Federal Register during which either or both Houses of Congress are in session. FCA will publish notice of the effective date in the *Federal Register*. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-05-24/pdf/2021-10769.pdf>. *Federal Register*, Vol. 86, No. 98, 05/24/2021, 27797-27798.

FCA Issues Proposed Rule to Amend Collateral Evaluation Requirements.

FCA issued a proposed rule to amend its regulations on appraisal and evaluation requirements for property serving as collateral for loans made by the Farm Credit System. FCA has proposed reorganizing existing rules to remove redundancies and add clarity on the distinct valuation standards for each type of collateral. FCA also proposed adding regulatory requirements for the use of automated valuation tools and releasing appraisal and evaluations to borrowers. Comments are due **07/19/2021**. The proposed rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-05-20/pdf/2021-10200.pdf>. *Federal Register*, Vol. 86, No. 96, 05/20/2021, 27308-27323.

Agencies Issue NOFA for Rural Placemaking Innovation Challenge.

The Rural Business-Cooperative Service (RBC), Rural Utilities Service (RUS), and Rural Housing Service (RHS) (collectively, the agencies) issued a notice of funds availability (NOFA) for the Rural Placemaking Innovation Challenge (RPIC) for Fiscal Year 2021. The agencies seek applications for the RPIC from eligible entities to provide technical assistance and training to rural communities for placemaking planning and implementation. The funding opportunity will be administered by the USDA Rural Development Innovation Center and is authorized by the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act to provide up to \$3 million in competitive cooperative agreement funds. See the NOFA for further application details. Applications are due by **07/26/2021**. The NOFA may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-05-27/pdf/2021-10963.pdf>. *Federal Register*, Vol. 86, No. 101, 05/27/2021, 28526-28537.

RBC Issues Final Rule on Rural Microentrepreneur Assistance Program.

The Rural Business-Cooperative Service (RBC) issued a final rule regarding the Rural Microentrepreneur Assistance Program (RMAP). RMAP was established to provide loans and grants to support microentrepreneurs in the development and ongoing success of rural microenterprises. The loans establish or augment a rural microentrepreneur revolving loan fund and the grants provide technical assistance and training to microenterprises. The final rule modifies the interim rule published in the *Federal Register* on **05/28/2010**, as amended by the correcting amendments published in the *Federal Register* on **07/19/2010**, and incorporates amendments to the Consolidated Farm and Rural Development Act made by the Agriculture Improvement Act. RBC has also implemented other changes to make RMAP run more efficiently, be more user-friendly, and be more consistent with other RBC programs. Comments are due **07/13/2021**. The final rule is effective **05/14/2021**. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-05-14/pdf/2021-10146.pdf>. *Federal Register*, Vol. 86, No. 92, 05/14/2021, 26348-26365.

RBC Issues NOFA for Rural Business Development Grant Program.

RBC announced a notice of funds availability (NOFA) in the total amount of \$2 million reserved for projects located in rural coastal communities, with priority given to National Scenic Areas that were devastated by wildfires that are in need of economic development assistance, to support innovation and job growth. See the NOFA for program and application details. Applications are due by **07/06/2021**. The NOFA may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-05-20/pdf/2021-10620.pdf>. *Federal Register*, Vol. 86, No. 96, 05/20/2021, 27365-27370.

RHS Issues Proposed Rule on Single Family Housing Guaranteed Loan Program.

The Rural Housing Service (RHS) issued a proposed rule to amend the current regulation for the Single Family Housing Guaranteed Loan Program (SFHGLP) to update the requirements for federally-supervised lenders, minimum net worth and experience for non-supervised lenders, approved lender participation requirements, treatment of applicants with delinquent child support payments and builder credit requirements. The changes would promote an efficient and robust management and oversight structure of lenders in the SFHGLP, strengthen underwriting practices by denying loan guarantees for applicants who are subject to administrative offset to collect delinquent child support payments and streamline requirements for screening builder-contractors by lenders. Comments are due **08/09/2021**. The proposed rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-06-09/pdf/2021-11937.pdf>. *Federal Register*, Vol. 86, No. 109, 06/09/2021, 30555-30558.



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RHS Solicits Applications for Housing Preservation Grants.

RHS announced that it is soliciting competitive applications under its Housing Preservation Grant (HPG) program. The release is taken to comply with RHS regulations which require RHS to announce the opening and closing dates for receipt of pre-applications for HPG funds from eligible applications. RHS will publish the amount of funding on its website at: <https://www.rd.usda.gov/programsservices/housing-preservation-grants>. RHS issued a correction to the application solicitation notice indicating the correct deadline for applications. The original application deadline was **07/07/2021**. The correction application deadline is **07/19/2021**. Applications are due **07/19/2021**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-06-02/pdf/2021-11564.pdf>. *Federal Register*, Vol. 86, No. 104, 06/02/2021, 29555-29560. The correction may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-06-07/pdf/C1-2021-11564.pdf>. *Federal Register*, Vol. 86, No. 107, 06/07/2021, 30252.

CFTC Seeks Comment on Extension of Reparations Complaint Process Information Collection.

The Commodity Futures Trading Commission (CFTC) seeks comment on an extension of an existing information collection titled, Reparations Complaint Process. Pursuant to Section 14 of the Commodity Exchange Act (CEA), the public may apply to CFTC to seek damages against CFTC registrants for alleged violations of the CEA and/or CFTC regulation. The legislative intent of the Reparations program was to provide a low-cost, speedy, and effective forum for the resolution of customer complaints and to sanction individuals and firms found to have violated CEA and/or CFTC regulation. Comments are due **07/12/2021**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-05-11/pdf/2021-09894.pdf>. *Federal Register*, Vol. 86, No. 89, 05/11/2021, 25845-25846.

SEC Adopts Amendments to Update EDGAR Filer Manual and Form ID.

The Securities and Exchange Commission (SEC) issued a final rule to adopt amendments to Volumes I and II of the Electronic Data Gathering, Analysis, and Retrieval system (EDGAR) Filer Manual, a related form, and related rules. The amendments result in a more uniform and secure process for EDGAR access by requiring certain applicants that already have an EDGAR Central Index Key (or CIK) account number, but do not have EDGAR access codes, to submit the related form and an authenticating document to obtain access to EDGAR. The related form has also been amended to update its instructions and cross-references to Volume I of the Filer Manual. The revisions to Volume II reflect additional updates to the EDGAR system. The final rule is effective **05/11/2021**. The applicable compliance date is discussed in the final rule. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-05-11/pdf/2021-08759.pdf>. *Federal Register*, Vol. 86, No. 89, 05/11/2021, 25803-25806.

SEC Makes Technical Corrections to Market Data Infrastructure Rule.

SEC issued a final rule to make technical corrections to amendments to modernize the national market system for the collection, consolidation, and dissemination of information with respect to quotations for and transactions in national market system stocks adopted in Release No. 34-90610, which was published in the *Federal Register* on **04/09/2021**. The final rule amends Instruction 8 by adding new Instruction 8.w. to revise a cross-reference to current section 242.600(b)(4) in current section 242.600(b)(5). The final rule is effective **06/08/2021**. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-06-01/pdf/2021-11282.pdf>. *Federal Register*, Vol. 86, No. 103, 06/01/2021, 29195-29196.

SEC Intends to Adjust Dollar Amount Thresholds for Performance-Based Investment Advisory Fees.

SEC issued a notice to announce it intends to issue an order that would adjust for inflation dollar amount thresholds in the rule under the Investment Advisers Act that permits investment advisers to charge performance-based fees to “qualified clients.” Under the rule, an investment adviser may charge performance-based fees if a “qualified client” has a certain minimum net worth or minimum dollar amount of assets under the management of the adviser. The order would increase, to reflect inflation, the minimum net worth that a “qualified client” must have under the rule. The order would also increase, to reflect inflation, the minimum dollar amount of assets under management. An order to adjust the dollar amount tests specified in the definition of “qualified client” will be issued unless SEC orders a hearing. Interested persons may request a hearing by writing to SEC following instruction within the notice. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-05-17/pdf/2021-10164.pdf>. *Federal Register*, Vol. 86, No. 93, 05/17/2021, 26685-26687.



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NCUA Issues Final Rule Regarding Derivatives.

The National Credit Union Administration (NCUA) issued a final rule to amend its derivatives rule. The final rule will modernize NCUA's derivatives rule and make it more principles-based, while retaining key safety and soundness components. The changes will provide more flexibility for federal credit unions to manage Interest Rate Risk through the use of derivatives. NCUA has finalized the rule largely as proposed, except for a few changes to various sections based on comments received. Such changes include permitting written options that comply with the final rule and amending the collateral requirements for cleared derivatives. In addition, NCUA is not finalizing a proposed change that would have required all counterparties to be domiciled in the United States. The final rule is effective **06/25/2021**. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-05-26/pdf/2021-11055.pdf>. *Federal Register*, Vol. 86, No. 100, 05/26/2021, 28241-28250.

NCUA Seeks Comment on Policy for Setting Normal Operating Level.

NCUA seeks comments on the policy to set the National Credit Union Share Insurance Fund (Insurance Fund) Normal Operating Level (NOL). The policy for setting the NOL established a period review of the equity needs of the Insurance Fund, the results of which are to be communicated to stakeholders. At least annually, NCUA staff reviews the level at which the NOL is set and reports the information to NCUA. NCUA action is only necessary when a change in the NOL is determined to be warranted. The current economic landscape and pending resolution of the obligations associated with the corporate credit union asset management estates and NCUA Guaranteed Notes Program warranted that NCUA reevaluate the current NOL policy. Comments are due **07/26/2021**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-05-25/pdf/2021-11056.pdf>. *Federal Register*, Vol. 86, No. 99, 05/25/2021, 28155-28156.

EEOC Issues Final Rule to Adjust CMP for Violation of Notice Posting Requirements.

The Equal Employment Opportunity Commission (EEOC) issued a final rule to adjust the penalty for violating notice posting requirements. In accordance with the Federal Civil Penalties Inflation Adjustment Act Improvements Act, which further amended the Federal Civil Penalties Inflation Adjustment Act, the final rule adjusts for inflation the civil monetary penalty (CMP) for violation of the notice-posting requirements in Title VII of the Civil Rights Act, the Americans with Disabilities Act, and the Genetic Information Non-Discrimination Act. EEOC has adjusted the maximum CMP per violation specified in 29 CFR 1601.30(a) from \$569 to \$576. The final rule is effective **05/26/2021**. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-05-26/pdf/2021-11085.pdf>. *Federal Register*, Vol. 86, No. 100, 05/26/2021, 28263-28265.

VA Issues Final Rule to Establish COVID-19 Veterans Assistance Partial Claim Payment Program.

The Department of Veterans Affairs (VA) issued a final rule to establish the COVID-19 Veterans Assistance Partial Claim Payment program (COVID-VAPCP), a temporary program to help veterans return to making normal loan payments on a VA-guaranteed loan after exiting a forbearance for financial hardship due, directly or indirectly, to the COVID-19 national emergency. The final rule is effective **07/27/2021**. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-05-28/pdf/2021-11373.pdf>. *Federal Register*, Vol. 86, No. 102, 05/28/2021, 28692-28710.

VA Issues Final Rule with Changes to Administrative Procedures Governing Guidance Documents.

VA issued a final rule to amend its regulations that govern the processes and procedures for issuing and managing guidance documents. The changes are necessary because an Executive Order (E.O.) titled, Promoting the Rule of Law Through Improved Agency Guidance Documents, under which the regulations were originally issued, has been rescinded by an E.O. titled, Revocation of Certain Executive Orders Concerning Federal Regulation. The final rule implements changes to ensure that the processes and procedures comply with the mandates of the E.Os. titled, Revocation of Certain Executive Orders Concerning Federal Regulation, and Regulatory Planning and Review, while also maintaining certain beneficial practices. The final rule is effective **07/07/2021**. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-06-07/pdf/2021-11835.pdf>. *Federal Register*, Vol. 86, No. 107, 06/07/2021, 30182-30184. ■



Compliance Notes

▲ CFPB released updated FAQs pertaining to compliance with the Electronic Fund Transfer Act (EFTA) and Regulation E. The FAQs address unauthorized electronic fund transfers and error resolution. The FAQs may be viewed at: www.consumerfinance.gov/compliance/compliance-resources/deposit-accounts-resources/electronic-fund-transfers/electronic-fund-transfers-faqs/

CFPB has also recently updated FAQs pertaining to compliance with the Mortgage Servicing rule, Regulation X and Regulation Z effective **04/19/2018**. The FAQs now include questions and answers regarding escrow accounts generally; escrow account analysis; escrow account deficiencies, shortages, and surpluses; and public guidance documents. The FAQs may be viewed at: www.consumerfinance.gov/compliance/compliance-resources/mortgage-resources/mortserv/mortgage-servicing-faqs/

▲ FDIC's latest Quarterly Banking Profile includes financial results for first quarter 2021. Reports from commercial banks and savings institutions insured by FDIC reflect aggregate net income of \$76.8 billion in first quarter 2021, an increase of \$58.3 billion (315.3 percent) from a year ago. Aggregate negative provision expense, reflecting improvements in the economy and asset quality, drove the increase in quarterly net income. The release may be viewed at: www.fdic.gov/news/press-releases/2021/pr21048.html

▲ FRB, FDIC, and OCC released the host state loan-to-deposit ratios that the agencies will use to determine compliance with section 109 of the Riegle-Neal Interstate Banking and Branching Efficiency Act. Data as of **06/30/2020** (which excludes wholesale or limited purpose CRA-designated banks, credit card banks, and special purpose banks) was used. Wisconsin's host state loan-to-deposit ratio is 90%. The release may be viewed at: www.federalreserve.gov/newsevents/pressreleases/files/bcreg20210521a1.pdf

▲ DFI recently reported that Wisconsin's 135 state-chartered banks continue to exhibit strong financial performance through the first quarter of 2021. State-chartered banks' total assets increased over \$1.8 billion from year-end 2020 and stand at more than \$65.5 billion through **03/31/2021**. The extension of the COVID-19 pandemic's PPP loans combined with the low interest rate environment continued to put pressure on the net interest margin, which declined to 3.37% as of **03/31/2021**. Loan growth since year-end 2020 was 1.44% with net loans growing over \$627 million. DFI also shared that for Wisconsin's state-chartered banks in the twelve months ending on **03/31/2021**:

- The capital ratio remained strong at 10.86% compared to 12.05% in March of 2020;
- The past due ratio declined to 0.97% from pre-pandemic levels when the ratio was 1.52% in March of 2020; and
- Net operating income was nearly \$241 million compared to \$147.5 million in March of 2020.

The return on average assets ratio was 1.52% and has increased from 1.08% in March of 2020 in part due to PPP loans and secondary market refinance fee income. The release may be viewed at: www.wdfi.org/newsroom/press/2021/20210528_NewsRelease_Q1BankData_vFINAL.pdf

▲ Freddie Mac updated its second home and investment property requirements. The changes are effective for mortgages with settlement dates on or after **07/01/2021**. In Guide Bulletin 2021-11, requirements to manage compliance with the amended Senior Preferred Stock Purchase Agreement (PSPA) between Freddie Mac and Treasury were announced. The amended PSPA limits Freddie Mac's purchase of single-family mortgages secured by investment properties and second homes to 7%, in aggregate, of total single-family mortgage acquisitions. To complement that effort, Freddie has updated its requirements for Investment Property and second home mortgages as is outlined in the Guide Bulletin. The bulletin may be viewed at: <https://my.sf.freddiemac.com/updates/guide/bulletin~2021-21>

▲ IRS is sending more than 2.8 million refunds to taxpayers who paid taxes on unemployment compensation that new legislation now excludes as income. IRS efforts to correct unemployment compensation overpayments will help most affected taxpayers avoid filing an amended tax return. So far, IRS has identified 13 million taxpayers that may be eligible for the adjustment. Some will receive refunds, which will be issued periodically, and some will have the overpayment applied to taxes due or other debts. For some there will be no change. Taxpayers will receive letters from IRS, generally within 30 days of the adjustment, informing them of what kind of adjustment was made (such as refund, payment of IRS debt payment or payment offset for other authorized debts) and the amount of the adjustment. The release may be viewed at: www.irs.gov/newsroom/irs-sending-more-than-2-point-8-million-refunds-to-those-who-already-paid-taxes-on-2020-unemployment-compensation

▲ FHFA announced that Fannie Mae and Freddie Mac will continue to offer COVID-19 forbearance to qualifying multifamily property owners through **09/30/2021**, subject to the continued tenant protections FHFA has imposed during the pandemic. This is the third extension of the programs, which were set to expire **06/30/2021**. The release may be viewed at: www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Extends-COVID-19-Multifamily-Forbearance-through-September-30-2021.aspx



Compliance Notes

▲ OCC announced a schedule of virtual workshops on compliance risk for boards of directors of national community banks and federal savings associations. The OCC examiner-led workshops provide training and guidance on the critical elements of an effective compliance risk management program, regulations such as BSA and ECOA, and other emerging issues regarding compliance risk. Registration is open for workshops in July and August, and additional workshops will be offered in the fall. The release may be viewed at: www.occ.gov/publications-and-resources/information-for/bankers/community-bank-director-workshops/index-community-bank-director-workshops.html

▲ FRB released the Summary of Commentary on Current Economic Conditions by Federal Reserve District. Commonly known as the *Beige Book*, the report is published eight times per year. Each Federal Reserve Bank gathers anecdotal information on current economic conditions in its district through reports from bank and branch directors and interviews with key business contacts, economists, market experts, and other sources. The latest *Beige Book* may be viewed at: www.federalreserve.gov/monetarypolicy/beige-book-default.htm

▲ CFPB issued a report, *Manufactured Housing Finance: New Insights from the Home Mortgage Disclosure Act Data*, which used new information collected under HMDA to explore differences between mortgage loans for site-built homes, mortgage loans for manufactured homes, and chattel loans for manufactured homes. The report data reflects that manufactured housing loan borrowers face higher interest rates, risk, and barriers to credit. Consumers tend to be rural and lower income, and those who do not own the underlying land have the greatest challenges. The report may be viewed at: www.consumerfinance.gov/data-research/research-reports/manufactured-housing-finance-new-insights-hmda/

▲ FHFA published a new comprehensive dataset on mortgage risk from 1990-2019 to improve policymakers' understanding of how mortgage risk has evolved over time and the role it played in the 2008 recession. The dataset contains aggregated results using more than 200 million purchase-money and refinance mortgages from 1990 to 2019. "A Quarter Century of Mortgage Risk" provides a summary measure of mortgage risk by estimating a "stressed default rate." The stressed default rate takes a loan made at any time from 1990-2019 and measures that loan's risk as though it originated at the dawn of the 2008 financial crisis. The paper and data tables may be viewed at: www.fhfa.gov/PolicyProgramsResearch/Research/Pages/wp1902.aspx

▲ A Presidential Executive Order (E.O.) on Climate-Related Financial Risk was released. With the goals of providing the American people with a better understanding of how climate change can impact their financial security and strengthening the U.S. financial system, the E.O. directs agencies to analyze and mitigate the risk climate change poses to homeowners and consumers, businesses and workers, and the financial system and federal government. The E.O. may be viewed at: www.whitehouse.gov/briefing-room/presidential-actions/2021/05/20/executive-order-on-climate-related-financial-risk/

▲ FDIC Chairman McWilliams testified before the Committee on Financial Services, U.S. House of Representatives. Her statement addressed oversight of prudential regulators and efforts to ensure safety, soundness, diversity, and accountability of depository institutions. She reported that since her last testimony six months ago, the banking system continues to be a source of strength for Americans and their financial needs. The speech may be viewed at: www.fdic.gov/news/speeches/2021/spmay1921.html

▲ OCC reported on 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 2021*. Banks maintained sound capital and liquidity levels, but profitability remains stressed due to low interest rates and low loan growth. The OCC highlighted credit, strategic, operational, and compliance risks, among the key risk themes in the report. The report may be viewed at: <https://www.occ.gov/publications-and-resources/publications/semiannual-risk-perspective/files/pub-semiannual-risk-perspective-spring-2021.pdf>

▲ IRS has started sending letters to more than 36 million American families who, based on tax returns filed with the agency, may be eligible to receive monthly Child Tax Credit payments starting in July. Families eligible for advance Child Tax Credit payments will receive a second, personalized letter listing an estimate of their monthly payment, which begins **07/15/2021**. Most families do not need to take any action to get their payment. Eligible families will begin receiving advance payments, either by direct deposit or check. The payment will be up to \$300 per month for each qualifying child under age 6 and up to \$250 per month for each qualifying child ages 6 to 17. IRS will issue advance Child Tax Credit payments on **07/15/2021, 08/13/2021, 09/15/2021, 10/15/2021, 11/15/2021, and 12/15/2021**. The release may be viewed at: www.irs.gov/newsroom/irs-sending-letters-to-more-than-36-million-families-who-may-qualify-for-monthly-child-tax-credits-payments-start-july-15

IRS also released a Child Tax Credit non-filer sign-up tool. The tool will automatically determine a person's eligibility. The tool may be viewed at: www.irs.gov/credits-deductions/child-tax-credit-non-filer-sign-up-tool



Compliance Notes

▲ On a related note to the above IRS item, FTC issued a reminder urging consumers to be alert about possible upcoming child tax credit payment scams. FTC recommended that families go to [IRS.gov](https://www.irs.gov) for the latest information, shared tips on avoiding being scammed, and instructed people to report scam attempts to [ReportFraud.ftc.gov](https://www.consumer.ftc.gov/blog/2021/06/more-money-coming-familiesand-scammers-are-ready). The reminder may be viewed at: <https://www.consumer.ftc.gov/blog/2021/06/more-money-coming-familiesand-scammers-are-ready>

▲ ICE announced an extension of the flexibilities in rules related to Form I-9 compliance initially granted last year. Due to the continued precautions related to COVID-19, DHS has extended its policy until **08/31/2021**. The current extension includes guidance for employees hired on or after **06/01/2021**, and work exclusively in a remote setting due to COVID-19-related precautions. Those employees are temporarily exempt from the physical inspection requirements associated with the Employment Eligibility Verification (Form I-9) until they undertake non-remote employment on a regular, consistent, or predictable basis, or the extension of the flexibilities related to such requirements is terminated, whichever is earlier. The announcement may be viewed at: www.ice.gov/news/releases/ice-announces-extension-new-employee-guidance-i-9-compliance-flexibility-0 ■

WBA ADVOCACY

Volunteer Today – WBA Advocacy Officer

Join the group where influential bankers become leaders in their community.

WHY BECOME AN ADVOCACY OFFICER? IT'S LEADERSHIP IN ACTION!

Leadership. You will be seen as a leader in your bank because of your increasing awareness regarding banking-related issues.

Development. You will develop the ability to innovate and make a positive impact on the direction of the banking industry.

Opportunity. You'll be given the opportunity to facilitate statutory or regulatory changes that will benefit your bank and the banking industry.

Visibility. Your voice and your opinions will be heard by policymakers.

Impact. You will be making a real difference in the lives of Wisconsin bankers and the communities you serve.

Contact John Cronin at jcronin@wisbank.com or 608-441-1215 with questions, to sign up, or to learn more about Advocacy Officer duties and responsibilities.

You can also visit www.wisbank.com/advocacy.



Conferences | Summits

Schools | Boot Camps

Seminars | Workshops

WBA Webinars

Other Events

JULY 2021

- **Community Bankers for Compliance (CBC) – Session III**
 27-28 Virtual; Membership (*pricing options vary*)
- **Advanced Financial Statement & Cash Flow Analysis Workshop**
 29 Madison; \$245/attendee
- **Advanced Tax Return Analysis Workshop**
 30 Madison; \$245/attendee

AUGUST 2021

- **Agricultural Lending School**
 4-6 Madison; \$895/attendee
(optional pre-school workshop available on Aug. 3)
- **Chairman's Member Appreciation Golf Outing**
 19 Wisconsin Dells; complimentary
- **Family-owned and Closely Held Bank Strategic Retreat**
 24-25 Galena, IL; \$295/attendee

SEPTEMBER 2021

- **Management Conference (*including tracks for CEOs, CFOs, CCOs, HR, and other bank leaders*)**
 13-14 Green Bay; \$250/each first two bank attendees; \$200/each additional attendee
- **Secur-I.T. Conference (*including tracks for security, technology, operations, and BSA/AML*)**
 21-22 Wisconsin Dells; \$350/first attendee; \$300/each additional attendee
- **Commercial Lending School**
 27-30 Madison – \$1,295/attendee (*on-demand virtual pre-school sessions included; est. 5 hours online*)
- **Bank Directors Summit**
 28 Stevens Point; \$195/attendee
- 29 Madison; \$195/attendee

OCTOBER 2021

- **Supervisor Boot Camp**
 4-5 Madison; \$535/attendee
- **Auditing Real Estate Loans Boot Camp**
 12-14 Madison; \$795/attendee
- **Bank Investment & Strategies: Part 2**
 9 2 Part Webinar; \$250/attendee
- **FIPCO Software & Compliance Forum: Loan & Mortgage**
 19-20 Madison or Virtual; Cost TBD
- **Community Bankers for Compliance (CBC) – Session IV**
 26 Stevens Point; Membership (*pricing options vary*)
 27 Madison; Membership (*pricing options vary*)
- **Principles of Banking Course**
 TBD Locations TBD; \$550/attendee
- **IRA Essentials Workshops**
 TBD Locations TBD; \$245/attendee
- **Advanced IRA Workshops**
 TBD Locations TBD; \$245/attendee

NOVEMBER 2021

- **BOLT Winter Leadership Summit**
 4 Stevens Point; \$100/attendee
- **Personal Banker School**
 8-9 Madison; \$495/attendee
- **Compliance Forum: Session 2**
 9 Wausau; Membership (*pricing options vary*)
 10 Madison; Membership (*pricing options vary*)
- **LEAD360 Conference**
 16-17 Wisconsin Dells; \$350/first attendee; \$300/each additional attendee

KEY: Color-Coded Event Descriptions...

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