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ASSOCIATION

Capitol Comments November 2017

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

Joint federal agency issuances

Proposed Revisions to the Consolidated Reports of Condition and Income (Call Report) for June 2018

In their continuing effort to reduce data reporting and other burdens for small and large institutions, the federal banking agencies, as members of the Federal Financial Institutions Examination Council (FFIEC), are requesting comment on further burden-reducing revisions to all three versions of the Call Report. These changes include the removal or consolidation of existing data items and certain new or increased reporting thresholds.

Statement of Applicability to Institutions under \$1 Billion in Total Assets: This Financial Institution Letter applies to all FDIC-supervised banks and savings associations, including community institutions.

Highlights:

- This proposal includes burden-reducing changes to all three versions of the Call Report, including the recently implemented FFIEC 051 Call Report and the FFIEC 041 and FFIEC 031 Call Reports.
- The agencies developed these proposed Call Report changes based on:
 - Their evaluation of responses to the final portion of a series of surveys of Call Report data users at the FFIEC member entities conducted to support a statutorily mandated review of all existing Call Report data items,
 - A re-evaluation of responses to certain previously reviewed surveys, and
 - Consideration of industry comments and feedback received over the course of this FFIEC initiative.
- Because the final portion of the user surveys primarily included Call Report schedules covering complex or specialized activities that were removed when the new FFIEC 051 report was created, the current proposal more significantly affects schedules and data items in the FFIEC 041 and FFIEC 031 reports.
- The agencies are considering the comments received on the burden-reducing Call Report revisions and certain other changes proposed in June 2017 (see [FIL-24-2017](#), dated June 27, 2017).
- Redlined copies of the FFIEC 051, FFIEC 041, and FFIEC 031 report forms showing the current proposal's Call Report revisions, as well as the revisions proposed in June 2017, and lists detailing the data items in each version of the Call Report affected by the current burden-reduction proposal will be available on the FFIEC's website (https://www.ffiec.gov/ffiec_report_forms.htm).

- Institutions should review [FIL-57-2017](#) and the attached [Federal Register notice](#) for further information about the proposed Call Report revisions.

Comment: [FIL-58-2017](#) was issued in connection with [FIL-57-2017](#) (below) and both should be reviewed together in their entirety. The Call Report revisions are proposed to take effect June 30, 2018. Banks are encouraged to comment on the proposal by January 8, 2018.

Proposed Revisions to the Consolidated Reports of Condition and Income for June 30, 2018

The Federal Deposit Insurance Corporation (FDIC), the Federal Reserve Board, and the Office of the Comptroller of the Currency (collectively, the agencies) are requesting comment on additional burden-reducing revisions to all three versions of the Consolidated Reports of Condition and Income (Call Report). These revisions are proposed to take effect June 30, 2018. The proposal results from ongoing efforts by the Federal Financial Institutions Examination Council (FFIEC) to ease reporting requirements and lessen reporting burden on small and large institutions. The proposed reporting changes have been approved by the FFIEC and would affect the recently implemented FFIEC 051 Call Report for eligible small institutions as well as the FFIEC 041 and FFIEC 031 Call Reports. The agencies encourage you to review the proposal and comment on those aspects of interest to you. You may send comments to any or all of the agencies by the methods described in the attached Federal Register notice. Comments must be submitted by January 8, 2018. The FFIEC and the agencies will review and consider the comments as they finalize the revisions to the Call Report.

A key element of the community bank Call Report burden-reduction initiative has been a statutorily mandated review of all existing Call Report data items based on responses to a series of nine surveys of internal users of Call Report data within the FFIEC member entities. Each survey covers a group of Call Report schedules. The burden-reducing changes included in the attached proposal result from the agencies' evaluation of responses to the third and final portion of the user surveys, the re-evaluation of responses to certain previously reviewed surveys, and the agencies' consideration of comments and feedback received from the industry over the course of this FFIEC initiative. The Call Report schedules reviewed in the final portion of the user surveys primarily included schedules that collect data on complex or specialized activities, several of which were removed and replaced by the limited scope supplemental information schedule (Schedule SU) in the new FFIEC 051 Call Report. Therefore, the revisions proposed in the attached Federal Register notice more significantly affect schedules and data items in the FFIEC 041 and FFIEC 031 Call Reports. The proposed reporting changes include the removal or consolidation of existing data items and certain new or increased reporting thresholds. A summary of the FFIEC member entities' uses of the data items retained in the Call Report schedules covered in the final portion of the user surveys is included in an appendix to the attached Federal Register notice.

Comment: The comment request was published in the [Federal Register](#) on November 8th. Comments must be submitted on or before January 8, 2018.

Agencies Announce Dollar Thresholds in Regulations Z and M for Exempt Consumer Credit and Lease Transactions

WASHINGTON, D.C. — The Board of Governors of the Federal Reserve System and the Consumer Financial Protection Bureau (CFPB) today [November 8th] announced the dollar thresholds in Regulation Z (Truth in Lending) and Regulation M (Consumer Leasing) that will apply for determining exempt consumer credit and lease transactions in 2018. These thresholds are set pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) amendments to the Truth in Lending Act and the Consumer Leasing Act that require adjusting these thresholds annually based on the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W). If there is no annual percentage increase in the CPI-W, the Federal Reserve Board and the CFPB will not adjust this exemption threshold from the prior year. However, in years following a year in which the exemption threshold was not adjusted, the threshold is calculated by applying the annual percentage change in CPI-W to the dollar amount that would have resulted, after rounding, if the decreases and any subsequent increases in the CPI-W had been taken into account. Transactions at or below the thresholds are subject to the protections of the regulations.

Based on the annual percentage increase in the CPI-W as of June 1, 2017, the protections of the Truth in Lending Act and the Consumer Leasing Act generally will apply to consumer credit transactions and consumer leases of \$55,800 or less in

2018. However, private education loans and loans secured by real property (such as mortgages) are subject to the Truth in Lending Act regardless of the amount of the loan.

Comment: The Regulation Z notice submitted to the Federal Register is available [here](#). Remember that, other than mortgage and student loans, consumer loans above the threshold do not need Truth in Lending disclosures. Adjust your systems accordingly.

CFPB actions

CFPB Report Finds Sharp Increase in Riskier Longer-Term Auto Loans

Washington, D.C. – The Consumer Financial Protection Bureau (CFPB) today [November 1st] released a report on auto loan trends that found a sharp increase in riskier longer-term auto loans. According to the report, 42 percent of auto loans made in the last year carried a payback term of six years or more, compared to just 26 percent in 2009. The growth of these longer-term loans has largely come at the expense of five-year loans, which declined over the same period. The CFPB found that six-year auto loans are riskier—they cost more, are used by consumers with lower credit scores to finance larger amounts, and have higher rates of default.

“The move to longer-term auto loans is opening up more risk for consumers,” said CFPB Director Richard Cordray. “These loans are more expensive and can result in consumers continuing to owe even after they are no longer driving their car. Consumers should know before they owe and shop for the best deal based on costs incurred over the life of the loan.”

- **Longer-term auto loans cost more:** Six-year auto loans are usually more expensive than five-year loans because the longer it takes to repay a loan, the more it will usually cost in the long run. For example, a borrower who uses a five-year loan to finance \$20,000 at a 5 percent interest rate will, after three years, have paid \$2,190.27 in interest and have a remaining balance of \$8,602.98. If the same loan had been financed over six years at the same interest rate, he or she would have paid about \$152 more interest over the same three-year period and have a remaining balance of \$10,747, which is more than \$2,000 higher.
- **Longer-term auto loans are used by consumers with lower credit scores:** The use of longer-term auto loans is closely related to the credit score of the borrower. The credit scores of borrowers taking out loans with terms of six years or longer are notably lower than the scores of borrowers who take out five-year loans. The average credit score for borrowers who take out six-year loans is 674, which is 39 points below the average for borrowers who take out five-year loans.
- **Longer-term auto loans finance larger amounts:** The average loan amount for a six-year loan was \$25,300, compared to \$20,100 for a five-year loan. The average size of loans with terms of seven years or more was even larger at \$32,200. These increased amounts may be the result of consumers buying more expensive cars, making smaller down payments, or otherwise financing larger loan amounts by including additional warranties or products in their auto loan.
- **Longer-term auto loans have higher rates of default:** In recent years, loans six years or longer have had default rates that exceeded 8 percent, whereas shorter-term loans have had default rates closer to 4 percent. This means that six-year loans are about twice as likely as five-year loans to result in a default. The greater adoption of these loans may potentially pose greater risks to both consumers and lenders.

The Consumer Credit Trends report is available at: http://files.consumerfinance.gov/f/documents/cfpb_consumer-credit-trends_longer-term-auto-loans_2017Q2.pdf

Comment: The report could certainly foreshadow scrutiny of auto loans – especially longer-term auto loans – by the CFPB. By using its UDAAP authority to restrict the availability of longer-term auto loans, the CFPB could apply an “ability to repay” standard with respect to such loans.

CFPB Launches New Mortgage Performance Trends Tool for Tracking Delinquency Rates

WASHINGTON, D.C. – The Consumer Financial Protection Bureau (CFPB) today [October 30th] announced the launch of a new Mortgage Performance Trends tool that tracks delinquency rates nationwide. Information newly available through this tool shows that mortgage delinquency rates nationally are at their lowest point since the financial crisis “Measuring the number of consumers who have fallen behind on their mortgage payments is a telling barometer of the health of mortgage markets locally and nationally,” said CFPB Director Richard Cordray. “This rich information source identifies mortgage delinquency rates down to the county and metro-area level, making it a useful public tool.”

The new Mortgage Performance Trends tool can be found at: <https://www.consumerfinance.gov/data-research/mortgage-performance-trends>

Comment: The tool tracks delinquency rates nationwide and features interactive charts and graphs, with data on mortgage delinquency rates for 50 states and the District of Columbia at the county and metro-area level.

CFPB Outlines Principles for Consumer-Authorized Financial Data Sharing and Aggregation

Washington, D.C. – The Consumer Financial Protection Bureau (CFPB) today [October 18th] outlined principles for protecting consumers when they authorize third party companies to access their financial data to provide certain financial products and services. These principles are intended to help foster the development of innovative financial products and services, increase competition in financial markets, and empower consumers to take greater control of their financial lives. The principles reiterate the importance of protecting consumers to all stakeholders that provide, use, or aggregate consumer-authorized financial data.

“Today, the Bureau released its consumer protection principles for the consumer-authorized data-sharing market,” said CFPB Director Richard Cordray. “These principles express our vision for realizing an innovative market that gives consumers protection and value.”

The consumer protection principles are available at: http://files.consumerfinance.gov/f/documents/cfpb_consumer-protection-principles_data-aggregation.pdf

A summary of stakeholder insights that informed the principles are available at: http://files.consumerfinance.gov/f/documents/cfpb_consumer-protection-principles_data-aggregation_stakeholder-insights.pdf

Comment: These are not rules—yet. Rather, they are general principles. They recognize the tension between providing access to information as authorized by consumers and the need for security. Unfortunately, they don’t discuss the implications of BSA/AML compliance and how that can affect some information sharing.

CFPB Launches Beta Version of HMDA Platform

In response to inquiries received regarding the timeline for the release of the new HMDA Platform, we wanted to provide an updated status. The CFPB is currently demonstrating to industry the new HMDA Platform’s functionality and user experience through webinars, industry conferences, and in-person user testing sessions. A video version of the CFPB’s demonstration will be made available soon. The new HMDA Platform will be available to all users in Fall 2017 to explore its features prior to, in 2018, the first submission of data to the HMDA Platform.

The current schedule will still provide time for filers and vendors to interact with the new system prior to filing season.

Other resources available to users as they prepare for filing HMDA data in 2018 using the HMDA Platform include:

1. The Filing Instructions Guide (FIG) for data collected in [2017](#) (PDF).
2. The [File Format Verification Tool](#) that determines whether a file meets HMDA Platform filing requirement of (1) being pipe-delimited; (2) containing the proper number of data fields; and (3) containing integers, where necessary.
3. The [LAR Formatting Tool](#), an Excel-based resource potentially useful for those with lower volumes of loan activity.
4. The [Resources for Filers](#) page where we will continue to post updates to the Technology Preview and FAQs.

Comment: As banks use the beta portal for the next few months, the Bureau will continue to make updates and improvements before releasing the final version in January.

CFPB updates Mortgage Servicing implementation materials

To support implementation of the Interim Final Rule for Mortgage Servicing issued on October 4, 2017, the Bureau has updated the Executive Summary of the 2016 Mortgage Servicing Rule and Version 3.0 of the Small Entity Compliance Guide.

You can access these materials on the dedicated Mortgage Servicing implementation [webpage](#).

Comment: Most community banks are exempt from most of the mortgage servicing rules under the ‘small servicer exemption.’ The October 2017 Interim Final Rule also clarifies the obligations for servicers to provide the early intervention written notice if the borrower has invoked the cease communication protection under the Fair Debt Collection Practices Act (FDCPA).

OCC actions

Revised Comptroller’s Licensing Manual Booklet

The Office of the Comptroller of the Currency (OCC) issued today [November 14th] the “Business Combinations” booklet of the *Comptroller’s Licensing Manual*. This revised booklet replaces the booklet of the same title issued in December 2006. This booklet incorporates updated procedures and requirements after the Office of Thrift Supervision (OTS) integrated with the OCC in 2011 and the issuance of revised regulations (12 CFR 5), effective July 1, 2015, that address applications for national banks and federal savings associations proposing to execute a business combination.

Note for Community Banks

This booklet applies to all national banks, federal savings associations, and federal branches and agencies of foreign banks.

Comment: to view the complete Bulletin, click [here](#).

Revised Comptroller’s Licensing Manual Booklet – Background Investigations

The Office of the Comptroller of the Currency (OCC) issued today [November 9th] the “Background Investigations” booklet of the *Comptroller’s Licensing Manual*, which revises the booklet of the same title issued in April 2009. The revised booklet incorporates updated procedures and requirements following the integration of the functions of the Office of Thrift Supervision into the OCC in 2011, and the issuance of revised regulations (12 CFR 5.51), which became effective July 1, 2015.

Note for Community Banks

This booklet applies to all national banks, federal savings associations, and federal branches and agencies of foreign banks.

Comment: The booklet outlines requirements for banks (i) to notify the OCC when there is a change of directors or senior executive officers, and (ii) documents required by the OCC to review the background of proposed directors and executive officers. The booklet also describes prerequisites for exceptions and waiving submission of required documents. For the highlights of OCC Bulletin OCC-2017-52 and a link to the manual booklet, click [here](#).

Acting Comptroller Explores the Separation of Banking and Commerce

NEW YORK—Acting Comptroller of the Currency Keith A. Noreika today [November 8th] explored how the separation of banking and commerce evolved in the United States and called for a broader discussion of whether the separation continues to serve the best interest of the nation’s banking system and economy today.

Related Links

- [Remarks](#) (PDF)

Comment: Noreika argued that, in smaller communities, fewer restrictions against mixing banking and commerce “could allow for greater use of local capital, and support growth and business activity locally,” while also helping smaller community banks “grow and take advantage of benefits previously only available to grandfathered companies and banks that are big and sophisticated enough to convince the Federal Reserve to grant them an exception.” Community banks continue to be concerned with the potential for behemoths like WalMart to engage fully in banking. Separation of banking and commerce has served the public well.

Acting Comptroller of the Currency Issues Statement following the President's Signature Overturning the Consumer Financial Protection Bureau's Rule on Arbitration Agreements

WASHINGTON — Acting Comptroller of the Currency Keith A. Noreika issued the following statement following the President’s signature of the resolution overturning the Consumer Financial Protection Bureau’s rule on arbitration agreements:

Today [November 1st], President Trump protected consumers and small and midsize banks by repealing a rule that would have cost millions, paved a path to expensive frivolous lawsuits, and lined the pockets of trial lawyers.

The action is a victory for consumers and small and midsize banks across the country because it stops a rule that likely would have significantly increased the cost of credit for hardworking Americans and taken away a valuable tool for resolving differences among banks and their customers. The action today preserves a choice for consumers who can choose among financial providers that offer services with arbitration clauses and those that do not.

The rule would have harmed consumers even as it provided no benefit in deterring bank misbehavior or preventing customer abuse. It is a new day in Washington when policymakers are actually concerned about the consequences that regulations have on working Americans. I applaud Congress and the President for vacating the rule.

Comment: If your deposit account and loan documents do not include arbitration, consider amending them to do so. Be sure that they are consumer friendly and consistent with the US Supreme Court’s rulings on point. Use them to avoid class action suits, but be sure to cover the consumer’s costs for the arbitration on small transactions.

Revised Comptroller’s Licensing Manual Booklet – Subordinated Debt

The Office of the Comptroller of the Currency (OCC) issued today [November 7th] the “Subordinated Debt” booklet of the *Comptroller’s Licensing Manual*. This revised booklet replaces the booklet of the same title issued in November 2003 and the related guidance (OCC Bulletin 2015-22) issued April 3, 2015. The revised booklet incorporates updated requirements for issuing subordinated debt and including it as tier 2 capital, as well as revised sample notes for national banks and new sample notes for federal savings associations (FSA). These updates are the result of the integration of the functions of the Office of Thrift Supervision into the OCC in 2011 and the issuance of revised regulations (12 CFR 5) that became effective July 1, 2015, addressing subordinated debt for national banks and FSAs (collectively, banks).

Note for Community Banks

This booklet applies to all national banks, federal savings associations, and federal branches and agencies of foreign banks.

Comment: The booklet includes specific requirements and procedures related to subordinated debt, including regulatory capital requirements, lending limits, information on applications for approval, and other relevant guidance. The booklet includes links to informational resources that may be useful throughout the subordinated debt issuance process. For the highlights of OCC Bulletin OCC-2017-50 and a link to the manual booklet, click [here](#).

OCC Issues Updated Guidance Regarding Bank Enforcement Actions and Related matters

The Office of the Comptroller of the Currency (OCC) updated today [October 31st] its policies and procedures regarding bank enforcement actions and related matters. This policy is effective on December 1, 2017. The updates are reflected in the “Bank Supervision Process,” “Community Bank Supervision,” “Federal Branches and Agencies Supervision,” and “Large Bank Supervision” booklets of the *Comptroller’s Handbook*. The updates provide the agency with guidelines on

consistent terminology, communication, format, follow-up, analysis, documentation, and reporting of bank enforcement actions.

The updated policies and procedures do not address civil money penalty actions or enforcement actions against individuals. Operating agreements and conditions imposed in the context of a bank's licensing filing are also excluded from the scope of the updated policies and procedures.

This bulletin rescinds OCC Bulletin 2011-37, "Bank and Federal Savings Association Supervision Operation: Enforcement Action Policy," issued September 9, 2011.

Note for Community Banks

This booklet applies to all national banks, federal savings associations, and federal branches and agencies of foreign banks.

The OCC's updated policies and procedures reflect the principles important in implementing the OCC's mission of ensuring safe and sound bank operations. Here are the goals and practices the agency is implementing:

- Ensure agency-wide consistency of the enforcement action process.
- Reinforce the importance of timely and thorough follow-up and tracking of bank management's corrective actions and milestones to those actions.
- Communicate a bank's compliance or noncompliance with an enforcement action in a consistent format using consistent terminology.
- Convey the relationship between violations, concerns documented in matters requiring attention, and enforcement actions.
- Emphasize the need for examiners to communicate effectively and in a timely manner with the bank's board of directors, the bank's management team, and OCC supervisors.

Comment: The revised manual outlines policies and procedures for OCC enforcement actions against banks that are initiated in response to violations of laws, regulations or other OCC mandates, as well as for unsafe or unsound practices. It includes guidance for selecting the most appropriate enforcement or supervisory response to undertake to resolve a particular deficiency.

Acting Comptroller Discusses Innovation and Financial Technology

WASHINGTON—Acting Comptroller of the Currency Keith A. Noreika today [October 19th] discussed innovation and financial technology during a speech at Georgetown University's Institute of International Economic Law's Fintech Week. His remarks highlighted his optimism for innovation enhancing products and services for consumers and provided an update on activities related to the agency's Office of Innovation.

Related Links

[Remarks](#) (PDF)

Comment: According to Noreika, "we are at the beginning of a period in this country that is more open to rethinking our approach to regulation, so that we can promote economic opportunity while ensuring the financial system operates in a safe and sound manner and protects consumers from abuse."

New Bulletin on Risk Management Principles

This bulletin informs national banks, federal savings associations, and federal branches and agencies of foreign banks (collectively, banks) of the principles they should follow to prudently manage the risks associated with offering new, modified, or expanded products and services (collectively, new activities). New activities should be developed and implemented consistently with sound risk management practices and should align with banks' overall business plans and strategies. New activities should encourage fair access to financial services and fair treatment of consumers and should be in compliance with applicable laws and regulations. This bulletin is consistent with the Office of the Comptroller of

the Currency's (OCC) support of responsible innovation by banks to meet the evolving needs of consumers, businesses, and communities.¹

This bulletin rescinds and replaces the following:

- OCC Bulletin 2004-20, "Risk Management of New, Expanded, or Modified Bank Products and Services: Risk Management Process," issued on May 10, 2004.
- Office of Thrift Supervision Examination Handbook section 760, "New Activities and Services."

Note for Community Banks

This booklet applies to all national banks, federal savings associations, and federal branches and agencies of foreign banks.

Comment: "New activities," as defined in the Bulletin, include new, modified, and/or expanded products and services. Such products and services include those offered for the first time, previously discontinued but offered again, substantially altered, or expanded beyond a bank's customer base, financial markets, venues or delivery channels.

Federal Reserve actions

Beige Book - October 18, 2017

Overall Economic Activity

Reports from all 12 Federal Reserve Districts indicated that economic activity increased in September through early October, with the pace of growth split between modest and moderate. The Richmond, Atlanta, and Dallas Districts reported major disruptions from Hurricanes Harvey and Irma in some areas and sectors, including transportation, energy, and agriculture. Manufacturing activity and nonfinancial services expanded modestly to moderately in most Districts. Retail spending rose slowly, while vehicle sales and tourism increased in most Districts. Residential construction continued to increase, and growth in commercial construction was up slightly on balance. Low home inventory levels continued to constrain residential sales in many areas, while nonresidential real estate activity increased slightly overall. Loan demand was generally stable to modestly higher. Growth in the energy sector eased slightly. Agricultural conditions were mixed; while some regions were reporting better-than-expected harvests, low commodity prices continued to weigh down farm incomes.

Employment and Wages

Employment growth was modest on balance, with most Districts reporting flat to moderate increases. Labor markets were widely described as tight. Many Districts noted that employers were having difficulty finding qualified workers, particularly in construction, transportation, skilled manufacturing, and some health care and service positions. These shortages were also restraining business growth. Firms in several Districts reported that scarcity of labor, particularly related to construction, would be exacerbated by hurricane recovery efforts. Despite widespread labor tightness, the majority of Districts reported only modest to moderate wage pressures. However, some Districts reported stronger wage pressures in certain sectors, including transportation and construction. Growing use of sign-on bonuses, overtime, and other nonwage efforts to attract and retain workers were also reported.

Prices

Price pressures remained modest since the previous report. Several Districts noted increased manufacturing input costs, but in most cases these weren't passed through to selling prices. Retail prices generally increased slightly. Transportation, energy, and construction materials prices increased more rapidly, with some Districts citing effects from hurricanes.

Comment: Modest to moderate is once again, as it has been all year, the Beige Book's assessment of economic growth. The report does cite some wage pressures but concerns over inflation are limited. For the full report, click [here](#).

Other federal action and news

FTC Releases Draft Strategic Plan for Fiscal Years 2018 to 2022

The Federal Trade Commission has released its [draft Strategic Plan for Fiscal Years 2018 to 2022](#) for public review and comment, as required under the GPRA Modernization Act of 2010, using guidance issued by the Office of Management and Budget. Every four years, government agencies are required to prepare and submit an updated strategic plan covering activities for at least the following five years. The FTC's last updated strategic plan was prepared in FY 2013.

This plan presents strategic goals and objectives for the next five years. It details how the plan will be implemented in the areas of consumer protection, maintaining competition, and organizational performance. The plan also explains external factors affecting achievement of the goals, as well as evaluation and research efforts.

[Public comments](#) on the draft pan may be submitted until Dec. 5, 2017. (The staff contact is Chris Bryan, Financial Management Office, 202-326-2005.)

FinCEN -Banks should be aware of potential fraudulent activity related to disaster relief efforts.

The Financial Crimes Enforcement Network (FinCEN) is issuing this advisory to warn financial institutions about the potential for fraudulent transactions in the wake of disasters, including recent hurricanes and wild fires. This advisory is not intended to deter legitimate donations and relief assistance efforts. Rather, the purpose is to help financial institutions identify and prevent fraudulent activity that may interfere with legitimate relief efforts.

This advisory should be shared with:

- *Chief Risk Officers*
- *Chief Compliance Officers*
- *Legal Departments*
- *AML/BSA Departments*
- *AML/BSA Analysts*
- *Fraud Departments*

The U.S. Department of Justice established the National Center for Disaster Fraud (NCDF) to investigate, prosecute, and deter fraud in the wake of Hurricane Katrina, when billions of dollars in federal disaster relief poured into the Gulf Coast region.^[1] Its mission has expanded to include suspected fraud from any natural or manmade disaster, including Hurricanes Harvey, Irma, and Maria. More than 30 federal, state, and local agencies participate in the NCDF, which allows the NCDF to act as a centralized clearinghouse of information related to disaster relief fraud of all types. Financial institutions are encouraged to use the resources made available by the NCDF to help identify and mitigate their potential for all types of disaster fraud risks.

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FinCEN requests, though does not require, that financial institutions reference this advisory and include the key term, **"Disaster-related Fraud"** in the SAR narrative and in SAR field 31(z) (Fraud-Other) to indicate a connection between the suspicious activity being reported and possible misuse of relief funds. Financial institutions should provide a detailed description of the known or suspected criminal violation or suspicious activity in the narrative sections of Suspicious Activity Reports.

Comment: The Advisory focuses on three areas of disaster related fraud – benefits fraud, charities fraud, and cyber-related fraud. To read the entire FinCEN Advisory Bulletin FIN-2017-A007, 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
09.02.2017	The Office of the Comptroller of the Currency (OCC) and the Federal Deposit Insurance Corporation (FDIC) today [November 2 nd] issued a notice of proposed rulemaking to shorten the standard settlement cycle for securities purchased or sold by national banks, federal savings associations, and FDIC-supervised institutions. The three-day settlement cycle, which is the current standard for the securities industry in the United States, is known as “T+3”—shorthand for “trade date plus three days.” The OCC and FDIC are issuing the proposal in connection with an industry-wide shift to a T+2 settlement cycle. The new T+2 cycle is the culmination of a multi-year securities industry initiative and rule changes being implemented by other financial regulators and securities self-regulatory organizations. The change applies to trades placed on or after November 5, 2017. A shorter settlement cycle will directly reduce banks’ counterparty settlement risk and reduce systemic risk. Comments will be accepted for 30 days from publication in the <i>Federal Register</i> .
08.23.2017	The Office of the Comptroller of the Currency is inviting comment on a proposed rule to increase the appraisal threshold for commercial real estate (CRE) transactions from \$250,000 to \$400,000. This threshold sets the transaction value above which national banks and federal savings associations (collectively, banks) must obtain appraisals that conform with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and its appraisal rules (Title XI appraisals). The proposed rule, which is being issued jointly with the Board of Governors of the Federal Reserve System and the Federal Deposit Insurance Corporation (collectively, the agencies), makes conforming amendments to the appraisal rules to require that banks obtain evaluations in lieu of Title XI appraisals for transactions covered by the CRE threshold exemption. The proposal also would make a conforming technical change to the requirement for the use of certified appraisers for certain transactions. The comment period for the proposed rule ends on November 29, 2017.
08.22.2017	In preparation for a forthcoming proposal that would simplify regulatory capital requirements, federal banking regulators on Tuesday [August 22 nd] proposed a rule that would extend the existing transitional capital treatment for certain regulatory capital deductions and risk weights. The extension would apply to banking organizations that are not subject to the agencies’ advanced approaches capital rules. As part of the recent review of regulations under the Economic Growth and Regulatory Paperwork Reduction Act, the agencies announced that they are developing a proposal that would simplify the capital rules to reduce regulatory burden, particularly for community banks. That proposal would simplify the capital rules’ treatment of mortgage servicing assets and other items. However, under the current capital rules, the transitional treatment for those items is scheduled to be replaced with a different treatment on January 1, 2018. Comments on this proposal will be accepted for 30 days after publication in the Federal Register. The Notice of Proposed Rulemaking was published in the Federal Register on October 27, 2017, and comments must be received by December 26, 2017.
08.03.2017	The Federal Reserve Board on Thursday [November 3 rd] requested public comment on a corporate governance proposal to enhance the effectiveness of boards of directors. The proposal would refocus the Federal Reserve’s supervisory expectations for the largest firms’ boards of directors on their core responsibilities, which will promote the safety and soundness of the firms. Comments must be received 60 days after publication in the Federal register.

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 The Office of the Comptroller of the Currency (OCC), Board of Governors of the Federal Reserve System (Board), Federal Deposit Insurance Corporation (FDIC), the Farm Credit Administration (FCA), and the National Credit Union Administration (NCUA) (collectively, the Agencies) are amending their regulations regarding loans in areas having special flood hazards to implement certain provisions of the Homeowner Flood

Insurance Affordability Act of 2014 (HFIAA), 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). 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. Furthermore, the final rule implements the provisions of Biggert-Waters related to the force placement of flood insurance. Finally, the final rule integrates the OCC's flood insurance regulations for national banks and Federal savings associations. The Agencies plan to address the private flood insurance provisions in Biggert-Waters in a separate rulemaking. The effective date of amendatory instructions 1, 3, 4, 5, 7, 9, 10, 12 and 13 is November 1, 2015. The effective date of amendatory instructions 2, 6, 8, 11 and 14 is January 1, 2016.

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 November 1, 2017. The requirement in § 1005.19(b) to submit prepaid account agreements to the Bureau is delayed until November 1, 2018. See the CFPB's [prepaid rule implementation page](#).

Comment: The CFPB issued a Final Rule on April 25, 2017 delaying to delay the November 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.

10.03.2017 Although the Military Lending Act was effective November 3, 2016, credit cards are exempt until November 3, 2017. [80 Fed Reg 43560](#)

10.10.2017 [Amendments to Federal Mortgage Disclosure Requirements under the Truth in Lending Act \(Regulation Z\)](#) - This final rule modifies the federal mortgage disclosure requirements under the Real Estate Settlement Procedures Act and the Truth in Lending Act that are implemented in Regulation Z. This rule memorializes the Bureau's informal guidance on various issues and makes additional clarifications and technical amendments. This rule also creates tolerances for the total of payments, adjusts a partial exemption mainly affecting housing finance agencies and nonprofits, extends coverage of the TILA-RESPA integrated disclosure (integrated disclosure) requirements to all cooperative units, and provides guidance on sharing the integrated disclosures with various parties involved in the mortgage origination process.

10.19.2017 [Amendments to the 2013 Mortgage Rules Under the Real Estate Settlement Procedures Act \(Regulation X\) and the Truth in Lending Act \(Regulation Z\); Correction](#). 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 November 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 either 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 either 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.

- 04.01.2018 [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 was originally effective on November 1, 2017 but a Final Rule published April 25, 2017 amended the effective date until April 1, 2018. The requirement in § 1005.19(b) to submit prepaid account agreements to the Bureau is delayed until November 1, 2018. See the CFPB’s [prepaid rule implementation page](#).
- 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.
- 07.01.2018 [Availability of Funds and Collection of Checks](#) The Board is amending subparts A, C, and D of Regulation CC, Availability of Funds and Collection of Checks (12 CFR part 229), which implements the Expedited Funds Availability Act of 1987 (EFA Act), the Check Clearing for the 21st Century Act of 2003 (Check 21 Act), and the official staff commentary to the regulation.1 In the final rule, the Board has modified the current check collection and return requirements to reflect the virtually all-electronic check collection and return environment and to encourage all depository banks to receive, and paying banks to send, returned checks electronically. The Board has retained, without change, the current same-day settlement rule for paper checks. The Board is also applying Regulation CC’s existing check warranties under subpart C to checks that are collected electronically, and in addition, has adopted new warranties and indemnities related to checks collected and returned electronically and to electronically-created items.
- 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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