



MISSOURI
INDEPENDENT
BANKERS
ASSOCIATION

Capitol Comments March 2017

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

Opening Comment: *New regulatory climate remains an issue. With the advent of a new presidential administration and the pending changes in top regulators, the agencies appear to be taking a deep breath and putting out a fairly limited set of final and proposed rules. One presidential Executive Order would require elimination of two regs for every new one. However, the EO applies to “executive agencies,” and it does not apply to the SEC nor most likely to the OCC, FDIC or CFPB. Also, it can’t require elimination of rules required by statute. Still, it creates a different climate with regard to proliferation of new rules. Watch this space for response to this effort on regulatory burden relief.*

CFPB actions

CFPB Proposes Delay of Prepaid Card Rule 

The Bureau is proposing to delay the October 1, 2017 effective date of the rule governing Prepaid Accounts Under the Electronic Fund Transfer Act (Regulation E) and the Truth in Lending Act (Regulation Z) (the Prepaid Accounts Final Rule) by six months (April 1, 2018.)

Comment: *The CFPB decided a six-month delay in the effective date would give “industry participants” adequate time to comply with the rule. The Bureau is not contemplating a change to any other part of the prepaid accounts rule in this recent proposal. To read the proposal, click [here](#). Remember that this rule affects payroll cards as well as prepaid debit cards.*

CFPB Requests Information Regarding Use of Alternative Data and Modeling Techniques in the Credit Process 

The Consumer Financial Protection Bureau (CFPB or Bureau) seeks information about the use or potential use of alternative data and modeling techniques in the credit process. The Bureau seeks to learn more about current and future market developments, including existing and emerging consumer benefits and risks, and how these developments could alter the marketplace and the consumer experience. The Bureau also seeks to learn how market participants are or could be mitigating certain risks to consumers, and about consumer preferences, views, and concerns.

Comment: *Comments close May 19, 2017. The alternative data usage is interesting for small dollar loan projects – particularly through a CDC. To read the Request for Comment or information on filing a comment, click [here](#).*

CFPB Issues Report on Credit Reporting Problems

The Consumer Financial Protection Bureau (CFPB) released a report detailing the problems in the credit reporting industry that the Bureau has uncovered and corrected through its oversight work. Since launching its supervision of the credit reporting market, the CFPB has identified significant issues with the quality of the credit information being provided by furnishers and maintained by credit reporting companies. The report outlines the actions that the CFPB has taken to address these ongoing problems such as fixing data accuracy at credit reporting companies, repairing the broken dispute process, and cleaning up information being reported.

Through earlier reviews at banks and nonbanks, CFPB examiners found widespread problems with furnishers supplying incorrect information to the consumer reporting companies. The CFPB directed them to take steps to address these problems, such as maintaining evidence that they are accurately handling disputes and conducting reasonable investigations. Since then, several furnishers have dedicated more resources to ensuring the integrity of the information. This effort includes better investigations and handling of disputes, notifying consumers of results, and taking corrective action when inaccurate information has been supplied. Importantly, though, examiners continue to find numerous violations at one or more furnishers, particularly around deposit account information.

Comment: There are numerous compliance obligations for all banks acting as “furnishers” of information under Section 623 of the Fair Credit Reporting Act. A bank that reports information on consumers must not furnish inaccurate information to a CRA. Additionally, a furnisher of information must investigate a consumer’s dispute of the completeness or accuracy of information after the furnisher receives notice from a CRA. With regards to a furnishers duty to investigate a consumer’s dispute, the furnisher (e.g. bank) may be asked by the consumer directly to investigate a dispute. The bank must conduct a reasonable investigation and report results to the consumer, generally within 30 days. To read the proposal, click [here](#).

FDIC actions

The FDIC Issues Winter 2016 Supervisory Insights

The Winter 2016 issue of Supervisory Insights features an article of interest to bankers, examiners, and supervisors. "Credit Risk Trends and Supervisory Expectation Highlights" identifies trends in credit risk in commercial real estate, agriculture, and oil and gas-related lending.

The information contained in *Supervisory Insights* may be of general interest to FDIC-supervised financial institutions, but it is not supervisory guidance

Highlights:

- Financial institutions that have prudently managed loan growth in the past have been better positioned to withstand periods of stress and continue to serve the credit needs of their local communities.
- "Credit Risk Trends and Supervisory Expectation Highlights" identifies trends in credit risk and emphasizes to bankers and examiners that now is the time to heed long-standing principles of sound risk management practices.
- This article examines growth on bank balance sheets and effective risk management practices related to commercial real estate, agriculture, and oil and gas-related lending.
- The "Regulatory and Supervisory Roundup" provides an overview of recently released regulations and supervisory guidance.

Comment: The Winter 2016 issue of Supervisor Insights is available [here](#).

The FDIC Makes Joining the Money Smart Alliance Program Easier

The FDIC's Money Smart Alliance program is a network of financial institutions, nonprofits, and governmental organizations that use the FDIC's financial education curriculum to provide training to consumers, small businesses, and others. Qualified organizations can join the alliance or renew their membership on the program's [recently enhanced website](#) that also offers the ability for organizations to find potential collaborators and for consumers to find the names of organizations that may be offering training. These organizations may also be interested in an introductory webinar that will be held February 28, 2017.

FDIC Issues Second Quarter 2017 CRA Examination Schedule

The Federal Deposit Insurance Corporation (FDIC) has issued the public list of institutions that it has scheduled for a Community Reinvestment Act (CRA) examination during the second quarter of 2017. This list is published pursuant to revised CRA regulations published in May 1995 that require each federal bank and thrift regulator to publish a quarterly CRA examination schedule at least 30 days before the beginning of each quarter.

The examination schedule reflects the effects of an institution's size and CRA rating on examination frequency. Absent reasonable cause, an institution with \$250 million or less in assets and a CRA rating of Satisfactory can be subject to a CRA examination no more frequently than once every 48 months. Absent reasonable cause, an institution with \$250 million or less in assets and a CRA rating of Outstanding can be subject to a CRA examination no more frequently than once every 60 months.

The schedule of institutions to be examined April 1, 2017, through June 30, 2017, is based on the best information now available. Examination schedules may change. For example, a regulated financial institution not otherwise scheduled for an examination may be examined in connection with the application for a deposit facility. Alternatively, some institutions may require more time and resources than originally allotted, thus delaying other scheduled examinations. If an institution is rescheduled for a different quarter, that information will be included on a later list.

Comment: The CRA Exam Schedule Listing for Second Quarter 2017 is available [here](#).

Federal Reserve actions

Fed Releases Second Quarter 2017 CRA Exam Schedule

The Board of Governors of the Federal Reserve System has made available the quarterly CRA examination schedule for the second quarter of 2017.

Comment: The FRB Quarterly Exam Schedule is available [here](#).

OCC actions

OCC Issues Second Quarter 2017 CRA Exam Schedule

The Office of the Comptroller of the Currency (OCC) released its schedule of Community Reinvestment Act (CRA) evaluations to be conducted in the second quarter of 2017.

The OCC encourages public comment on the national banks and federal savings associations scheduled to be evaluated under the CRA, and suggests that comments be submitted to the institutions themselves at the mailing addresses listed on the schedule, or to the appropriate OCC supervisory office prior to—or as early as possible during—the month in which the evaluation is scheduled. The OCC will consider all public comments received prior to the close of the CRA evaluation.

The CRA evaluation schedule is available on the OCC’s website at: www.occ.gov/static/cra/exam-schedule/craq217.pdf

Other federal action and news

FinCEN Renews Real Estate “Geographic Targeting Orders” to Identify High-End Cash Buyers in Six Major Metropolitan Areas – Including San Antonio

The Financial Crimes Enforcement Network (FinCEN) announced the renewal of existing Geographic Targeting Orders (GTO) that temporarily require U.S. title insurance companies to identify the natural persons behind shell companies used to pay “all cash” for high-end residential real estate in six major metropolitan areas. FinCEN has found that about 30 percent of the transactions covered by the GTOs involve a beneficial owner or purchaser representative that is also the subject of a previous suspicious activity report. This corroborates FinCEN’s concerns about the use of shell companies to buy luxury real estate in “all-cash” transactions.

“These GTOs are producing valuable data that is assisting law enforcement and is serving to inform our future efforts to address money laundering in the real estate sector,” said FinCEN Acting Director Jamal El-Hindi. “The subject of money laundering and illicit financial flows involving the real estate sector is something that we have been taking on in steps to ensure that we continue to build an efficient and effective regulatory approach.”

The GTOs renewed today include the following major U.S. geographic areas: (1) all boroughs of New York City; (2) Miami-Dade County and the two counties immediately north (Broward and Palm Beach); (3) Los Angeles County; (4) three counties comprising part of the San Francisco area (San Francisco, San Mateo, and Santa Clara counties); (5) San Diego County; and (6) the county that includes San Antonio, Texas (Bexar County).

Comment: The full news release is available [here](#).

FinCEN Penalizes California Bank for Egregious Violations of Anti-Money Laundering Laws

The Financial Crimes Enforcement Network (FinCEN) announced the assessment of a \$7 million civil money penalty (CMP) against Merchants Bank of California of Carson, CA for willful violations of several provisions of the Bank Secrecy Act (BSA). The Office of the Comptroller of the Currency (OCC), the primary federal regulator of Merchants, has identified deficiencies in the Bank’s practices that resulted in violations of previous consent orders entered into by Merchants, as well as other violations. The OCC simultaneously assessed a \$1 million CMP against Merchants for these violations.

Merchants failed to (a) establish and implement an adequate anti-money laundering (AML) program, (b) conduct required due diligence on its foreign correspondent accounts, and (c) detect and report suspicious activity. Merchants’ failures allowed billions of dollars to flow through the U.S. financial system without effective monitoring to adequately detect and report suspicious activity. Many of these transactions were conducted on behalf of money services businesses (MSBs) that were owned or managed by Bank insiders who

encouraged staff to process these transactions without question or face potential dismissal or retaliation. Bank insiders directly interfered with the BSA staff's attempts to investigate suspicious activity related to these insider-owned accounts.

"The banking of money services businesses is important to the global financial system, and we believe that banks can mitigate the risks associated with such businesses, just as they do with other customers," said FinCEN Acting Director Jamal El-Hindi. "But here we had an institution run by insiders essentially to provide banking services to MSBs that the insiders owned, combined with directions from Bank leadership to staff to ignore BSA requirements with respect to those MSB customers and others. It is certainly not an acceptable way to bank MSBs."

Comment: The press release pointed out three particular areas of deficiency for the bank involved – the authority, independence, and responsibility of the BSA officer and compliance staff. The full news release is available [here](#). Enforcement orders are a great resource for BSA Officers in identifying areas of current concern to regulators. Also, they can be a good education tool for your board of directors.

FinCEN Issues 314(a) Fact Sheet

To date, the 314 Program Office has processed 3,118 requests pertinent to the following significant criminal investigations: Terrorism/Terrorist Financing – 544 cases; Money Laundering – 2,574 cases.

Based on the total feedback FinCEN has received using the current revised feedback reporting form, 95% of 314(a) requests have contributed to arrests or indictments

Comment: The full 314(a) Facts and Feedback is available [here](#).

FTC Warning – Government Imposters Want to Get to Know You[r Customers]

The Office of the Inspector General (OIG) for the Department of Health and Human Services (HHS) and the FTC want consumers to know about a scam in which callers posing as federal employees are trying to get or verify personal information. This is a government imposter scam.

Comment: It might be worth spreading the word to your bank customers and including the link to information about Government Imposter Scams. Very often the scammers will pose as FDIC or OCC employees attempting to verify "bank" information. The full consumer alert is available [here](#).

Publications, articles, reports, studies, testimony & speeches

US Economy Adds 235,000 Jobs in February, Unemployment Rate Falls to 4.7%

Total nonfarm payroll employment increased by 235,000 in February, and the unemployment rate was little changed at 4.7 percent, the U.S. Bureau of Labor Statistics reported today. Employment gains occurred in construction, private educational services, manufacturing, health care, and mining.

The number of unemployed persons, at 7.5 million, changed little in February. The unemployment rate, at 4.7 percent, was little changed over the month but was down from 4.9 percent a year earlier.

Comment: To read the entire report from the US Department of Labor – Bureau of Labor Statistics, click [here](#).

Comptroller Discusses Financial Technology Innovation

Comptroller of the Currency Thomas J. Curry discussed financial technology innovation during a large industry conference. His remarks highlighted the potential for responsible innovation to expand financial inclusion and improve the delivery of banking products and services. During the speech, the Comptroller also provided an update on initiatives by the Office of the Comptroller of the Currency to support responsible innovation within the federal banking system.

Comment: To read the remarks of Comptroller Curry, click [here](#). This speech promotes the FinTech charter initiative, which is opposed by CSBS.

Comptroller Discusses the Condition of the Federal Banking System

Comptroller of the Currency Thomas J. Curry discussed the condition of the federal banking system during remarks at Central Connecticut State University. The speech came as part of the Distinguished Banking and Finance Lecture Series at the university. His comments also highlighted the importance of diversity in the federal banking system and what the Office of the Comptroller of the Currency has done to support community banking, and in particular federal savings associations and mutual savings associations.

Comment: To read the remarks of Comptroller Curry, click [here](#).

Selected federal rules proposed

Proposed rules are included only when community banks may want to comment. Date posted may not be the same as the Federal Register Date.

Posted Date	SUMMARY OF PROPOSED RULE
03.09.2017	The CFPB is proposing to delay the October 1, 2017 effective date of the rule governing Prepaid Accounts Under the Electronic Fund Transfer Act (Regulation E) and the Truth in Lending Act (Regulation Z) (the Prepaid Accounts Final Rule) by six months. Comments must be received on or before 21 days after publication in the Federal Register.
02.02.2017	FinCEN, a bureau of the U.S. Department of the Treasury ("Treasury"), invites all interested parties to comment on its proposed update and revisions to the collection of information filings by financial institutions required to file such reports under the Bank Secrecy Act ("BSA"). This notice does not propose any new regulatory requirements or changes to the requirements related to suspicious activity reporting. The data fields reflect the filing requirement for all filers of SARs under the BSA. This request for comments is being made pursuant to the Paperwork Reduction Act (PRA) of 1995, Public Law 104-13 , 44 U.S.C. 3506(c)(2)(A).

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:
09.30.2017	Joint Agencies: Loans in Areas Having Special Flood Hazards 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 \geq \$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).

- 10.01.2017 [Prepaid Accounts under the Electronic Fund Transfer Act \(Regulation E\) and the Truth In Lending Act \(Regulation Z\)](#). The CFPB is issuing this final rule to create comprehensive consumer protections for prepaid accounts under Regulation E, which implements the Electronic Fund Transfer Act; Regulation Z, which implements the Truth in Lending Act; and the official interpretations to those regulations. The final rule modifies general Regulation E requirements to create tailored provisions governing disclosures, limited liability and error resolution, and periodic statements, and adds new requirements regarding the posting of account agreements. Additionally, the final rule regulates overdraft credit features that may be offered in conjunction with prepaid accounts. Subject to certain exceptions, such credit features will be covered under Regulation Z where the credit feature is offered by the prepaid account issuer, its affiliate, or its business partner and credit can be accessed in the course of a transaction conducted with a prepaid card. DATES: This rule is effective on October 1, 2017. The requirement in § 1005.19(b) to submit prepaid account agreements to the Bureau is delayed until October 1, 2018. See the CFPB's [prepaid rule implementation page](#).
- Comment: The CFPB is [proposing](#) to delay the October 1, 2017 effective date of the rule governing Prepaid Accounts Under the Electronic Fund Transfer Act (Regulation E) and the Truth in Lending Act (Regulation Z) (the Prepaid Accounts Final Rule) by six months, until April 1, 2018.. Comments must be received on or before 21 days after publication in the Federal Register.*
- 10.03.2017 Although the Military Lending Act was effective October 3, 2016, credit cards are exempt until October 3, 2017. [80 Fed Reg 43560](#)
- 10.19.2017 [Mortgage Servicing Rules](#). The CFPB updated its mortgage servicing rules and expanded foreclosure protections. The final rule provides protections when a mortgage is transferred between servicers. Mortgage servicers must now offer mitigation services more than once if a borrower brings their mortgage current, then again becomes delinquent. The rule provides additional protections to mortgagors who acquired the mortgage, often through death or divorce. The rules require servicers to provide periodic statements to borrowers in bankruptcy in certain circumstances. The statements must contain specific information tailored for bankruptcy and about loss mitigation options. The CFPB published a summary for consumers on its website. **Servicers have a full year from the October 19, 2016, publication date (and for some changes 18 months) to implement the rules.**
- 10.19.2017 [Safe harbors from FDCPA liability for actions complying with mortgage servicing rules under RESPA and Reg. Z](#). The CFPB specified mortgage servicing rules in Regulations X and Z. This interpretive rule constitutes an advisory opinion for purposes of the FDCPA and provides safe harbors from liability for servicers acting in compliance with specified mortgage servicing rules in three situations: Servicers do not violate FDCPA section 805(b) when communicating about the mortgage loan with confirmed successors in interest in compliance with specified mortgage servicing rules in Regulation X or Z; servicers do not violate FDCPA section 805(c) with respect to the mortgage loan when providing the written early intervention notice required by Regulation X to a borrower who has invoked the cease communication right under FDCPA section 805(c); and servicers do not violate FDCPA section 805(c) when responding to borrower-initiated communications concerning loss mitigation after the borrower has invoked the cease communication right under FDCPA section 805(c).
- 01.01.2018 [Home Mortgage Disclosure \(Regulation C\)](#). 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.
- Comment: In 2018, all banks covered by Regulation C that originated at least 25 covered closed-end mortgage loans in each of the two preceding calendar years (2016 and 2017), OR all banks covered by Regulation C that originated at least 100 covered open-end lines in each of the two preceding calendar years (2016 and 2017) must report. Those reports are due in 2019. For HMDA data collected on or after January 1, 2018, bank's will collect, record, and report additional information about originations of, purchases of, and applications for covered loans. Data collection and reporting applies to most residential mortgage loan applications regardless of their ultimate disposition; it is not limited to loans that are approved. There are 25 new data points.*
- 05.11.2018 FinCEN is issued [final rules](#) under the Bank Secrecy Act to clarify and strengthen customer due diligence requirements for: Banks; brokers or dealers in securities; mutual funds; and futures commission merchants and introducing brokers in commodities. The rules contain explicit customer due diligence requirements and include a new requirement to identify and verify the identity of beneficial owners of legal entity customers, subject to certain exclusions and exemptions.
- 10.01.2018 [Prepaid Accounts under the Electronic Fund Transfer Act \(Regulation E\) and the Truth In Lending Act \(Regulation Z\)](#). Although the CFPB's rule regarding prepaid accounts is effective 10.01.2017, the requirement to submit account agreements to the CFPB is effective 10.03.2018. See the CFPB's [prepaid rule implementation page](#).

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.
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
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, Fed or Federal Reserve	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. 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

Treasury	U.S. Department of Treasury

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