

Compliance Journal

Special Focus

Long Awaited Dodd-Frank Act Small Business Lending Reg B Data Collection Rule Finally Proposed

The long awaited proposed rule regarding the collection and reporting of small business lending data as required by Section 1071 of the Dodd-Frank Act has finally been released by the Bureau of Consumer Financial Protection (CFPB). Unfortunately, the proposed rule is as broad and onerous as the industry expected it to be as it will be costly to train, implement, and monitor. The proposal would revise Regulation B, which implements the Equal Credit Opportunity Act (ECOA), to require the collection and reporting to CFPB certain data on applications for credit by small businesses. The proposal is substantial; however, below is a brief summary of the proposed rule.

Who Must Collect Data

The first step of analysis for any proposal is to identify whether it will apply to the bank. In this case, the proposal is broad and will very likely apply to all banks in Wisconsin. As proposed, if a bank originates at least 25 credit transactions that are considered “covered credit transactions” to “small businesses” in each of the two preceding years, the proposed rule will apply to the bank. Generally, a “small business” under the proposal is a business that had \$5 million or less in gross annual revenue for its preceding fiscal year.

What CFPB has proposed be considered a “covered credit transaction” is a bit trickier an analysis but is generally the same as what is considered an application under the existing Regulation B definition of “application.” The proposed term does; however, exclude reevaluation requests, extension requests, or renewal requests on an existing business credit account, unless the request seeks additional credit amounts; also excluded is an inquiry or prequalification request.

What Data is to be Collected

Next, the data to be collected. Dodd-Frank Act Section 1071 identified certain data that must be collected by CFPB; the law also gave CFPB discretion to collect additional data. CFPB has incorporated all Dodd-Frank Act required data and several discretionary data into its proposal. In particular, banks must collect a unique identifier of each application, application date, application method, application recipient, action taken by bank on the application, date action taken, denial reasons, amount applied for, amount originated or approved, and pricing information including interest rate, total origination charges, broker fees, initial annual charges, additional cost for merchant cash advances or other sales-based financing, and prepayment penalties.

Banks must also collect credit type, credit purpose, information related to the applicant’s business such as census tract, NAICS code and gross annual revenue for applicant’s preceding fiscal year, number of applicant’s non-owner workers, applicant’s time in business, and number of applicant’s principal owners.

There is also demographic information about the applicant’s principal owners to collect. These data points include minority- and women-owned business status, and the ethnicity, race, and sex of the applicant’s principal owners. The proposal also requires banks to maintain procedures to collect applicant-provided data at a time and in a manner that is reasonably designed to obtain a response, addresses how banks are to report certain data if data are not obtainable from an applicant, when banks are permitted to rely on statements made by an applicant, when banks must verify applicant’s responses to certain data collected, and when banks may reuse certain data collected in certain circumstances such as when data was collected within the same calendar year as a current covered application and when the bank has no reason to believe the data are inaccurate.



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When and How Data Must be Reported

Banks would be required to collect data on a calendar-year basis and report the data to CFPB by June 1 of the following year. CFPB has proposed to provide technical instructions for the submission of data in a *Filing Instructions Guide* and related materials.

The submitted data is also to be made available to the public on an annual basis. Banks would be required to make the reported data available on their website, or otherwise upon request, or must provide a statement that the bank's small business lending application register is available on CFPB's website. Model language for such statement has been proposed by CFPB.

Limit of Certain Bank Personnel's Access to Certain Data

The proposed rule implements a requirement under Section 1071 that banks limit certain employees' and officers' access to certain data. CFPB refers to this as the "firewall." Pursuant to the proposed rule, an employee or officer of a bank or bank's affiliate who are involved in making any determination concerning the applicant's covered application would be prohibited from accessing an applicant's responses to inquiries that the bank made regarding whether the applicant is a minority- or woman-owned business. Such employees are also restricted from information about an applicant's ethnicity, race, and sex of the applicant's principal owners.

There are exceptions to the requirement if it is not feasible to limit such access, as that factor is further set forth in the proposal. If an exception is permissible under the proposal, notice must be given to the application regarding such access. Again, CFPB has created model language for such notice.

Recordkeeping and Enforcement

The proposal establishes certain recordkeeping requirements, including a three year retention period for small business lending application registers. The proposal also includes a requirement to maintain an applicant's responses to Section 1071 inquiries regarding whether an applicant is a minority- or women-owned business, and responses regarding the ethnicity, race, and sex of the applicant's principal owners, separate from the rest of the application and accompanying information.

The proposal does include enforcement for violations of the new rules, addresses bona fide errors, and provides for a safe harbor.

Learn More and Get Involved

The proposal and additional information, including a chart of the proposed data collection points, may be viewed at: <https://www.consumerfinance.gov/rules-policy/rules-under-development/small-business-lending-data-collection-under-equal-credit-opportunity-act-regulation-b/>

WBA will comment on the proposal and will create a template letter for bankers to use in providing their own comments to CFPB regarding the impact the proposal will have on the bank. Comments are due 90 days from publication of the proposed rule in the *Federal Register*. At time of publication of the article, the proposal had not yet been published. CFPB has proposed mandatory compliance of a final rule be eighteen months after its effective date. WBA Legal is creating a working group to collect data and concerns from Wisconsin's bankers on the proposal. If you wish to be part of the working group, please contact WBA Legal at wbalegal@wisbank.com. ■

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Transition of Wisconsin's Hemp Pilot Program to USDA

For the past few years, hemp has been grown legally in Wisconsin under a temporary pilot program, designed for research purposes. During this time, many banks in Wisconsin have developed policies and procedures to bank customers entering the industry. As the pilot program comes to an end this month, it will transition to a permanent program administered by the United States Department of Agriculture (USDA) starting **January 1, 2022**. This article provides a brief background leading up to the transition, some of the broader considerations under USDA's program, and how banks can start to prepare their policies and procedures accordingly.

Background

Wisconsin's pilot program has been administered by the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP), as provided for research purposes pursuant to the Agricultural Act of 2014 and Wisconsin law. The Agriculture Improvement Act of 2018 (2018 Farm Bill) has since transitioned hemp from a research crop to a commodity. Following enactment of the 2018 Farm Bill, USDA issued a final rule in January 2021 establishing a federal program regulating the production of hemp. While DATCP issued emergency rules to maintain Wisconsin's existing pilot program throughout the 2021 growing season, it has recently announced its plan to transition the program from a state-run program to a federal-run program for future seasons, starting in 2022.

Considerations

Every institution with customers involved in the hemp-related industry should consider its existing policies and procedures in relation to the transition. While there remain no hemp-related rules specific to banking, as the regulatory landscape for the industry continues to shift, it is important for banks to be aware of how various changes may affect some customers.

One important reason for establishing this familiarity is in order to maintain confidence as to whether the bank's customer is engaged in hemp-related activity legally. For example, while DATCP issued licenses to "growers" and "processors," USDA's program licenses "producers" of hemp. "Producer" is defined under 7 CFR 718.2 to mean an owner, operator, landlord, tenant, or sharecropper, who shares in the risk of producing a crop and who is entitled to share in the crop available for marketing from the farm, or would have shared had the crop been produced. A producer includes a grower of hybrid seed. Meaning, as of January 1, 2022, in Wisconsin, anyone who produces hemp must be licensed under a Tribal hemp program or the USDA hemp program.

Ultimately, the bank's customer must make the determination as to whether they are in the business of hemp production, however the bank may want to familiarize itself with the term, program requirements, and nature of its customer's business so as to ensure it is able to make a good faith determination as to whether its customer's hemp-related activities are legal.

As discussed above, DATCP will transfer primary regulatory authority for hemp production in Wisconsin to USDA on January 1, 2022. Nothing will change for Wisconsin hemp licensees during the 2021 growing season. Licensed individuals will continue to work with DATCP on all harvest notifications, sample collection, testing, and final reports until December 31, 2021. Thus, existing bank policies and procedures with respect to existing program requirements should suffice until the end of the year.

Beginning on January 1, 2022, however, producers will be required to obtain a USDA license. Specific information on the application process, including contact information, can be found on USDA and DATCP's websites. For the 2022 and future growing seasons, producers must collect samples and testing through hemp sampling agents certified with the Department of Drug Enforcement Administration (DEA). USDA provides a list of certified samplers, for which producers must find their own agents and testing facilities. While DATCP collected samples, and conducted its own testing in Wisconsin, USDA does not sample nor test hemp.

Some other key differences to be aware of are as follows:

- USDA licenses must be renewed every 3 years.
- No special approval is required for specific varieties (e.g., specific seeds).
- No research agreement is required.
- Reporting must be done at the local Farm Service Agency (FSA) office. This report includes a farm record.
- USDA does not license processors.
- USDA does not regulate manufacturing, transportation, or creation of products.
- Producers must designate growing areas by "lots" (separate lots for separate varieties or strains).



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As discussed above, USDA will not issue licenses for hemp processors. As of January 1, 2022, DATCP will also no longer issue licenses for processors. However, DATCP will retain the authority to regulate the quality and safety of hemp pursuant to existing trade, consumer protection, and plant industry regulations. Thus, while USDA will become the primary regulatory authority for hemp production in Wisconsin, DATCP will retain authority to enforce Wisconsin-specific hemp labeling, food safety, and consumer protection laws. These laws and corresponding requirements will not change with the transition.

While there are no specific requirements for banks to check samples, test results, or otherwise monitor the hemp-related activity of their customers, it is important to remember the importance of overall “know-your-customer” considerations as a matter of prudent business practice. Potential customers may be growers, sellers, retailers, or have other, more unique prospects. It is important that banks consider the extent to which their potential customers are engaged in the hemp industry, and whether they are “producers” under USDA rules, in order to determine whether bank is comfortable opening and maintaining an account relationship and, if so, what it will require to do so.

At a minimum, banks should start with whether the business is licensed. A bank may determine on a case-by-case basis whether a customer is required to be licensed. It may also make a business decision to only do business with licensed customers, regardless of whether they are required to obtain a license or not. As outlined above, “producer” is a broad term under the federal rule and could cover various business activities outside of growing and processing. Even if a hemp-related business has compelling rationale for not being licensed, bank may seek certifications that its related-businesses are licensed.

Other certifications might include representations from customers regarding their licensing status, submission of samples for testing, and overall compliance with USDA’s program. For more specific information regarding those requirements, USDA provides resources for acceptable testing, disposal and remediation of non-compliant plants, sampling methods, timing of sampling, and other requirements that bank customers might be required to comply with.

In the past, banks may have collected what was known as a “fit for commerce certificate,” which was issued by DATCP at time of testing. Such a certificate will no longer be available. Instead, the representations will depend on the DEA-certified laboratory the producer selects, but will generally be a report of whether the test passes or fails. Banks may also have collected information such as: planting date, GPS coordinates, crop type, intended use, size of each growing location, and irrigation practice. Such information will now be included in the farm record which must be reported to the producer’s local FSA.

In addition to understanding USDA’s program requirements, banks should seek to understand the nature and types of businesses its customers are engaged in. For example, the process may begin with a series of questions to identify whether a customer is engaged in hemp-related activity, and to what extent. This is important because a bank may not ask, or require, the same information from a grower as it does a seller. Once bank has an understanding of the business its customer is engaged in, bank will be better able to ask follow-up questions such as:

Is the customer required to be licensed?

- If so, are they licensed through USDA or an otherwise USDA approved program?
- Can they provide documentation that their licensing is up to date?
- Will they provide ongoing documentation as to the status of their licensure?
- Do they collect and submit samples for regular testing?
- If they are a retailer, who do they buy/sell to?
- Are they engaged with any other businesses? Within Wisconsin? Outside of Wisconsin?
- Are those businesses licensed under a USDA approved program?
- Other questions?

Lastly, WBA encourages banks to learn not only more about the requirements that might apply to growers, but also about hemp itself. Having these conversations with customers is important to better understand the plant, and the industry. As familiarity in those areas increases, so too will comfort in maintaining an account relationship.

Conclusion

Growers will continue to work with DATCP for the current growing season for harvest notifications, sample collection, and testing until December 31, 2021. Starting **January 1, 2022**, hemp growers, as defined by USDA’s rules, will transition to the federal-run program. Hemp processors will no longer need a DATCP license to process hemp. Hemp processors will remain under DATCP’s current authority for consumer and food products. Banks should adjust and prepare their policies and procedures, accordingly.



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Additional Resources

DATCP Hemp Research Program: https://datcp.wi.gov/Pages/Programs_Services/Hemp.aspx

Hemp Program Transition to USDA: https://datcp.wi.gov/Pages/Programs_Services/HempTransition.aspx

WI Hemp Growers Transition Checklist: <https://datcp.wi.gov/Documents2/WIHempGrowersUSDATransitionChecklist.pdf>

USDA Hemp Production: <https://www.ams.usda.gov/rules-regulations/hemp>

USDA Final Rule: <https://www.govinfo.gov/content/pkg/FR-2021-01-19/pdf/2021-00967.pdf> ■

Regulatory Spotlight

Agencies Extend Comment Period on Proposed Guidance on Third-Party Relationships.

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) extended the comment period on proposed guidance regarding managing risks associated with third-party relationships. The proposed guidance, published on **07/19/2021**, provided for a comment period ending **09/17/2021**. The agencies have extended the comment period to **10/18/2021**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-09-10/pdf/2021-19545.pdf>. *Federal Register*, Vol. 86, No. 173, 09/10/2021, 50789.

CFPB Issues Final Rule to Revise Privacy Regulations to Obtain Records.

The Bureau of Consumer Financial Protection (CFPB) issued a final rule to revise its regulations that establish the procedures used by the public to obtain records from CFPB under the Privacy Act. The revisions change the definition of “Chief Privacy Officer” in order to align the Chief Privacy Officer’s authorities and responsibilities identified in the regulation to those of CFPB’s designated Senior Agency Official for Privacy. The revisions also facilitate electronic or remote identity proofing and authentication by creating an additional method for a requester to verify their identity when submitting a Privacy Act request to CFPB. The final rule is effective **09/01/2021**. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-09-01/pdf/2021-18589.pdf>. *Federal Register*, Vol. 86, No. 167, 09/01/2021, 48900-48901.

CFPB Issues Interpretive Rule on Impact of the Juneteenth Holiday on Certain Closed-End Mortgage Requirements.

CFPB issued an interpretive rule to provide guidance on certain Regulation Z timing requirements related to rescission of closed-end mortgages and the TILA-RESPA Integrated Disclosures (TRID). The timing requirements are based on a definition of “business day” that excludes days that are designated as legal public holidays under federal law. The interpretive rule explains timing requirements in light of recent legislation that designated “Juneteenth National Independence Day, June 19” (Juneteenth) as a federal legal public holiday. The interpretive rule clarifies that, if the relevant closed-end rescission or TRID time period began on or before **06/17/2021**, then **06/19/2021**, was considered a business day, but nothing prohibits creditors from providing longer time periods. It would also be compliant for creditors to have considered **06/19/2021**, a federal holiday for purposes of these provisions. The interpretive rule is effective **08/12/2021**. The interpretive rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-08-12/pdf/2021-17050.pdf>. *Federal Register*, Vol. 86, No. 153, 08/12/2021, 44267-44270.

CFPB Issues Technical Specifications for Credit Card Agreement and Data Submissions Required Under TILA and the CARD Act.

CFPB issued new technical specifications for certain credit card issuers to comply with submission requirements involving credit card agreements and data under the Truth in Lending Act (TILA) and the Credit Card Accountability Responsibility and Disclosure Act (CARD Act). Credit card issuers will make the required submissions under TILA and the CARD Act through CFPB’s “Collect”



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website. The technical specifications include registration information and the URL for the website at which issuers (or their designees) can submit the required information. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-08-23/pdf/2021-17994.pdf>. *Federal Register*, Vol. 86, No. 160, 08/23/2021, 46953-46958.

CFPB Withdraws Proposal to Delay Effective Date for Debt Collection Practices Rules.

In 2020, CFPB finalized two rules (collectively, the Debt Collection Final Rules) which revised Regulation F, which implements the Fair Debt Collection Practices Act (FDCPA). As finalized, the Debt Collection Final Rules had an effective date of **12/30/2021**. On **04/07/2021**, CFPB issued a proposal to delay that effective date until **01/29/2022**. CFPB has withdrawn that proposal for the reasons provided in this proposed rule. As a result, the Debt Collection Final Rules are effective **11/30/2021**. The withdrawal may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-09-01/pdf/2021-18799.pdf>. *Federal Register*, Vol. 86, No. 167, 09/01/2021, 48918.

FRB Issues Final Rule to Amend Regulation D Reserve Requirements.

The Board of Governors of the Federal Reserve System (FRB) issued a final rule to amend Regulation D, Reserve Requirements of Depository Institutions, to revise the rate of interest paid on balances maintained at Federal Reserve Banks by or on behalf of eligible institutions (IORB rate). The final amendments specify that the IORB rate is 0.15 percent, an 0.05 percentage point increase from its prior level. The amendment is intended to establish the IORB rate at a level consistent with maintaining the federal funds rate in the target range established by the Federal Open Market Committee. The amendment does not reflect a change in the stance of monetary policy. FRB has also made conforming deletions for clarity to the provisions of Regulation D governing interest payable on balances at Reserve Banks. The final rule is effective **09/08/2021**. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-09-08/pdf/2021-19280.pdf>. *Federal Register*, Vol. 86, No. 171, 09/08/2021, 50213-50214.

FDIC Issues Notice of Termination of Receiverships.

The Federal Deposit Insurance Corporation (FDIC), as Receiver for each of the insured depository institutions listed in the notice, 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 on the termination dates listed in the notice, the Receiverships have been terminated, the Receiver has been discharged, and the Receiverships have ceased to exist as legal entities. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-09-07/pdf/2021-19195.pdf>. *Federal Register*, Vol. 86, No. 170, 9/07/2021, 50120.

FDIC Issues Notice of Intent to Terminate Receiverships.

FDIC, as Receiver for the institutions listed in the notice, announced it intends to terminate its receivership for said institutions. The liquidation of the assets for the receivership has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors. Based upon the foregoing, the Receiver has determined that the continued existence of the receiverships will serve no useful purpose. Consequently, notice is given that the receiverships shall be terminated, to be effective no sooner than thirty days after the date of the notice. If any person wishes to comment concerning the termination of the receiverships, such comment must be made in writing, identify the receivership to which the comment pertains, and sent within thirty days of the date of the notices to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 34.6, 1601 Bryan Street, Dallas, TX 75201. No comments concerning the termination of this receivership will be considered which are not sent within this time frame. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-09-03/pdf/2021-19118.pdf>. *Federal Register*, Vol. 86, No. 169, 09/03/2021, 49532-49533.

FDIC Seeks Comment on Supervisory Approach to Examinations During the Pandemic.

FDIC seeks information and comments from financial institutions for which FDIC is the primary federal regulator regarding its supervisory approach to examinations during the pandemic, including on-site and off-site activities, use of technology, and communication methods. Comments are due **10/12/2021**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-08-12/pdf/2021-17230.pdf>. *Federal Register*, Vol. 86, No. 153, 08/12/2021, 44364-44366.



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FDIC Seeks Comment on Reinstated Small Business Lending Survey Information Collection.

FDIC seeks comment on the reinstatement of a previously approved and subsequently discontinued information collection for the Small Business Lending Survey, a survey of banks that FDIC has proposed to file in May 2022. Given the value of small businesses to the U.S. economy and the role of bank lending to small businesses, the proposed FDIC 2022 Small Business Lending Survey, which surveys banks, will provide important data to complement existing sources of information and will provide additional insight into many aspects of small business lending extended by banks. The proposed survey will document the current types of credit offered, information banks use to underwrite loans, the market area for small business loans, competition for small business lending, and the practices used to conduct small business lending. The survey asks similar questions about banks' lending volumes for business purposes as in the 2016 collection, but by finer gradations for both business size and loan size and by both loans outstanding and loan originations. The proposed collection will also provide new information on banks' current or planned use of financial technology, whether and how banks use automated lending, and the effects of the coronavirus pandemic with respect to their small business loan programs. Comments are due **10/04/2021**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-09-02/pdf/2021-18951.pdf>. *Federal Register*, Vol. 86, No. 168, 09/02/2021, 49330-49332.

HUD Issues Program Evaluation Policy Statement.

The Department of Housing and Urban Development Department (HUD) issued a policy statement to articulate the core principles and practices of its evaluation and research activities. The policy reaffirms HUD's commitment to conducting rigorous, relevant evaluations and to using evidence from evaluations to inform policy and practice. The policy statement may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-08-13/pdf/2021-17339.pdf>. *Federal Register*, Vol. 86, No. 154, 08/13/2021, 44738-44740.

HUD Announces Interest Rates Paid on Certain 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 under the provisions of the National Housing Act. The interest rate for debentures issued under Section 221(g)(4) of the Act during the 6-month period beginning **07/01/2021**, is 1½ 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 the other provisions with respect to a loan or mortgage committed or endorsed during the 6-month period beginning **07/01/2021**, is 2¼ percent. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-09-08/pdf/2021-19492.pdf>. *Federal Register*, Vol. 86, No. 171, 09/08/2021, 50370-50371.

HUD Issues Annual Indexing of Basic Statutory Mortgage Limits for Multifamily Housing Programs and Substantial Rehabilitation Threshold.

HUD announced adjustments to the Basic Statutory Mortgage Limits for Multifamily Housing Programs for Calendar Year 2021. HUD has also provided notice of adjustment to the per unit cost threshold for determining substantial rehabilitation in the Multifamily Housing Programs pursuant to its administrative guidance for Calendar Year 2021. See the notice for the adjustments. The effective date is **01/01/2021**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-09-09/pdf/2021-19496.pdf>. *Federal Register*, Vol. 86, No. 172, 09/09/2021, 50554-50555.

HUD Extends Comment Period for Proposed Local Appeals to Single-Family Mortgage Limit Information Collection.

HUD has extended the comment period for a proposed information collection titled, Local Appeals to Single-Family Mortgage Limits. Any interested party may submit a request for the mortgage limits to be increased in a particular area if they believe that the present limit does not accurately reflect the higher sales prices in that area. Any request for an increase must be accompanied by sufficient housing sales price data to justify higher limits. The procedure allows HUD the opportunity to examine additional data to confirm or adjust the set loan limit for a particular area. Comments have been extended until **09/30/2021**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-08-31/pdf/2021-18718.pdf>. *Federal Register*, Vol. 86, No. 166, 08/31/2021, 48750.



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FEMA Issues Final Rule Regarding Public Assistance Appeals and Arbitrations.

The Federal Emergency Management Agency (FEMA) issued a final rule to implement the new right of arbitration authorized by the Disaster Recovery Reform Act (DRRA) and to revise its regulations regarding first and second Public Assistance appeals. The DRRA adds arbitration as a permanent alternative to a second appeal under the Public Assistance Program. The final rule is effective **01/01/2022**. Comments regarding the proposed information collection are due **09/15/2021**. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-08-16/pdf/2021-17213.pdf>. *Federal Register*, Vol. 86, No. 155, 08/16/2021, 45660-45685.

FEMA Revises Hazard Mitigation Assistance and Mitigation Planning Regulations.

FEMA issued a final rule to revise their hazard mitigation assistance and mitigation planning regulations to reflect its current statutory authority and practice. In the final rule, FEMA adopts the changes proposed in August 2020 with some minor revisions in consideration of the related comments as well as Title 2 of the Code of Federal Regulations (CFR) part 200. FEMA describes the comments received and changes made in the final rule. The final rule is effective **10/12/2021**. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-09-10/pdf/2021-19186.pdf>. *Federal Register*, Vol. 86, No. 173, 09/10/2021, 50653-50679.

FEMA Issues Corrections to Final Rule Which Revised NFIP Regulations.

FEMA published in the *Federal Register* on **07/20/2020**, a final rule which revised 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. FEMA has identified corrections that need be made to the previously published information. The final rules provide corrections to the previously published information, to be used in lieu of the information published July 20. The corrections are effective **10/01/2021**. The corrections may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-08-25/pdf/2021-18260.pdf>. *Federal Register*, Vol. 86, No. 162, 08/25/2021, 47395; and <https://www.govinfo.gov/content/pkg/FR-2021-08-31/pdf/2021-18262.pdf>. *Federal Register*, Vol. 86, No. 166, 08/31/2021, 48511.

FEMA Seeks Comment on NFIP's Community Rating System.

FEMA seeks comment on transforming the Community Rating System (CRS) under the National Flood Insurance Program (NFIP) to better align with the current understanding of flood risk and flood risk approaches and to incentivize communities to not only manage but also lower their flood risk through floodplain management initiatives. The CRS program is a voluntary incentive program that recognizes and encourages community floodplain management practices that exceed the minimum requirements of the NFIP for floodplain management. FEMA is evaluating the CRS program and its potential to support FEMA, state, local, Tribal, and territorial community goals and needs. Comments are due **09/22/2021**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-08-23/pdf/2021-18167.pdf>. *Federal Register*, Vol. 86, No. 160, 08/23/2021, 47128-47131.

FEMA Issues Final Flood Hazard Determinations.

FEMA issued a notice which identifies communities in the state of **Iowa**, where flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final. The FIRM and FIS reports are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in FEMA's National Flood Insurance Program (NFIP). The final notice is effective **12/02/2021**. The final notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-08-12/pdf/2021-17220.pdf>. *Federal Register*, Vol. 86, No. 153, 08/12/2021, 44393-44394.

FEMA Issues Final Notice on Changes in Flood Hazard Determinations.

New or modified Base (1-percent annual chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or regulatory floodways (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) have been made final for communities in the states of **Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin**, as listed in the table in the notice. Each LOMR revises the Flood Insurance Rate Maps (FIRMs),



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and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities. Each LOMR was finalized as indicated in the table in the notice. The final notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-08-12/pdf/2021-17204.pdf>. *Federal Register*, Vol. 86, No. 153, 08/12/2021, 44386-44392.

FEMA Issues Changes in Flood Hazard Determinations.

FEMA issued a notice which lists communities in the states of **Iowa, Michigan, Minnesota, 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-2021-08-12/pdf/2021-17217.pdf>. *Federal Register*, Vol. 86, No. 153, 08/12/2021, 44382-44385.

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 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 **12/06/2021**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-09-07/pdf/2021-19211.pdf>. *Federal Register*, Vol. 86, No. 170, 09/07/2021, 50148-50149.

Treasury Seeks Information on Insurance Sector and Climate-Related Financial Risks.

The Department of Treasury's (Treasury's) Federal Insurance Office (FIO) seeks comment following the **05/20/2021**, Executive Order on Climate-Related Financial Risks. FIO's efforts focus on three initial climate-related priorities, which are described in the notice. Additionally, Treasury seeks input on how FIO's data collection and dissemination authorities can best be used in support of the priorities, as well as to monitor and access the insurance sector and climate-related financial risks. Comments are due **11/15/2021**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-08-31/pdf/2021-18713.pdf>. *Federal Register*, Vol. 86, No. 166, 08/31/2021, 48814-48819.

FHFA Issues Proposed Enterprise Housing Goals.

The Federal Housing Finance Agency (FHFA) issued a proposed rule regarding the housing goals for Fannie Mae and Freddie Mac (the Enterprises) for 2022 through 2024. The Federal Housing Enterprises Financial Safety and Soundness Act requires FHFA to establish annual housing goals for mortgages purchased by the Enterprises. The housing goals include separate categories for single-family and multifamily mortgages on housing that is affordable to low-income and very low-income families, among other categories. The existing housing goals for the Enterprises include benchmark levels through the end of 2021. The proposed rule would establish new benchmark levels for housing goals and subgoals for 2022 through 2024. The proposed rule would also replace the low-income areas subgoal with separate area-based subgoals targeting the individual components of the low-income areas subgoal (minority census tracts and low-income census tracts). Finally, the proposed rule would make several technical changes to definitions and other provisions to conform the regulation to existing practice. Comments are due **10/25/2021**. The proposed rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-08-25/pdf/2021-18008.pdf>. *Federal Register*, Vol. 86, No. 162, 08/25/2021, 47398-47417.



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FHFA Seeks Comment on Appraisal Management Companies Information Collection.

FHFA seeks comment concerning an existing information collection titled, Minimum Requirements for Appraisal Management Companies. Under state and federal prudential banking regulations applicable to appraisal management companies (AMCs), each AMC need provide information to states and FHFA. The reported information is also collected in the information collection. Comments are due **10/22/2021**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-08-23/pdf/2021-17971.pdf>. *Federal Register*, Vol. 86, No. 160, 08/23/2021, 47107-47110.

SBA Issues Interim Final Rule to Implement Changes to Disaster Loan Program Regulations.

The Small Business Administration (SBA) issued an interim final rule to implement changes to the Disaster Loan Program regulations. For applications for COVID-19 Economic Injury Disaster (COVID EIDL) loans, SBA has changed the definition of affiliation, the eligible uses of loan proceeds, and application of the size standard to certain hard-hit eligible entities, and has established a maximum loan limit for borrowers in a single corporate group. In addition, for all disaster assistance programs, SBA has changed which SBA official may make the decision on the appeal of an application that has been declined for a second time. The change to the regulation at 13 CFR 123.13 applies to applications submitted under all Disaster Loan Programs on or after **09/08/2021**. The changes to the regulation at 13 CFR 123.303 apply to COVID EIDL loan proceeds available on or after **09/08/2021**, without regard to the date such proceeds were received from SBA. The other changes in the interim final rule apply to applications submitted under the COVID EIDL Program on or after **09/08/2021**, through **12/31/2021**, or until funds available are exhausted, whichever is earlier. Additionally, with the exception of the regulation at 123.304, the interim final rule applies to original applications under the COVID EIDL Program that are submitted before but approved on or after **09/08/2021**. Comments are due **10/08/2021**. The interim final rule is effective **09/08/2021**. The interim final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-09-08/pdf/2021-19232.pdf>. *Federal Register*, Vol. 86, No. 171, 09/08/2021, 50214-50219.

SBA Announces Change to Secondary Market Program.

SBA announced a change to its Secondary Market Loan Pooling Program. SBA has increased the minimum maturity ratio for both SBA Standard Pools and Weighted-Average Coupon (WCA) pools by 400 basis points, to 93.0%. The change described in the notice has been made to cover the estimated cost of the timely payment guaranty for newly-formed SBA 7(a) loan pools. The change will be incorporated, as needed, into SBA's Secondary Market Program Guide and all other appropriate SBA Secondary Market documents. The change will apply to SBA 7(a) loan pools with an issue date on or after **10/01/2021**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-09-01/pdf/2021-18858.pdf>. *Federal Register*, Vol. 86, No. 167, 09/01/2021, 49087.

SBA Announces Increase in SBIC Licensing and Examination Fees.

SBA announced an increase in licensing and examination fees charged to Small Business Investment Companies (SBICs) due to the annual inflation adjustment required under SBIC program regulations. The fees are listed in the notice. The changes are effective **10/01/2021**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-09-01/pdf/2021-18856.pdf>. *Federal Register*, Vol. 86, No. 167, 09/01/2021, 49087-49088.

FCA Issues Proposed Rule on Risk Weighting of HVCRE Exposures.

The Farm Credit Administration (FCA) issued a proposed rule that would revise regulatory capital requirements for Farm Credit System (System) institutions to define and establish risk-weightings for High Volatility Commercial Real Estate (HVCRE) exposures. FCA's objects of the proposed rule are to: update capital requirements to reflect the increased risks that exposures to certain acquisition, development or construction loans pose to System institutions; and ensure that the System's capital requirements are comparable to the Basel III framework and the standardized approach the federal banking regulatory agencies have adopted, with deviations as appropriate to accommodate the different operational and credit considerations of the System. Comments are due **11/24/2021**. The proposed rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-08-26/pdf/2021-17560.pdf>. *Federal Register*, Vol. 86, No. 163, 08/26/2021, 47601-47608.

FCA Extends Comment Period for Liquidity Reserve ANPR.

FCA announced an extension of the comment period for its advanced notice of proposed rulemaking (ANPR) about whether and



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how FCA should revise its liquidity regulatory framework for Farm Credit System Banks. FCA has extended the comment period an additional 60 days, until **11/27/2021**. The comment period for the ANPR on bank liquidity reserves, published in the *Federal Register* on **06/30/2021**, is extended from **09/28/2021** to **11/27/2021**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-09-03/pdf/2021-18984.pdf>. *Federal Register*, Vol. 86, No. 169, 09/03/2021, 49496-49497.

RBC Issues NOSA for Rural Economic Development and Grant Programs for FY 2022.

The Rural Business-Cooperative Service (RBC) issued a notice to solicit applications (NOSA) for loans and grants under the Rural Economic Development Loan and Grant Programs for fiscal year (FY) 2022, subject to the availability of funding. The programs provide financing to eligible RBC electric or telecommunications borrowers to promote rural economic development and job creation projects. Assistance provided to rural areas, as defined, under the programs may include business startup costs, business expansion, business incubators, technical assistance feasibility studies, advanced telecommunications services and computer networks for medical, educational, and job training services, and Community Facilities, as defined at 7 CFR 4280.3, projects for economic development. See the NOSA for application requirements and deadlines. The NOSA may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-09-07/pdf/2021-19177.pdf>. *Federal Register*, Vol. 86, No. 170, 09/07/2021, 50015-50019.

RBC Seeks Comment on Revision of Rural Development Loan Servicing Information Collection.

RBC seeks comment on revision to an existing information collection titled, Rural Development Loan Servicing. The information collected is vital to RBC for prudent loan servicing, credit decisions, and reasonable program monitoring. Comments are due **10/12/2021**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-08-13/pdf/2021-17344.pdf>. *Federal Register*, Vol. 86, No. 154, 08/13/2021, 44689.

RUS Issues Final Rule to Implement Telecommunications Provisions of the Agricultural Improvement Act.

The Rural Utilities Service (RUS) issued a final rule to implement statutory provisions of the Agriculture Improvement Act. The intent of the final rule is to modify existing regulations to include the statutory revisions authorized by the Act, including changes to the Rural Telephone Loan Program administered by the Telecommunications Program of RUS. Comments are due **11/09/2021**. The final rule is effective **09/10/2021**. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-09-10/pdf/2021-19319.pdf>. *Federal Register*, Vol. 86, No. 173, 09/10/2021, 50604-50610.

RUS Issues Depreciation Rates.

RUS administers rural utilities programs, including the Telecommunications Program. RUS announced the depreciation rates for telecommunications plants for the period ending **12/31/2021**. See the notice for the specific rates. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-09-03/pdf/2021-19018.pdf>. *Federal Register*, Vol. 86, No. 169, 09/03/2021, 49504-49505.

CFTC Seeks Comment on Extension of Pending Legal Proceedings Information Collection.

The Commodity Future Trading Commission (CFTC) seeks comment on the proposed extension of an existing information collection titled, Notification of Pending Legal Proceedings Pursuant to 17 CFR 1.60. The information is designed to assist CFTC in monitoring legal proceedings which involve the responsibilities imposed on designated contract markets (DCMs) and their officials and futures commission merchants (FCMs) and their principals by the Commodity Exchange Act, and is applicable to swap execution facilities (SEFs) through 17 CFR 37.2. Comments are due **10/22/2021**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-08-23/pdf/2021-18079.pdf>. *Federal Register*, Vol. 86, No. 160, 08/23/2021, 47087-47088.

SEC Issues Final Rule on Freedom of Information Act Regulations.

The Securities and Exchange Commission (SEC) issued a final rule to amend its Freedom of Information Act (FOIA) regulations to remove a provision stating that records that FOIA requires to be made available for public inspection in an electronic format will be available to persons who do not have access to the internet in SEC's Public Reference Room. The final rule is effective **08/26/2021**. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-08-26/pdf/2021-18425.pdf>. *Federal Register*, Vol. 86, No. 163, 08/26/2021, 47561-47562.



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SEC Issues Policy Statement on Issues Under Rules 21F-3(b)(3) and 21F-6 of Securities Exchange Act.

SEC issued a policy statement to clarify how it will proceed when addressing certain issues under Exchange Act Rule 21F-3(b)(3) and Rule 21F-6 while SEC is preparing and considering potential amendments to the rules (Interim Policy-Review Period). On **08/02/2021**, SEC issued a statement that it is considering later this year potential changes to the rules to address policy concerns raised by whistleblower advocates and other about possible adverse effects of amendments made to the rules in 2020. The procedures will remain in effect until withdrawn by SEC. The policy statement is effective **08/13/2021**. The policy statement may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-08-13/pdf/2021-17019.pdf>. *Federal Register*, Vol. 86, No. 154, 08/13/2021, 44604-44606.

SEC Adjustments to Registration Fee Rates.

SEC issued an order to make fiscal year 2022 annual adjustments to registration fee rates. SEC collects fees under various provisions of the securities laws. In particular, section 6(b) of the Securities Act requires SEC to collect fees from issuers on the registration of securities; section 13(e) of the Securities Exchange Act requires SEC to collect fees on specified repurchases of securities, and section 14(g) of the Exchange Act requires SEC to collect fees on specified proxy solicitations and statements in corporate control transactions. The provisions require SEC to make annual adjustments to the applicable fee rates. See the order for specific fee adjustments. The fiscal year 2022 annual adjustments to the fee rates are effective **10/01/2021**. The order may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-08-26/pdf/2021-18402.pdf>. *Federal Register*, Vol. 86, No. 163, 08/26/2021, 47696-47701.

FTC Issues Final Rule to Update Fees Charged for Access to National Do Not Call Registry.

The Federal Trade Commission (FTC) issued a final rule to amend its Telemarketing Sales Rule to update the fees charged to entities accessing the National Do Not Call Registry (Registry) as required by the Do Not Call Registry Fee Extension Act. The revised rule increases the annual fee for access to the Registry for each area code of data from \$66 to \$69 per area code; and increases the maximum amount that will be charged to any single entity for accessing area codes of data from \$18,044 to \$19,017. Entities may add area codes during the second six months of their annual subscription period, and the fee for those additional area codes increases to \$35 from \$33. The final rule is effective **10/01/2021**. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-08-30/pdf/2021-18263.pdf>. *Federal Register*, Vol. 86, No. 165, 08/30/2021, 48301-48302.

NCUA Issues Proposed Rule on the Complex Credit Union Leverage Ratio.

The National Credit Union Administration (NCUA) issued a proposed rule that would provide a simplified measure of capital adequacy for federally insured, natural-person credit unions classified as complex (those with total assets greater than \$500 million). Under the proposed rule, a complex credit union that maintains a minimum net worth ratio, and that meets other qualifying criteria, will be eligible to opt into the complex credit union leverage ratio (CCULR) framework. The minimum net worth ratio would initially be established at 9 percent on **01/01/2022**, and be gradually increased to 10 percent by **01/01/2024**. A complex credit union that opts into the CCULR framework would not be required to calculate a risk-based capital ratio under NCUA's 2015 risk-based capital final rule, as amended. A qualifying complex credit union that opts into the CCULR framework and that maintains the minimum net worth ratio would be considered well capitalized. The proposed rule would also make several amendments to update NCUA's 2015 risk-based capital final rule, including to address asset securitizations issued by credit unions, clarify the treatment of off-balance sheet exposures, deduct certain mortgage servicing assets from a complex credit union's risk-based capital numerator, update several derivative-related definitions, and to clarify the definition of a consumer loan. Comments are due **10/15/2021**. The proposed rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-08-16/pdf/2021-15965.pdf>. *Federal Register*, Vol. 86, No. 155, 08/16/2021, 45824-45854.

NCUA Issues NOFA for Technical Assistance Grants for LICUs.

NCUA issued a notice of funding availability (NOFA) for technical assistance grants for low-income designated credit unions (LICUs) through the Community Development Revolving Loan Fund. All grant awards made under the NOFA are subject to funds availability and are at NCUA's discretion. See the NOFA for application details and deadlines. The NOFA may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-09-09/pdf/2021-19491.pdf>. *Federal Register*, Vol. 86, No. 172, 09/09/2021, 50560-50562.



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BIA Issues Final Rule on Indian Land Title and Records.

The Bureau of Indian Affairs (BIA) issued a final rule to revise regulations governing the Land Title and Records Office (LTRO) to reflect modernization of the LTRO. The LTRO maintains title documents for land held in trust or restricted status for individual Indians and Tribes (Indian land). The final rule replaces outdated provisions and allows for more widespread efficiencies by reflecting current practices, while creating a framework for future LTRO operations. The final rule is effective **09/15/2021**. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-08-16/pdf/2021-17377.pdf>. *Federal Register*, Vol. 86, No. 155, 08/16/2021, 45631-45644.

EEOC Seeks Comment on Recordkeeping Under Title VII, ADA, and GINA.

The Equal Employment Opportunity Commission (EEOC) seeks comment on the renewal of an existing information collection titled, Recordkeeping Under Title VII, the ADA, and GINA. EEOC enforces Title VII of the Civil Rights Act (Title VII), Title I of the Americans with Disabilities Act (ADA), and Title II of the Genetic Information Nondiscrimination Act (GINA), which collectively prohibit discrimination on the basis of race, color, religion, sex, national origin, disability, or genetic information. Section 709(c) of Title VII, section 107(a) of ADA, and section 207(a) of GINA authorize EEOC to issue recordkeeping and reporting regulations that are deemed reasonable, necessary, or appropriate. EEOC promulgated recordkeeping regulations under the authorities that are contained in 29 CFR part 1602. The regulations do not require the creation of any particular records but generally require employers and labor organizations to preserve any personnel and employment records they make or keep for a period of one year or two years, and possibly longer if a charge of discrimination is filed. EEOC seeks an extension without change of the recordkeeping requirements. Comments are due **09/22/2021**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2021-08-23/pdf/2021-17931.pdf> *Federal Register*, Vol. 86, No. 160, 08/23/2021, 47104-47105. ■

Compliance Notes

▲ OCC, FRB, and FDIC released a guide to help community banks assess risks when considering relationships with fintech companies. The guide is intended to serve as a resource for community banks when performing due diligence on prospective relationships with fintech companies. The guide covers six key areas of due diligence that community banks can consider when exploring arrangements with fintech companies: business experience and qualifications, financial condition, legal and regulatory compliance, risk management and control processes, information security, and operational resilience. The guide highlights practical sources of information that may be useful when evaluating fintech companies. The guide may be viewed at: www.federalreserve.gov/newsevents/pressreleases/bcreg20210827a.htm

▲ FinCEN issued FIN-2021-NTC3 to call attention to an increase in online child sexual exploitation (OCSE). The notice provides financial institutions with specific suspicious activity report (SAR) filing instructions, and highlights some financial trends related to OCSE. See the notice for the specific key words and descriptions to be used in SAR filings involving suspected OCSE activity. The notice may be viewed at: www.fincen.gov/sites/default/files/shared/FinCEN%20OCSE%20Notice%20508C.pdf

▲ OCC issued a new Problem Bank Supervision booklet of its *Comptroller's Handbook*. The booklet replaces, An Examiner's Guide to Problem Bank Identification, Rehabilitation, and Resolution, dated January 2001 and incorporates OCC Bulletin 2018-33, Prompt Corrective Action: Guidelines and Rescissions. The new booklet:

- includes information regarding timely identification and rehabilitation of problem banks and advanced supervision, enforcement, and resolution when conditions warrant;
- includes a comprehensive discussion of OCC's authority under 12 CFR 6, Prompt Corrective Action; and
- complements other booklets of the *Comptroller's Handbook* and topical OCC and interagency issuances.

The booklet may be viewed at: www.occ.treas.gov/news-issuances/bulletins/2021/bulletin-2021-43.html



Compliance Notes

- ▲ FDIC issued the lists of institutions scheduled for CRA examination during the 4Q 2021 and 1Q 2022. The lists may be viewed at: www.fdic.gov/resources/bankers/community-reinvestment-act/examination-schedule/q4cra21.html and www.fdic.gov/resources/bankers/community-reinvestment-act/examination-schedule/q1cra22.html
- ▲ FFIEC released Filing Instructions Guide for HMDA Data Collected in 2022 and Supplemental Guide for Quarterly Filers for 2022. Current and historical guides may be viewed at: <https://ffiec.cfbp.gov/>
- ▲ FDIC's Division of Depositor and Consumer Protection announced it will host a webinar for FDIC-supervised institutions on October 5, to provide information and answer questions relating to consumer complaints management. The presentation will include a review of the most recent complaint data and will provide information to help banks with complaint management. It will also provide information on how FDIC facilitates the resolution of complaints and how this information is used in supervision. Information about the webinar and registration for the event may be viewed at: www.fdic.gov/news/financial-institution-letters/2021/fil21066.html
- ▲ Fannie Mae and Freddie Mac issued updated uniform legal instruments. The revised forms include security instruments, notes, riders, addenda, and special-purpose documents. Use of the new forms is required for loans with note dates on or after **01/01/2023**, but can be used prior to that date at the lender's discretion. The updated uniform instruments cannot be used together with earlier versions. The revised forms may be viewed at: <https://sf.freddiemac.com/tools-learning/uniform-instruments/2021-updated-instruments> and <https://singlefamily.fanniemae.com/media/27931/display>
- ▲ CFPB released a Home Mortgage Disclosure Act (HMDA) data report on residential mortgage lending trends which finds that the total number of closed-end originations as well as applications increased substantially between 2019 and 2020. Closed-end originations (excluding reverse mortgages) increased in 2020 by 65.2 percent, from 8.3 million in 2019 to 13.6 million in 2020. Most of the increase was driven by the refinance boom observed in 2020. The data point also notes that, while the number of financial institutions reporting 2020 HMDA data declined compared to 2019, the number of closed-end records in 2020 increased compared to the previous year. While mortgage activity generally increased, year over year, significant differences between demographic groups persisted, including higher interest rates and denials among Black and Hispanic consumers in the mortgage market. The data report may be viewed at: www.consumerfinance.gov/about-us/newsroom/mortgage-refinance-loans-drove-an-increase-in-closed-end-originations-in-2020-new-cfbp-report-finds/
- ▲ FRB published a paper describing the landscape of partnerships between community banks and fintech companies. The paper captures insights gathered from extensive outreach with community banks, fintechs, and other stakeholders. The outreach involved discussions focused on the strategic and tactical decisions that support effective partnerships. The paper may be viewed at: www.federalreserve.gov/newsevents/pressreleases/bcreg20210909a.htm
- ▲ Both FDIC and DFI issued reports of bank conditions. FDIC shared that FDIC-insured commercial banks and savings institutions reported an aggregate net income of \$70.4 billion in second quarter 2021, an increase of \$51.9 billion (281 percent) from a year ago. The increase was driven by further economic growth and improved credit conditions, which led to a second consecutive quarter of aggregate negative provision expense.
- DFI reported that Wisconsin's 135 state-chartered banks continue to exhibit strong financial performance as of **06/30/2021**. State-chartered banks' total assets increased over \$4.9 billion from **06/30/2020**, and stand at more than \$66.9 billion through **06/30/2021**. While the extension of the COVID-19 pandemic's PPP loans combined with the low interest rate environment has put pressure on the net interest margin, decreasing from 3.51% in June of 2020, it held steady from first quarter at 3.37%. Net loans have decreased 1.23% from June of 2020, down \$546.3 million, due, in part, to PPP loans being forgiven or paid down. FDIC's Quarterly Banking Profile and DFI's release may be viewed, respectively at: www.fdic.gov/news/press-releases/2021/pr21083.html and www.wdfi.org/newsroom/press/2021/20210909_NewsRelease_Mid-YearBankData_vFINAL.pdf
- ▲ FRB Chicago is offering the following upcoming virtual events: (a) Charging Ahead with Electrification: A Conversation About the Auto Industry, on **10/06/2021**; and (b) Community Bankers Symposium: Banking on the Future, on **10/22/2021**. Event details and registration information may be viewed at: www.chicagofed.org/events/upcoming-events
- ▲ CFPB released a report on the agreements signed between credit card issuers and colleges, or organizations affiliated with colleges, finding that the market for college credit cards continued its general trend of decline in 2020. The report also finds that agreements with alumni associations continued to make up the largest part of this market, as defined by the number of agreements, the number of accounts, and the amounts of payments made by issuers to their counterparties. The report is the twelfth annual college



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credit card report issued as required by the Credit Card Accountability, Responsibility, and Disclosure Act (CARD Act). The release report may be viewed at: www.consumerfinance.gov/about-us/newsroom/cfpb-issues-report-finding-a-continued-decline-in-college-credit-card-agreements-in-2020/

▲ 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

▲ FDIC released results of its annual survey of branch office deposits for all FDIC-insured institutions as of **06/30/2021**. The Summary of Deposits (SOD) provides deposit totals for each of the more than 81,000 domestic offices operated by more than 4,900 FDIC-insured commercial and savings banks, savings associations, and U.S. branches of foreign banks. The SOD includes historical data going back to 1994 that can be analyzed using online reports, tables, and downloads. The SOD may be viewed at: www.fdic.gov/news/press-releases/2021/pr21081.html

▲ Treasury issued guidance for 2021 on reporting qualified sick and family leave wages. Treasury's Notice 2021-43 provides guidance to employers about reporting on Form W-2 the amount of qualified sick and family leave wages paid to employees for leave taken in 2021. The notice provides guidance under recent legislation including the Families First Coronavirus Response Act, as amended by the COVID-Related Tax Relief Act, and the American Rescue Plan Act. The guidance may be viewed at: www.irs.gov/newsroom/treasury-irs-issue-guidance-for-2021-on-reporting-qualified-sick-and-family-leave-wages

▲ CFPB documented trends in consumer credit outcomes during the COVID-19 pandemic in a series of blog posts. The most recent post focuses on access to new credit—the share of new credit applications that result in new accounts and the amount of credit that is extended to consumers who open new accounts. The blog may be viewed at: www.consumerfinance.gov/about-us/blog/credit-access-declined-during-pandemic-for-credit-cards-increased-for-mortgages-and-auto-loans/

▲ FDIC announced the launch of the Second Annual Academic Challenge, a competition among teams of university and college students to address questions concerning the U.S. banking sector. The topic for this year's challenge is, The Impacts of COVID-19 on the Banking Sector. The release may be viewed at: www.fdic.gov/news/press-releases/2021/pr21084.html ■

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call: 608-441-1200



In-House Legal Counsel Webinar Series

A NEW webinar series focused on your bank's in-house legal counsel

The WBA In-House Legal Counsel Webinar Series is made up of six webinars that are being hosted over the next few months, giving in-house bank attorneys the content they need to keep up to date on legal issues that affect a bank's day-to-day operations. Participants will also have the opportunity to earn CLE credits on topics that are specific to the banking industry.



Who Should Attend:

Bank in-house legal counsel, attorneys, compliance officers, and bank management will all benefit from this webinar series.

Registration Information:

The registration fee of \$750/attendee includes:
» Live and recording access for all six webinars
» Materials to each session
» Certificate verifying attendance

Each participant looking to receive a verification of attendance to submit for continuing education credits must be registered for the event.

Credits Available:

Each webinar in the series will be submitted to the Board of Bar Examiners and other CE providers to be approved for credit.

Submission of education program material to CE providers does not guarantee CLE Credit will be granted.

Register at www.wisbank.com/events/in-house-legal-counsel-webinar-series.

Webinar Schedule and Topics:

Sept. 8, 2021 (recording available)

- » Mergers and Acquisitions — Pre- and Post-M/A Issues to Consider
- » Presented by:
Patrick Neuman
Boardman & Clark LLP

Oct. 7, 2021 (9–11 a.m.)

- » Troubled Business Borrowers — Deal with Real and Personal Property in a Defaulted Loan
- » Presented by:
Jim Bartzen and

Rick Schmidt

Boardman & Clark LLP

Dec. 9, 2021 (9–11 a.m.)

- » HR and Employment Issues
- » Presented by:
von Briesen & Roper, s.c.

Feb. 17, 2022 (9–11 a.m.)

- » Topic and Presenter TBD

April 7, 2022 (9–11 a.m.)

- » Topic and Presenter TBD

May 26, 2022 (9–11 a.m.)

- » Topic and Presenter TBD

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

OCTOBER 2021

- **Supervisor Boot Camp**
4-5 Madison; \$535/attendee
- **In-House Legal Counsel Webinar: Session 2**
7 6 Part Webinar Series; \$750/attendee
- **Auditing Real Estate Loans Boot Camp**
12-14 Madison; \$795/attendee
- **Principles of Banking Course**
13-14 Madison; \$550/attendee — **FULL**
- 20-21 Rothschild (Wausau area); \$550/attendee
- **Bank Investments & Strategies: Part 2**
14 2 Part Webinar; \$250/attendee
- **FIPCO Software & Compliance Forum: Loan & Mortgage**
19-20 Madison or Virtual (*pricing options vary*)
- **IRA Essentials Workshops**
21 Madison; \$245/attendee
26 Eau Claire; \$245/attendee
- **Advanced IRA Workshops**
22 Madison; \$245/attendee
27 Eau Claire; \$245/attendee
- **Community Bankers for Compliance (CBC) – Session IV**
26 Stevens Point; Membership (*pricing options vary*)
27 Madison; Membership (*pricing options vary*)

NOVEMBER 2021

- **Deposit Compliance School**
2-3 Madison; \$535/attendee
- **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*)
- **ABA National Agricultural Bankers Conference**
14-17 Cincinnati, OH
- **LEAD360 Conference**
16-17 Wisconsin Dells; \$350/first attendee; \$300/each additional attendee
- **Consumer Lending Boot Camp**
18-19 Madison; \$495/attendee

DECEMBER 2021

- **In-House Legal Counsel Webinar: Session 3**
9 6 Part Webinar Series; \$750/attendee

JANUARY 2022

- **Midwest Economic Forecast Forum**
4 Virtual
- **Capitol Day**
18 Madison

FEBRUARY 2022

- **Bank Executives Conference**
9-11 Wisconsin Dells
- **In-House Legal Counsel Webinar: Session 4**
17 6 Part Webinar Series; \$750/attendee
- **Compliance Forum: Session 3**
22 Wausau; Membership (*pricing options vary*)
23 Madison; Membership (*pricing options vary*)

MARCH 2022

- **Loan Compliance School**
7-11 Madison; \$1,295/attendee
- **Real Estate Compliance School**
9-11 Madison; \$795/attendee
- **Introduction to Commercial Lending School**
14-16 Madison; \$795/attendee
- **Residential Mortgage Lending School**
29-4/1 Madison; \$1,095/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**.