

# Compliance Journal

## August 2022

### Special Focus

#### Selected Interagency Flood Q&As

Recently, the Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, Farm Credit Administration, and National Credit Union Administration released revised Interagency Questions and Answers Regarding Flood Insurance (Interagency Q&As). The Interagency Q&As address frequently asked questions about the flood insurance requirements of the National Flood Insurance Act, as amended, and its accompanying regulation. While the Interagency Q&As do not represent a change in the rules or regulation, they do offer revised guidance on various aspects of the rule. This article presents selected Q&As based upon prominent flood insurance questions.

#### Summary

Topics addressed by the revisions include guidance related to major amendments to the flood insurance laws regarding the escrow of flood insurance premiums, the detached structure exemption, force placement procedures, and the acceptance of flood insurance policies issued by private insurers. With the issuance, the agencies have also updated and consolidated all previous Questions and Answers.

The Interagency Q&As are organized by category and broken down into numerical designations within their categories. The agencies plan to update and manage these categories accordingly in the future. The current categories are as follows:

- I. Determining the Applicability of Flood Insurance Requirements for Certain Loans
- II. Exemptions from the Mandatory Flood Insurance Purchase Requirements
- III. Private Flood Insurance—Mandatory Acceptance
- IV. Private Flood Insurance—Discretionary Acceptance
- V. Private Flood Insurance—General Compliance
- VI. Standard Flood Hazard Determination Form (SFHDF)
- VII. Flood Insurance Determination Fees
- VIII. Flood Zone Discrepancies
- IX. Notice of Special Flood Hazards and Availability of Federal Disaster Relief
- X. Determining the Appropriate Amount of Flood Insurance Required
- XI. Flood Insurance Requirements for Construction Loans
- XII. Flood Insurance Requirements for Residential Condominiums and Co-Ops
- XIII. Flood Insurance Requirements for Home Equity Loans, Lines of Credit, Subordinate Liens, and Other Security Interests in Collateral Located in an SFHA
- XIV. Requirement to Escrow Flood Insurance Premiums and Fees—General
- XV. Requirement to Escrow Flood Insurance Premiums and Fees—Escrow Small Lender Exception XVI.
- XVI. Requirement to Escrow Flood Insurance Premiums and Fees—Escrow Loan Exceptions
- XVII. Force Placement of Flood Insurance
- XVIII. Flood Insurance Requirements in the Event of the Sale or Transfer of a Designated Loan and/or Its Servicing Rights
- XIX. Mandatory Civil Money Penalties



### Selected Q&As

The Interagency Q&As were issued in seventy pages in the *Federal Register*. As such, it is not practical to reproduce the entire set of Q&As within this article. However, based upon recent flood insurance issues, and questions WBA receives through its Legal Call program, this article presents certain selected Q&As for consideration below. Banks are encouraged to review the entire Interagency Q&As as well, which may be viewed from the link included at the end of the article.

For ease of reference, the term “Act” in this article refers to the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973, as revised by the National Flood Insurance Reform Act of 1994, Biggert-Waters Flood Insurance Reform Act of 2012, and Homeowner Flood Insurance Affordability Act of 2014 (codified at 42 U.S.C. 4001 et seq). “Regulation” refers to each agency’s current flood regulation: 12 CFR 208.25 (Board); 12 CFR part 339 (FDIC); and 12 CFR part 22 (OCC).

### Applicability

Section I of the Interagency Q&As discuss determining the applicability of flood insurance requirements for certain loans (APPLICABILITY).

APPLICABILITY 2 discusses a common situation which WBA is often asked through the Legal Call program. That is, some borrowers have buildings with limited utility or value, and, in many cases, the borrower would not replace them if lost in a flood. This Q&A indicates that lenders must require flood insurance on a building or mobile home when those structures are part of the property securing the loan and are located in an SFHA in a participating community, regardless of value. However, flood insurance is not required on a structure that is part of a residential property but is detached from the primary residential structure of such property and does not serve as a residence. If the limited utility or value structure does not qualify for the detached structure exemption, a lender may consider “carving out” the building from the security it takes on the loan to avoid having to require flood insurance on the structure. Meaning, a lender might consider disclaiming such collateral from the loan security. However, the lender should fully analyze the risks of this option. In particular, a lender should consider whether and how it would be able to market and sell the property securing its loan in the event of foreclosure.

APPLICABILITY 5 discusses that a lender’s purchase from another lender of a loan secured by a building or mobile home located in an SFHA in which flood insurance is available under the Act does not trigger any requirements under the Regulation. A lender’s purchase of a loan, secured by a building or mobile home located in an SFHA in which flood insurance is available under the Act, alone, is not an event that triggers the Regulation’s requirements, such as making a new flood determination or requiring a borrower to purchase flood insurance. Requirements under the Regulation are triggered when a lender makes, increases, extends, or renews a designated loan. A lender’s purchase of a loan does not fall within any of those categories. However, if a lender becomes aware at any point during the life of a designated loan that flood insurance is required, the requirements of the Regulation apply, including force-placing insurance, if necessary. Depending on the circumstances, the lender may need to conduct due diligence for safety and soundness reasons, which could include determining whether flood insurance on purchased loans is required. Additionally, if the purchasing lender subsequently refinances, extends, increases, or renews a designated loan, it must comply with the Regulation.

APPLICABILITY 13 discusses “triggering events” and what is required upon the occurrence of a “triggering event.” Under the Regulation, a triggering event occurs when

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a designated loan is made, increased, extended, or renewed (also known as a “MIER” or “MIRE” event). If a triggering event occurs with respect to a designated loan, the lender must comply with the Regulation as applicable, including the mandatory flood insurance purchase requirement, the requirement to provide the Notice of Special Flood Hazards to the borrower, the requirement to notify the Administrator of the Federal Emergency Management Agency (FEMA) or the Administrator’s designee (the insurance provider) in writing of the identity of the servicer of the loan, and the requirement to escrow for a loan secured by residential property, unless either the lender or the loan qualifies for an exception. Examples of events that are not considered triggering events for purposes of the Regulation include: the purchase of a loan from another lender (see above); a loan restructuring or modification that does not increase the amount of the loan nor extend or renew the terms of the loan (see Q&A APPLICABILITY 6); the assumption of the loan by another borrower; the remapping of a building securing the loan into an SFHA; the acquisition by a lender of an interest in a loan either by participation or syndication (see Q&A APPLICABILITY 9); a cashless roll (see Q&A APPLICABILITY 10); certain automatic extensions of credit (see Q&A APPLICABILITY 11); and certain treatments of force placement premiums.

### Exceptions

Section II of the Interagency Q&As discusses exemptions from the mandatory flood insurance purchase requirements (EXEMPTIONS).

EXEMPTIONS 1 summarizes the only three exemptions from the mandatory requirement to purchase flood insurance on a designated loan. The first applies to State-owned property covered under a policy of self-insurance satisfactory to the Administrator of FEMA. The second applies if both the original principal balance of the loan is \$5,000 or less, and the original repayment term is one year or less. The third applies to any structure that is a part of any residential property but is detached from the primary residential structure of such property and does not serve as a residence. For purposes of the detached structure exemption, a “structure that is a part of residential property” is a structure used primarily for personal, family, or household purposes, and not used primarily for agricultural, commercial, industrial, or other business purposes. In addition, a structure is “detached” from the primary residential structure if it is not joined by any structural connection to that structure. Furthermore, whether a structure “does not serve as a residence” is based upon the good faith determination of the lender that the structure is not intended for use or actually used as a residence, which includes sleeping, bathroom, or kitchen facilities.

EXEMPTIONS 2 discusses whether a lender must take a security interest in the primary residential structure for detached structures to be eligible for the detached structure exemption. For example, suppose the house on a farm is not collateral, but all of the outbuildings including the barn, the equipment storage shed, and the silo (which are used for farm production), and a detached garage where the homeowner keeps his car, are taken as collateral. In this case, the lender does not have to take a security interest in the primary residential structure for detached structures to be eligible for the exemption, but the lender needs to evaluate the uses of detached structures to determine if they are eligible. The term “a structure that is part of a residential property” in the detached structure exemption applies only to structures for which there is a residential use and not to structures for which there is a commercial, agricultural, or other business use. In this example, only the garage is serving a residential use, so it could qualify for the exemption. The barn, equipment storage shed, and silo, which are used for farm production, would not qualify for the exemption.

### Determining the Appropriate Amount of Flood Insurance

Section X of the Interagency Q&As provides guidance for determining the appropriate amount of flood insurance required (AMOUNT). Generally speaking, the minimum amount of flood insurance required must be at least equal to the lesser of the outstanding principal balance of the loan, the maximum amount available under the National Flood Insurance Program (NFIP) for the type of structure, or the insurable value of the property. Section X helps to clarify these concepts through various Q&As.

When receiving calls through the WBA Legal Call program, WBA is most frequently asked how to calculate flood insurance. As such, the selected questions and answers from the AMOUNT section will focus on calculations.

AMOUNT 1 discusses what is meant by the “maximum limit of coverage available.” In part, the guidance provides that the maximum limit of coverage available for the particular type of property under the Act depends on the value of the secured collateral. First, under the NFIP, there are maximum caps on the amount of insurance available for buildings



located in a participating community under the Regular Program. In addition to the maximum caps under the NFIP, the Regulation also provides that “flood insurance coverage under the Act is limited to the building or mobile home and any personal property that secures a loan and not the land itself,” which is commonly referred to as the “insurable value” of a structure.

An NFIP policy will not cover an amount exceeding the “insurable value” of the structure, so the maximum amount of insurance coverage is the applicable limit available under the NFIP or the insurable value, whichever is less. In determining coverage amounts for flood insurance, lenders often follow the same practice used to establish other hazard insurance coverage amounts. However, unlike the insurable valuation used to underwrite most other hazard insurance policies, the insurable value of improved real estate for flood insurance purposes also includes the repair or replacement cost of the foundation and supporting structures. It is very important to calculate the correct insurable value of the property; otherwise, the lender might inadvertently require the borrower to purchase too much or too little flood insurance coverage. For example, if the lender fails to exclude the value of the land when determining the insurable value of the improved real estate, the borrower will be asked to purchase coverage that exceeds the amount the NFIP will pay in the event of a loss.

AMOUNT 2 provides further clarification on the definition of “insurable value.” The insurable value of the building may generally be the same as 100 percent Replacement Cost Value, which is the cost to replace the building with the same kind of material and construction without deduction for depreciation. In calculating the amount of insurance to require, the lender and borrower (either by themselves or in consultation with the flood insurance provider or other appropriate professional) may choose from a variety of approaches or methods to establish the insurable value. They may use an appraisal based on a cost-value (not market-value) approach, a construction cost calculation, the insurable value used on a hazard insurance policy (recognizing that the insurable value for flood insurance purposes may differ from the coverage provided by the hazard insurance and that adjustments may be necessary), the replacement cost value listed on the flood insurance policy declarations page, or any other reasonable approach, so long as it can be supported.

AMOUNT 5 provides an example of how to calculate the amount of insurance required. As discussed above, the amount of insurance required by the Act and Regulation is the lesser of:

- The outstanding principal balance of the loan(s); or
- The maximum amount of insurance available under the NFIP, which is the lesser of:
  - The maximum limit available for the type of structure; or
  - The “insurable value” of the structure.

Example: (Calculating insurance required on a non-residential building): Loan security includes one equipment shed located in an SFHA in a participating community under the Regular Program.

- Outstanding loan principal balance is \$300,000.
- Maximum amount of insurance available under the NFIP:
  - Maximum limit available for type of structure is \$500,000 per building (non-residential building).
  - Insurable value of the equipment shed is \$30,000.

The minimum amount of insurance required by the Regulation for the equipment shed is \$30,000.

AMOUNT 6 covers another frequently asked question, that being: how does one calculate flood insurance when multiple buildings securing the loan are located in a SFHA? In such cases, the lender must determine the amount of insurance required on each building and add these individual amounts together. The total amount of required flood insurance is the lesser of:

- The outstanding principal balance of the loan(s); or
- The maximum amount of insurance available under the NFIP, which is the lesser of:
  - The maximum limit available for the type of structures; or
  - The “insurable value” of the structures. The amount of total required flood insurance can be allocated among the secured buildings in varying amounts, but all buildings in an SFHA must be covered in accordance with the statutory requirement.



Example: Lender makes a loan in the principal amount of \$150,000 secured by five non-residential buildings, only three of which are located in SFHAs within participating communities.

- Outstanding loan principal is \$150,000.
- Maximum amount of insurance available under the NFIP.
  - Maximum limit available for the type of structure is \$500,000 per building for non-residential buildings (or \$1.5 million total); or
  - Insurable value (\$100,000 for each non-residential building for which insurance is required, or \$300,000 total). Amount of insurance required for the three buildings is \$150,000. This amount of required flood insurance could be allocated among the three buildings in varying amounts, so long as each is covered in accordance with the statutory requirement.

In addition to the above, the AMOUNT section provides examples of residential buildings, non-residential buildings (both of which are important for determining the maximum caps on the amount of insurance available), mixed-use properties, and acceptance of blanket policies, among others. Refer to the final Q&A (link provided below) to review the entire section.

### Other Security Interests

WBA is frequently asked whether the contents of a building require flood insurance and, if so, how much. Section XIII of the Interagency Q&As discuss flood insurance requirements for home equity loans, lines of credit, subordinate liens, and other security interests in collateral (contents) located in a SFHA (OTHER SECURITY INTERESTS). The following Q&As have been selected specific to contents coverage.

OTHER SECURITY INTERESTS 6 provides that if the loan request is to finance inventory stored in a building located within an SFHA, but the building is not security for the loan, flood insurance is not required. This is because the Act and the Regulation provide that a lender shall not make, increase, extend, or renew a designated loan, that is, a loan secured by a building or mobile home located or to be located in an SFHA, “unless the building or mobile home and any personal property securing the loan is covered by flood insurance for the term of the loan.” In this example, the loan is not a designated loan because it is not secured by a building or mobile home; rather, the collateral is the inventory alone.

OTHER SECURITY INTERESTS 7 discusses that flood insurance is required however if a building and its contents both secure a loan, and the building is located in an SFHA in which flood insurance is available. In this case, flood insurance is required for the building located in the SFHA and any personal property securing the loan. The method for allocating flood insurance coverage among multiple buildings, as described in Q&A AMOUNT 6 (which appears in this article, above), would be the same method for allocating flood insurance coverage among contents and buildings. That is, both contents and building will be considered to have a sufficient amount of flood insurance coverage for regulatory purposes so long as some reasonable amount of insurance is allocated to each category.

Example: Lender A makes a loan for \$200,000 that is secured by a warehouse with an insurable value of \$150,000 and inventory in the warehouse worth \$100,000. The Act and Regulation require that flood insurance coverage be obtained for the lesser of the outstanding principal balance of the loan or the maximum amount of flood insurance that is available under the NFIP. The maximum amount of insurance that is available for both building and contents is \$500,000 for each category. In this situation, Federal flood insurance requirements could be satisfied by placing \$150,000 worth of flood insurance coverage on the warehouse, thus insuring it to its insurable value, and \$50,000 worth of contents flood insurance coverage on the inventory, thus providing total coverage in the amount of the outstanding principal balance of the loan. Note that this holds true even though the inventory is worth \$100,000.

OTHER SECURITY INTERESTS 8 provides that if a loan is secured by Building A, which is located in an SFHA, and contents located in Building B where building B does not secure the loan, flood insurance is not required on the contents securing the loan.

OTHER SECURITY INTERESTS 10 provides that flood insurance is required if the lender takes a security interest in contents located in a building in an SFHA securing the loan, regardless of whether the lender perfects its security interest.



## Special Focus

### Resources

WBA has identified other helpful resources regarding flood insurance requirements. Through FRB's asktheFed® program, FRB hosted a webinar in late July regarding the Interagency Q&As. The webinar replay had not yet been posted at the time of this article; however, banks should monitor for the posting as the webinar is a helpful overview of the revised guidance. Past webinars may be found online after logging into the website: <https://bsr.stlouisfed.org/askthefed/Auth/Login>

Also, in the second issue 2022 of FRB's *Consumer Compliance Outlook*, FRB addressed common pitfalls in commercial flood insurance compliance. The resource may be viewed at: <https://consumercomplianceoutlook.org/>

The complete Interagency Q&As may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-05-31/pdf/2022-10414.pdf>

### Conclusion

While the flood insurance rules themselves have not changed, the Interagency Q&As revise and consolidate helpful guidance into a single document. There are many additional Q&As within the final issuance, including three new sections dedicated to Q&As regarding private flood insurance. The items selected above are based upon the most frequently asked questions WBA receives through its Legal Call program. If bank has an issue that is not discussed above, it should consider consulting the Interagency Q&As to see if the question is addressed there. Banks should also not hesitate to reach out to WBA directly for assistance on flood insurance matters at [wbalegal@wisbank.com](mailto:wbalegal@wisbank.com) and 608-441-1200.

**Are you a WBA member with a legal question?**

Contact the

### WBA Legal Call Program

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This WBA member-exclusive program provides information in response to compliance questions.





### FDIC Issues Supervisory Guidance on Multiple Re-Presentment NSF Fees

The Federal Deposit Insurance Corporation (FDIC) issued new guidance to ensure that supervised institutions are aware of the consumer compliance risks associated with assessing multiple nonsufficient funds (NSF) fees arising from the re-presentment of the same unpaid transaction. Additionally, FDIC shares its supervisory approach where a violation of law is identified and full corrective action is expected.

#### *Background*

Many financial institutions charge NSF fees when checks or Automated Clearinghouse (ACH) transactions are presented for payment but cannot be covered by the balance in a customer's transaction account. After receiving notice of declination, merchants may subsequently resubmit the transaction for payment. Some financial institutions charge additional NSF fees for the same transaction when a merchant re-presents a check or ACH transaction on more than one occasion after the initial unpaid transaction was declined. In these situations, FDIC stated there is an elevated risk of violations of law and harm to consumers.

During consumer compliance examinations, FDIC has identified violations of law when financial institutions charged multiple NSF fees for the re-presentment of unpaid transactions. FDIC found that some disclosures provided to customers did not fully or clearly describe the institution's re-presentment practice, including not explaining that the same unpaid transaction might result in multiple NSF fees if an item was presented more than once.

#### *Potential Risks Arising from Multiple Re-Presentment NSF Fees*

##### Consumer Compliance Risk

FDIC has stated practices involving the charging of multiple NSF fees arising from the same unpaid transaction results in heightened risks of violations of Section 5 of the Federal Trade Commission (FTC) Act and Section 1036(a)(1)(B) of the Dodd Frank Act which prohibit unfair, deceptive, and abusive acts or practices (UDAAP). While specific facts and circumstances ultimately determine whether a practice violates a law or regulation, FDIC stated the failure to disclose material information to customers about re-presentment and fee practices has the potential to mislead reasonable customers. FDIC also stated there are situations that may also present risk of unfairness if the customer is unable to avoid fees related to re-presented transactions.

- **Deceptive Practices:** In a number of consumer compliance examinations, FDIC determined that if a financial institution assesses multiple NSF fees arising from the same transaction, but disclosures do not adequately advise customers of this practice, the misrepresentation and omission of the information from the institution's disclosures is material. FDIC found that if the information is not disclosed clearly and conspicuously to customers, the material omission of the information is considered to be deceptive pursuant to Section 5 of the FTC Act.
- **Unfair Practices:** In certain circumstances, a failure to adequately advise customers of fee practices for re-presentments raises unfairness concerns because the practices may result in substantial injuries to customers; the injury may not be reasonably avoidable; and there may be no countervailing benefits to either customers or competition. In particular, FDIC stated a risk of unfairness may be present if multiple NSF fees are assessed for the same transaction in a short period of time without sufficient notice or opportunity for customers to bring their account to a positive balance in order to avoid the assessment of additional NSF fees. While revising disclosures may address the risk of deception, doing so may not fully address the unfairness risks.

##### Third-Party Risk

Third parties, including core processors, often play significant roles in processing payments, identifying and tracking re-presented items, and providing systems that determine when NSF fees are assessed. Such third-party arrangements may present risks if not properly managed. FDIC stated institutions are expected to maintain adequate oversight of third-party activities and appropriate quality control over products and services provided through third-party arrangements. Institutions should be sure to review past FDIC third-party vendor management guidance; see FIL-44-2008, Guidance for Managing Third-Party Risk, June 6, 2008.



In addition, FDIC stated institutions are responsible for identifying and controlling risks arising from third-party relationships to the same extent as if the third-party activity was handled within the institution. Institutions are encouraged to review and understand the risks presented from their core processing system settings related to multiple NSF fees, as well as understand the capabilities of their core processing system(s), such as identifying and tracking re-presented items and maintaining data on such transactions.

### Litigation Risk:

The supervisory guidance also addressed litigation risk. Multiple NSF fee practices may result in heightened litigation risk. Numerous financial institutions, including some FDIC-supervised institutions, have faced class action lawsuits alleging breach of contract and other claims because of the failure to adequately disclose re-presentation NSF fee practices in their account disclosures. Some of the cases have resulted in substantial settlements, including customer restitution and legal fees.

### *Risk Mitigation Practices*

FDIC has also provided a listing of risk mitigation practices that institutions are encouraged to review regarding the charging of NSF fees for re-presented transactions. FDIC has observed various risk-mitigating activities that financial institutions have taken to reduce the potential risk of consumer harm and avoid potential violations of law regarding multiple re-presentation NSF fee practices. These include:

- Eliminating NSF fees.
- Declining to charge more than one NSF fee for the same transaction, regardless of whether the item is re-presented.
- Conducting a comprehensive review of policies, practices, and monitoring activities related to re-presentments and making appropriate changes and clarifications, including providing revised disclosures to all existing and new customers.
- Clearly and conspicuously disclosing the amount of NSF fees to customers and when and how such fees will be imposed, including:
  - Information on whether multiple fees may be assessed in connection with a single transaction when a merchant submits the same transaction multiple times for payment;
  - The frequency with which such fees can be assessed; and
  - The maximum number of fees that can be assessed in connection with a single transaction.
- Reviewing customer notification or alert practices related to NSF transactions and the timing of fees to ensure customers are provided with an ability to effectively avoid multiple fees for re-presented items, including restoring their account balance to a sufficient amount before subsequent NSF fees are assessed.

The new guidance also sets forth steps FDIC recommends if an institution has self-identified re-presentation NSF fees issues. In such a case, FDIC expects supervised financial institutions to:

- Take full corrective action, including providing restitution to harmed customers, consistent with the restitution approach described in this guidance;
- Promptly correct NSF fee disclosures and account agreements for both existing and new customers, including providing revised disclosures and agreements to all customers;
- Consider whether additional risk mitigation practices are needed to reduce potential unfairness risks; and
- Monitor ongoing activities and customer feedback to ensure full and lasting corrective action.





### FDIC's Supervisory Approach

When exercising supervisory and enforcement responsibilities regarding multiple representment NSF fee practices, FDIC stated it will take appropriate action to address consumer harm and violations of law. FDIC's supervisory response will focus on identifying re-presentment related issues and ensuring correction of deficiencies and remediation to harmed customers.

In reviewing compliance management systems, FDIC stated it recognizes an institution's proactive efforts to self-identify and correct violations and that examiners will generally not cite UDAAP violations that have been self-identified and fully corrected prior to the start of a consumer compliance examination. In addition, in determining the scope of restitution, FDIC stated it will consider an institution's record keeping practices and any challenges an institution may have with retrieving, reviewing, and analyzing re-presentment data, on a case-by-case basis, when evaluating the time period institutions utilized for customer remediation.

FDIC stated that in recent examinations, it has identified instances where institutions have been unable to reasonably access accurate ACH data for re-presented transactions beyond two years. In such cases, FDIC stated it has accepted a two-year lookback period for restitution. FDIC stated it expects supervised institutions to promptly address the issue. Institutions with challenges readily accessing accurate ACH data that self-correct and provide restitution to harmed customers, as appropriate, for transactions occurring two years before the date of FDIC's new supervisory guidance will generally be considered as having made full corrective action.

Lastly, FDIC stated that failing to provide restitution for harmed customers when data on re-presentments is reasonably available will not be considered full corrective action. If examiners identify violations of law due to re-presentment NSF fee practices that have not been self-identified and fully corrected prior to a consumer compliance examination, FDIC stated it will evaluate appropriate supervisory or enforcement actions, including civil money penalties and restitution, where appropriate.

### Conclusion

FDIC has shared its supervisory approach when in review of account disclosures and compliance management systems for financial institutions that assess multiple NSF fees arising from the re-presentment of the same unpaid transaction. The guidance includes specific instruction for institutions should a re-presentment NSF fee issue be identified by the institution. While the Federal Reserve and OCC have not issued specific re-presentment guidance, all bank supervisory agencies have previously stated an interest in continued review of overdraft practices and programs. As a result, regardless of regulator, all banks need carefully review account disclosures and compliance management systems to ensure bank practice matches bank disclosure to protect against regulatory scrutiny and litigation risk. FDIC-supervised institutions need take the guidance into consideration, as applicable. The guidance may be viewed at: <https://www.fdic.gov/news/financial-institution-letters/2022/fil22040.html>



### Agencies Issue Updated Policy Statement on Prudent CRE Loan Accommodations and Workouts.

The Federal Deposit Insurance Corporation (FDIC), Office of the Comptroller of the Currency (OCC), and National Credit Union Administration (NCUA) (collectively, the agencies), in consultation with state bank and credit union regulators, seek comment on an updated policy statement for prudent commercial real estate (CRE) loan accommodations and workouts, which would be relevant to all financial institutions supervised by the agencies. The updated policy statement builds on existing guidance on the need for financial institutions to work prudently and constructively with creditworthy borrowers during times of financial stress, updates existing interagency guidance on CRE loan workouts, and adds a new section on short-term loan accommodations. The updated statement also addresses relevant accounting changes on estimating loan losses and provides updated examples of how to classify and account for loans modified or affected by loan accommodations or loan workout activity. Comments are due **10/03/2022**. The updated policy statement may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-08-02/pdf/2022-16471.pdf>. Federal Register, Vol. 87, No. 147, 08/02/2022, 47273-47293.

### Agencies Issue Semi-Annual Regulatory Agendas.

The Bureau of Consumer Financial Protection (CFPB) published an agenda as part of the Spring 2022 Unified Agenda of Federal Regulatory and Deregulatory Actions. CFPB reasonably anticipates having the regulatory matters identified in the agenda under consideration during the period from **06/01/2022**, through **05/31/2023**. The next agenda will be published in Fall 2022 and will update this agenda through Fall 2023. Publication of the agenda is in accordance with the Regulatory Flexibility Act. The information is current as of **04/01/2022**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-08-08/pdf/2022-14616.pdf>. Federal Register, Vol. 87, No. 151, 08/08/2022, 48370.

The Board of Governors of the Federal Reserve System (FRB) issued an agenda under the Regulatory Flexibility Act and FRB's Statement of Policy Regarding Expanded Rulemaking Procedures. FRB anticipates having under consideration regulatory matters as indicated in the notice during the period **05/01/2022**, through **10/31/2022**. The next agenda will be published in Fall 2022. Comments about the form or content of the agenda may be submitted any time during the next 6 months. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-08-08/pdf/2022-15652.pdf>. Federal Register, Vol. 87, No. 151, 08/08/2022, 48414-48415.

The Department of the Treasury (Treasury) issued its semi-annual regulatory agenda. The notice is given pursuant to the requirements of the Regulatory Flexibility Act and Executive Order 12866, which require the publication by Treasury of a semi-annual agenda of regulations. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-08-08/pdf/2022-14609.pdf>. Federal Register, Vol. 87, No. 151, 08/08/2022, 48324-48328.

The Small Business Administration (SBA) issued its semi-annual regulatory agenda. The agenda is a summary of current and projected rulemakings and completed actions of SBA. SBA invites comments on any aspect of the agenda. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-08-08/pdf/2022-15034.pdf>. Federal Register, Vol. 87, No. 151, 08/08/2022, 48352-48356.

The Department of Labor (DOL) issued its semi-annual agenda of regulations. The internet has become the means for disseminating the entirety of DOL's semi-annual regulatory agenda. However, the Regulatory Flexibility Act requires publication of a regulatory flexibility agenda in the Federal Register. The notice contains DOL's regulatory flexibility agenda. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-08-08/pdf/2022-14607.pdf>. Federal Register, Vol. 87, No. 151, 08/08/2022, 48308-48311.

The Federal Communications Commission (FCC) published its semi-annual regulatory agenda. Twice a year, in spring and fall, FCC publishes in the Federal Register a list in the Unified Agenda of the major items and other significant proceedings under development or review that pertain to the Regulatory Flexibility Act. The Unified Agenda also provides the Code of Federal Regulations citations and legal authorities that govern the proceedings. The complete Unified Agenda will be published on the internet in a searchable format at: [www.reginfo.gov](http://www.reginfo.gov). The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-08-08/pdf/2022-14618.pdf>. Federal Register, Vol. 87, No. 151, 08/08/2022, 48378-48412.

The Securities Exchange Commission (SEC) issued its regulatory flexibility agenda. SEC has published the Chair's agenda of rulemaking actions pursuant to the Regulatory Flexibility Act. The items listed in the Regulatory Flexibility Agenda for Spring 2022 reflect only the priorities of the Chair of SEC, and do not necessarily reflect the view and priorities of any individual Commissioner. Information in the agenda was accurate on **04/22/2022**, the date on which SEC staff completed compilation of the data. To the extent possible, rulemaking actions by SEC since that date have been reflected in the agenda. SEC's complete agenda will be available online at: [www.reginfo.gov](http://www.reginfo.gov). Comments are due **09/07/2022**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-08-08/pdf/2022-15035.pdf>. Federal Register, Vol. 87, No. 151, 08/08/2022, 48424-48428.

### **CFPB Issues Interpretive Rule Regarding FCRA's Limited Preemption of State Laws.**

The Bureau of Consumer Financial Protection (CFPB) issued an interpretive rule to clarify the Fair Credit Reporting Act's (FCRA's) limited preemption of State laws. CFPB stated its opinion that States play an important role in the regulation of consumer reporting and that State laws that are not "inconsistent" with FCRA are generally not preempted by the statute. The FCRA also expressly preempts certain categories of State laws. The interpretative rule clarifies that FCRA's express preemption provisions have a narrow and targeted scope. CFPB believes States therefore retain substantial flexibility to pass laws involving consumer reporting to reflect emerging problems affecting local economies and citizens. The interpretive rule provides several illustrative examples. The interpretive rule is effective **07/11/2022**. The interpretive rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-07-11/pdf/2022-14150.pdf>. Federal Register, Vol. 87, No. 131, 07/11/2022, 41042-41046.

### **CFPB Publishes Advisory Opinion on Permissible Purposes for Furnishing, Using, and Obtaining Consumer Reports.**

CFPB published an advisory opinion in the *Federal Register* which outlines certain obligations of consumer reporting agencies and consumer report users under section 604 of the Fair Credit Reporting Act (FCRA). The advisory opinion explains that the permissible purposes listed in FCRA section 604(a)(3) are consumer specific, and it affirms that a consumer reporting agency may not provide a consumer report to a user under FCRA section 604(a)(3) unless it has reason to believe that all of the consumer report information it includes pertains to the consumer who is the subject of the user's request. CFPB noted that disclaimers will not cure a failure to have a reason to believe that a user has a permissible purpose for a consumer report provided pursuant to FCRA section 604(a)(3). The advisory opinion also reminds consumer report users that FCRA section 604(f) strictly prohibits a person who uses or obtains a consumer report from doing so without a permissible purpose. The advisory opinion is effective **07/12/2022**. The advisory opinion may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-07-12/pdf/2022-14823.pdf>. Federal Register, Vol. 87, No. 132, 07/12/2022, 41243-41246.

### **CFPB Extends Comment Period for Information Collection Regarding Relationship Banking and Customer Service.**

CFPB has extended the comment period for an information collection titled, Request for Information Regarding Relationship Banking and Customer Service. The information collection requested comments regarding relationship banking and how consumers can assert the right to obtain timely responses to requests for information about their accounts from banks and credit unions with more than \$10 billion in assets, as well as from their affiliates. CFPB has extended the comment period from **07/21/2022**, until **08/22/2022**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-07-20/pdf/2022-15243.pdf>. Federal Register, Vol. 87, No. 138, 07/20/2022, 43253.

### **CFPB Corrects Comment Date for Mortgage Assistance Relief Services Information Collection.**

CFPB issued a correction to notice document 2022-14474 which appeared on pages 40513-40514 in the *Federal Register* issue of Thursday, **07/07/2022**, regarding the information collection titled, Mortgage Assistance Relief Services, Regulation O. The comment due date was incorrect. On page 40514, in the first column, under the DATES heading, in the third line, "October 5, 2022" should read "August 8, 2022." The correction may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-07-13/pdf/C1-2022-14474.pdf>. Federal Register, Vol. 87, No. 133, 07/13/2022, 41675.



### FRB Amends Regulation A.

The Board of Governors of the Federal Reserve System (FRB) issued a final rule to adopt amendments to Regulation A to reflect FRB's approval of an increase in the rate for primary credit at each Federal Reserve Bank. The secondary credit rate at each Reserve Bank automatically increased by formula as a result of FRB's primary credit rate action. On **07/27/2022**, FRB approved a 0.75 percentage point increase in the primary credit rate in effect at each of the twelve Federal Reserve Banks, thereby increasing from 1.75 percent to 2.50 percent the rate that each Reserve Bank charges for extensions of primary credit. In addition, FRB had previously approved the renewal of the secondary credit rate formula, the primary credit rate plus 50 basis points. Under the formula, the secondary credit rate in effect at each of the twelve Federal Reserve Banks increased by 0.75 percentage points as a result of FRB's primary credit rate action, thereby increasing from 2.25 percent to 3.00 percent the rate that each Reserve Bank charges for extensions of secondary credit. The amendments to Regulation A reflect the rate changes. The amendments are effective **08/09/2022**. The rate changes for primary and secondary credit were applicable **07/28/2022**. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-08-09/pdf/2022-17018.pdf>. Federal Register, Vol. 87, No. 152, 08/09/2022, 48441-48442.

### FRB Amends Regulation D.

FRB issued a final rule to adopt amendments to Regulation D to revise the rate of interest paid on balances (IORB) maintained at Federal Reserve Banks by or on behalf of eligible institutions. The final amendments specify that IORB is 2.40 percent, a 0.75 percentage point increase from its prior level. The amendment is intended to enhance the role of IORB in maintaining the federal funds rate in the target range established by the Federal Open Market Committee (FOMC). The amendments are effective **08/09/2022**. The IORB rate change was applicable on **07/28/2022**. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-08-09/pdf/2022-17019.pdf>. Federal Register, Vol. 87, No. 152, 08/09/2022, 48442-48443.

### FRB Announces Final Approval of Information Collections.

FRB announced final approval of an information collection titled, Recordkeeping and Disclosure Requirements Associated with the CFPB's and FRB's Regulations V. The information collection is used in connection with the requirements of the Fair Credit Reporting Act (FCRA). The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-07-25/pdf/2022-15816.pdf>. Federal Register, Vol. 87, No. 141, 07/25/2022, 44115-44116.

FRB announced final approval of an information collection titled, Recordkeeping and Disclosure Requirements Associated with Loans Secured by Real Estate Located in Flood Hazard Areas Pursuant to Section 208.25 of Regulation H. The information collection is used in connection with the requirements of the Flood Disaster Protection Act, the National Flood Insurance Act, and Regulation H. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-07-25/pdf/2022-15815.pdf>. Federal Register, Vol. 87, No. 141, 07/25/2022, 44118-44119.

FRB announced final approval of an information collection titled, Federal Reserve Payments Study. The study collects information from organizations with a significant role in processing payments, including depository and financial institutions, general-purpose payment networks, third-party payment processors, issuers of private-label payment instruments, and providers of various alternative payment methods and systems and helps to support FRB's role in the payments system. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-07-25/pdf/2022-15813.pdf>. Federal Register, Vol. 87, No. 141, 07/25/2022, 44119-44120.

FRB announced final approval of an information collection titled, Interagency Guidance on Funding Liquidity Risk Management. The guidance was issued to provide consistent interagency expectations on sound practices for managing funding and liquidity risk. The guidance includes a number of voluntary recordkeeping provisions that apply to the respondents listed in the notice. The recordkeeping provisions relate to liquidity risk management policies, procedures and assumptions, and contingency funding plans. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-08-02/pdf/2022-16475.pdf>. Federal Register, Vol. 87, No. 147, 08/02/2022, 47211-47212.

FRB announced final approval of an information collection titled, Recordkeeping Provisions Associated with Guidance on Leverage Lending. The guidance outlines high-level principles related to safe-and-sound leveraged lending activities. The guidance includes a number of voluntary recordkeeping provisions that apply to financial institutions that are engaged in leveraged lending activities and for which FRB is the primary federal supervisor, including bank holding companies, savings and loan holding companies, state member banks, and state-chartered branches and agencies of foreign banks that engage in these activities. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-08-02/pdf/2022-16476.pdf>. Federal Register, Vol. 87, No. 147, 08/02/2022, 47212-47213.

FRB announced final approval of an information collection titled, Request for Extension of Time to Dispose of Assets Acquired in Satisfaction of Debts Previously Contracted. The information collection is used by bank holding companies (BHCs). The Bank Holding Company Act and FRB's Regulation Y require a BHC that, either through foreclosure or otherwise in the ordinary course of collecting a debt previously contracted, acquired voting securities of a bank or BHC, or the securities or assets of a company engaged in a nonbanking activity to seek prior FRB approval in order to retain ownership of those shares or assets for more than two years. The information collection is used in connection with obtaining approval from FRB. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-08-02/pdf/2022-16477.pdf>. Federal Register, Vol. 87, No. 147, 08/02/2022, 47214.

### **FRB Issues Proposed Rule to Implement the Adjustable Interest Rate (LIBOR) Act.**

FRB seeks comment on a proposed rule that would implement the Adjustable Interest Rate (LIBOR) Act. The proposed rule would establish benchmark replacements for contracts governed by U.S. law that reference certain tenors of U.S. dollar LIBOR (the overnight and one-, three-, six-, and 12-month tenors) and that do not have terms that provide for the use of a clearly defined and practicable replacement benchmark rate following the first London banking day after **06/30/2023**. The proposed rule also would provide additional definitions and clarifications consistent with the Adjustable Interest Rate (LIBOR) Act. Comments are due **08/29/2022**. The proposed rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-07-28/pdf/2022-15658.pdf>. Federal Register, Vol. 87, No. 144, 07/28/2022, 45268-45281.

### **FRB Seeks Comment on Information Collections.**

FRB seeks comment regarding the extension, without revision, of an information collection titled, Recordkeeping and Disclosure Requirements Associated with the Consumer Financial Protection Bureau's (CFPB) Regulation E, Electronic Fund Transfers (EFTs). The Electronic Funds Transfer Act (EFTA) requires consumers be provided disclosures about the bank terms, costs, and rights related to EFT services. The information collection is used in connection with EFTA. Comments are due **09/23/2022**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-07-25/pdf/2022-15814.pdf>. Federal Register, Vol. 87, No. 141, 07/25/2022, 44116-44118.

FRB seeks comment regarding the extension, with revision, of an information collection titled, Interchange Transaction Fees Survey. The Debit Card Issuer Survey (FR 3064a) collects data from issuers of debit cards that, together with their affiliates, have assets of \$10 billion or more. The 3064a collects information regarding the volume and value of debit card transactions; chargebacks and returns; costs of authorization, clearance, and settlement of debit card transactions; other costs incurred in connection with particular debit card transactions; fraud prevention costs and fraud losses; and interchange fee revenue. The Payment Card Network Survey (FR 3064b) collects data from payment card networks. The survey includes the volume and value of debit card transactions; interchange fees; network fees; and payments and incentives paid by networks to acquirers, merchants, and issuers. Data from the FR 3064a and FR 3064b are used to fulfill a statutory requirement that FRB disclose certain information regarding debit card transactions on a biennial basis. In addition, FRB uses data from FR 3064b to report on an annual basis the extent to which networks have established separate interchange fees for exempt and covered issuers. Comments are due **09/12/2022**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-07-13/pdf/2022-14870.pdf>. Federal Register, Vol. 87, No. 133, 07/13/2022, 41718-41721.

FRB seeks comment regarding the renewal of an information collection titled, Savings Association Holding Company Report. Title III of the Dodd-Frank Act transferred to FRB the supervisory functions of the former Office of Thrift Supervision related to savings and loan holding companies (SLHCs) and their non-depository subsidiaries. Pursuant to section 10(b) of the Home Owners' Loan Act (HOLA), FRB may require SLHCs to file reports concerning their





operations. Following the transfer to FRB of authority to supervise SLHCs, FRB determined to exempt certain SLHCs (exempt SLHCs) from regulatory reporting using FRB's existing regulatory reports, including the Consolidated Financial Statements for Holding Companies (FR Y-9C) and the Parent Company Only Financial Statements for Small Holding Companies (FR Y-9SP). An SLHC is an exempt SLHC if it (1) meets the requirements of section 10(c)(9)(C) of HOLA (i.e., it is a "legacy" unitary SLHC) and has primarily commercial assets, with thrift assets making up less than 5 percent of the SLHC's consolidated assets or (2) primarily holds insurance-related assets and does not submit financial reports with the Securities and Exchange Commission (SEC) pursuant to sections 13 or 15(d) of the Securities Exchange Act. The collection is used in connection with HOLA reporting requirements. Comments are due **10/03/2022**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-08-02/pdf/2022-16478.pdf>. Federal Register, Vol. 87, No. 147, 08/02/2022, 47209-47211.

### **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-2022-08-05/pdf/2022-16786.pdf>. Federal Register, Vol. 87, No. 150, 08/05/2022, 48022.

### **FDIC Issues Technical Correction to Fair Housing and Consumer Protection in Sales and Insurance Rules.**

FDIC issued a technical correction to two regulations to reflect a reorganization and change in the name of its former Consumer Response Center. The new name is the National Center for Consumer and Depositor Assistance. The two regulations affected by the correction are FDIC's Fair Housing Rule and its Consumer Protection in Sales of Insurance Rule. The notice is effective **08/08/2022**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-08-08/pdf/2022-16961.pdf>. Federal Register, Vol. 87, No. 151, 08/08/2022, 48079-48080.

### **FDIC Issues Proposal to Incorporate TDR Accounting Standards into Deposit Insurance Assessment System.**

FDIC seeks comment on a proposed rule that would incorporate updated accounting standards in the risk-based deposit insurance assessment system applicable to all large insured depository institutions (IDIs), including highly complex IDIs. FDIC calculates deposit insurance assessment rates for large and highly complex IDIs based on supervisory ratings and financial measures, including the underperforming assets ratio and the higher-risk assets ratio, both of which are determined, in part, using restructured loans or troubled debt restructurings (TDRs). FDIC has proposed to include modifications to borrowers experiencing financial difficulty, an accounting term recently introduced by the Financial Accounting Standards Board (FASB) to replace TDRs, in the underperforming assets ratio and higher-risk assets ratio for purposes of deposit insurance assessments. Comments are due **08/26/2022**. The proposed rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-07-27/pdf/2022-15763.pdf>. Federal Register, Vol. 87, No. 143, 07/27/2022, 45023-45029.

### **FDIC Seeks Comment on Application Related Information Collection.**

FDIC seeks comment regarding the renewal of an information collection titled, Interagency Charter and Federal Deposit Insurance Application. The Federal Deposit Insurance Act requires financial institutions to apply to FDIC to obtain deposit insurance. The data collection provides FDIC with the information needed to evaluate the applications. Comments are due **08/17/2022**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-07-18/pdf/2022-15216.pdf>. Federal Register, Vol. 87, No. 136, 07/18/2022, 42723-42725.



### FDIC Seeks Comment on HMDA Information Collection.

FDIC seeks comment regarding the renewal of three information collections. The first information collection identified in the notice is titled, Home Mortgage Disclosure Act (HMDA). The Board of Governors of the Federal Reserve System promulgated Regulation C to implement HMDA. The information collection is used in connection with collection and reporting requirement of Regulation C. FDIC also seeks comment regarding an information collection titled, Management Official Interlocks. The collection is used in connection with FDIC's Management Official Interlocks regulation, 12 CFR 348. FDIC also seeks comment on an information collection titled, Interagency Guidance on Leveraged Lending. The collection is used in connection with the requirements within the Interagency Guidance on Leveraged Lending. Comments are due **09/20/2022**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-07-22/pdf/2022-15663.pdf>. Federal Register, Vol. 87, No. 140, 07/22/2022, 43850-43852.

### FDIC Announces Intent to Terminate Receivership.

FDIC, as Receiver for the institution listed in the notice, announced it intends to terminate its receivership for the institution. 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 receivership will serve no useful purpose. Consequently, notice is given that the receivership 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 receivership, 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 notice 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 the receivership will be considered which are not sent within this time frame. The notices may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-08-05/pdf/2022-16787.pdf>. Federal Register, Vol. 87, No. 150, 08/05/2022, 48022.

### OCC Amends Policy Statement on Minority Depository Institutions.

The Office of the Comptroller of the Currency (OCC) has amended its 2013 Policy Statement on Minority National Banks and Federal Savings Associations. The amendments update and streamline the description of its policies, procedures, and programs on minority depository institutions. The amendments also remove obsolete references. The issuance date of the amended policy is **07/26/2022**. The amended policy statement may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-08-01/pdf/2022-16345.pdf>. Federal Register, Vol. 87, No. 146, 08/01/2022, 47028-47034.

### OCC Seeks Comment on Information Collections.

OCC seeks comment regarding the renewal of an information collection titled, Guidance Regarding Unauthorized Access to Customer Information. The Gramm-Leach-Bliley Act (GLBA) requires OCC to establish appropriate standards for national banks, federal savings associations, federal branches and federal agencies of foreign banks, and any subsidiaries of such entities (with certain exceptions) relating to administrative, technical, and physical safeguards to: (1) insure the security and confidentiality of customer records and information; (2) protect against any anticipated threats or hazards to the security or integrity of such records; and (3) protect against unauthorized access to, or use of, such records or information that could result in substantial harm or inconvenience to any customer. The information collection is used in connection with GLBA-related requirements as further outlined in the notice. A second GLBA-related information collection is listed below. Comments are due **08/10/2022**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-07-11/pdf/2022-14630.pdf>. Federal Register, Vol. 87, No. 131, 07/11/2022, 41185-41186.

OCC seeks comment regarding the renewal of an information collection titled, FFIEC Cybersecurity Assessment Tool (Assessment). OCC and other federal banking agencies, under the auspices of the Federal Financial Institutions Examination Council (FFIEC), have worked diligently to assess and enhance the state of the financial industry's cyber preparedness and to improve the agencies' examination procedures and training to strengthen the oversight of financial industry cybersecurity readiness. The agencies also have focused on providing financial institutions with resources that can assist in protecting them and their customers from the growing risks posed by cyberattacks. The Assessment is one



of the resources provided to financial institutions. Comments are due **09/07/2022**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-08-08/pdf/2022-16872.pdf>. Federal Register, Vol. 87, No. 151, 08/08/2022, 48224-48225.

OCC seeks comment regarding an information collection titled, Privacy of Consumer Financial Information. The Gramm-Leach-Bliley Act (GLBA) requires the information collection as is outlined in the notice. A second GLBA-related information collection is listed above. Comments are due **09/07/2022**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-08-08/pdf/2022-16874.pdf>. Federal Register, Vol. 87, No. 151, 08/08/2022, 48226-48227.

### HUD Announces Debenture Interest Rates.

The Department of Housing and Urban Development (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. See the notice for the listing of changed interest rates. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-08-09/pdf/2022-17024.pdf>. Federal Register, Vol. 87, No. 152, 08/09/2022, 48492-48494.

### FEMA Issues Final Flood Hazard Determinations.

The Federal Emergency Management Agency (FEMA) issued a notice which identifies communities in the state of **Minnesota**, where flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final. The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in FEMA's National Flood Insurance Program (NFIP). The date of **11/17/2022**, has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-07-12/pdf/2022-14765.pdf>. Federal Register, Vol. 87, No. 132, 07/12/2022, 41333-41334.

FEMA issued a notice which identifies communities in the states of **Minnesota**, and **Ohio**, where flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final. The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in FEMA's National Flood Insurance Program (NFIP). The date of **12/01/2022**, has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-07-12/pdf/2022-14768.pdf>. Federal Register, Vol. 87, No. 132, 07/12/2022, 41334-41335.

FEMA issued a notice which identifies communities in the states of **Iowa** and **Michigan**, where flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final. The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in FEMA's National Flood Insurance Program (NFIP). The date of **12/15/2022**, has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-07-26/pdf/2022-15915.pdf>. Federal Register, Vol. 87, No. 142, 07/26/2022, 44416-44418.

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

FEMA issued a notice which lists communities in the states of **Indiana** and **Michigan**, where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by FEMA for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect 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-2022-07-12/pdf/2022-14764.pdf>. Federal Register, Vol. 87, No. 132, 07/12/2022, 41328-41330.

FEMA issued a notice which lists communities in the states of **Illinois**, **Indiana**, and **Michigan**, where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by FEMA for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect 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-2022-08-02/pdf/2022-16485.pdf>. Federal Register, Vol. 87, No. 147, 08/02/2022, 47222-47225.

### FEMA Issues Proposed Flood Hazard Determinations.

FEMA seeks comment regarding 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 **Indiana**, **Michigan**, and **Ohio**, as listed in the table in the notice. 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 **10/26/2022**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-07-28/pdf/2022-16194.pdf>. Federal Register, Vol. 87, No. 144, 07/28/2022, 45347-45349.

FEMA seeks comment regarding 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 **Ohio**, as listed in the table in the notice. 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 **10/31/2022**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-08-02/pdf/2022-16484.pdf>. Federal Register, Vol. 87, No. 147, 08/02/2022, 47226-47227.

FEMA seeks comment regarding 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 **Indiana** and **Ohio**, as listed in the table in the notice. 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 **11/02/2022**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-08-04/pdf/2022-16753.pdf>. Federal Register, Vol. 87, No. 149, 08/04/2022, 47769-47770.

FEMA seeks comment regarding 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 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 **11/02/2022**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-08-04/pdf/2022-16749.pdf>. Federal Register, Vol. 87, No. 149, 08/04/2022, 47773-47774.

### **FinCEN Seeks Comment Regarding Information Sharing Between Government Agencies and Financial Institutions.**

The Financial Crimes Enforcement Network (FinCEN) seeks comment regarding the renewal, without change, of an information collection titled, Information Sharing Between Government Agencies and Financial Institutions. In general, FinCEN receives requests from law enforcement, reviews the requests, posts the requests on a secure internet website, and sends notifications to designated contacts within financial institutions across the United States once every two weeks. A 314(a) request contains subject and business names, addresses, and as much identifying data as possible to assist financial institutions in searching their records. The information collection is utilized as part of the 314(a) data collection process. Comments are due **09/09/2022**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-07-11/pdf/2022-14638.pdf>. Federal Register, Vol. 87, No. 131, 07/11/2022, 41186-41188.

### **IRS Seeks Comment on Information Collection Related to Debt Instruments.**

The Internal Revenue Service (IRS) seeks comment regarding an information collection titled, Debt Instruments with Original Discount; Imputed Interest on Deferred Payment Sales or Exchanges of Property; Property Traded on an Established Market. IRS regulations provide definitions, reporting requirements, elections, and general rules relating to the tax treatment of debt instruments with original issue discount and the imputation of, and accounting for, interest on certain sales or exchanges of property. IRS has updated the burden estimates for the information collection due to an inadvertent overstatement in the previous Office of Management and Budget (OMB) submissions. Comments are due **09/12/2022**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-07-14/pdf/2022-15068.pdf>. Federal Register, Vol. 87, No. 134, 07/14/2022, 42266-42267.

### **FHFA Seeks Comment on Affordable Housing Program Information Collection.**

The Federal Housing Finance Agency (FHFA) seeks comment regarding the renewal of an information collection titled, Affordable Housing Program (AHP). Section 10(j) of the Federal Home Loan Bank Act (Bank Act) requires FHFA to promulgate regulations under which each Federal Home Loan Bank (Banks) must establish an AHP to provide subsidy to the Bank's member institutions to finance: (1) homeownership by households with incomes at or below 80 percent of the area median income; and (2) the purchase, construction, or rehabilitation of rental housing in which at least 20 percent of the units will be occupied by, and affordable for, households earning 50 percent or less of the area median income. The information collection is used in connection with the regulation promulgated under the Bank Act. Comments are due **10/04/2022**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-08-05/pdf/2022-16855.pdf>. Federal Register, Vol. 87, No. 150, 08/05/2022, 48023-48025.

### **SBA Issues Final Rule to Streamline Regulations Related to Surety Bond Guarantee Program.**

The Small Business Administration (SBA) issued a final rule to revise various regulations related to SBA's Surety Bond Guarantee Program because they are obsolete, unnecessary, ineffective, or burdensome. Additionally, the final rule clarifies and modernizes certain regulations and conforms them to industry standards. The final rule is effective



**09/07/2022.** The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-08-08/pdf/2022-16875.pdf>. Federal Register, Vol. 87, No. 151, 08/08/2022, 48080-48084.

### **SBA Announces Rate of Default in 504 Loan Program Involving CDCs.**

SBA announced the results of its analysis to identify industries with high rate of default in the 504 Program. The Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act (Economic Aid Act) temporarily provides increased authority to Certified Development Companies (CDCs) participating in SBA Accredited Lenders Program with respect to 504 loans that are not more than \$500,000 and that are not made to a borrower in an industry with a high rate of default. The Economic Aid Act further requires that SBA annually identify the industries with a high rate of default. SBA has determined there are no industries with a high rate of default in the 504 Program based on prior SBA 504 portfolio performance. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-07-14/pdf/2022-15015.pdf>. Federal Register, Vol. 87, No. 134, 07/14/2022, 42257.

### **SBA Announces Maximum Allowable 7(a) Fixed Interest Rates.**

SBA announced the maximum allowable fixed interest rates for 7(a) guaranteed loans, except for Export Working Capital (EWCP) loans. Effective **08/01/2022**, for any complete 7(a) loan application received by SBA of any request for an SBA Loan Number submitted by a lender under its delegated authority, except EWCP loans, the maximum allowable fixed interest rate will be the Prime rate in effect on the first business day of the month plus: (i) 800 basis points for loans of \$25,000 or less; (ii) 700 basis points for loans over \$25,000 but not exceeding \$50,000; (iii) 600 basis points for loans greater than \$50,000, up to and including \$250,000; or (iv) 500 basis points for loans over \$250,000. Future revisions to the maximum allowable fixed interest rate for 7(a) guaranteed loans will be published periodically by SBA in the Federal Register and posted monthly on SBA's website. The notice is effective **08/01/2022**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-08-01/pdf/2022-16162.pdf>. Federal Register, Vol. 87, No. 146, 08/01/2022, 46883.

### **FCA Issues Proposed Rule on Cyber Risk Management.**

The Farm Credit Administration (FCA) issued a proposed rule to rescind and revise FCA regulations to reflect developments in cyber risk and continuously evolving business practices concerning electronic business and to rename the regulations, Cyber Risk Management. The proposed rule would also revise Part 609 to codify existing expectations and ensure the relevance and adequacy of risk management practices, corporate governance, and internal control systems for conducting business in an electronic environment. Comments are due **09/26/2022**. The proposed rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-07-28/pdf/2022-15747.pdf>. Federal Register, Vol. 87, No. 144, 07/28/2022, 45281-45284.

### **FCA Seeks Comment on Regulatory Burden.**

FCA seeks comment to facilitate a retrospective analysis of the requirements FCA imposes on Farm Credit System institutions, including the Federal Agricultural Mortgage Corporation (Farmer Mac). FCA asks comment on any FCA regulation that may be unnecessary, unduly burdensome or costly, duplicative of other requirements, outmoded, insufficient, ineffective, or not based on law. Comments are due **10/18/2022**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-07-20/pdf/2022-15434.pdf>. Federal Register, Vol. 87, No. 138, 07/20/2022, 43227-43228.

### **FCIC Seeks Comment on Multiple Peril Crop Insurance Information Collection.**

The Federal Crop Insurance Corporation (FCIC) seeks comment regarding the renewal of an information collection titled, Multiple Peril Crop Insurance. The information collection is necessary for administering the federal crop insurance program. Producers are required to report specific data when they apply for federal crop insurance and report acreage, yields, and notices of loss. Insurance companies accept applications; issue policies; establish and provide insurance coverage; compute liability, premium, subsidies, and losses; indemnify producers; and report specific data to FCIC as required in the Appendix III/M13 Handbook. Comments are due **10/04/2022**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-08-05/pdf/2022-16840.pdf>. Federal Register, Vol. 87, No. 150, 08/05/2022, 47957.





### Agencies Announce Fees and Percentages Associated with Guarantee Rates and Retention.

The Rural Business-Cooperative Service (RBC), Rural Housing Service (RHS), and Rural Utilities Service (RUS), (collectively, the agencies) issued a notice to provide applicants with guarantee fee, periodic guarantee retention fee, loan guarantee percentage, and the fee for issuance of loan note guarantee prior to construction completion for various programs of the agencies as listed in the notice. The notice has been published prior to the passage of a FY 2023 appropriation; should the fees need be adjusted after passage of the FY 2023 appropriations, the agencies will publish a subsequent notice in the Federal Register. The fees are effective **10/01/2022**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-07-14/pdf/2022-15058.pdf>. Federal Register, Vol. 87, No. 134, 07/14/2022, 42141-42142.

### Agencies Issue Corrections to OneRD Guaranteed Loan Regulation.

The Rural Business-Cooperative Service (RBC), Rural Housing Service (RHS), and Rural Utilities Service (RUS) (collectively, the agencies) issued a correction to the OneRD Guaranteed Loan regulation (OneRD). On **12/10/2021**, the agencies published a final rule that made necessary revisions to the policy and procedures that strengthened the oversight and management of the growing Community Facilities, Water and Waste Disposal, Business and Industry, and Rural Energy for America guarantee portfolios. Following final implementation of the rule, the agencies found that a correction due to an omission was necessary. The technical correction makes an amendment to fix a paragraph reference. See the notice for the specific correction. The correction is effective **07/15/2022**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-07-15/pdf/2022-15105.pdf>. Federal Register, Vol. 87, No. 135, 07/15/2022, 42297.

### RHS Proposes to Streamline SFHGLP Underwriting Process.

The Rural Housing Service (RHS) issued a proposed rule to amend its regulations that would grant to Delegated Lenders participating in the Single-Family Housing Guaranteed Loan Program (SFHGLP) the authority to make loans and issue Loan Note Guarantees after closing using automated loan underwriting and closing systems. RHS administers the SFHGLP which provides a 90% Loan Note Guarantee to approved lenders in order to reduce the lender's risk of extending loans to low- and moderate-income households in rural areas. The current RHS process requires lenders to submit loan documentation for RHS review and approval at various stages. The process can be time-consuming, and given the growing demand for SFHGLP loans, RHS has proposed to change its regulation to streamline the process of approving SFHGLP loans and issuing Loan Note Guarantees. The revised process is described in the proposed rule. Comments are due **10/03/2022**. The proposed rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-08-04/pdf/2022-16637.pdf>. Federal Register, Vol. 87, No. 149, 08/04/2022, 47646-47652.

### CCC Seeks Comment on Facility Guarantee Program Information Collection.

The Commodity Credit Corporation (CCC) seeks comment regarding the extension of an information collection titled, CCC Facility Guarantee Program (FGP). Under FGP, CCC provides payment guarantees to facilitate the financing of manufactured goods and U.S. services to improve or establish agriculture-related facilities in emerging markets. By supporting such goods and services exports, FGP is designed to enhance sales of U.S. agricultural commodities and products to emerging markets where the demand for such commodities and products may be limited due to inadequate storage, processing, handling, or distribution capabilities for such products. Under 7 CFR part 1493, U.S. sellers, foreign financial institutions, and U.S. financial institutions are required to submit and retain information as outlined in the notice. The information collected is used by CCC to manage, plan, evaluate, and account for government resources. Comments are due **10/03/2022**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-08-03/pdf/2022-16542.pdf>. Federal Register, Vol. 87, No. 148, 08/03/2022, 47384-47385.

### CFTC Corrects Fee Assessment Notice for Designated Contract Markets and Registered Futures Associations.

The Commodity Futures Trading Commission (CFTC) issued a correction of a document published in the *Federal Register* on **06/17/2022**, Fees for Reviews of the Rule Enforcement Programs of Designated Contract Markets and Registered Futures Associations. The document contained incorrect assessed fee data for four of the entities in Table 2. CFTC has corrected the data contained in Table 2. Each self-regulatory organization is required to remit electronically the applicable



fee on or before **08/16/2022**. The correction may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-07-12/pdf/2022-14820.pdf>. Federal Register, Vol. 87, No. 132, 07/12/2022, 41246-41247.

### **CFTC Extends Comment Period for Climate-Related Financial Risk Information Request.**

CFTC extended the comment period for the Request for Information on Climate-Related Financial Risk that was published in the *Federal Register* on **06/08/2022**. Comments are due **10/07/2022**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-07-21/pdf/2022-15621.pdf>. Federal Register, Vol. 87, No. 139, 07/21/2022, 43501-43502.

### **CFTC Seeks Comment on Market Survey Information Collection.**

CFTC seeks comment regarding the extension of an information collection titled, Market Surveys. Under CFTC Rule 21.02, upon call by CFTC, information must be furnished related to futures or options positions held or introduced by futures commission merchants, members of contract markets, introducing brokers, foreign brokers, and for options positions, by each reporting market. The rule is designed to assist CFTC in prevention of market manipulation. The information collection is used in connection with the rule. Comments are due **09/12/2022**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-07-12/pdf/2022-14782.pdf>. Federal Register, Vol. 87, No. 132, 07/12/2022, 41293-41294.

### **CFTC Seeks Comment on SEF and DCM Swap Determination Information Collection.**

CFTC seeks comment regarding the extension of an information collection titled, Process for a Swap Execution Facility (SEF) or Designated Contract Market (DCM) to Make a Swap Available to Trade. The collection of information is needed to help determine which swaps should be subject to the trade execution requirement under section 2(h)(8) of the Commodity Exchange Act pursuant to Section 723 of the Dodd-Frank Act. A SEF or DCM that submits a determination that a swap is available to trade must address at least one of several factors to demonstrate that the swap is suitable for trading pursuant to the trade execution requirement. CFTC uses the information collection to facilitate the application of the trade execution requirement and the requirements associated with methods of execution under parts 37 and 38 of CFTC's regulations. Comments are due **09/12/2022**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-07-13/pdf/2022-14974.pdf>. Federal Register, Vol. 87, No. 133, 07/13/2022, 41674-41675.

### **SEC Updates EDGAR Filer Manual.**

The Securities and Exchange Commission (SEC) issued a final rule to adopt amendments to Volume II of the Electronic Data Gathering, Analysis, and Retrieval system (EDGAR) Filer Manual (Filer Manual) and related rules and forms. See the final rule for explanation of changes made to the Filer Manual. The EDGAR system was upgraded **06/21/2022**. The final rule is effective **07/19/2022**. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-07-19/pdf/2022-15321.pdf>. Federal Register, Vol. 87, No. 137, 07/19/2022, 42960-42962.

### **SEC Issues Final Rule on Voter Proxy Advice.**

SEC issued a final rule to adopt amendments to the federal proxy rules governing proxy voting advice as part of SEC's reassessment of the rules and in light of feedback from market participants, certain developments in the market for proxy voting advice, and comments received regarding the proposed amendments. The amendments remove a condition to the availability of certain exemptions from the information and filing requirements of the federal proxy rules for proxy voting advice businesses. The final rule also rescinds certain guidance that SEC issued to investment advisers about their proxy voting obligations. In addition, the amendments remove a note that provides examples of situations in which the failure to disclose certain information in proxy voting advice may be considered misleading within the meaning of the federal proxy rules' prohibition on material misstatements or omissions. Finally, the final rule discusses SEC's view regarding the application of that prohibition to proxy voting advice, in particular with respect to statements of opinion. The amendments and the rescission of the guidance are effective **09/19/2022**. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-07-19/pdf/2022-15311.pdf>. Federal Register, Vol. 87, No. 137, 07/19/2022, 43168-43197.



### **SEC Issues Proposed Rule to Update Certain Substantive Basis for Exclusion of Shareholder Proposals.**

SEC issued a proposed rule to update certain substantive basis for exclusion of shareholder proposals under SEC's shareholder proposal rule. The revisions would amend the substantial implementation exclusion to specify that a proposal may be excluded if the company has already implemented the essential elements of the proposal. SEC has also proposed to specify when a proposal substantially duplicates another proposal for purposes of the duplication exclusion. In addition, SEC has proposed to amend the resubmission exclusion to provide that a proposal constitutes a resubmission if it substantially duplicates another proposal. Under the proposed revisions, for purposes of both the duplication exclusion and the resubmission exclusion, a proposal would substantially duplicate another proposal if it addresses the same subject matter and seeks the same objective by the same means. Comments are due **09/12/2022**. The proposed rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-07-27/pdf/2022-15348.pdf>. Federal Register, Vol. 87, No. 143, 07/27/2022, 45052-45075.

### **FTC Issues Proposed Rule Related to Motor Vehicle Dealers Trade Regulation.**

The Federal Trade Commission (FTC) seeks comment on a proposed rule related to the sale, financing, and leasing of motor vehicles by motor vehicle dealers. The proposed rule would prohibit motor vehicle dealers from making certain misrepresentations in the course of selling, leasing, or arranging financing for motor vehicles, require accurate pricing disclosures in dealers' advertising and sales discussions, require dealers to obtain consumers' express, informed consent for charges, prohibit the sale of any add-on product or service that confers no benefit to the consumer, and require dealers to keep records of advertisements and customer transactions. Comments are due **09/12/2022**. The proposed rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-07-13/pdf/2022-14214.pdf>. Federal Register, Vol. 87, No. 133, 07/13/2022, 42012-42048.

### **FTC Issues Proposed Rule Concerning Use of Endorsements and Testimonials in Advertising.**

FTC seeks comment on proposed revisions to its Guides Concerning the Use of Endorsements and Testimonials in Advertising (the Guides). The Guides, 16 CFR part 255, are designed to assist businesses and others in conforming their endorsement and testimonial advertising practices to the requirements of section 5 of the FTC Act. Comments are due **09/26/2022**. The proposed rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-07-26/pdf/2022-12327.pdf>. Federal Register, Vol. 87, No. 142, 07/26/2022, 44288-44306.

### **FTC Issues Notice of Intent to Seek Comment on Regulatory Review Schedule.**

FTC released a notification of intent to request comment regarding its regulatory review schedule. As part of its ongoing, systematic review of all FTC rules and guides, FTC announced a modified ten-year regulatory review schedule. To ensure its rules and industry guides remain relevant and not unduly burdensome, FTC reviews rules and guides on a ten-year schedule. Each year FTC publishes its review schedule, with adjustments made in response to public input, changes in the marketplace, and resource demands. When FTC reviews a rule or guide, it publishes a document in the Federal Register seeking comment on the continuing need for the rule or guide, as well as costs and benefits of the rule or guide to consumers and businesses. Based on feedback, FTC may modify or repeal the rule or guide to address public concerns or changed conditions, or to reduce undue regulatory burden. FTC posts information about its review schedule on its website to facilitate comment. The website contains an updated review schedule, a list of rules and guides previously eliminated in the regulatory review process, and FTC's regulatory review plan. No FTC determination on the need for, or the substance of, the rules and guides listed in the notice should be inferred from the notification. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-08-05/pdf/2022-16863.pdf>. Federal Register, Vol. 87, No. 150, 08/05/2022, 47947-47949.

### **NCUA Finalizes Asset Threshold for Determining Appropriate Supervisory Office.**

The National Credit Union Administration (NCUA) issued a final rule to revise the \$10 billion asset threshold used for assigning supervision of consumer federally insured credit unions (FICUs) to the Office of National Examinations and Supervision (ONES). The final rule only applies to FICUs whose assets are \$10 billion or more (covered credit unions). The final rule provides that covered credit unions with less than \$15 billion in total assets (tier I credit unions) will be



supervised by the appropriate NCUA Regional Office. Covered credit unions with \$15 billion or more in total assets (tier II and tier III credit unions) continue to be supervised by ONES. The final rule does not alter any regulatory requirements for covered credit unions. The final rule is effective **01/01/2023**. The final rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-07-27/pdf/2022-16009.pdf>. Federal Register, Vol. 87, No. 143, 07/27/2022, 45005-45010.

### **NCUA Issues Proposed Rule on Cyber Incident Notification Requirements.**

NCUA issued a proposed rule to require federally-insured credit unions (FICUs) that experience a reportable cyber incident to report the incident to NCUA as soon as possible and no later than 72 hours after the FICU reasonably believes that it has experienced a reportable cyber incident. The notification requirement provides an early alert to NCUA and does not require credit unions to provide a detailed incident assessment to NCUA within the 72-hour time frame. Comments are due **09/26/2022**. The proposed rule may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-07-27/pdf/2022-16013.pdf>. Federal Register, Vol. 87, No. 143, 07/27/2022, 45029-45036.

### **NCUA Seeks Comment on Appraisal Information Collection.**








NCUA seeks comment regarding an information collection titled, Appraisals, 12 CFR 722. Title XI of the Financial Institutions, Reform, Recovery and Enforcement Act (FIRREA) was enacted to protect federal financial and public policy interests in real estate related transactions. To achieve this purpose, the statute directed NCUA, as one of the federal financial institutions' regulatory agencies, to adopt standards for the performance of real estate appraisals in connection with federally-related transactions. FIRREA requires that appraisals be maintained in writing and meet certain minimum standards. NCUA regulation Part 722 carries out the statutory requirements. The information collection is attributed to the regulation and statutory requirements. Comments are due **09/07/2022**. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-08-08/pdf/2022-16925.pdf>. Federal Register, Vol. 87, No. 151, 08/08/2022, 48200-48201.

### **VA Seeks Comment on VALERI System and Title Requirements for Conveyance of Real Property Information Collection.**

The Department of Veteran Affairs (VA) seeks comment regarding revisions to an information collection titled, VA Loan Electronic Reporting Interface (VALERI) System and Title Requirements for Conveyance of Real Property to the Secretary. VA has modified the collection to address the event loss mitigation efforts are unsuccessful and a VA-guaranteed loan goes into foreclosure. Statutory requirements for conveyance of properties to VA are found in chapter 37 of title 38, United States Code. The implementing regulations are found in part 36 of title 38, Code of Federal Regulations (CFR). In 38 CFR 36.4323, titled, Election to Convey Security, VA explains that each conveyance or transfer of real property to VA pursuant to the section shall be acceptable if: the holder thereby covenants or warrants against the acts of the holder and those claiming under the holder (e.g., by special warranty deed); and it vests in VA or will entitle VA to such title as is or would be acceptable to prudent lending institutions, informed buyers, title companies, and attorneys, generally, in the community in which the property is situated. Comments are due within 30 days of publication. The notice may be viewed at: <https://www.govinfo.gov/content/pkg/FR-2022-07-13/pdf/2022-14909.pdf>. Federal Register, Vol. 87, No. 133, 07/13/2022, 41873.



## Compliance Notes

-  FDIC issued an advisory to FDIC-insured institutions regarding deposit insurance and dealings with crypto companies to address certain misrepresentations about FDIC deposit insurance by some crypto companies. FDIC also issued a consumer fact sheet, *What the Public Needs to Know About FDIC Deposit Insurance and Crypto Companies*, to provide additional information about deposit insurance coverage. Both resources may be viewed at: [www.fdic.gov/news/financial-institution-letters/2022/fil22035.html](http://www.fdic.gov/news/financial-institution-letters/2022/fil22035.html)
-  FRB released the second issue 2022 *Consumer Compliance Outlook*. The edition includes articles regarding merger lessons learned, commercial flood insurance compliance, news from Washington, recent federal court opinions, and a regulatory calendar. The publication may be viewed at: <https://consumercomplianceoutlook.org/>
-  FDIC published the Summer 2022 *Supervisory Insights* which features two articles of interest to examiners, bankers, and supervisors. One article highlights financial performance in the wake of the pandemic of banks concentrated in commercial real estate (CRE) lending as well as examination observations about CRE lending risk management practices. The second article is intended to help financial institutions better understand the applicable capital, investment, and financial reporting requirements for the issuance of and investment in subordinated debt. The publication may be viewed at: [www.fdic.gov/news/financial-institution-letters/2022/fil22037.html](http://www.fdic.gov/news/financial-institution-letters/2022/fil22037.html)
-  FDIC updated chapters one and four of its *Formal and Informal Enforcement Actions Manual*, entitled *Overview and Administrative Matters* and *Cease-and-Desist Actions*, respectively. The chapters address FDIC's minimum standards for terminating cease and desist and consent orders issued under Section 8(b) of the Federal Deposit Insurance Act. The manual provides direction for professional staff related to the work necessary to pursue formal and informal enforcement actions. It is also intended to support the work of FDIC staff involved in processing and monitoring enforcement actions. The updated manual may be viewed at: [www.fdic.gov/news/financial-institution-letters/2022/fil22034.html](http://www.fdic.gov/news/financial-institution-letters/2022/fil22034.html)
- FDIC also updated its *Trust Examination Manual*. The Management section (Section 1) has been reorganized to improve clarity. The section has also been expanded to include more information about policies, planning, compensation, account reviews, and interactions between examiners and trust department management. The updated manual may be viewed at: [www.fdic.gov/regulations/examinations/trustmanual/](http://www.fdic.gov/regulations/examinations/trustmanual/)
-  Fannie Mae and Freddie Mac announced that servicers will be required to obtain and maintain fair lending data on their loans, and for this data to transfer with servicing throughout the mortgage term. The fair lending data to be maintained includes borrowers' age, race, ethnicity, gender, and preferred language. Servicers will be required to implement the change starting **03/01/2023**. The new requirement follows a May 2022 announcement which requires lenders to collect borrowers' language preference data. The announcement may be viewed at: [www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Announces-Update-for-Servicers-to-Maintain-Fair-Lending-Data.aspx](http://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Announces-Update-for-Servicers-to-Maintain-Fair-Lending-Data.aspx)
-  OCC released its annual update to the Bank Accounting Advisory Series (BAAS). The BAAS contains OCC responses to frequently asked questions from the banking industry and bank examiners on a variety of accounting topics and promotes consistent application of accounting standards and regulatory reporting among national banks and federal savings associations. The latest edition of the BAAS reflects updates to clarify the application of accounting standards issued by FASB on topics including the amortization of premiums on debt securities with a call option over a preset period and lessors' classification of certain leases with variable lease payments. The BAAS does not represent rules or regulations of OCC. Rather, it represents the Office of the Chief Accountant's interpretations of GAAP and regulatory guidance based on the facts and circumstances presented. The updated BAAS may be viewed at: [occ.gov/news-issuances/news-releases/2022/nr-occ-2022-98.html](http://occ.gov/news-issuances/news-releases/2022/nr-occ-2022-98.html)
-  CFPB updated its questions and answers (Q&As) pertaining to the Debt Collection Rule. The Q&As are part of the Compliance Aids issued by CFPB. The full set of Q&As regarding the Debt Collection Rule may be viewed at: [www.consumerfinance.gov/compliance/compliance-resources/other-applicable-requirements/debt-collection/debt-collection-rule-faqs/](http://www.consumerfinance.gov/compliance/compliance-resources/other-applicable-requirements/debt-collection/debt-collection-rule-faqs/)
-  FHFA reported house prices rose nationwide in May, up 1.4 percent from the previous month. House prices rose 18.3 percent from May 2021 to May 2022. The previously reported 1.6 percent price change for April 2022 was revised downward to 1.5 percent. The FHFA House Price Index may be viewed at: [www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-HPI-Up-1pt4-Percent-in-May-Up-18pt3-Percent-from-Last-Year.aspx](http://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-HPI-Up-1pt4-Percent-in-May-Up-18pt3-Percent-from-Last-Year.aspx)



## Compliance Notes

▲ CFPB published an analysis of how actions announced by the three largest national consumer reporting companies, Experian, Equifax, and TransUnion, will affect people who have allegedly unpaid medical debt on their credit reports. Nearly half of those with medical collections appearing on their credit reports will continue to see them there even after the changes fully go into effect next year. The medical collection tradelines that will remain on credit reports after the changes will likely represent a majority of the dollar amount of all medical collections currently reported. The report finds the changes likely will result in the majority of individual medical collections tradelines being removed from credit reports. However, in terms of dollar amount, a large majority of reported medical collections likely will still remain. The report may be viewed at: [www.consumerfinance.gov/about-us/newsroom/cfpb-publishes-analysis-of-potential-impacts-of-medical-debt-credit-reporting-changes/](http://www.consumerfinance.gov/about-us/newsroom/cfpb-publishes-analysis-of-potential-impacts-of-medical-debt-credit-reporting-changes/)

▲ IRS issued a five-year plan to help meet the changing needs of taxpayers and members of the tax community. The strategic plan, developed with input from partners as well as IRS employees, focuses on four goals that will help improve customer service: (a) service – provide quality and accessible services to enhance taxpayer experience; (b) enforcement – enforce the tax law fairly and efficiently to increase voluntary compliance and narrow the tax gap; (c) people – foster an inclusive, diverse, and well-equipped workforce and strengthen relationships with external partners; and (d) transformation – transform IRS operations to become more resilient, agile, and responsive to improve taxpayer experience and narrow the tax gap. The announcement may be viewed at: [www.irs.gov/newsroom/new-irs-strategic-plan-agency-issues-five-year-plan-with-goal-to-help-taxpayers](http://www.irs.gov/newsroom/new-irs-strategic-plan-agency-issues-five-year-plan-with-goal-to-help-taxpayers)

▲ FTC has released a consumer alert, Only Scammers Demand Utility Payments in Cryptocurrency, to warn of the latest twist on utility scams. FTC reports the scam goes like this: consumers get a call or text from someone pretending to be the utility company. The caller or text says you owe money (which is a lie). The scammers then send the consumer a text, sometimes including the utility company's logo, with a QR code and tells the consumer to scan it at a Bitcoin ATM to make a payment or the service will be disconnected. FTC warns that no utility company will text about a shut-off, and no utility company will demand payment in cryptocurrency. Before services are shut off, all real utility companies will notify consumers in writing and offer a repayment plan. The consumer alert may be viewed at: <https://consumer.ftc.gov/consumer-alerts/2022/08/only-scammers-demand-utility-payments-cryptocurrency>

▲ Nacha announced in ACH Operations Bulletin #2-2022 that beginning in mid-September 2022, the Federal Reserve and The Clearing House (collectively, ACH Operators) will implement additional late-night deliveries of ACH files to all RDFIs. Both ACH Operators will offer similar services regarding the additional 11:30 pm ET deliveries of ACH files. The additional ACH file deliveries will begin on **09/12/2022**, for the Federal Reserve, and on **09/16/2022**, for The Clearing House. The change is only to the delivery times of ACH files and does not impact ACH settlement times. The service enhancement is being implemented in response to ACH industry participant requests and will accelerate the delivery of some volume of ACH payments to RDFIs. Federal Reserve RDFIs will now receive late-night distributions of ACH files throughout the business week with ACH payments that would have been delivered the morning of the next business day. The bulletin may be viewed at: [https://www.nacha.org/sites/default/files/2022-07/ACH\\_Operations\\_Bulletin\\_2-2022\\_Additional\\_ACH\\_File\\_Delivery\\_Final\\_July\\_26\\_2022.pdf](https://www.nacha.org/sites/default/files/2022-07/ACH_Operations_Bulletin_2-2022_Additional_ACH_File_Delivery_Final_July_26_2022.pdf)





## SEPTEMBER 2022

- 1 •**Internal Audit Workshop**  
Madison; \$245/attendee
- 7 •**WBA/MBA Advanced Financial Statement & Cash Flow Analysis Workshop**  
Lansing, Mich. or virtual; \$265/attendee
- 8 •**WBA/MBA Advanced Tax Return Analysis Workshop**  
Lansing, Mich. or virtual; \$265/attendee
- 9 •**WBA/MBA Advanced C&I and CRE Lending Workshop**  
Lansing, Mich. or virtual; \$265/attendee
- 13–14 •**Management Conference** *(including tracks for CEOs, CFOs, CCOs, HR, and other bank leaders)*  
Wisconsin Dells
- 20–21 •**Secur-I.T. Conference** *(including tracks for BSA/AML, Operations, Security, and Technology)*  
Wisconsin Dells
- 22 •**Branch Manager Boot Camp: Session 1**  
4-part series; virtual half-days; \$800/attendee
- 27 •**IRA Essentials Workshop**  
Madison; \$245/attendee
- 28 •**Advanced Workshop**  
Madison; \$245/attendee
- 29 •**HR Workshop**  
Madison; \$245/attendee

## OCTOBER 2022

- 5–6 •**Principles of Banking Course**  
Mineral Point; \$550/attendee
- 26–27 •**Commercial Lending School**  
Eau Claire; \$550/attendee
- 12–14 •**Midwest Trust & Wealth Management Conference**  
Plymouth, Mich. *(multiple options available)*
- 13–14 •**Family-owned and Closely Held Bank Strategic Retreat**  
Madison
- 18–19 •**Supervisor Boot Camp**  
Madison; \$535/attendee
- 19–20 •**FIPCO Software & Compliance Forum: Loan & Mortgage**; Madison or virtual

## OCTOBER 2022 *(continued)*

- 20 •**Branch Manager Boot Camp: Session 2**  
4-part series; virtual half-days; \$800/attendee
- 25 •**Community Bankers for Compliance (CBC) – Session IV**  
Stevens Point; membership *(pricing options vary)*
- 26 •**FDIC Bank Directors College**  
Madison; membership *(pricing options vary)*
- 26 •**Wisconsin Dells; \$225/attendee**
- 27 •**Madison; \$225/attendee**

## NOVEMBER 2022

- 2–3 •**Personal Banker School**  
Madison; \$495/attendee
- 9 •**BOLT Winter Leadership Summit**  
Wisconsin Dells; \$150/attendee
- 10 •**Branch Manager Boot Camp: Session 3**  
4-part series; virtual half-days; \$800/attendee
- 15 •**Compliance Forum: Session 2**  
Wisconsin Dells; annual membership *(pricing varies)*
- 16–17 •**LEAD360 Conference**  
Wisconsin Dells

## DECEMBER 2022

- 15 •**Branch Manager Boot Camp: Session 4**  
4-part series; virtual half-days; \$800/attendee

## JANUARY 2023

- TBD •**Midwest Economic Forecast Luncheon**  
Virtual

### 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**.