Capitol Comments
March 2016

When there is a deadline associated with an item, you will see this graphic:

Joint federal agency issuances

Expanded exam cycles for certain small financial institutions

Federal banking agencies increased the number of small banks and savings associations eligible for an 18-month examination cycle rather than a 12-month cycle. The changes are intended to reduce regulatory compliance costs for smaller institutions, while still maintaining safety and soundness protections. Under the interim final rules,[1] qualifying well-capitalized and well-managed banks and savings associations with less than $1 billion in total assets may now be eligible for an 18-month examination cycle. Previously, firms with less than $500 million in total assets could be eligible for the extended examination cycle. The examination cycle changes may also apply to qualifying well-capitalized and well-managed U.S. branches and agencies of foreign banks with less than $1 billion in total assets.

Comment: Regulators consider institutions to be well-capitalized and well-managed if they have a composite rating of 1 or 2. The rules increase the number of institutions that may qualify for an 18-month examination cycle by approximately 617, to nearly 5,000 banks and savings associations. In addition, the rules increase the number of U.S. branches and agencies of foreign banks that may qualify for an 18-month examination cycle by 26 branches and agencies, to a total of 89.

Joint agencies issue advisory on use of evaluations in real estate loans

The Fed, FDIC, and OCC (agencies) issued the Interagency Advisory on the Use of Evaluations in Real Estate-Related Financial Transactions[2] to describe aspects of the agencies' appraisal regulations and the Interagency Appraisal and Evaluation Guidelines[3]. In outreach meetings conducted by the agencies pursuant to the requirement of the Economic Growth and Regulatory Paperwork Reduction Act (EGRPRA), representatives from the financial industry raised questions regarding supervisory expectations for using an evaluation instead of an appraisal for estimating the market value of real property securing real estate-related financial transactions. Many of these questions pertained to the circumstances under which evaluations may be used in the underwriting of real estate-related financial transactions and how to support a market value conclusion when there have been few or no recent comparable sales. Therefore, the agencies are issuing this advisory to respond to those questions and to describe existing supervisory expectations, guidance, and industry practice.

In particular, the advisory reminds institutions about the appropriate use of an evaluation when determining the market value of real property for certain real estate-related financial transactions. It highlights that preparers of an evaluation may be internal bank employees or third parties that are knowledgeable, competent, and independent of the transaction. Further, the advisory discusses various valuation methods commonly used for developing a market value conclusion. The agencies remind institutions that regardless of the valuation method used, an evaluation should contain sufficient information to support the value conclusion. Institutions are reminded to refer to the Interagency Appraisal and Evaluation Guidelines for further guidance concerning.

Comment: The advisory addresses when an evaluation is appropriate, the preparation of an evaluation, and the contents of an evaluation.

CFPB actions

CFPB *Supervisory Highlights*

This report[4] highlights supervision work generally completed between September 2015 and December 2015, though some completion dates may vary.

The CFPB's supervisory activities have either led to or supported three recent public enforcement actions, resulting in $52.75 million in consumer remediation and other payments and an additional $8.5 million in civil money penalties. The Bureau also imposed other corrective actions at these institutions, including requiring improved compliance management systems. In addition to these public enforcement actions, Supervision continues to resolve violations using non-public supervisory actions. When Supervision examinations determine that a supervised entity has violated a statute or regulation, Supervision directs the entity to implement appropriate corrective measures, including remediation of consumer harm when appropriate. Recent supervisory resolutions have resulted in restitution of approximately $14.3 million to more than 228,000 consumers. Other corrective actions have included, for example, furnishing corrected information to consumer reporting agencies, improving training for employees to prevent various law violations, and establishing and maintaining required policies and procedures.

Comment: According to the press release,[5] the report generally covers supervisory activities completed between September 2015 and December 2015. The CFPB highlighted these findings:

- *Illegal automatic defaults of student loans.*
- *Illegal garnishment threats by student loan debt collectors.*
- *Violations of the new remittance rule.*
- *Illegal inaccuracies with deposit account information provided to credit reporting companies.*
- *Failure to honor written requests by consumers to cease debt collection communications.*

CFPB accepting complaints regarding online lenders

The CFPB announced[6] it is accepting complaints from consumers encountering problems with loans from online marketplace lenders. The Bureau is also releasing a consumer bulletin[7] that provides an overview of marketplace lending and outlines tips for consumers who are considering taking out loans from these types of lenders.

Comment: The CFPB's consumer bulletin addresses steps it recommends a consumer take when considering a loan with an online lender. The bulletin concludes with this statement:

> *You should take these steps before applying for any loan. If you consider a marketplace lender as one of your options when shopping for a loan, keep in mind that marketplace lending is a young industry and does not have the same history of government supervision and oversight as banks or credit unions. However, marketplace lenders are required to follow the same state and federal laws as other lenders.*

CFPB announces rural designation application process

In 2013, the CFPB issued rules[8] designating rural areas for purposes of exemptions from some federal mortgage regulations. In 2015, the CFPB adopted census blocks outside of urban areas to its definition of rural. On March 2, 2016, in compliance with the Helping Expand Lending Practices in Rural Communities (HELP) Act[9] that passed Congress in December 2015, the CFPB announced[10] an application process[11] for the public to request specific areas that are outside the current rural definition be designated as rural. Applications that comply with the requirements set forth by the CFPB will be accepted from March 31, 2016 through December 4, 2017 (but to assure consideration applications should be submitted by April 8, 2017).

The HELP Act additionally authorized expansion of small rural creditor eligibility to originate balloon-payment QMs and exemptions from escrowing for HPMLs. The CFPB's press release stated that a notice concerning those will be issued soon.

Comment: This represents progress, but community banks must continue to take their message of relief from certain mortgage rules to Congress.

CFPB releases January compliant snapshot

CFPB released its latest monthly consumer complaint snapshot,[12] highlighting consumer complaints about prepaid products. The report shows that consumer complaints about prepaid products spiked in recent months as an increased number of customers complained of being frozen out of their accounts.

CFPB lays out nine priority goals for next two years

The CFPB's near-term priority goals[13] are: pre-dispute arbitration clauses, accurate and inclusive consumer reporting, debt collection, financial education, financial health of households, mortgages (including, implementing HMDA changes, ensuring non-discriminatory practices, protecting delinquent mortgage borrowers), open-use credit, small business lending, and student lending.

Comment: These priorities may look familiar because they build on the CFPB's rulemaking agenda and broader five-year strategic plan.

CFPB publishes HMDA file specifications

The CFPB published the HMDA file specifications for 2017 and 2018. Check out the Resources for HMDA Filers page.[14] The CFPB highlighted one change in particular for your attention: the file format is being changed from a fixed field file to a delimited file format. The CFPB provided the notice of the updated file format through these file specifications to provide as much time as possible for systems updates should any need to be made.

CFPB non-binding no-action letter policy

The CFPB finalized a new policy creating a process for companies to apply for a non-binding statement from CFPB staff, known as a no-action letter, for a new product or service that offers the potential for significant consumer-friendly innovation. Under the policy, the letters are not binding and are also revocable at any time. If a no-action letter is issued, it will be posted on the Bureau's website along with a version or summary of the company's request. The policy has been submitted to the Federal Register[15]

The new policy was created as part of CFPB's Project Catalyst initiative and is intended to enhance regulatory compliance in specific circumstances where a product holds the promise for significant consumer benefit and where there may be uncertainty around how the product fits within an existing regulatory scheme. More information about Project Catalyst[16] is available.

In 2013 the CFPB issued a trial disclosure waiver policy, which allows financial services providers to take advantage of new technologies in designing and testing improved alternative federal consumer disclosures. Today's new policy builds on this work to encourage consumer-friendly innovation more broadly. The trial disclosure waiver policy[17] is available.

Comment: It is difficult to imagine scenarios where the CFPB will receive requests for these no-action letters. They don't bind the agency, they offer no safe-harbor from regulatory action or litigation, and they are published on the

CFPB's website. Those three strikes are enough to dissuade most financial service providers from requesting a letter. In its Federal Register submission, the CFPB said it expects to receive "on average one to three actionable applications per year." If one application per year were the over/under,[18] we'd take the under.

CFPB blog

Information for those involved with Pension Funding, LLC and Pension Income, LLC

Save the date: Join us for a Credit Union Advisory Council meeting in Washington, D.C.

Our priorities to ensure a fair marketplace

New insights on bank overdraft fees and 4 ways to avoid them

3 tips to help you make the most of your tax refund

FDIC actions

FDIC guidance on customer cybersecurity

The FDIC announced new resources to educate bank customers about appropriate steps they can take to help avoid fraud and other cyber threats when banking online or on their mobile devices. The FDIC released two new cybersecurity brochures aimed at consumers[19] and business customers of financial institutions. The FDIC has produced a special edition of the agency's quarterly FDIC Consumer News (Winter 2016)[20] entitled "A Bank Customer's Guide to Cybersecurity." Additionally, the FDIC has created a webpage on cybersecurity awareness basics.[21]

Comment: The brochures are tri-fold, which you could make available online or in your bank's lobby.

FDIC guidance on discontinuing foreclosure proceedings

The FDIC issued guidance[22] to clarify supervisory expectations in existing guidance for institutions' risk-management practices for decisions to discontinue foreclosure proceedings after initiating such actions, which are commonly referred to as abandoned foreclosures. Institutions should have appropriate policies and practices pertaining to decisions to discontinue foreclosure actions.

Comment: Highlights:

- *Reminds institutions to establish policies and procedures for acquiring other real estate that mitigate the impact the foreclosure process has on the value of surrounding properties.*
- *When institutions decide to discontinue foreclosure proceedings, the borrower may abandon or stop maintaining the property, which can lead to blight, crime, or an accumulation of trash, causing a negative effect on neighboring properties and the local community.*
- *Institutions should have appropriate policies and practices pertaining to decisions to discontinue the foreclosure process that address:*
    - *Obtaining and assessing current valuation and other relevant information,*
    - *Releasing liens,*
    - *Notifying local authorities, and*
    - *Notifying and contacting the borrower(s).*
- *FDIC will review of institutions' policies and practices for decisions to discontinue foreclosure proceedings.*

FDIC announces updated flood insurance videos

As part of the FDIC's Community Banking Initiative, the FDIC announced the release of updated technical assistance videos on flood insurance.[23] The new videos provide financial institution management, compliance officers, and staff with resources for better understanding of federal flood insurance laws, regulations, and compliance responsibilities. The updated videos include information about the changes to federal flood insurance compliance requirements brought about by the Biggert-Waters Flood Insurance Reform Act, the Homeowner Flood Insurance Affordability Act, and the agency's final rules on flood insurance at Part 339 of Title 12 of the Code of Federal Regulations.

Comment: The videos are specifically designed for compliance officers, lenders, and other administrative staff with responsibility for flood insurance compliance. Most of the videos are very short. The video on flood insurance compliance management system is only eight minutes long and would be appropriate for board training.

OCC actions

OCC guidance on responding to noncompliance with BSA

OCC Bulletin 2016-6[24] supplements the "Interagency Statement on Enforcement of Bank Secrecy Act/Anti-Money Laundering Requirements"[25] by providing guidance on the process the OCC has implemented to provide national banks, federal savings associations, and federal branches and agencies (collectively, banks) with an opportunity to respond to potential noncompliance with BSA compliance program requirements or repeat or uncorrected BSA compliance problems. This bulletin rescinds OCC Bulletin 2005-45, "Process for Taking Administrative Enforcement Actions Against Banks Based on BSA Violations," dated December 23, 2005.

Comment: Forward this to your BSA officer. Highlights include:

- ***A statutory mandate requires the OCC to issue a cease-and-desist order when citing BSA compliance program violations or violations of 12 USC 1818(s) for repeat or uncorrected BSA compliance problems.***
- ***This bulletin describes the OCC's process for administrative enforcement actions based on noncompliance with BSA compliance program requirements or repeat or uncorrected BSA compliance problems. These actions include providing banks with notice and an opportunity to respond before the decision to issue a cease-and-desist order is finalized.***

Federal Reserve actions

We did not identify any Fed issuances to report this month.

Other federal action and news

NCUA approves expansion of commercial lending

The NCUA approved a final rule[26] aimed at expanding commercial lending in the credit union industry. While the rule did not directly increase the 12.25 percent cap on credit union business lending, it eliminated or weakened a number of underwriting safeguards, including personal guarantees, certain collateral margin requirements, loan limits to a single borrower and experience requirements for staff.

Comment: The removal of such standards, along with the relative inexperience of credit unions in business lending, is a "recipe for disaster." It isn't clear whether the NCUA is prepared to properly supervise dramatically expanded business loan portfolios. The NCUA has proven itself, once again, to be little more than a cheerleader for the credit union industry. This backdoor expansion of credit union business lending defies congressional intent to ensure that credit unions fulfill their specified mission of meeting the credit and savings needs of consumers, especially persons of modest means, through the emphasis on consumer rather than business loans. When combined with the pending proposal to nearly eliminate common bond requirements, it is clear that a few large credit unions are attempting to create a banking sector free of taxation and regulatory oversight, jeopardizing the significant competitive advantages of traditional credit unions.

FTC annual summary of consumer complaints

Debt collection, identity theft and imposter scams were the most common categories of consumer complaints received by the Federal Trade Commission's Consumer Sentinel Network in 2015, according to the agency's new data book.[27] While debt collection complaints rose to the top spot among complaint categories, the report notes that this was due in large part to a surge in complaints contributed by a data contributor who collects complaints via a mobile app. This change caused a spike in complaints related to unwanted debt collection mobile phone calls.

Identity theft complaints were the second most reported, increasing more than 47 percent from 2014 on the back of a massive jump in complaints about tax identity theft from consumers. Identity theft complaints had been the top category for the previous 15 years. Imposter scams – in which scammers impersonate someone else to commit fraud - remained the third-most common complaint in 2015.

Publications, articles, reports, studies, testimony & speeches

FDIC fourth quarter banking profile

The Quarterly Banking Profile is a quarterly publication that provides the earliest comprehensive summary of financial results for all FDIC-insured institutions. Click here[28] to see 4th quarter performance.

Comment: Earnings and profitability improved year-over-year. Loss provisions rose to a three year high. Full year revenues grew modestly. Loan loss provisions exceeded quarterly net charge-offs for the first time in six years. The pace of loan growth accelerated. Deposits continued to fund asset growth. The list of problem institutions fell from 203 to 183, but the industry also lost 83 institutions—81 through mergers and two failed.

New residential sales in January 2016

Sales of new single-family houses in January 2016 were at a seasonally adjusted annual rate of 494,000, according to estimates released jointly[29] today by the U.S. Census Bureau and the HUD. This is 9.2 percent (±13.5%)* below the revised December rate of 544,000 and is 5.2 percent (±12.6%)* below the January 2015 estimate of 521,000.

The median sales price of new houses sold in January 2016 was $278,800; the average sales price was $365,700. The seasonally adjusted estimate of new houses for sale at the end of January was 238,000. This represents a supply of 5.8 months at the current sales rate.

Fed releases Beige Book on current economic conditions

Reports[30] from the twelve Federal Reserve Districts (map of districts[31]) indicated that economic activity has expanded in nine of the Districts since the previous Beige Book report and contacts in Boston were described as upbeat. Meanwhile, New York and Kansas City described economic activity in their Districts as essentially flat. Atlanta and San Francisco characterized the growth in their Districts as moderate; Philadelphia, Cleveland, Richmond, Chicago, St. Louis, Minneapolis, and Dallas described their Districts' growth as modest. Contacts' outlooks for future growth remained mostly positive in Boston, Philadelphia, Atlanta, Chicago, Kansas City, and Dallas.

The report is based on information collected on or before January 4, 2016. This document summarizes comments received from businesses and other contacts outside the Federal Reserve and is not a commentary on the views of Federal Reserve officials.

HUD and Census Bureau release new construction activity for January

HUD/Census Bureau new residential construction activity: Privately owned housing units authorized by building permits in January were 0.2 percent (±0.5%)* below the revised December rate, but 13.5 percent (±1.5%) above the January 2015 estimate. Single-family authorizations in January were 1.6 percent (±1.0%) below the revised December figure. Privately owned housing starts in January were 3.8 percent (±12.0%) below the revised December estimate, but is 1.8 percent (±13.5%) above the January 2015 rate. Single-family housing starts in January were 3.9 percent (±10.5%)* below the revised December figure. Privately owned housing completions in January were 2.0 percent (±9.3%)* above the revised December estimate and is 8.4 percent (±13.2%) above the January 2015 rate. Single-family housing completions in January were 1.4 percent (±10.2%) below the revised December rate.

FedFocus

FedFocus[32] is the source for the latest Federal Reserve Financial Services news. Each edition keeps you informed about hot topics in the industry, as well as provides insight into the value of Federal Reserve Financial Services. In this month's edition:

- *Comment: This month's edition contains the following articles:*
    - *The Federal Reserve is making strides to adopt ISO® 20022 in the U.S.*
    - *New toolbox launched to help you build up your risk management program*
    - *Help protect your email inbox from spam and phishing*
    - *Fed Facts: A glance at historic firsts for Fed women*
    - *Resource centers and FAQs: The go-to places for the answers you've been seeking*

FedFlash

FedFlash[33] is your source for the latest Federal Reserve Financial Services operational news. Each bulletin keeps you informed of issues critical to your day-to-day operations, providing you with National and District updates regarding the Fed's products and services, processes, technical protocols and contact information. In this month's edition:

- *Comment: The March edition of FedFlash had not been published at the time Capitol Comments. The link above will take you to the latest edition. If the first article under Account Services is "Account Services prepares for SCI integration into the AMI application," then the new edition still has not been released.*

Selected federal rules proposed

Proposed rules are included only when community banks may want to comment.

COMMENTS CLOSE	SUMMARY OF PROPOSED RULE
03.22.2016	EGRPRA[34]. The OCC, Board, and FDIC are conducting a review of the regulations we have issued in order to identify outdated or otherwise unnecessary regulatory requirements imposed on insured depository institutions, as required by the Economic Growth and Regulatory Paperwork Reduction Act of 1996. EGRPRA requires the Agencies to organize the regulations into categories and publish groups of categories for comment. In this notice, the Agencies are seeking public comment on regulations in the following categories: Rules of Procedure; Safety and Soundness; and Securities. We have listed these rules on a chart included with this notice. In addition, as we previously announced, the Agencies have expanded the scope of the EGRPRA review to include the Agencies' recently issued final rules. Accordingly, in this notice, the Agencies invite the public to comment on any Agency final rule not included in a previous EGRPRA Federal Register notice. To facilitate identification of these recently issued rules, we have included with this notice a separate chart that lists these rules. Finally, in order to be as inclusive as possible, the Agencies also invite comment during the comment period for this notice on any Agency rule that is issued in final form on or before December 31, 2015. The Agencies listed these rules on the EGRPRA Web site.[35] The public may also comment on any other Agency rule, including rules covered by the three prior notices during the open comment period for this notice
04.04.2016	FinCEN published the revised Bank Secrecy Act Currency Transaction Report[36] ("BCTR") in March 2011. The BCTR was designed to facilitate financial institutions reporting the most frequently encountered transaction scenarios. Since that time, FinCEN has become aware that the current report is not configured to allow for alternative reporting models that have developed in the last few years, such as reports filed by a parent company on behalf of its subsidiary. To remedy some of the limitations of the current BCTR, FinCEN now proposes an amended report. This notice does not propose any new regulatory requirements or changes to the requirements related to currency transaction reporting, but rather seeks input on technical matters designed to improve the layout and reporting of the BCTR. This request for comments covers 31 CFR 1010.310.

Selected federal rules recently adopted

Not all final rules are included. Only rules affecting community banks are reported, but we make no guarantees that these are all the final rules your bank needs to know about.

EFFECTIVE DATE:	SUMMARY OF FINAL RULE:
12.31.2015	Cyber-related sanctions regulations.[37] OFAC issued regulations to implement Executive Order 13694[38] of April 1, 2015 ("Blocking the Property of Certain Persons Engaging in Significant Malicious Cyber-Enabled Activities"). OFAC intends to supplement this part 578 with a more comprehensive set of regulations, which may include additional interpretive and definitional guidance and additional general licenses and statements of licensing policy.
12.24.2015	CFPB corrections to TRID rules.[39] The CFPB made technical corrections to Reg. Z and the Official Interpretations of Reg. Z. These corrections republish certain provisions of Reg. Z and the Official Interpretations that were inadvertently removed from or not incorporated into the CFRs by the TRID TILA-RESPA Final Rule. Specifically, this final rule makes the following corrections to reinsert existing regulatory text that was inadvertently deleted from Reg. Z and its commentary: o Amends § 1026.22(a)(5) to restore subparagraphs (i) and (ii). o Amends the commentary to § 1026.17 at paragraph 17(c)(1)-2 to restore subparagraphs i, ii, and iii. o Amends commentary paragraph 17(c)(1)-4 to restore subparagraphs i.A, and i.B. o Amends commentary paragraph 17(c)(1)-10 to restore introductory text and subparagraphs iii, iv, and vi. o Amends commentary paragraph 17(c)(1)-11 to restore subparagraphs i, ii, iii, and iv. o Amends commentary paragraph 17(c)(1)-12 to restore subparagraphs i, ii, and iii. o Amends commentary paragraph 17(c)(4)-1 to restore subparagraphs i and ii. o Amends commentary paragraph 17(g)-1 to restore subparagraphs i and ii. o Amends the commentary to § 1026.18 at paragraph 18(g)-4 to restore text to subparagraph i. This rule also amends the commentary to appendix D to Reg. Z to add paragraph 7 that had been included in the TILA-RESPA Final Rule published in the Federal Register but that was inadvertently omitted from the commentary to appendix D in the CFR.
12.22.2015	The Federal Reserve Amended Reg. D[40] (Reserve Requirements of Depository Institutions) to revise the rate of interest paid on balances maintained to satisfy reserve balance requirements ("IORR") and the rate of interest paid on excess balances ("IOER") maintained at Federal Reserve Banks by or on behalf of eligible institutions. The final amendments specify that IORR is 0.50 percent and IOER is 0.50 percent, a 0.25 percentage point increase from their prior levels. The amendments are intended to enhance the role of such rates of interest in moving the Federal funds rate into the target range established by the Federal Open Market Committee.

Selected federal rules - upcoming effective dates

Not all final rules are included. Only rules affecting community banks are reported, but we make no guarantees that these are all the final rules your bank needs to know about.

EFFECTIVE DATE:	SUMMARY OF FINAL RULE:
06.30.2016	Joint Agencies: Loans in Areas Having Special Flood Hazards[41] A lender who doesn't qualify for the small lender exemption shall mail or deliver to the borrower no later than June 30 a notice in writing, or if the borrower agrees, electronically, informing the borrower of the option to escrow all premiums and fees for any required flood insurance and the method(s) by which the borrower may request escrow, using language similar to the model clause in appendix B. A lender with ≥ $1 billion in assets does not qualify for the exemption. This applies to any loan secured by residential improved real estate or a mobile home that is outstanding on January 1, 2016. **Also, see January 1, 2016 above. For lenders that lose the exemption, see September 30, 2017 below.**
07.01.2016	The Secretary of Education amended the cash management regulations and other sections of the Student Assistance General Provisions regulations issued under the Higher Education Act of 1965, as amended. These final regulations are intended to ensure that students have convenient access to their title IV, HEA program funds, do not incur unreasonable and uncommon financial account fees on their title IV funds, and are not led to believe they must open a particular financial account to receive their Federal student aid. In addition, the final regulations update other provisions in the cash management regulations and otherwise amend the Student Assistance General Provisions. The final regulations also clarify how previously passed coursework is treated for title IV eligibility purposes and streamline the requirements for converting clock hours to credit hours. ***Comment: This rule amendment is meant to stop educational institutions from prioritizing the deposits of financial aid into institutional-sponsored accounts. Marketing material must be presented in a neutral way that enables the student to choose either his or her existing account or a campus account.***
10.03.2016	Limitations on Terms of Consumer Credit Extended to Service Members and Dependents.[42] The Department of Defense issued a final rule amending the implementing regulations of the Military Lending Act of 2006. The final rule expands specific protections provided to service members and their families under the MLA and addresses a wider range of credit products than the DOD's previous regulation. **FDIC-supervised institutions and other creditors must comply with the rule for new covered transactions beginning October 3, 2016**. For credit extended in a new credit card account under an open-end consumer credit plan, compliance is required beginning October 3, 2017. FIL-37-2015[43]
12.24.2016	Credit Risk Retention. The OCC, Board, FDIC, Commission, FHFA, and HUD (the agencies) are adopting a joint final rule (the rule, or the final rule) to implement the credit risk retention requirements of section 15G of the Securities Exchange Act of 1934, as added by section 941 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Act or Dodd-Frank Act). Section 15G generally requires the securitizer of asset-backed securities to retain not less than 5 percent of the credit risk of the assets collateralizing the asset-backed securities. Section 15G includes a variety of exemptions from these requirements, including an exemption for asset-backed securities that are collateralized exclusively by residential mortgages that qualify as "qualified residential mortgages," as such term is defined by the agencies by rule. The final rule was effective February 23, 2015. Compliance with the rule with respect to asset-backed securities collateralized by residential mortgages is required beginning December 24, 2015. **Compliance with the rule with regard to all other classes of asset-backed securities is required beginning December 24, 2016**.
09.30.2017	Joint Agencies: Loans in Areas Having Special Flood Hazards[44] A lender that loses the small lender exemption shall mail or deliver to the borrower no later than September 30 of the first calendar year in which the lender loses its small lenders exemption a notice in writing, or if the borrower agrees, electronically, informing the borrower of the option to escrow all premiums and fees for any required flood insurance and the method(s) by which the borrower may request escrow, using language similar to the model clause in appendix B. A lender loses the exemption when its assets are ≥ $1 billion. This applies to any loan secured by residential improved real estate or a mobile home that is outstanding on July 1 of the first calendar year in which the lender no longer qualifies for the small lender exemption (exception is for lenders with <$1 billion in assets). **Also, see January 1, 2016 above and September 30, 2017 below**
10.03.2017	Limitations on Terms of Consumer Credit Extended to Service Members and Dependents.[45] The Department of Defense issued a final rule amending the implementing regulations of the Military Lending Act of 2006. The final rule expands specific protections provided to service members and their families under the MLA and addresses a wider range of credit products than the DOD's previous regulation. FDIC-supervised institutions and other creditors must comply with the rule for new covered transactions beginning October 3, 2016. **For credit extended in a new credit card account under an open-end consumer credit plan, compliance is required beginning October 3, 2017**. FIL-37-2015[46]
01.01.2018	Home Mortgage Disclosure (Regulation C). [47] The CFPB amended Regulation C to implement amendments to HMDA made by section 1094 of the Dodd-Frank Act. Consistent with section 1094 of the Dodd-Frank Act, the CFPB is adding several new reporting requirements and clarifying several existing requirements. The CFPB is also modifying the institutional and transactional coverage of Regulation C. The final rule also provides extensive guidance regarding compliance with both the existing and new requirements.

Selected federal rules – recent effective dates

Our list of effective dates of past final federal rules is limited to approximately 12 months.

EFFECTIVE DATE:	SUMMARY OF FINAL RULE:
01.01.2016	Joint Agencies: Loans in Areas Having Special Flood Hazards[48] Homeowner Flood Insurance Affordability Act of 2014 (HFIAA) relating to the escrowing of flood insurance payments and the exemption of certain detached structures from the mandatory flood insurance purchase requirement. The final rule also implements provisions in the Biggert-Waters Flood Insurance Reform Act of 2012 (the Biggert-Waters Act) relating to the force placement of flood insurance. In accordance with HFIAA, the final rule requires regulated lending institutions to escrow flood insurance premiums and fees for loans secured by residential improved real estate or mobile homes that are made, increased, extended or renewed on or after January 1, 2016, unless the loan qualifies for a statutory exception. In addition, certain regulated lending institutions are exempt from this escrow requirement if they have total assets of less than $1 billion. Further, the final rule requires institutions to provide borrowers of residential loans outstanding as of January 1, 2016, the option to escrow flood insurance premiums and fees. The final rule includes new and revised sample notice forms and clauses concerning the escrow requirement and the option to escrow. The final rule includes a statutory exemption from the requirement to purchase flood insurance for a structure that is a part of a residential property if that structure is detached from the primary residence and does not also serve as a residence. However, under HFIAA, lenders may nevertheless require flood insurance on the detached structures to protect the collateral securing the mortgage. (**Lenders with assets < $1 billion, see June 30, 2016 and September 30, 2017.)**
01.01.2016	CFPB: Reg. Z Annual Threshold Adjustments (CARD ACT, HOEPA and ATR/QM):[49] The CFPB issued this final rule amending the regulatory text and official interpretations for Regulation Z. The CFPB is required to calculate annually the dollar amounts for several provisions in Reg. Z; this final rule reviews the dollar amounts for provisions implementing amendments to TILA under the CARD Act, HOEPA, and the Dodd-Frank Act. These amounts are adjusted, where appropriate, based on the annual percentage change reflected in the Consumer Price Index in effect on June 1, 2015. The minimum interest charge disclosure thresholds will remain unchanged in 2016
01.01.2016	Amendments Relating to Small Creditors and Rural or Underserved Areas Under the Truth in Lending Act (Regulation Z).[50] The CFPB amended certain mortgage rules issued by the CFPB in 2013. The final rule[51] revises the CFPB's regulatory definitions of small creditor, and rural and underserved areas, for purposes of certain special provisions and exemptions from various requirements provided to certain small creditors under the CFPB's mortgage rules.
01.01.2016	The OCC, the Board, and the FDIC amended their CRA regulations[52] to adjust the asset-size thresholds used to define "small bank" or "small savings association" and "intermediate small bank" or "intermediate small savings association." As required by the CRA regulations, the adjustment to the threshold amount is based on the annual percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers. The agencies also propose to make technical edits to remove obsolete references to the OTS and update cross-references to regulations implementing certain Federal consumer financial laws in their CRA regulations.
01.01.2016	Federal Reserve Bank Services.[53] The Board of Governors of the Federal Reserve System (Board) has approved the private sector adjustment factor (PSAF) for 2016 of $13.1 million and the 2016 fee schedules for Federal Reserve priced services and electronic access. These actions were taken in accordance with the Monetary Control Act of 1980, which requires that, over the long run, fees for Federal Reserve priced services be established on the basis of all direct and indirect costs, including the PSAF.
01.01.2018	Home Mortgage Disclosure (Regulation C). [54] The CFPB amended Regulation C to implement amendments to HMDA made by section 1094 of the Dodd-Frank Act. Consistent with section 1094 of the Dodd-Frank Act, the CFPB is adding several new reporting requirements and clarifying several existing requirements. The CFPB is also modifying the institutional and transactional coverage of Regulation C. The final rule also provides extensive guidance regarding compliance with both the existing and new requirements.
12.31.2015	Cyber-related sanctions regulations.[55] OFAC issued regulations to implement Executive Order 13694[56] of April 1, 2015 ("Blocking the Property of Certain Persons Engaging in Significant Malicious Cyber-Enabled Activities"). OFAC intends to supplement this part 578 with a more comprehensive set of regulations, which may include additional interpretive and definitional guidance and additional general licenses and statements of licensing policy.
12.24.2015	Credit Risk Retention. The OCC, Board, FDIC, Commission, FHFA, and HUD (the agencies) are adopting a joint final rule (the rule, or the final rule) to implement the credit risk retention requirements of section 15G of the Securities Exchange Act of 1934, as added by section 941 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Act or Dodd-Frank Act). Section 15G generally requires the securitizer of asset-backed securities to retain not less than 5 percent of the credit risk of the assets collateralizing the asset-backed securities. Section 15G includes a variety of exemptions from these requirements, including an exemption for asset-backed securities that are collateralized exclusively by residential mortgages that qualify as "qualified residential mortgages," as such term is defined by the agencies by rule. The final rule was effective February 23, 2015. **Compliance with the rule with respect to asset-backed securities collateralized by residential mortgages is required beginning December 24, 2015**. Compliance with the rule with regard to all other classes of asset-backed securities is required beginning December 24, 2016.

12.24.2015 CFPB corrections to TRID rules.[57] The CFPB made technical corrections to Reg. Z and the Official Interpretations of Reg. Z. These corrections republish certain provisions of Reg. Z and the Official Interpretations that were inadvertently removed from or not incorporated into the CFRs by the TRID TILA-RESPA Final Rule. Specifically, this final rule makes the following corrections to reinsert existing regulatory text that was inadvertently deleted from Reg. Z and its commentary:

- Amends § 1026.22(a)(5) to restore subparagraphs (i) and (ii).
- Amends the commentary to § 1026.17 at paragraph 17(c)(1)-2 to restore subparagraphs i, ii, and iii.
- Amends commentary paragraph 17(c)(1)-4 to restore subparagraphs i.A, and i.B.
- Amends commentary paragraph 17(c)(1)-10 to restore introductory text and subparagraphs iii, iv, and vi.
- Amends commentary paragraph 17(c)(1)-11 to restore subparagraphs i, ii, iii, and iv.
- Amends commentary paragraph 17(c)(1)-12 to restore subparagraphs i, ii, and iii.
- Amends commentary paragraph 17(c)(4)-1 to restore subparagraphs i and ii.
- Amends commentary paragraph 17(g)-1 to restore subparagraphs i and ii.
- Amends the commentary to § 1026.18 at paragraph 18(g)-4 to restore text to subparagraph i.

This rule also amends the commentary to appendix D to Reg. Z to add paragraph 7 that had been included in the TILA-RESPA Final Rule published in the Federal Register but that was inadvertently omitted from the commentary to appendix D in the CFR.

12.22.2015 The Federal Reserve Amended Reg. D[58] (Reserve Requirements of Depository Institutions) to revise the rate of interest paid on balances maintained to satisfy reserve balance requirements ("IORR") and the rate of interest paid on excess balances ("IOER") maintained at Federal Reserve Banks by or on behalf of eligible institutions. The final amendments specify that IORR is 0.50 percent and IOER is 0.50 percent, a 0.25 percentage point increase from their prior levels. The amendments are intended to enhance the role of such rates of interest in moving the Federal funds rate into the target range established by the Federal Open Market Committee.

10.03.2015 CFPB: Final integrated Mortgage Disclosures under the RESPA (Reg. X) and the Truth In Lending Act (Reg. Z)[59] Notice of final rule and official interpretations. The CFPB amended Reg. X and Reg. Z to establish new disclosure requirements and forms in Regulation Z for most closed-end consumer credit transactions secured by real property. In addition to combining the existing disclosure requirements and implementing new requirements imposed by the Dodd-Frank Act, the final rule provides extensive guidance regarding compliance with those requirements. CFPB blog on the disclosure.

10.03.2015 CFPB: Amendments to the 2013 Integrated Mortgage Disclosures Rule under Reg. X and Reg. Z and the Loan Originator Rule under Reg. Z[60] (80 FR 8767[61]) Notice of final rule and official interpretations. This rule amending the integrated mortgage rule extends the timing requirement for revised disclosures when consumers lock a rate or extend a rate lock after the Loan Estimate is provided and permits certain language related to construction loans for transactions involving new construction on the Loan Estimate. This rule also amends the 2013 Loan Originator Final Rule to provide for placement of the NMLSR ID on the integrated disclosures. Additionally, the CFPB made non-substantive corrections, including citation and cross-reference updates and wording changes for clarification purposes, to various provisions of Regulations X and Z as amended or adopted by the 2013 TILA-RESPA Final Rule. CFPB blog on the disclosure.

10.01.2015 Department of Defense: Limitations on Terms of Consumer Credit Extended to Service Members and Dependents.[62] The Department of Defense amended its regulation that implements the Military Lending Act, herein referred to as the "MLA." Among other protections for Service members and their families, the MLA limits the amount of interest that a creditor may charge on "consumer credit" to a maximum annual percentage rate of 36 percent. The Department amends its regulation primarily for the purpose of extending the protections of the MLA to a broader range of closed-end and open-end credit products. Among other amendments, the Department modifies the provisions relating to the optional mechanism a creditor could use when assessing whether a consumer is a "covered borrower," modifies the disclosures that a creditor must provide to a covered borrower, and implements the enforcement provisions of the MLA.

10.01.2015 Joint Agencies: Loans in Areas Having Special Flood Hazards[63] The statutory force-placed insurance provision took effect upon the enactment of the Biggert-Waters Act on July 6, 2012. The statutory detached structure exemption took effect upon enactment of the HFIAA on March 21, 2014. The regulatory changes made by this final rule to incorporate these provisions are effective on October 1, 2015. See the final flood rule on 01.01.2016, below, for the statutory and escrow-related provisions.

08.01.2015 Joint Agencies: Loans in Areas Having Special Flood Hazards.[64] The OCC, the Fed, the FDIC, the FCA, and the NCUA amended their regulations regarding loans in areas having special flood hazards to implement certain provisions of the Homeowner Flood Insurance Affordability Act of 2014, which amends some of the changes to the Flood Disaster Protection Act of 1973 mandated by the Biggert-Waters Flood Insurance Reform Act of 2012 (Biggert-Waters). The Agencies plan to address the private flood insurance provisions in Biggert-Waters in a separate rulemaking.

Specifically, the final rule:

- Requires the escrow of flood insurance payments on residential improved real estate securing a loan, consistent with the changes set forth in HFIAA. The final rule also incorporates an exemption in HFIAA for certain detached structures from the mandatory flood insurance purchase requirement.
- Implements the provisions of Biggert-Waters related to the force placement of flood insurance.
- Integrates the OCC's flood insurance regulations for national banks and Federal savings associations.

05.01.2015 The Fed adopted final amendments[65] to the Small Bank Holding Company Policy Statement (Regulation Y, Appendix C) (Policy Statement) that: (i) raise from $500 million to $1 billion the asset threshold to qualify for the Policy Statement; and (ii) expand the scope of companies eligible under the Policy Statement to include savings and loan holding companies. The Board is also adopting final conforming revisions to Regulation Y and Regulation LL, the Board's regulations governing the operations and activities of bank holding companies and savings and loan holding companies, respectively, and Regulation Q, the Board's regulatory capital rules. Specifically, the Proposed Rule would allow bank holding companies and savings and loan holding companies with less than $1 billion in total consolidated assets to qualify under the Policy Statement, provided the holding companies also comply with three qualitative requirements (Qualitative Requirements). Previously, only bank holding companies with less than $500 million in total consolidated assets that complied with the Qualitative Requirements could qualify under the Policy Statement. The Board issued the Policy Statement in 1980 to facilitate the transfer of ownership of small community-based banks in a manner consistent with bank safety and soundness. The Board adopted the Policy Statement to permit the formation and expansion of small bank holding companies with debt levels that are higher than typically permitted for larger bank holding companies.

02.23.2015 Joint Agencies: Credit risk retention.[66] The OCC, Board, FDIC, Commission, FHFA, and HUD adopted a joint final rule to implement the credit risk retention requirements of Section 15 of the Securities and Exchange Act of 1934, as added by section 941 of the Dodd-Frank Act. Section 15G generally requires the securitizer of asset-backed securities to retain not less than 5 percent of the credit risk of the assets collateralizing the asset-backed securities. Section 15G includes a variety of exemptions from these requirements, including an exemption for asset-backed securities that are collateralized exclusively by residential mortgages that qualify as "qualified residential mortgages," as such term is defined by the agencies by rule.

Common words, phrases, and acronyms

APOR	"Average Prime Offer Rates" are derived from average interest rates, points, and other pricing terms offered by a representative sample of creditors for mortgage transactions that have low-risk pricing characteristics.
ATM	Automated Teller Machine
CARD Act	Credit Card Accountability Responsibility and Disclosure Act of 2009
CFPB	Consumer Financial Protection Bureau
CFR	Code of Federal Regulations. Codification of rules and regulations of federal agencies.
CRA	Community Reinvestment Act. This Act is designed to encourage loans in all segments of communities.
CRE	Commercial Real Estate
CSBS	Conference of State Bank Supervisors
CTR	Currency Transaction Report. Filed for each deposit, withdrawal, exchange of currency that involves a transaction in currency of more than $10,000.
Dodd-Frank Act	The Dodd–Frank Wall Street Reform and Consumer Protection Act
DOJ	Department of Justice
FDIC	Federal Deposit Insurance Corporation
EFTA	Electronic Fund Transfer Act
EGRPRA	Economic Growth and Regulatory Paperwork Reduction Act of 1996
Federal bank regulatory agencies	FDIC, FRB, and OCC

Federal financial institution regulatory agencies	CFPB, FDIC, FRB, NCUA, and OCC
FEMA	Federal Emergency Management Agency
FFIEC	Federal Financial Institutions Examination Council
FHFA	Federal Housing Finance Agency
FHA	Federal Housing Administration
FinCEN	Financial Crime Enforcement Network
FR	Federal Register. U.S. government daily publication that contains proposed and final administrative regulations of federal agencies.
FRB (or Fed)	Federal Reserve Board
FSOC	Financial Stability Oversight Council
FTC	Federal Trade Commission
GAO	Government Accountability Office
HARP	Home Affordable Refinance Program
HAMP	Home Affordable Modification Program
HMDA	Home Mortgage Disclosure Act
HOEPA	Home Ownership and Equity Protections Act of 1994
HPML	Higher Priced Mortgage Loan
HUD	U.S. Department of Housing and Urban Development

IRS	Internal Revenue Service
MLO	Mortgage Loan Originator
MOU	Memorandum of Understanding
NFIP	National Flood Insurance Program. U.S. government program to allow the purchase of flood insurance from the government.
NMLS	National Mortgage Licensing System
OCC	Office of the Comptroller of the Currency
OFAC	Office of Foreign Asset Control
OREO	Other Real Estate Owned
QRM	Qualified Residential Mortgage
Reg.	Abbreviation for "Regulation" – A federal regulation. These are found in the CFR.
Reg. B	Equal Credit Opportunity
Reg. C	Home Mortgage Disclosure
Reg. DD	Truth in Savings

Reg. E	Electronic Fund Transfers
Reg. G	S.A.F.E. Mortgage Licensing Act
Reg. P	Privacy of Consumer Financial Information
Reg. X	Real Estate Settlement Procedures Act
Reg. Z	Truth in Lending
RESPA	Real Estate Settlement Procedures Act
SAR	Suspicious Activity Report – Report financial institutions file with the U.S. government (FinCEN) regarding activity that may be criminal in nature.
SDN	Specially Designated National
TILA	Truth in Lending Act
TIN	Tax Identification Number
TRID	TILA/RESPA Integrated Disclosure
Treasury	U.S. Department of Treasury

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